

“SUPPORT TO RESOLVING MISSING-PERSONS CASES – BREAKING THE IMPASSE”

Missing Persons from the Kosovo Conflict and its Aftermath: A Stocktaking, 2017



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by the European Union Office in Kosovo



International Commission on Missing Persons
Implemented by the International Commission
on Missing Persons

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Foreword

The legacy of conflict casts a long shadow over relations between peoples and states and can aggravate efforts to build sustainable peace and reconciliation. One of the greatest challenges is resolving the issue of large numbers of missing and disappeared persons, particularly when these disappearances are linked to conflict and human rights abuses. This involves interrelated political, legal, technical and societal aspects that must be addressed effectively in order to restore the rule of law, develop democratic society through functioning, accountable and just institutions, and enable families of the missing to exercise their rights to truth, justice and reparations.

Eighteen years have passed since the end of the Kosovo conflict. A massive effort has been made by the authorities in both Kosovo and Serbia, as well as by the international community to search for and identify the missing. Field operations have resulted in the recovery of more than 6,000 cases of human remains on the territory of Kosovo, and almost 900 on the territory of Serbia. Since 2002, more than 2,500 missing persons cases have been resolved through the use of effective forensic work, including DNA testing. Approximately 2,000 cases were identified by traditional methods, including visual identifications prior to 2002.¹ Today, the number of missing persons is estimated to be over 1,600 persons.²

Since the end of the conflict, missing persons have been found in locations from Batajnica (near Belgrade Airport), Bajina Bašta and Petrovo Selo in Serbia, to almost every municipality in Kosovo. As a consequence of governance structures put in place after the conflict, the process of locating and identifying missing persons has proceeded differently in Kosovo and Serbia. In Kosovo, the task of locating and recovering missing persons was initially undertaken by the International Criminal Tribunal for the former Yugoslavia (ICTY), which operated in Kosovo from 1999 to 2000. The primary technical responsibility initially rested with the United Nations Interim Administration Mission in Kosovo (UNMIK) and after 2008 with the European Union Rule of Law Mission in Kosovo (EULEX).

In Serbia, by contrast, domestic institutions have had the primary responsibility for locating and identifying missing persons from the Kosovo conflict. Similarly, in other countries of the Western Balkans (Croatia and Bosnia and Herzegovina) efforts to address the issue of the missing have not stopped at technical casework, but have sought to strengthen local mechanisms, based on domestic laws and rule-of-law institutions. What sets the process in Kosovo apart

¹ Comments on Technical Assessment of Progress in Implementation of Standards for Kosovo, prepared by the UNSG Special Representative for Kosovo, 30 November 2007.

² Based on tracing requests, ICRC had 1,665 active missing persons cases on the Kosovo consolidated list at the end of 2016. At that time, ICMP's database contained 1,876 active missing persons cases based on unmatched genetic references provided by family members.

from its neighbors in the Western Balkans is that Kosovo has exercised only limited active engagement and operational participation in the process, with only tacit ownership of Kosovo's domestic institutions. In other words, Kosovo is alone in the region in having a missing persons process administered by international actors. Indeed, to this day, EULEX retains an executive mandate as regards missing persons. In addition, progress in terms of recovery and identification of missing persons in the last decade has slowed dramatically.

Nevertheless, in recent years Kosovo's institutions have taken increasing responsibility for ascertaining the fate and whereabouts of the missing. This development should be regarded favorably and supported in order to enable the authorities to meet their obligations in a non-discriminatory, transparent and accountable manner. Domestic processes to address the issue of missing persons help to ensure that it is treated in a more holistic manner allowing society to assess the missing persons situation, discuss available options, and assume ownership of successes and shortcomings alike.

The issue of Kosovo's status has had an impact on relations between Kosovo and Serbia and has posed a significant challenge to the development of cooperation between Belgrade and Pristina in addressing the issue of missing persons. Nevertheless, despite the fact that Serbia does not recognize Kosovo as an independent state, the two countries have in recent years concluded key agreements in the sectors of justice, energy, telecommunications and in relation to the Association of Serbian municipalities in Kosovo. Closer cooperation between Kosovo and Serbia as regards the issue of missing persons should be encouraged with the objective of enabling domestic mechanisms to carry the process forward and thus ensure lasting benefits in terms of peace, justice and reconciliation.

The engagement of the International Commission on Missing Persons (ICMP) in the process began in 1999 and focused on building domestic capacity to account for missing persons in a reliable manner. ICMP's work in Kosovo has focused on ensuring that transparency and human rights standards are fully applied when determining the fate and whereabouts of the missing. ICMP helped to create and strengthen domestic institutions that have been responsible for the issue of missing persons in both Serbia and Kosovo. ICMP has supported efforts to improve dialogue between Belgrade and Pristina and has worked to promote the capacity of the Kosovo Commission on Missing Persons since it was established in 2006. In parallel, it has strengthened the engagement of families of missing persons as a key element in the process, helping them to access their rights and hold the authorities to account. Since 2001, ICMP has also provided technical assistance to the Government of Serbia in locating, recovering and identifying persons missing from the Kosovo conflict. In 2003, ICMP signed an agreement with UNMIK to assist with DNA-based identifications and since December 2008 ICMP has assisted EULEX with the provision of DNA testing and matching for the purposes of identification of missing persons.

One of the challenges that must be addressed in order to carry the process forward is to resolve the issue of up to 400 sets of unidentified remains in Pristina Mortuary, which may be the result of misidentifications in 1999 and 2000, before DNA testing was introduced as the primary means of human identification. The collection of additional genetic reference samples from family members who identified their missing through traditional means, i.e. without the assistance of DNA, may make it possible to resolve a substantial number of cases of unidentified human remains in Pristina Mortuary and provide explicit direction to target and address misidentifications. ICMP is working with the authorities, with partner organizations and with families of the missing to take this process forward.

The families of the missing have repeatedly asked the Kosovo and Serbian authorities for an open and transparent process to address the interrelated issue of misidentifications and NN (No Name) cases. One of the conclusions from a recent meeting of families of the missing, which included both Kosovo Serb and Albanian family members, hosted by HRH the Prince of Wales at Clarence House in London in March 2017, was that states should take coordinated action to resolve cases of unidentified human remains in a systematic way and address the issue of misidentifications that occurred prior to the use of DNA testing.

ICMP's role in addressing missing persons from the Kosovo conflict forms part of a broad effort that included many individuals and organizations over the years. These include both the domestic authorities and international institutions that have dedicated years to the process of addressing the issue of persons missing as a result of the Kosovo conflict. In Kosovo, domestic institutions include the Kosovo Commission on Missing Persons, the Kosovo Institute of Forensic Medicine and the Kosovo Special Prosecutor's Office. In Serbia, domestic institutions include the Serbian Commission on Missing Persons, and the Specialist War Crimes Chamber and Prosecutor's Office. International institutions, to which thanks is given, include the ICTY, NATO Kosovo Force (KFOR), the United Nations Mission in Kosovo, UNMIK Office of Missing Persons and Forensics, the Organization for Security and Cooperation in Europe (OSCE), the Council of Europe (CoE), the United Nations Development Program (UNDP), EULEX, the International Committee of the Red Cross (ICRC) and Amnesty International.

In addition, the Belgrade/Pristina-based Human Rights and Humanitarian Law Center and the Balkan Investigative Reporting Network have been tirelessly committed to reporting on the issue. The Kosovo office of the Youth Initiative for Human Rights has spurred annual efforts to commemorate missing persons from the Kosovo conflict to ensure that it is kept in the public eye.

This report is dedicated to the survivors and families of the missing from the Kosovo conflict, who stand together in demanding that all cases of missing persons are properly investigated and that answers are given to the almost 10,000 surviving families who still have no information on the fate and circumstances of the disappearance of their missing loved ones. It is critical

that the authorities in Belgrade and Pristina find more robust avenues for cooperation and for resolving the remaining cases and that they are committed to securing the rights of the families of the missing to truth, justice and reparations, regardless of their ethnic, religious or national origin, or the role of the missing person during the conflict.

This is ICMP's third stocktaking report on efforts to account for persons missing from the Kosovo conflict and, unfortunately, very little progress has been made since ICMP issued its last report in 2010. It is ICMP's intention that this report will help guide future actions by the Kosovo and Serbian authorities, the international community, and associations of families of missing persons to address the issue of missing persons in an effective manner.

Kathryne Bomberger
ICMP Director-General

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Acronyms

CCIU	Central Criminal Investigation Unit
CIVPOL	UN Civilian Police
CoE	Council of Europe
DFM	Department of Forensic Medicine
DNA	Deoxyribonucleic acid
DOJ	Department of Justice
ECHR	European Convention on Human Rights
EULEX	European Union Rule of Law Mission
EUO/EUSR	European Union Office in Kosovo/European Union Special Representative
FYROM	Former Yugoslav Republic of Macedonia
FRY	Federal Republic of Yugoslavia
GPGMP	Government Policy Group on Missing Persons
ICMP	International Commission on Missing Persons
ICRC	International Committee for the Red Cross
ICTY	International Criminal Tribunal for the former Yugoslavia
iDMS	ICMP's Identification Data Management System
IFM	Institute of Forensic Medicine
KFA	Kosovo Forensic Agency
KFOR	Kosovo Force
KLA	Kosovo Liberation Army
MPU	Missing Persons Unit
NATO	North Atlantic Treaty Organization
NN	No-Name
OIC	ICMP's Online Inquiry Center
OSCE	Organization for Security and Cooperation in Europe
OMPF	Office on Missing Persons and Forensics
PISG	Provisional Institutions of Self-Government
PM	Post-mortem
RS	The Republic of Serbia
SPK	Kosovo Special Prosecutor's Office
SPO	Specialist Prosecutor's Office
STR	Short tandem repeat
UN	United Nations
UNDP	United Nations Development Program
UNMIK	United Nations Interim Administration Mission in Kosovo
VRIC	Victim Recovery and Identification Commission
WCIU	War Crimes Investigation Unit
WG	Working Group on Persons Unaccounted for in Connection with the Events in Kosovo

Glossary

DNA

DNA is a chain-like molecule that makes up the hereditary material found in nearly all the cells of the human body. Half of your DNA is inherited from your mother, the other half from your father. DNA contains the biological information that is used by nature to build and maintain our bodies, and determines many of the distinctive characteristics of an individual.

FAMILY DNA REFERENCE SAMPLE

A genetic reference sample can be a few drops of blood or a buccal swab (a swipe of the inside of the mouth to collect cells containing DNA using a q-tip bud), which are provided by close family members of the missing person. DNA is obtained from the reference sample and can then be compared to DNA from the mortal remains in order to find a DNA match.

POST MORTEM SAMPLE

A post mortem sample may be a small piece of bone or a tooth taken from human remains.

DNA PROFILE

When DNA is tested to identify missing persons, only specific small parts or locations of the DNA are investigated. These different parts are highly variable, and can occur in a huge number of combinations. The characteristics of DNA at these locations can be written down in a numerical designation that is called a DNA profile. Each individual (except identical twins) has a unique DNA profile.

DNA MATCH

This is the term used when a DNA profile obtained from mortal remains is found to be consistent with the DNA profiles from family DNA reference samples. This gives a very high level of certainty that the mortal remains are related to the family.

I. Introduction

Almost 18 years after the end of the fighting in Kosovo, the fate of the missing, a tragic legacy of the 1998-99 conflict and its aftermath, remains critical for post-conflict recovery in both Kosovo and Serbia. However, progress has been increasingly difficult to achieve. The issue affects all communities, and unless it is resolved in an impartial and objective manner it will perpetuate an atmosphere of distrust, exacerbating the fragility of governance, and regional peace and security. Of the approximately 4,500 people who are missing as a result of the 1998-99 conflict and its aftermath, the mortal remains of more than 2,500 have been identified with ICMP's assistance using advanced DNA technology.

As elsewhere in countries in the Western Balkans affected by the issue of missing persons, the number of mortal remains recovered from clandestine gravesites annually has declined precipitously since 2005, and the issue of missing persons overshadows relations between Albanians and Serbs in Kosovo, and relations between Kosovo and Serbia, undermining the prospects for normalization and reconciliation.

This is ICMP's third stocktaking report on Kosovo, following the publication of reports in 2005³ and 2010.⁴ ICMP continues to view with concern the fact that there has been very little progress for over a decade in finding missing persons. The underlying reasons for the lack of progress in finding more missing persons and exploring the potential problem of misidentifications have not been adequately explored. Furthermore, efforts to ensure that domestic institutions in Kosovo take a leading role in this process have thus far been minimal, which does not bode well for the future sustainability of the missing persons process.

This report examines the institutions and the evolving context in which the search for the missing has taken place; it contrasts the different approaches to addressing missing persons in Serbia and Kosovo; it reviews legislation in Kosovo pertinent to missing persons; it considers the important role of families of the missing; it looks at data systems used to manage and process missing persons cases; it reviews the use of DNA analysis for the purpose of identifying the missing from the Kosovo conflict; and it concludes with recommendations to carry the process forward.

³ See *The Situation in Kosovo: A Stock Taking*, ICMP.FSD.18.05.doc, <http://www.icmp.int/wp-content/uploads/2007/11/icmp-fsd-18-05-1-doc.pdf>.

⁴ See *The Situation in Kosovo: A Stock Taking*, ICMP.DG.264.4.doc, <http://www.icmp.int/wp-content/uploads/2007/11/icmp-dg-264-4-doc-general.pdf>.

II. Historical Context

During the period of Socialist Federal Republic of Yugoslavia (1945–1991) the territory of Kosovo was a province of Serbia. Yugoslavia's 1974 Constitution granted Kosovo substantial autonomy, allowing it to have its own administration, assembly, and judiciary, as well as having membership of the collective presidency and the Yugoslav parliament, in which it held veto power. Tensions in the province escalated throughout the 1980s, as Kosovo Albanians demanded the status of a republic within the Socialist Federal Republic of Yugoslavia. In 1989, the administration of Slobodan Milošević reduced the autonomy that Kosovo had been granted under the 1974 Constitution. Kosovo Albanians responded with a non-violent movement whose ultimate goal was to achieve independence. As Yugoslavia disintegrated in the first half of the 1990s, tensions grew on the territory of Kosovo. The Serbian minority in Kosovo wanted to remain within the Federal Republic of Yugoslavia (FRY) (Serbia and Montenegro), whereas Kosovo Albanians sought self-determination and the independence of Kosovo. Non-violent means of obtaining independence were superseded by militant means in the mid-1990s. Clashes between the Kosovo Liberation Army (KLA) and FRY forces escalated throughout the second half of the 1990s, culminating in armed conflict from 5 March 1998 until 11 June 1999. After failure to reach a diplomatic solution at Rambouillet, France, in the spring of 1999, and in the face of an escalating humanitarian crisis, NATO launched an aerial bombing campaign against FRY forces and military assets in both Kosovo and Serbia. The armed conflict between FRY forces and the KLA was characterized by ethnic cleansing and the destruction of property and resulted in more than 13,500 killed and missing.⁵

On 9 June 1999 in Kumanovo, Macedonia (FYROM), NATO's Kosovo Force (KFOR) and the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia concluded a Military Technical Agreement (commonly known as the Kumanovo Agreement). The key provisions of the Military Technical Agreement were: a cessation of hostilities between KFOR and the Federal Republic of Yugoslavia; a withdrawal of FRY forces from Kosovo; and the deployment of a UN civilian presence and KFOR within Kosovo. On 10 June 1999, the UN Security Council passed UN Security Council Resolution 1244, which placed Kosovo under transitional UN administration (UNMIK) and authorized KFOR as a peacekeeping force on the territory of Kosovo.⁶ In December 2008, the European Union Rule of Law Mission in Kosovo (EULEX) was deployed throughout the territory of Kosovo, assuming responsibilities in the areas of police, customs and the judiciary, which had previously been the responsibility of UNMIK. In 2008, Kosovo authorities declared independence. In 2010 the International Court of Justice concluded in its advisory opinion that Kosovo's declaration of independence did not violate either general international law or UN

⁵ <http://www.hlc-rdc.org/?p=28185&lang=de>.

⁶ Resolution 1244 provided that Kosovo would have autonomy within the Federal Republic of Yugoslavia, and affirmed the territorial integrity of Yugoslavia, which has since been legally succeeded by the Republic of Serbia.

Security Council Resolution 1244 as part of the applicable international law. Serbia and a number of other countries do not recognize Kosovo as a sovereign state. This has implications in regard to how the institutions in Kosovo and Serbia that are responsible for the issue of missing persons cooperate with one another.

The events of 1998 and 1999 on the territory of Kosovo, which, *inter alia*, resulted in the forcible disappearance and execution of large numbers of persons, and the evolving post-conflict circumstances, have posed significant challenges to the process of accounting for the missing. The territory of Kosovo constitutes a common conflict zone affecting Kosovar Albanians and Serbs. Persons were forcibly disappeared on the territory of Kosovo in 1998-1999 and executed and their bodies were interred in clandestine graves in Kosovo. Prior to the withdrawal of FRY forces in June 1999 in the wake of the Kumanovo Agreement, it is believed that primary gravesites were robbed and the exhumed bodies were transported to Serbia and buried in secondary clandestine gravesites. From June 1999 until the end of 2000 a number of non-Albanians were forcibly disappeared and executed and their human remains were buried at unknown locations. Families of the missing and the authorities – Serbs in Belgrade and across Serbia and Kosovo, and Albanians in Pristina and across Kosovo – have an interest in locating clandestine gravesites on territory that is either under the jurisdiction or control of the other.

In these circumstances, accountability at the highest levels of government, political will and cooperation between the authorities in Pristina and Belgrade is a pre-requisite in order to address the issue of missing persons from the Kosovo conflict effectively. Cooperation has, however, proved to be fleeting and at times elusive, for several reasons. Direct cooperation between Pristina and Belgrade authorities has been hampered by political issues that have nothing to do with the issue of the missing, or, conversely, as a result of posturing by authorities on all sides who have sought to use the issue for political ends. Importantly, the process has also been dominated by the international community, which has pursued the issue as a humanitarian, technical concern, and has overlooked the need to build political, governance, and rule-of-law structures of accountability in Kosovo. A case in point is the long-standing reserve power of the international community in Kosovo. This reserve power is most pronounced in the rule-of-law sector, which includes the issue of missing persons. In that regard, the international community has managed the police, legal and customs institutions of Kosovo. It has selected international judges and prosecutors and the cases that they will judge. It has the right to annul the decisions of the Kosovo government and to “assume other responsibilities, independently or in support of the competent Kosovo authorities”, to maintain law, public order and security.

III. Institutions and Evolving Context

In Kosovo, the task of locating, recovering and identifying missing persons has been primarily undertaken by international organizations. On the territory of Serbia, domestic institutions, led by the courts and coordinated first by the Kosovo Coordination Council and later by the Serbian Government Commission on Missing Persons have been responsible for the search, recovery and identification of missing persons.

The International Criminal Tribunal for the former Yugoslavia (ICTY) was responsible for much early exhumation work on the territory of Kosovo. Exhumations were primarily carried out in relation to criminal investigations, but also sought, on occasion, to identify mortal remains. The aim of these exhumations was to gather evidence for the prosecution of members of the Serbian leadership who had been indicted in May 1999 by the ICTY for war crimes in Kosovo.⁷ From June 1999, exhumations were conducted by ad hoc teams of international forensic experts working for the ICTY, established by the UN Security Council in May 1993, which had jurisdiction over war crimes in Kosovo.⁸ ICTY investigators were deployed under the protection of KFOR. The collection of evidence of war crimes began with the arrival of NATO in 1999 with independent teams from several countries operating under the loose coordination of the ICTY.⁹ In her address to the UN Security Council on 21 November 2000, ICTY Chief Prosecutor Carla Del Ponte remarked that in 1999 ICTY forensic teams recovered 2,108 bodies from 195 locations on the territory of Kosovo.¹⁰ In 2000, ICTY forensic teams assessed a further 325 sites, exhumed 1,577 bodies and found incomplete remains in a further 258 instances.¹¹ The ICTY Chief Prosecutor concluded that a “provisional total over the two years is therefore that almost 4,000 bodies or parts of bodies have been exhumed and examined.”¹²

In this period, a lack of standard operating procedures and inadequate centralization led to problems with the evidence gathered.¹³ In an effort to demonstrate that crimes were systematic and widespread, the ICTY teams conducted autopsies on as many bodies as possible, carrying

⁷ The Prosecutor v. Slobodan Milošević, Milan Milutinović, Nikola Sainović, Dragoljub Ojdanović, Vljako Stojiljković, (IT-99-37-I), 23 May 1999. The five accused were charged with command responsibility for crimes against humanity and violations of the laws and customs of war committed in Kosovo.

⁸ S/RES/827(1993), 25 May 1993; CC/PIO/302-E, The Prosecutor’s Statement Regarding The Tribunal’s Jurisdiction Over Kosovo, 10 March 1998, <http://www.icty.org/sid/7683>, accessed April 2009.

⁹ UNMIK OMPF Activity Report 2002-2004, p.8.

¹⁰ Address to the Security Council by Carla Del Ponte, Prosecutor of the International Criminal Tribunals for the former Yugoslavia and Rwanda, to the UN Security Council, 24 November 2000, <http://www.icty.org/en/press/address-security-council-carla-del-ponte-prosecutor-international-criminal-tribunals-former>.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ UNMIK OMPF Activity Report 2002-2004, p.8.

out little or no identification work. Moreover, unidentified bodies exhumed in 1999 were re-buried in locations that were not shared with UNMIK or the institutions tasked with continuing the investigation process.¹⁴ These issues have resulted in significant impediments to subsequent efforts to address the issue of missing persons.

Until 2001, exhumed bodies were identified by non-scientific visual means, usually when a family member recognized a person's clothing or other personal belongings found with the body. Photographs of these items were published by the International Committee of the Red Cross (ICRC) and the Organization for Security and Cooperation in Europe (OSCE) in a series of "Books of Belongings".¹⁵

In November 1999, a Missing Persons Unit (MPU) was established within the UNMIK Police, mandated to investigate with respect to either the possible location of missing persons and/or gravesites. The MPU, jointly with the Central Criminal Investigation Unit (CCIU) of the UNMIK Police, and later a dedicated War Crimes Investigation Unit (WCIU), were responsible for the criminal aspects of missing persons cases in Kosovo. The MPU was responsible for seeking court orders authorizing exhumations and for conducting exhumations, along with forensic archeologists and/or anthropologists.¹⁶ By April 2002 the MPU had conducted 69 exhumations and recovered some 85 bodies.¹⁷ In May 2000, a Victim Recovery and Identification Commission (VRIC) chaired by UNMIK was created for the recovery, identification and disposition of mortal remains.¹⁸

In May 2002, UNMIK established the Office on Missing Persons and Forensics (OMPF) in the UNMIK Department of Justice (DOJ), which became operational as of June 2002, becoming the sole authority on the territory of Kosovo with a mandate to determine the whereabouts of missing persons, identify their mortal remains and return them to the family of the missing. The OMPF carried out a range of specialized activities – forensic exhumations, post-mortem examination and comparison of ante-mortem and post-mortem data – until late 2008. Formerly part of the UNMIK Department of Justice, in 2007 OMPF was in part transferred to the Kosovo Ministry of Justice, but in 2008 was taken over by the EULEX mission.

Following several years of negotiation, ICMP and UNMIK signed a Memorandum of Understanding on 26 November 2003 that defined ICMP's technical assistance to UNMIK in relation to the work of the Office on Missing Persons and Forensics (OMPF). The lengthy negotiation process centered on ICMP's insistence on the use of DNA as a primary identifier. UNMIK forensic staff were accustomed to using traditional methods of identification and were skeptical about the

¹⁴ *Ibid.*

¹⁵ Amnesty International, *Burying the Past: Impunity for enforced disappearances and abductions in Kosovo*, June 2009, p.22.

¹⁶ *Ibid.*, p.19.

¹⁷ *Ibid.*, p.71.

¹⁸ UNMIK/REG/2000/28 on the Victim Recovery and Identification Commission.

use of this new technology that ICMP had already introduced in the region in 2000. When an agreement was finally reached on the use of DNA, UNMIK rejected ICMP's additional offer to provide assistance at excavations and in the examination of mortal remains in mortuaries in Kosovo.

ICMP's provision of DNA testing and matching has been critical to the process of reliably identifying the missing. Errors made prior to the introduction of a DNA-led process have however had a lasting legacy on the ability to move the process forward.¹⁹ When a body is misidentified, the family that has incorrectly received the body in many instances will not have provided family DNA reference samples. Therefore, the actual mortal remains of their family member, if located, will remain unidentified. And the family whose missing relative's remains were misidentified and released incorrectly to another family will not resolve their case even if they have provided DNA reference samples since their relative is buried under someone else's name.

Prior to concluding the agreement with UNMIK, ICMP had for several years been engaged in the capacity development of the Kosovo authorities to search for the missing in accordance with human rights and justice standards and of associations of families of missing persons to help them exercise their rights, to work together across communities to achieve common goals, and to hold the authorities accountable.

In 2004, a Working Group on Persons Unaccounted for in Connection with the Events in Kosovo (WG) between January 1998 and December 2000 was established as an outcome of the UN-led Vienna Dialogue. The ICRC was invited to chair the WG. A strictly humanitarian mechanism, the WG holds regular sessions at which the Belgrade and Pristina delegations exchange information and plan activities. By the end of 2016 the WG had met on 43 occasions. The WG has succeeded in bringing the various parties together to discuss the pressing issue of missing persons. Today, however, the Serbian and Kosovo authorities say they have no new information related to potential clandestine gravesites.

In 2006, following similar domestic capacity-building efforts in the region of the former Yugoslavia to ensure state responsibility in finding missing persons, ICMP assisted the Kosovo authorities in establishing a Kosovo Commission on Missing Persons to lead activities in relation to missing persons on the territory of Kosovo. The Kosovo Commission on Missing Persons' mandate includes protecting the rights and interests of missing persons and their families; coordinating activities in collecting data related to missing persons; establishing a Central Register of Missing Persons; informing family members of missing persons and cooperating with their associations, notifying family members of the fate of missing persons; raising awareness about and supporting initiatives related to missing persons by reporting the outcome of its findings

¹⁹ The issue of incorrect identifications based on traditional methods of identification is not related solely to the Kosovo conflict. For more information, see ICMP report: Bosnia and Herzegovina, Missing Persons from the Armed Conflicts of the 1990s: A Stocktaking, 2014. BIH authorities are now taking measures to address this problem.

publicly; undertaking other significant activities relating to missing persons; cooperating with local and international institutions in the conduct of its duties; opening and registering cases of missing persons; and paying burial costs of identified missing persons.

Although, the mandate of the Kosovo Commission on Missing Persons is in line with that of its counterparts in the region, it has not been given the political authority to carry out its work – to coordinate a domestic law-based process to investigate missing persons cases from the conflict.

In February 2008, the Kosovo Assembly unilaterally declared the independence of Kosovo. In the same month, international supervision of Kosovo passed from UNMIK to EULEX.²⁰ Although UNMIK continues to exist, many of its original activities concerning the missing persons issue have been taken over by other organizations. Working within the framework of the same UN Security Council Resolution, EULEX took over responsibility for rule-of-law matters, including the issue of missing persons, from UNMIK in 2008. According to the European Council's Joint Action plan of 4 February 2008, which has since been extended, EULEX would, among other things, "monitor, mentor and advise the competent Kosovo institutions on all areas related to the wider rule of law... while retaining some executive responsibilities" and "ensure the maintenance and promotion of the rule of law... through reversing or annulling operational decisions taken by the competent Kosovo authorities." In relation to missing persons, EULEX maintained cooperation with ICMP on the basis of the November 2003 memorandum of understanding with UNMIK and took over the operation of UNMIK's OMPF until Kosovo's institutions were able to take responsibility for its work. The EULEX OMPF had a dual mandate: "clarifying the fate of missing persons," and "providing a medical legal system to Kosovo of European standards". In recent years, EULEX has made efforts to increase local forensic capacity. Such efforts include on-the-job training of staff, brokering theoretical training by higher education institutions, and initiating a memorandum of understanding between the Ministry of Justice and Ministry of Culture giving Institute of Forensic Medicine (IFM) staff access to human remains from the Kosovo museum.

EULEX's OMPF was transformed into the Department of Forensic Medicine (DFM) in June 2009, operating under the auspices of the Kosovo Ministry of Justice and providing forensic medicine and medical death investigation expertise. In 2016, the DFM was transformed into the IFM. EULEX maintains its executive mandate in relation to missing persons, and a EULEX staff member is embedded in the IFM as Deputy Director and EULEX staff assist the IFM in forensic anthropology and archeology, as well as forensic pathology and crime-scene investigation. The IFM maintains contact with families of the missing and is responsible for locating, exhuming, identifying and determining the fate of the missing, as well as handing over human remains to the families of missing persons. The work of the IFM is defined in the *Law on Forensic Medicine*, which was adopted by the Kosovo Assembly in March 2016.

²⁰ On 4 February 2008, the Council of the European Union adopted Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO (2).

In 2008, the Kosovo Special Prosecutor's Office (SPK) was established.²¹ It has a mandate to investigate and prosecute crimes against humanity, war crimes in grave breach of the Geneva Conventions, war crimes in serious violation of laws and customs applicable in international armed conflict, war crimes in serious violation of Article 3 Common to the Geneva Conventions, and war crimes in serious violation of laws and customs applicable in armed conflict not of an international character.²² As such, it is responsible for investigating cases of enforced disappearance.

The *Law on Amending and Supplementing the Laws related to EU Rule of Law Mission in Kosovo* notes that the SPK, a local institution, has competence for all cases, including cases of enforced disappearance, initiated **after** 15 April 2014. In terms of fulfilling its new competencies, the local SPK prosecutor, not EULEX, has signed off on all court orders for probing and excavations since June 2014, and excavation sites have been under the jurisdiction, control and management of an SPK prosecutor since then. Nevertheless, the majority of missing persons' cases were opened prior to 15 April 2014, and thus remain within the purview of EULEX.²³

While the international community has in recent years taken tentative steps to enable the Kosovo authorities to assume greater ownership of the process, there are systemic challenges that persist. Because EULEX maintains its executive mandate in relation to missing persons, the issue remains within the purview of EULEX. Not surprisingly, therefore, the Kosovo Commission remains a weak institution, which also affects its capacity to work effectively with its Serbian counterpart. Furthermore, without Kosovo's domestic authorities assuming responsibility for issue of the missing persons, its ability to participate in important international legal instruments is limited, including participation in the Convention on the Protection of Persons from Enforced and Involuntary Disappearances, the Declaration on the Responsibility of States in Addressing Missing Persons from Armed Conflict and Human Rights Abuses.

²¹ The Kosovo Special Prosecutor's Office (SPK) pre-dates and is distinct from the Specialist Prosecutor's Office (SPO) of the Kosovo Specialized Chambers. The latter was created in August 2015, when Kosovo enacted legislation that created a SPO to investigate and prosecute grave trans-boundary and international crimes that occurred during and in the aftermath of the conflict in Kosovo in 1998, 1999 and 2000.

²² Article 5 of Law No 03/L-052 on the Special Prosecution Office of Kosovo.

²³ Law No. 04/L-273 on Amending and Supplementing the Laws related to the Mandate of the European Union Rule of Law Mission in Kosovo, Articles 1.A (Ongoing cases) and Article 7.B (Transfer of cases).

IV. Exhumations on the Territory of Kosovo 1999-2016

Numerous international institutions have been responsible for the excavation of clandestine graves and the recovery of human remains in Kosovo. Between June 1999 and December 2016, some 1,513 field operations (excavations) have been carried out. These field operations have resulted in the collection of 6,097 sets of human remains (complete and incomplete). Sixty-five percent of all sets of human remains were recovered by ICTY forensic teams in 1999-2000, in which period approximately 2,000 identifications were made using non-scientific, traditional methods of visual identification.

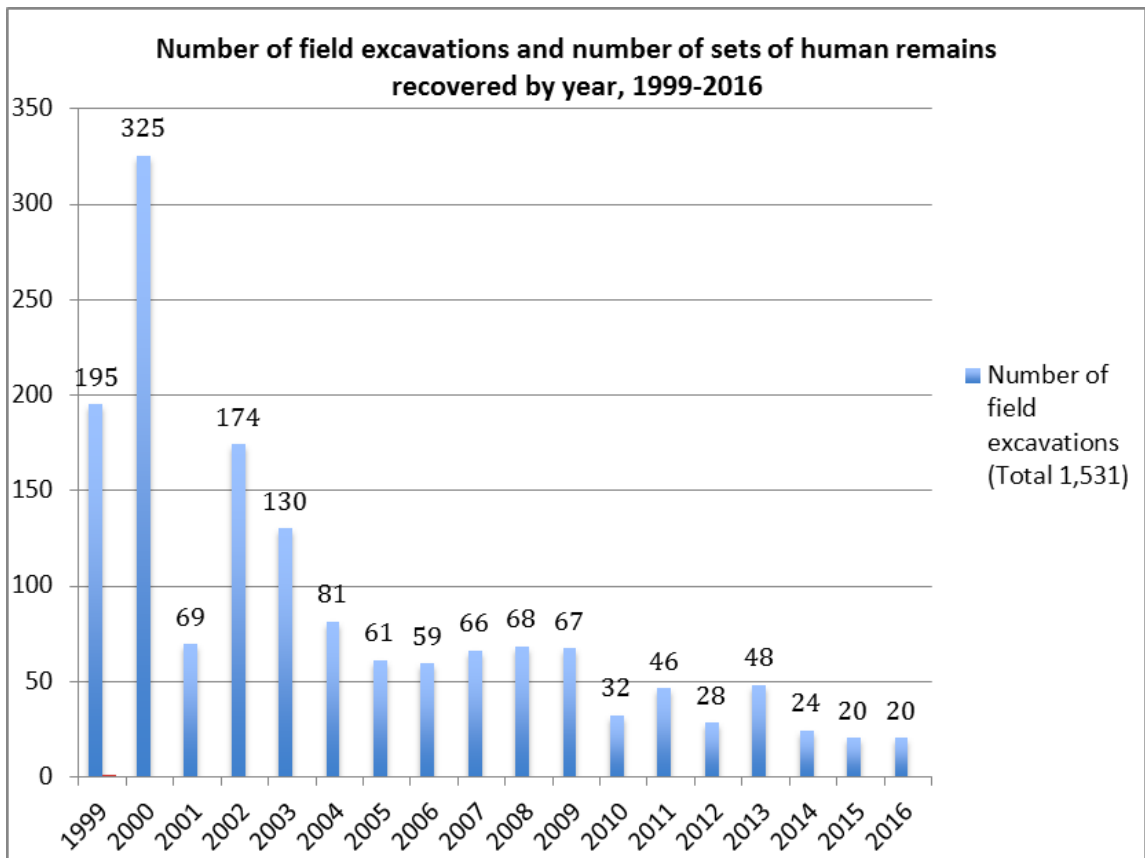


Figure 1:
Number of field excavations and number of sets of human remains recovered by year, 1999-2016

Institution responsible for exhumations on the territory of Kosovo	ICTY forensic teams	UNMIK Victim Recovery and Identification Commission (VRIC)	UNMIK Office of Missing Persons and Forensics	EULEX Office of Missing Persons and Forensics	Department of Forensic Medicine (EULEX/Kosovo Department of Justice)	Institute of Forensic Medicine (EULEX/Kosovo Department of Justice)
	UNMIK CIVPOL Missing Persons Unit					
Duration	1999-2000	2000-2002	2002-2008	2008-2009	2009-2016	2016-present

*Table 1:
Timeline of institutions responsible for exhumations on the territory of Kosovo*

	1999	2000	TOTAL
Field operations (all exhumations and assessments)	195	325	520
Sets of human remains recovered (complete and incomplete bodies)	2,108	1,835	3,943

*Table 2:
Exhumations carried out by ICTY forensic teams, and sets of human remains recovered²⁴*

	Nov 1999 – April 2002	TOTAL
Field operations (all exhumations and assessments)	69	69
Sets of human remains recovered (complete and incomplete bodies)	85	85

*Table 3:
Exhumations carried out by UNMIK CIVPOL Missing Persons Unit, and sets of human remains recovered²⁵*

²⁴ Address to the Security Council by Carla Del Ponte, Prosecutor of the International Criminal Tribunals for the former Yugoslavia and Rwanda, to the UN Security Council, 24 November 2000, <http://www.icty.org/en/press/address-security-council-carla-del-ponte-prosecutor-international-criminal-tribunals-former>

²⁵ Amnesty International, *Burying the Past: Impunity for enforced disappearances and abductions in Kosovo*, June 2009, p.71.

	2002	2003	2004	2005	2006	2007	2008	TOTAL
Field operations (all exhumations and assessments)	174	130	81	61	59	66	68	639
Sets of human remains recovered (complete and incomplete bodies)	443	652	176	118	59	73	48	1569

*Table 4:
Exhumations carried out by OMPF, and sets of human remains recovered²⁶*

	2009	2010	2011	2012	2013	2014	2015	2016	TOTAL
Field operations (all exhumations and assessments)	67	32	46	28	48	24	20	20	285
Sets of human remains recovered (complete)	52	26	37	10	22	75	9	1	232
Sets of human remains recovered (incomplete bodies)	14	11	5	106	19	92	5	16	268

*Table 5:
Exhumations by DFM/IFM (EULEX/Kosovo Department of Justice)²⁷*

²⁶ OMPF Activity Report 2008.

²⁷ Email correspondence from EULEX IFM containing relevant information received on 30 March 2017.

V. Efforts to Account for Persons Missing from the Kosovo Conflict on the Territory of Serbia

A transformation of Serbia's policy in dealing with missing persons' cases from the regional conflicts of the 1990s, including the Kosovo conflict, occurred following the democratic changes in Serbia in 2000. After the arrest of Slobodan Milošević and his extradition to The Hague and the election of Zoran Đinđić, the new administration sought to address crimes committed by the previous regime and an effort was at last undertaken to find missing persons. This resulted, over the years, in accounting for more than 1,300 missing persons, of whom almost 900 were related to the Kosovo conflict.²⁸ The Serbian authorities worked through the offices of the Kosovo Coordination Centre to address missing persons cases until 2003, when the Commission of the Council of Ministers for Missing Persons of Serbia and Montenegro assumed these responsibilities.

In 2001, ICMP signed agreements with Serbia, which included assistance in recovering mortal remains of persons missing from the Kosovo conflict and using ICMP's DNA-led system to identify the mortal remains of missing Kosovo Albanians.

The agreements signed in 2001 with the Ministry of Foreign Affairs and the Kosovo Coordination Centre created the legal basis for ICMP to begin providing assistance to the District Court of Belgrade at the Batajnica excavation site, near Belgrade Airport.²⁹ Through the use of its high throughput DNA laboratory system, ICMP was able to make 700 DNA-based identifications of the mortal remains recovered from Batajnica. ICMP also provided technical assistance at two other excavation sites in Serbia in 2001, one near Petrovo Selo,³⁰ the other near Bajina Bašta.³¹ By 2006, ICMP had helped the Serbian authorities to identify 822 persons from these three sites using scientific methods.

In November 2001, UNMIK and the FRY signed the UNMIK-FRY Common Document, which renewed the commitment on both sides to establish the fate of those who had been victims of enforced disappearances and abductions. In February 2002, UNMIK and FRY signed a protocol establishing collaboration between the parties on cross-boundary repatriation of identified remains.³² In 2003, the process of returning these mortal remains to families in Kosovo began.

²⁸ In its 2013 report to the UN Committee on Enforced Disappearances, Serbia reported 1,296 human remains had been exhumed, of which 846 were persons missing from the Kosovo conflict. Additional 53 sets of human remains of missing persons from the Kosovo conflict were exhumed in 2014 from the Raška Rudnica gravesite.

²⁹ ICMP, Batajnica summary report, 2004, page 5.

<http://www.icmp.int/wp-content/uploads/2014/08/icmp-fsd-16-04-2-doc.pdf>.

³⁰ EXHUMATIONS IN SERBIA, 2001 SUMMARY, 2002, page 5,

<http://www.icmp.int/?resources=exhumations-in-serbia-2001-summary>.

³¹ *Ibid.*

³² Amnesty International, *Burying the Past: Impunity for enforced disappearances and abductions in Kosovo*, June

In Serbia, a specialized War Crimes Chamber of the Belgrade District Court and a War Crimes Prosecutor's Office were established in July 2003³³ with the assistance and support of the international community. Before this, only a small number of individuals had been prosecuted and tried for war crimes in Serbia. Since then, the Serbian War Crimes Prosecutor's Office has been responsible for investigating and ordering the excavation of clandestine graves on the territory of Serbia.

In 2004, the Belgrade-based Humanitarian Law Center published information, based on information obtained from multiple independent sources, that human remains from the Kosovo conflict had been incinerated on two occasions, on 16 and 24 May 1999 in the Mačkatica aluminum factory (near Surdulica) in southern Serbia. In April 2005, the then War Crimes Prosecutor in Serbia, Vladimir Vukčević, went to the Mačkatica factory together with the investigating judge of the District Court in Vranje and a team of forensic experts. They examined all the blast furnaces and all the sites containing mining waste. The results of the investigation led by the Chief War Crimes Prosecutor regarding the allegations leveled by the Humanitarian Law Center have not yet been made public.³⁴

In June 2006, Serbia formed the Commission on Missing Persons, with a mandate to resolve the issue of persons who went missing during the armed conflicts on the territory of the former Yugoslavia. The Serbian Commission on Missing Persons took over all the activities and obligations of the Commission of the Council of Ministers for Missing Persons of Serbia and Montenegro, formed in 2003, continuing activities of previous governmental bodies, formed since 1991, dealing with the issue of missing persons, imprisoned persons and persons killed in the conflicts on the territory of the former Yugoslavia.

In 2013, under an order of the Belgrade District Court, the Serbian Commission on Missing Persons coordinated a series of probes at a disused quarry, at a location known as Raška Rudnica, two kilometers north of the border with Kosovo. These probes led to the discovery of a clandestine gravesite – the first in Serbia since the discovery of the Batajnica, Petrovo Selo and Bajina Bašta sites in 2001. Fifty-three cases of human remains were excavated from the site by a multi-agency team, consisting of a Serbian forensic team and EULEX DFM under order of the Belgrade District Court. ICMP conducted DNA analysis of all submitted post-mortem samples, which resulted in the identification of 52 missing persons from the Kosovo conflict. Only one unique post-mortem profile from human remains excavated from the Raška Rudnica site did not match any of the family DNA reference profiles in ICMP's database. Despite efforts, coordinated by the Serbian Commission on Missing Persons, since November 2015 to locate a clandestine gravesite at a disused quarry in Kiževak in southern Serbia, no such gravesites have been discovered in Serbia since 2014.

2009, p.19.

³³ *Law on Organization and Jurisdiction of Government Authorities in War Crimes Proceedings (Official Gazette of the Republic of Serbia, No. 67/2003, 135/2004, 61/2005, 101/2007 and 104/2009).*

³⁴ Humanitarian Law Center, *The cover-up of evidence of crimes during the war in Kosovo: THE CONCEALMENT OF BODIES OPERATION*, 2017, p 53-54.

VI. Legislation

Kosovo's constitution incorporates the main international human-rights instruments, including the European Convention on Human Rights (ECHR), and Kosovo courts apply ECHR case law. Under the ECHR, family members of missing persons have a right to information concerning the fate and whereabouts of their relatives, which is anchored in Articles 2, 3, 5 and 8 of the ECHR. The Kosovo authorities are accordingly obliged to undertake all reasonable efforts to provide such information.

Domestic legislation that prescribes the rights of families of the missing and the obligations of the state are crucial for an effective rule-of-law-based process of accounting for missing persons after conflict.

The Kosovo Assembly adopted the *Kosovo Law on Missing Persons* (No.03/L-023) on 31 August 2011. That law was published in the official gazette on 14 September 2001 and came into force 15 days later. The law aims to protect the rights and interests of missing persons and their family members, in particular the right of family members to know the fate of persons who were reported missing during the period from 1 January 1998 to 31 December 2000 as a consequence of the war in Kosovo during 1998-1999. It also establishes the powers and responsibilities of the Kosovo Commission on Missing Persons.

Heavily modeled on the Bosnia and Herzegovina *Law on Missing Persons*, the Kosovo law defines a missing person, enshrines the families' right to know the fate of their missing relative/s, reaffirms the mandate and competencies of the Kosovo Commission on Missing Persons, which were previously defined in the UNMIK/PISG decision of 6 October 2006 which created that body, and tasks the of the Kosovo Commission on Missing Persons with the creation of Central Records of missing persons.

Following the adoption of the *Kosovo Law on Missing Persons* in August 2011, the Kosovo authorities adopted the Regulation on the Rules of Procedure of the Government Commission on Missing Persons, which prescribes the rules and procedures of the Kosovo Commission on Missing Persons and the duties and responsibilities of the Administrative Unit of the Commission.

There are however three gaps in terms of implementation of the *Law on Missing Persons*. First, the sub-legal acts (by-laws) on the termination of a search have not been proposed by the Ministry of Justice and approved by the Government. According to the *Law on Missing Persons*, the search for a missing person is considered completed when the missing person is located or his/her mortal remains are identified. These sub-legal acts are required to define which institutions are responsible for various procedures concerning the termination of search, i.e. who officially makes the legal identification, what the role of the prosecutor is, and who should in-

form the family when a case is closed. Second, the *Law on Missing Persons* prescribes that the Vice Chairperson of the Kosovo Commission on Missing Persons should be a representative of the non-majority communities. However, since 2011, when the Deputy Chairperson from the non-majority communities resigned, the position has been vacant. Third, the Kosovo Commission on Missing Persons has yet to adopt a regulation that would establish the procedure for using, registering, excluding and exchanging data, including its verification and management. The *Law on Missing Persons* under Article 15 calls on the Kosovo Commission on Missing Persons to adopt such a regulation pursuant to the *Law on Protection of Personal Data* and the *Law on Classification of Information*, and security clearances and security rules as well as other legal obligations relating to the protection of personal data.

While parts of the *Law on Missing Persons* have not been fully implemented, of greater concern is the overlapping of the mandate of the IFM, prescribed by the *Law on Forensic Medicine*, with the mandate and competencies of the Kosovo Commission on Missing Persons, which is prescribed by the *Law on Missing Persons*. Article 15 Paragraph 1.7 stipulates that the Institute of Forensic Medicine will maintain, “contact with families of missing persons and cooperation with local and international institutions and organizations involved in the process of clarifying the fate of the missing persons”. This is in conflict with the mandate of the Kosovo Commission on Missing Persons as defined by Article 8 of the *Law on Missing Persons*, which states that the Kosovo Commission on Missing Persons “supervises, harmonizes and coordinates the activities with local and international institutions, cooperates with Institutions and International Organizations and the other stakeholders with regard to clarification of the fate of missing persons as a result of the 1998-1999 war”.

The Kosovo authorities have taken measures to ensure families of missing persons have access rights and benefits under the law. Family members of missing combatants receive preferential treatment vis-à-vis families of missing civilians, however.

The Kosovo Assembly adopted the *Law on the Status and Rights of the Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Sexual Violence Victims of the War, Civilian Victims and their Families* (No.04/L-054) in December 2011. Under that Law, family members of the missing³⁵ are entitled to the following rights and benefits: family pension; free primary and secondary health-care in public health-care institutions; exemption from property tax, if the immediate family is in difficult economic circumstances; and reduced electricity costs for personal use, if the immediate family is in difficult economic circumstances and meets the criteria

³⁵ The spouse, child, parent, stepfather, stepmother, stepchild, adopted child or extramarital partner of a missing person are considered family members of missing persons under the *Law on the Status and Rights of the Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Sexual Violence Victims of the War, Civilian Victims and their Families*. The spouse of a missing person forfeits the right to financial benefits foreseen under the Law if he or she remarries. The child of a missing person is entitled to financial benefits under the law until he or she reaches the age of eighteen, or until the age of twenty-six if they are enrolled in higher education.

established in the social assistance system.

Family members of missing KLA soldiers, may in addition claim the following rights and benefits: the right to family pension; priority in employment; advantage in registration and admission to public educational institutions; grants for secondary and university education; free accommodation in student dormitories; support for family housing; free tariff and reduced consumption record of electricity for personal use in case of difficult economic circumstances, when full social assistance has also been provided; exemption from payment of court, administrative and public fees; free primary, secondary and tertiary health care in institutions of public health; free accommodation in homes for the elderly; and exemption from administration payments in public university education.

Unlike Kosovo or Bosnia and Herzegovina, Serbia has no *Law on Missing Persons*, which would regulate the status of missing persons and define the rights of families of missing persons. Investigating missing persons' cases in Serbia is undertaken as part of the overall effort to investigate war crimes, and crimes against humanity, in line with Serbia's Criminal code and Criminal Procedure Code, as well as the *Law on Organization and Jurisdiction of Government Authorities in War Crimes Proceedings*.

Serbia has adopted a *Law on Civilian Invalids of War*. This Law, however, is problematic in implementation where families of missing persons are concerned. The rights that the Law provides for civilian victims and their families may be divided into three groups: (1) monetary compensation; (2) healthcare; and (3) reduced prices of public transport tickets. According to Article 3 of the Law: "A war victim's family member is considered to be a family member of a person who was killed or has died [...]; if the family member has lived in a common household with the aforementioned person, prior to their death."³⁶

Under the Law, victims of enforced disappearance are not considered to be civilian victims of war. In order to access rights under the Law, these families are required to declare their missing family member as deceased. Many families refuse to declare their loved ones dead until their mortal remains are found and before the circumstances of their enforced disappearance are determined.

Furthermore, the Law specifies which members of the family are entitled to administrative reparations, and it prescribes an additional condition, that they "lived in a common household" before the victim's death. The recognized family members are: spouse, children (born in or out of wedlock, adopted or stepchildren) and parents. The Law excludes siblings of victims, but also children and parents in cases where they did not live in the same household.

³⁶ *Law on Civilian Invalids of War*, Art. 3 ("Official Gazette of RS", No. 52/96).

VII. Families of the Missing

Families of the missing have a crucial role to play in the process of accounting for persons missing after conflict. Not only is the engagement of families of the missing required for a DNA-led process of identification based on kinship matching, it is equally vital in terms of holding the authorities to account as regards the search for and identification of missing persons.

As elsewhere in the Western Balkans, so too in Kosovo, ICMP has encouraged the active participation of families of missing persons in the process. It has done so through education, training and grant-making programs aimed at empowering associations of families of missing persons, and through a process of building mutual understanding through dialogue between a small group of leaders of associations of families of missing Serbs and families of missing Kosovo Albanians. This initiative has been ongoing since the Kosovo conflict. It has emphasized the need for greater cooperation and understanding between associations of families of the missing and the need for joint advocacy and coordination among different groups to solve common problems in addressing the issue of the missing.

Progress towards mutual understanding and identification between family members has been substantial. Some family associations of missing persons recognize the value of working jointly, and speaking with a common voice they are better able to leverage policy objectives and push the missing persons process forward. They have participated in bilateral meetings with institutions working on the missing persons issue and have made joint demands for answers related to the process of locating, recovering and identifying missing persons. They have followed up on these demands and sought to ensure that the states honor their commitments. They have also begun to mark the International Day of the Disappeared, holding simultaneous joint press conferences in Belgrade and in Pristina, both involving a mixed group of Serb and Kosovo Albanian family associations.

The ICRC and Red Cross organizations have also provided significant support to families of missing persons in Kosovo and Serbia as well as elsewhere in the region. The ICRC has regularly supported psychosocial projects, often implemented with local Red Cross organizations. The ICRC has also held workshops across the region, to convey the needs of families to the authorities, to the media and to society as a whole. The primary objective of Red Cross organizations has been to accompany families through the search, identification and closure of missing persons' cases.³⁷

However, after 17 years of searching for the missing and demanding answers from the authorities, many families are exhausted, and fear that their missing relatives will never be found.

³⁷ ICRC article, *Missing persons in the Western Balkans*, 2 June 2015, https://www.icrc.org/en/resource-centre/result?f=document_type%3A%22Article%22&sort=date+desc.

VIII. Data Systems

Robust data systems are crucial for any process of accounting for large numbers of missing persons after conflict or human rights abuses. Powerful integrated applications that support the processing and analysis of very large amounts of data on missing persons, investigations, and identifications are not only key to ensuring a transparent and well managed process of recovery and identification, but can also assist with data mining to identify patterns of disappearance and recovery that can assist further search efforts. Moreover, a robust data system is fundamental to helping states create central records of who went missing, thus providing accurate, impartial information to their citizens and enabling families of the missing to register their missing relatives, which often tends to be a prerequisite for receiving social and economic benefits or reparation from the authorities.

The ICRC was among the first organizations to gather data on missing persons in regard to the Kosovo conflict. The ICRC began compiling a list of the missing in Kosovo in January 1998 on the basis, *inter alia*, of tracing requests – i.e. requests submitted by people reporting that their family members had gone missing.³⁸ In the wake of the 1998-99 conflict and its aftermath, the list included 6,049 names. Of these cases, 1,372 were subsequently found alive.³⁹ Based on its tracing requests, the ICRC has maintained a provisional list of missing persons, agreed upon by the Belgrade and Pristina delegations to the Working Group, and provides new versions regularly to both sides.

The *Law on Missing Persons* (Article 13) states that the Kosovo Commission on Missing Persons will establish and maintain a Central Register of Missing Persons. This is a database that includes data on missing persons collected from available sources to assist in revealing the identity and location as well as the circumstances of disappearance of missing persons. The *Law on Missing Persons* tasks the Kosovo Commission on Missing Persons with collecting and centralizing data on missing persons in its Central Register. The data should be collected from all available sources.

The Kosovo Commission on Missing Persons established a Central Register of Missing Persons in 2012. It is located in the premises of the Ministry of Public Administration. It contains data on 1,764 open missing persons cases. The Kosovo Commission on Missing Persons has included the post-mortem data on 558 identified missing persons' cases in the Central Register. Because of a lack of human resources, it has not yet included the data on an additional approximately 3,000 closed cases. Information on closed cases is in the possession of the IFM (for the Ministry of Justice). The Central Register is accessible to families of missing persons as prescribed by the

³⁸ ICRC article, *Missing persons in the Western Balkans*, 2 June 2015,

https://www.icrc.org/en/resource-centre/result?f=document_type%3A%22Article%22&sort=date+desc.

³⁹ Altogether, a total of 34,891 people have been reported to the ICRC as missing in connection with the conflicts of the 1990s.

Law on Missing Persons (Article 14). Family members or their legal representatives may submit a request to access data in the Central Register to the Kosovo Commission on Missing Persons, which is obliged to review the application and take a decision within fifteen days of receiving the request. At the time of writing, the Central Register is not accessible online. Efforts should be made to ensure the completion of the Central Register to include all closed cases and recently opened cases, and to make it accessible online. The Kosovo authorities must ensure that the Kosovo Commission on Missing Persons has the technical capacity to maintain and manage data in the Central Register.

The ICRC has been energetic in assisting the Kosovo Commission on Missing Persons to help it fulfill its obligations under the *Law on Missing Persons* to establish the Central Register. Following a request from the Kosovo Commission on Missing Persons, the ICRC and the Kosovo Commission on Missing Persons in June 2012 signed the Software Handover Agreement for the ante-mortem/post-mortem database.⁴⁰

ICMP has assisted the authorities in Kosovo and Serbia by providing them with access to its data systems. ICMP's Identification Data Management System (iDMS) is a specialized software solution developed by ICMP to manage large-scale missing persons programs. It has a set of powerful integrated applications that supports the process of processing, analyzing, and sharing very large amounts of data on missing persons' investigations and identifications. Included in the iDMS database are 4,415 missing persons from the Kosovo conflict, as well as the profiles of living relatives.⁴¹ The authorities in Kosovo and Serbia can access data through the ICMP's Online Inquiry Center (OIC), which is the online platform for the iDMS.⁴²

⁴⁰ ICRC article, *Missing persons in the Western Balkans*, 2 June 2015, https://www.icrc.org/en/resource-centre/result?f=document_type%3A%22Article%22&sort=date+desc.

⁴¹ The iDMS includes data on more than 150,000 missing persons gathered by ICMP through its work across the globe.

⁴² There is a high degree of control over access to sensitive information, such as DNA and family data. Each user has access only to authorized portions of the database, and sensitive data is stored and analyzed in an anonymous, coded form at many stages of the process. As noted in ICMP's 2014 report: *Bosnia and Herzegovina, Missing Persons from the Armed Conflicts of the 1990s: A Stocktaking*, generally in the field of processing personal data, including genetic data, the interests and welfare of the individual have priority over the rights and interests of society. The collection, use and storage of human genetic data must therefore be in conformity with the principles of informed consent, confidentiality and anonymization of personal genetic information. Genetic data should in particular not be disclosed or made accessible to third parties (employers, insurance companies, educational institutions or family) except in cases of a compelling public interest provided for under law. Participation of family members in DNA-led processes is therefore voluntary and subject to their consent. Informed consent means that families are informed in advance of the uses that will be made of their data. Consent forms used by ICMP in Kosovo and Serbia have stated that genetic and other personal information will be processed for identification purposes only. In particular, providing personal data, including genetic data, as evidence in trials constitutes a different use. ICMP policies stipulate therefore that parties to criminal trials, i.e. the prosecution or the defense, that wish to have access to DNA evidence should specify individual missing persons' cases, and individuals concerned must provide their express, informed, and free consent to the use of their data in court. DNA testing consent forms in use today in Kosovo and Serbia permit family members to decide at the time of providing personal information whether or not their data may be used for purposes of criminal prosecutions.

Enhanced regional cooperation between the countries of the Western Balkans is crucial to the process of search and identification of the missing. A key component of regional cooperation is the transparent sharing of data on missing persons. ICMP is negotiating and facilitating the establishment of a database of active missing persons cases from the armed conflicts in the former Yugoslavia, including the Kosovo conflict, as an integrated record of persons who went missing between 1991 and 2000 as a result of the conflicts. The joint database will include the official records of missing persons of Bosnia and Herzegovina, Croatia, Kosovo, Montenegro, Serbia and ICMP. The database will support the process of accounting for the missing in the region, not least as regards the Kosovo conflict by: a) making live data continuously available, which constitutes accurate records of active missing persons cases and their overall numbers; b) ensuring greater transparency in the opening and closing of cases; c) addressing the issue of duplicate records of persons who are reported missing in more than one country; and d) facilitating the sharing of data that ICMP has in its possession on missing persons' cases that are registered in ICMP's OIC but which may not be registered in the records on missing persons of the authorities of Kosovo and Serbia.

In June 2016, Kosovo agreed to participate in the project "database of active missing persons cases from the armed conflicts in the former Yugoslavia", including to supply its data on open missing persons' cases to ICMP for inclusion in the database, which will be made accessible and searchable by the authorities of Kosovo as well as by the authorities in Bosnia and Herzegovina, Croatia, Montenegro and Serbia on the basis that those authorities reciprocally provide their data relative to open missing persons' cases.

IX. Science and Technology

ICMP has since 2001 in Serbia and 2003 in Kosovo assisted the authorities with the provision of a DNA-led process of identification of missing persons. The DNA-led identification process, as applied to missing persons from the Kosovo conflict, consists of matching DNA profiles from skeletal remains to DNA profiles from family members of the missing. Therefore, the ability to make DNA-based identifications depends on the recovery of sufficient quantities of DNA from post-mortem samples and also on the collection of genetic references from relatives, of a sufficient number and type to permit DNA matches to be made. The ICMP DNA identification system is highly quality-controlled and since 2007 has been internationally accredited to the standard of ISO 17025.

Scientists at the ICMP DNA Laboratory analyze blood, bone and tooth samples with a view to extracting a DNA profile from each reference and post-mortem sample. Like reference samples, the post-mortem samples are tracked and processed through the DNA laboratory with blind bar code identifiers. DNA profiles from post-mortem samples are then submitted for matching. The type of DNA testing used by ICMP is short tandem repeat (STR) nuclear DNA testing, with Y-chromosomal STR testing applied in particular cases where it is deemed necessary for establishing a family match.

ICMP enters all information from the genetic reference profiles and the post-mortem profiles into its database system. Specialized DNA matching software designed by ICMP then screens the DNA profiles for possible kinship associations, such as, but not limited to, parent/child or sibling. Once potential associations are found, full pedigree kinship analysis is performed involving all reference samples to verify stringently the accuracy of the relationship.

If a match is found that is equal to or exceeds the threshold of 99.95 percent statistical certainty of identity, a DNA Match Report is produced. Each report undergoes an extensive review process where all information contained in the report is checked for consistency prior to release of the report to the relevant authorities. Although a DNA match is compelling evidence of the identity of an individual, the IFM concludes the formal identification, using other available ante-mortem data, and issues a death certificate.

As noted above, in the context of the Kosovo conflict, the ICRC has compiled, *inter alia* through tracing requests from families, a list of 6,049 individuals that reportedly also includes a total of 1,371 persons found alive or visited in prisons. Today, the number of persons still unaccounted for on the ICRC-managed list is 1,665. Based on reference samples collected from families of the missing from the Kosovo conflict, ICMP estimates that the total number of missing persons from the Kosovo conflict is approximately 4,500.

By 31 December 2016, ICMP had collected 14,810 references samples from family members

who reported missing relatives to ICMP. These reference samples represent 4,415 missing persons.

ICMP began receiving post-mortem samples from the Serbian authorities in June 2002 and from UNMIK in 2003. By 31 December 2016, ICMP had received from UNMIK OMPF and EULEX and the Serbian authorities 7,207 post-mortem samples for DNA processing. From these post-mortem samples ICMP obtained 5,691 DNA profiles, of which 3,239 are unique profiles. In other words, ICMP has obtained DNA profiles from post-mortem samples potentially to DNA match as many as 3,239 individual missing persons.

Today, by comparing the 3,239 unique profiles that ICMP has obtained from post-mortem samples with the reference profiles of 14,517 family members who have reported missing relatives, ICMP has obtained 2,539 DNA matches. That is to say, ICMP has helped the Serbian and Kosovo authorities reliably to identify 2,539 individual missing persons using modern scientific methods.

However, over the years the number of DNA matches representing new identifications has dramatically declined (Figure 2 illustrates the trend in terms of obtaining new DNA matches). The decline in the number of unique DNA match reports submitted should be considered in relation to the number of unresolved missing persons cases on the ICRC’s list of missing persons from the events in Kosovo. In March 2006, ICRC reported there were 2,389 unresolved cases,⁴³ in April 2010 there were 1,862,⁴⁴ and in December 2016 there were 1,665 cases.⁴⁵

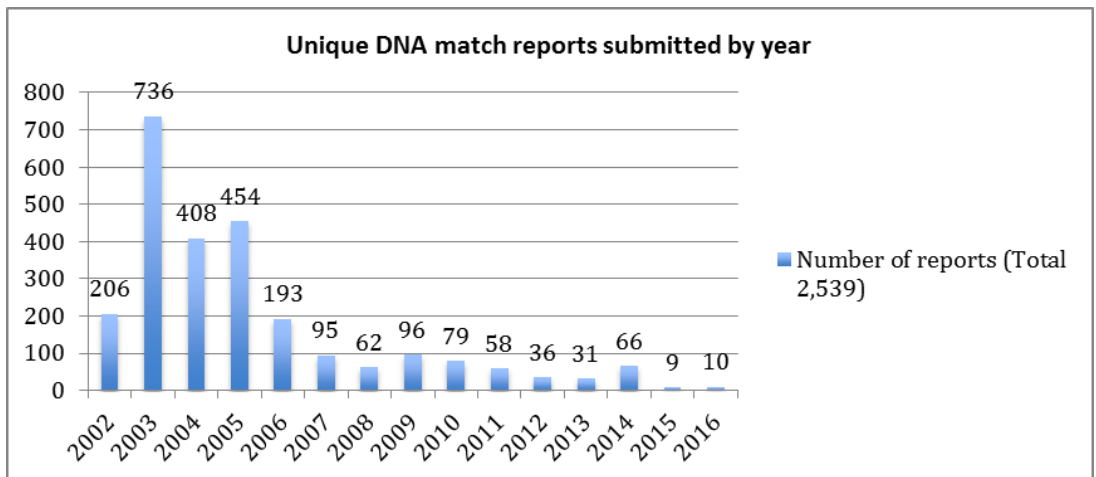


Figure 2:

⁴³ ICRC News Release, 06/10: Kosovo, ICRC deplores slow progress of working group on missing persons, 09-03-2006

⁴⁴ ICMP, *The Situation in Kosovo: A Stock Taking*, 2010.

⁴⁵ Data provided courtesy of ICRC.

Unique DNA match reports submitted by year

ICMP issued the vast majority of DNA match reports (1,997) prior to 2007 (78 percent of the total number of DNA-matched missing persons). Already in 2005 in its first Kosovo stocktaking report ICMP predicted a low rate of new identifications, which has proved to be the case. ICMP’s prediction was based on its assessment of the large number of genetic references it had collected, the large number of profiles it had already obtained from post-mortem samples, and the precipitous decline in the location and excavation of clandestine gravesites.

Figure 3 shows the number of missing persons represented by complete sets of family references – today 4,415 missing persons. It is of concern that 1,876 unique sets of genetic references provided by family members who are still searching for their missing relatives do not match any of the 3,239 unique profiles that ICMP has extracted from post-mortem samples. In other words, family members of 1,876 missing persons are still waiting for answers regarding the fate of their missing relatives.

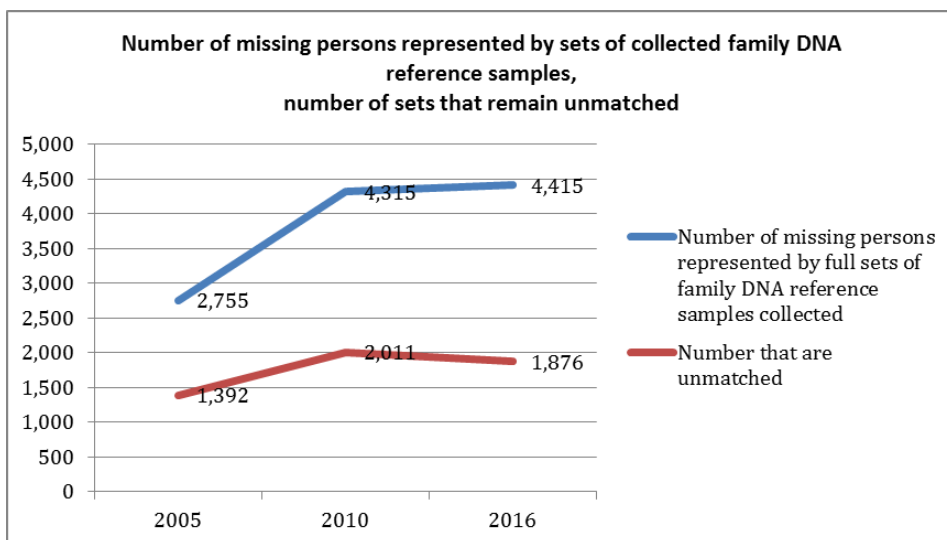
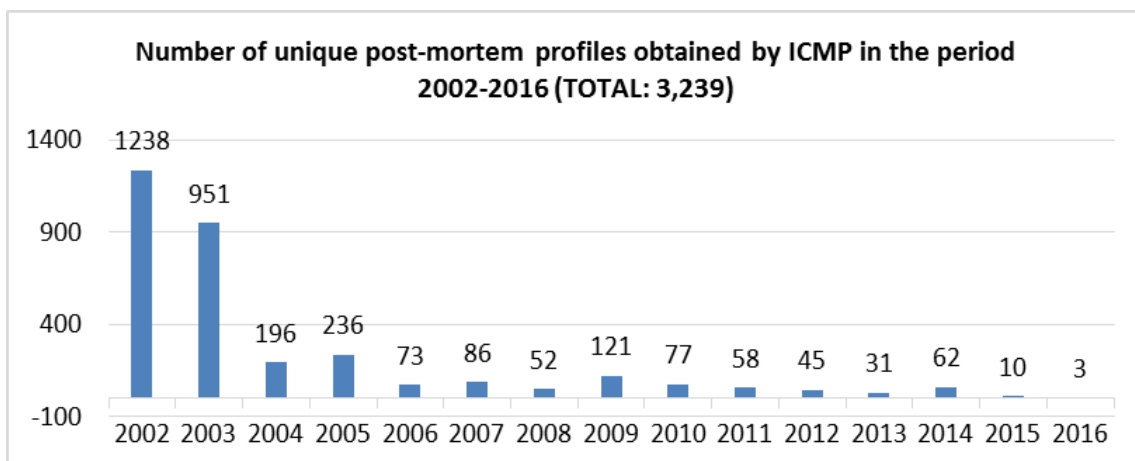


Figure 3: Number of missing persons represented by sets of collected family DNA reference samples, number of sets that remain unmatched

As previously noted, since 2003 ICMP has received from UNMIK OMPF, EULEX and the Serbian authorities 7,207 post-mortem samples for DNA processing and testing. From these post-mortem samples ICMP obtained 5,691 genetic profiles, of which 3,239 are unique genetic profiles relating to a single individual. ICMP processed and profiled the vast majority of samples received by 2005. Figure 4 demonstrates the number of new unique profiles obtained over time from the post-mortem samples received. The number of new unique post-mortem genetic profiles decreased considerably after 2006.



*Figure 4:
Number of unique post-mortem profiles obtained by ICMP in the period 2002-2016*

It is important to note that over time the gap between post-mortem samples received and new unique genetic profiles obtained has grown alarmingly. In the period 2002-2005, ICMP obtained a unique post-mortem profile for every 1.4 post-mortem samples processed. In the period 2006-2010, ICMP obtained a unique post-mortem profile for every 4.6 post-mortem samples processed, indicating that samples received in the latter period predominately represent small body parts of individuals for whom samples had previously been submitted. In the period 2011-2016, ICMP obtained a unique post-mortem profile for every 5.4 post-mortem samples processed.

The reason for the growing gap is that since the end of 2006, the majority of post-mortem samples received have been from skeletal samples of persons for whom ICMP had already obtained a DNA profile from previously submitted post-mortem samples. ICMP reports on these cases as re-association reports. ICMP has obtained a low number of new DNA matches (542 new DNA matches) and a large number of re-association reports (1,417). ICMP issues a re-association report on a sample to indicate that it matches other samples that have already been submitted and identified. This enables disassociated skeletal elements, which tend to occur as a result of co-mingling of bodies in complex gravesites or as a result of the clandestine re-exhumation of human remains and their interment in secondary sites, to be re-associated either with already identified cases or with other previously DNA-profiled skeletal elements for which there is no DNA identification. See Figure 5.

The ratio of post-mortem samples received by ICMP to the number of new unique genetic profiles obtained is a result of the fact that in the past decade the majority of post-mortem samples were taken from skeletal remains found in the Pristina Mortuary, which had already been sampled several times by various institutions, including UNMIK OMPF and EULEX. It also reflects the fact that in the last decade there has been a decline in the number of clandestine gravesites that have been located and excavated, and with fewer excavations and fewer cases being recovered and sampled, there has been a significant decrease in the number of new DNA matches, and a large number of re-associations. These figures are borne out by the fact that EULEX IFM reports that between 2009 and 2016 only 232 bodies and 268 body parts were excavated by, or with the assistance of, EULEX IFM.

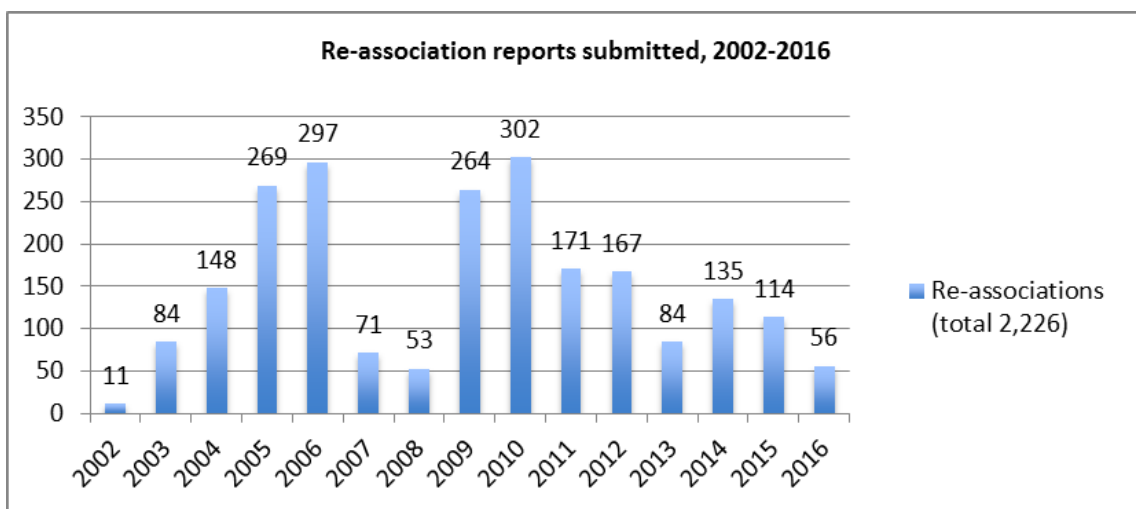


Figure 5:
Re-association reports submitted, 2002-20016

ICMP takes reference samples from family members who provide ante-mortem data to ICMP in relation to a missing relative, or missing relatives. The majority of reference samples were provided at the initiative of the family members themselves. In other instances, ICMP was asked by either the Kosovo or Serbian commissions on missing persons, or UNMIK OMPF or EULEX IFM to approach specific family members to take reference samples.

In 2010, ICMP had complete sets of reference samples for 1,800 individuals who had not been identified. Today, that number has grown to 1,876. In addition, in the 2010 report *Kosovo: A Stock Taking*, ICMP noted that there were 693 unique DNA profiles taken from mortal remains, which had no corresponding match to any of the then 14,517 family references collected by ICMP. Today, the number of unique DNA profiles obtained from post-mortem samples stands at 700 and none matches any of the now 14,810 family references. See Figure 6.

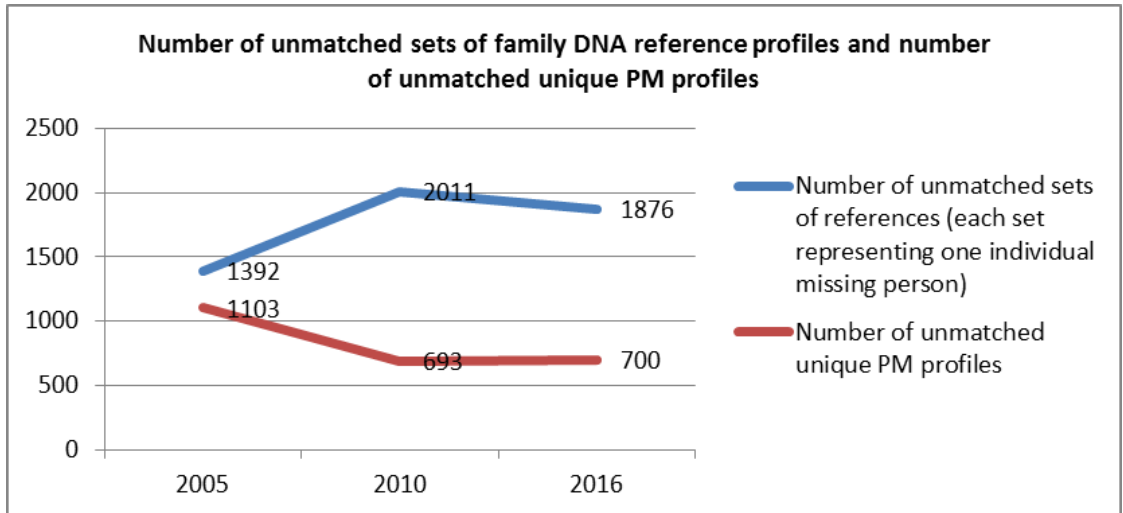


Figure 6: Number of unmatched sets of family DNA reference profiles and number of unmatched unique PM profiles

One of the key points to be addressed in order to carry the process forward is resolving why 1,876 missing persons cases for which ICMP has a full set of blood reference samples provided by more than 5,600 family members of the missing do not match any of 700 unique DNA bone profiles. It is likely that misidentifications that occurred between 1999 and 2002, before the introduction of DNA testing as the primary means of human identification, are a significant factor in the lack of resolution of these remains. This situation has been unchanged for over a decade, despite a massive effort by EULEX and ICMP.

To obtain insight on unmatched DNA profiles from post-mortem samples, EULEX forensic staff embedded in the DFM launched a review of unidentified mortal remains, the No-Name (NN) cases project, at Pristina Mortuary in 2010. This was completed in 2012. In its 2012 annual report, EULEX DFM determined that there were 342 NN cases in Pristina Mortuary. Of that number, 246 were male, of which 157 (64 percent) were skeletons and 89 (36 percent) were very fragmented skeletal parts.⁴⁶ There were 96 NN female cases, of which 82 (85.4 percent) were skeletons and 14 (14.6 percent) were very fragmented skeletal parts.⁴⁷ Of the males, almost two-thirds (61.4 percent) had evidence of violent trauma, most commonly gunshot wounds. Of the females, 27 percent presented evidence of violent trauma. EULEX IFM stated in its report that of the total 342 NN cases, 94 might be identified in the future while identification was not possible for the remaining 248 cases.⁴⁸

⁴⁶ EULEX-IFM Annual Activities Report (2012-IFM-005), page 7.

⁴⁷ *Ibid*, page 8.

⁴⁸ *Ibid*, page 10.

The review of NN cases in Pristina Mortuary resulted in the submission of a large number of post-mortem profiles to ICMP for DNA testing, and EULEX IFM reports that 45 missing persons' cases were resolved on the basis of ICMP's DNA analysis.⁴⁹ However, at the time of writing, 700 unmatched unique profiles from post-mortem samples remain in ICMP's database, a figure that is at odds with the number of NN cases that EULEX IFM reports are stored in Pristina Mortuary. Further, a significant number of apparently conflict-related cases of unidentified human remains are still stored in Pristina Mortuary and EULEX IFM. A plan must be developed regarding how to resolve these cases that would necessarily involve addressing the issue of potential misidentifications based on traditional methods.

According to its 2011 report, the DFM made a classification of active cases. For Kosovo Albanian missing persons, the categories included: "Burnt", "Beyond Kosovo", "Kosovo (Dren)", "Other cases", "Misidentifications" and "Uncategorized". In the report, the DFM gave a figure of 70 misidentifications out of a total of 1,299 missing Kosovo Albanians. The DFM noted in the report that there are 428 Kosovo Albanian missing that are "Uncategorized", and 102 "Other cases".⁵⁰ The DFM sub-categorized the 428 "Uncategorized" cases into the following sets: "Cemeteries in Kosovo", "Informal burials", "Clandestine burials" and "NN held in DFM". These sub-categorizations do not exclude the possibility of incorrect identification.

As ICMP noted in its 2010 Kosovo stocktaking report, based on the results of efforts to respond to family requests for DNA identification to confirm identification work that was originally undertaken in Kosovo without the use of DNA, the misidentification rate of cases that were closed without the benefit of DNA testing could be at least 17 percent. ICMP conducted DNA analysis of 77 cases from the Mitrovica area in 2010 that had been previously closed using only traditional methods of identification. The results showed that 13 of the original 77 traditional identifications were incorrect.⁵¹ Taking into account that around 2,000 cases were closed using traditional methods in 1999 and 2000, the number of incorrect identifications could number at least 340 cases, based on the proportion of established misidentifications that ICMP corrected with DNA analysis from the Mitrovica area. This confirms the need to address the issue of misidentifications more specifically, as a means of providing information to families of the missing.

The reason previous misidentifications are likely contributing to the current situation is that families that have received traditionally misidentified bodies will likely not have given blood samples for DNA identification. Likewise, the traditionally misidentified bodies will not have been tested by DNA, and therefore no match will be made to families to whom that missing person is related. The collection of genetic reference samples from family members who identified their missing through non-scientific means, i.e. without the assistance of DNA, might enable the resolution of a substantial number of the unidentified remains in Pristina Mortuary, and provide explicit direction to target and address demonstrable misidentifications.

⁴⁹ *Ibid*, page 9.

⁵⁰ EULEX-DFM Annual Activities Report Missing Persons 2011 (2012-Dfm-005).

⁵¹ ICMP, *The Situation in Kosovo: A Stock Taking*, 2010, p. 8.

X. Conclusions

Eighteen years have passed since the end of the Kosovo conflict. An important effort has been made to locate and identify missing persons. Field operations have resulted in the recovery of more than 6,000 cases of human remains in Kosovo, and almost 900 in Serbia. Since 2002 more than 2,500 missing persons cases have been resolved through the use of DNA testing. Approximately 2,000 cases were identified by traditional methods of visual identifications prior to 2002. Today, over 1,600 persons are still missing.

Families of the missing, though exhausted after 17 years of searching for answers, continue to play an active role in the process and continue to lobby the authorities for answers.

A *Law on Missing Persons*, which prescribes the rights of families and the obligations of the authorities, has been adopted in Kosovo, though its implementation is incomplete. In Kosovo, families of missing persons can access benefits under the *Law on Martyrs*, though families of missing veterans receive larger payments than families of missing civilians. In Serbia, a *Law on Missing Persons* has not yet been adopted. Families of missing persons in Serbia have limited access to benefits under the *Law on Civilian War Victims*, but only if they register their missing relatives as deceased.

In Kosovo, a Commission on Missing Persons under the national authorities has been operational since 2006. Its capacities are limited and it has only tacit political support of the Kosovo authorities. Its competency to cooperate with local and international institutions and with families of the missing is compromised by the fact that the Institute of Forensic Medicine is also prescribed this competency under the *Law on Forensic Medicine*. In Serbia, a Commission on Missing Persons has been operational since 1991. It is the sole institution in Serbia responsible for the coordination of the search for missing persons.

A Central Register on missing persons containing data on active missing persons cases has been established by the Kosovo Commission on Missing Persons. Entry of closed case data is in progress. The ICRC maintains a provisional list on missing persons from the events in Kosovo, which is agreed on by the authorities in Belgrade and Pristina. However, these numbers differ by about 200 cases from ICMP's database of open cases. Efforts are underway to establish a regional database of active missing persons' cases from the conflicts in the former Yugoslavia, which will include data submitted by the Serbian and Kosovo Commissions on Missing Persons, and will provide live updated numbers in real time.

A gradual handover of competencies from the international community (EULEX) to the Kosovo authorities has taken place. Local prosecutors from the SPK are today responsible for issuing

orders for the exhumation of clandestine gravesites on the territory of Kosovo. Nevertheless, EULEX continues to retain an executive mandate in relation to missing persons.

The rate of discovery of clandestine gravesites has declined precipitously since 2005, despite the significant efforts made by the international community.

ICMP has 700 unmatched DNA profiles obtained from post-mortem samples, which do not match genetic references provided by families still searching for their missing relatives, which represent 1,876 missing persons. It is highly probable that this situation is the result of the approximately 2,000 identifications made in the period 1999-2002 when individuals were identified on the basis of items of clothing and personal effects found with the human remains, which increases the risk of error.

The families of the missing have repeatedly asked the Kosovo and Serbian authorities for an open and transparent process to address the interrelated issue of misidentifications and NN cases. At the meeting with Kosovo Serb and Albanian families of the missing, hosted by HRH the Prince of Wales at Clarence House in London in March 2017, the issue of misidentifications and NN cases was raised. Families called on the authorities to take the lead in resolving cases in a systematic way. Clearly, the issue of misidentifications must finally be addressed.

XI. Recommendations

1.1. Enhanced Institutional Cooperation, Political Will and Financial Responsibility

- 1) The Kosovo and Serbian authorities should explore mechanisms for direct cooperation to investigate missing persons' cases from the Kosovo conflict.
- 2) A greater demonstration of political will to address the issue is required from the authorities in Kosovo and Serbia. Such a demonstration would include the following:
 - a. The Kosovo and Serbian authorities should allocate increased financial and appropriate human resources to the respective Commissions on Missing Persons;
 - b. The Kosovo authorities should strengthen the technical capacities of the IFM and the SPK. The international community should ensure full domestic ownership of investigations into missing persons' cases by handing over all such cases to the SPK; and
 - c. The Serbian authorities should make public their findings from the investigation into allegations that human remains were incinerated in the Mačkatica aluminum factory (near Surdulica) in southern Serbia in May 1999. This is a pre-requisite for a transparent process to account for persons missing from the Kosovo conflict, and it is necessary in order to end speculation on the part of families of the missing who are seeking answers.

1.2. Legislation

- 1) Full implementation of the Kosovo *Law on Missing Persons*, including:
 - a. The Kosovo Ministry of Justice to propose sub-legal acts on the termination of search, which should then be approved by the Kosovo authorities;
 - b. The Kosovo Commission on Missing Persons to adopt a regulation establishing procedures related to the Central Register of Missing Persons, including using, registering, excluding and exchanging data, and its verification and management pursuant to the *Law on Protection of Personal Data* and *Law on Classification of Information*; and
 - c. The Kosovo authorities to appoint the Vice Chair of the Kosovo Commission on Missing Persons from among the non-majority communities.

- 2) Serbia should amend the *Law on Civilian Invalids of War* and the Criminal Procedure Code to expand the definition of a victim to include missing persons and an injured party to include families of the missing so that families of missing persons are able to access rights and benefits under the law.

1.3. Families of the Missing

- 1) Both the Kosovo and Serbian authorities should enhance efforts to secure the rights of families of the missing to truth, justice and reparations, regardless of their ethnic, religious or national origin, or their role during the conflict.
- 2) Kosovo and Serbian authorities should provide financial support for the activities of associations of families of the missing.
- 3) Associations of families of the missing should seek to further strengthen their organizational capacities, and joint cooperation.
- 4) Associations of families of the missing should encourage greater involvement of youth in their work in order to ensure sustainability of the process.

1.4. Data Systems

- 1) An open and transparent process should be carried out to review the consolidated list of the missing.
- 2) The Kosovo Commission on Missing Persons should ensure the completion of the Central Register of Missing Persons, including approximately 3,000 closed cases.
- 3) The IFM, which holds data on closed cases, should continue to make this data available to the Kosovo Commission on Missing Persons so that it can ensure the completion of the Central Register of Missing Persons.
- 4) The Kosovo Commission on Missing Persons should make the Central Register of Missing Persons accessible online, and continuously maintain, manage and update the database in order to provide accurate and timely data to families of missing persons transparently.
- 5) The Kosovo Commission on Missing Persons and the Serbian Commission on Missing Persons should fully participate in the establishment of a database of active missing persons' cases from the armed conflicts in the former Yugoslavia,

by providing minimum data required for active missing persons' cases to ICMP for inclusion in this database.

1.5. Science and Technology

- 1) The Kosovo Commission on Missing Persons in cooperation with the Kosovo Ministry of Justice should coordinate a multi-agency process, including EU-LEX-IFM and ICMP, and provide regular updates on progress to the Serbian Commission on Missing Persons, in order to address the issue of unidentified human remains and possible misidentifications through:
 - a. An open and transparent review of cases closed by traditional methods of presumptive identification, coupled with an open and transparent assessment of unidentified cases in Pristina Mortuary to determine the extent of misidentifications that may have occurred prior to the use of DNA analysis as the primary means of human identification; and
 - b. Collection of additional genetic reference material from family members who previously identified their missing relatives without the use of DNA technology in order potentially to identify NN cases and thus determine where misidentifications that occurred prior to the introduction of a DNA-led process in 2002 have taken place.



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International Commission on Missing Persons
Implemented by the International Commission
on Missing Persons