



Resolution 1414 (2004)¹

Persons unaccounted for as a result of armed conflicts or internal violence in the Balkans

Parliamentary Assembly

The unsolved problem of people missing as a result of the conflicts in the Balkans represents an enormous humanitarian problem directly related to other humanitarian and political concerns, such as the return of refugees to their homes, the creation of mutual trust between community members of different nationalities and the building of a long-lasting peace

Some 32 542 people have been reported missing to the International Committee of the Red Cross (ICRC) as a result of armed conflicts in the Balkans among whom 22 322 are still unaccounted for, meaning the families have received no news about their fate.

The Parliamentary Assembly recalls that the right to know the fate of missing relatives is a fundamental right of the families concerned and should be respected and implemented.

The families of missing people face a whole range of problems arising from their vulnerable situation. Displaced from their homes and often deprived of the presence of the family's main income earner, they are confronted with significant financial hardship, as administrative and legal barriers prevent them from accessing pensions and benefits.

The Assembly notes with satisfaction the elaboration of a state law on missing persons under the leadership of the Ministry of Human Rights and Refugees of Bosnia and Herzegovina in co-operation with the ICRC and the International Commission on Missing Persons (ICMP). It encourages the State Parliament of Bosnia and Herzegovina to adopt this law as soon as possible.

The Assembly welcomes the efforts of the ICRC in bringing the different authorities together to discuss the problem and to exchange information, in collecting the ante-mortem data on missing persons and compiling the lists of missing persons, in providing legal assistance to families of missing persons and raising awareness among local authorities and the general public of the problems faced by these families, as well as by providing psycho-social support to these families and support to family associations. It also welcomes the technical assistance provided to governments by the ICMP in exhumations, examinations and identifications of missing persons.

The ICMP campaign, which is funded by the European Union, collects blood samples from family members with relatives missing following the conflicts in the former Yugoslavia who are now living in the countries of the European Union, and deserves the full support of the Assembly. The Assembly would welcome a similar collection of ante-mortem data in Europe and North America that national Red Cross or Red Crescent societies are currently considering.

The problem of persons missing in relation to the events in Kosovo is particularly complex. The Assembly is concerned by the lack of a clear strategy by the United Nations Interim Administration Mission in Kosovo (Unmik) in addressing this issue. As long as the international community is responsible for the administration

1. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 23 November 2004 (see [Doc. 10124](#), rapport de la commission des questions juridiques et des droits de l'homme, rapporteuse: Mme Leutheusser-Schnarrenberger). Texte adopté par l'Assemblée le 24 juin 2004 (23e séance).



of Kosovo and has retained competence for resolving the issue of missing persons, it should ensure that progress is made and that the necessary financial and human resources are available to speed up identification and return processes of human remains and to help the families of missing persons.

The Assembly, therefore, urges the authorities of Bosnia and Herzegovina, Croatia and Serbia and Montenegro as well as the Kosovo provisional administration to:

1. depoliticise the issue of missing persons, considering it primarily as a humanitarian problem, to which all authorities should give priority without making differences based on the ethnic origin of the missing persons and their families;
2. step up inter-ethnic reconciliation processes;
3. fulfil the obligations stemming from the European Convention on Human Rights regarding enforced disappearances, concerning both the missing persons and their families, as interpreted by the case-law of the European Court of Human Rights, including the right to freedom from torture and cruel, inhuman or degrading treatment or punishment, the right to liberty and the right to life;
4. recognise the continuing nature of the violation of the human rights of the families of missing persons and provide their families with information on their fate and whereabouts, in line with international standards, including the European Convention on Human Rights and the case-law of the European Court of Human Rights;
5. promptly carry out independent, impartial and effective police and judicial investigations into all cases of disappearances, through unconditional and effective co-operation between countries and entities;
6. provide families of missing persons with the right to an effective remedy, including compensation;
7. ensure that the relevant authorities disclose all relevant information regarding missing persons and co-operate unconditionally with investigators, including by providing information on the whereabouts of military officers who are suspected of involvement in acts of disappearances and by handing over any official information on the activities of their armed forces which may be relevant to the investigations;
8. set up effective national witness protection programmes;
9. include in their legislation the right of families to know what has happened to relatives unaccounted for in connection with armed conflict and internal violence, in accordance with relevant provisions of international humanitarian law;
10. strengthen legal measures to deal with the problem of missing persons by adopting a state law on missing persons, which will introduce in their national legislations the legal status of "missing person", permitting the families of these persons to benefit from financial and legal assistance;
11. improve their co-operation for the tracing of missing persons and for the return of identified bodies;
12. accelerate the process of identification of exhumed bodies using all available means including: DNA matching, the matching of ante- and post-mortem data, and visual identification, as determined by forensic experts;
13. set up and/or further develop national capacities specialised in forensic and tracing expertise and to encourage them to assimilate the experience of the ICRC and ICMP;
14. improve the exchange of information on missing persons and to create a consolidated list of missing persons according to unified criteria for the whole region;
15. accord necessary administrative and legal protection to families of missing persons;
16. recognise missing civilians as war victims and to include their families in the system of social benefits, as provided for families of missing servicemen;
17. adopt bilateral or multilateral agreements in order to put in place and/or facilitate existing procedures to obtain and/or recognise documents and legal decisions for families of the missing who have the status of refugees or internally displaced persons;
18. provide adequate support to material, financial, psychological, legal and administrative needs of families of missing persons;
19. address the needs of single heads of families, taking into consideration the specific needs faced by women in such situations;

20. train all the authorities concerned in the application of legal provisions and administrative procedures with regard to the rights of the families of missing persons;
21. encourage family networking and associations, which can provide a meeting place and a forum for mutual support.

Furthermore, the Assembly:

1. urges the authorities of the different entities of Bosnia and Herzegovina to strengthen co-operation in the exhumation, identification and return of remains of missing persons;
2. urges the authorities of Serbia and Montenegro to speed up the identification process and the repatriation of human remains to Kosovo;
3. urges the Unmik authorities in Kosovo to:
 - a. develop a clear strategy regarding the problem of missing persons combining judicial and non-judicial mechanisms of resolution;
 - b. increase the capacity and the responsibility at local level for the missing persons issue, while ensuring a strong international oversight of this process with a view to guaranteeing its implementation in the most impartial and professional way;
4. encourage the United Nations Children's Fund (Unicef) to develop a special assistance programme for parents of missing children.

The Assembly also calls on the governments of member states to:

1. assist the countries concerned to achieve the objectives, expressed in paragraphs 10 and 11;
2. support the initiatives of the United Nations working group drafting a legally binding international instrument to protect people from enforced disappearance;
3. raise public awareness of the problem of missing persons as a fundamental concern of international humanitarian law and human rights law and encourage the mass media to attract the public's attention to this problem and to the needs of families of missing persons;
4. provide financial and technical assistance to the countries and/or official bodies concerned for exhumation and identification processes;
5. support the activities of the ICRC in according capacity-building assistance to the authorities of the countries concerned in solving the problem of missing persons;
6. encourage the ICMP and the ICRC to transfer their expertise to national institutions and to train national specialists in forensic and tracing techniques;
7. facilitate the collection of ante-mortem data by taking blood samples from families of missing persons living in Europe;
8. encourage the ICMP to improve their exchange of information with the Croatian authorities in order to speed up the process of identification of exhumed bodies;
9. provide financial assistance to the associations of the families of missing persons and non-governmental organisations tracing missing persons.

The Assembly requests that the Council of Europe Commissioner for Human Rights continue to follow the issue of missing persons in the Balkans and, in particular, in Serbia and Montenegro and Kosovo with the aim of examining the human rights situation of families of missing persons who disappeared on the territory of Kosovo.

The Assembly further calls on the Council of Europe Development Bank to positively consider the financing of possible project requests in Bosnia and Herzegovina, Croatia and Serbia and Montenegro in favour of the families of missing persons, with particular emphasis on providing housing and on the creation of a central database on missing persons in the region.