https://doi.org/10.18485/iipe_ioscw.2022.1.ch19

CONFRONTING THE LEGACY OF WAR – THE MANDATE OF THE INTERNATIONAL COMMISSION ON MISSING PERSONS (ICMP) AND THE INTERNATIONAL OBLIGATIONS OF SERBIA

Vesna KNEŽEVIĆ-PREDIĆ, Janja SIMENTIĆ POPOVIĆ*

Abstract: The missing persons issue might be one of the most sensitive and durable parts of the 1990s conflicts in the former Yugoslavia. The legacy of these conflicts continuously affects normalization, reconciliation, and integration efforts in the Western Balkans. With all its complexity and perplexity, it poses numerous challenges for the Republic of Serbia as well. For almost three decades, the Republic of Serbia has made considerable efforts to deal with the issue of missing persons through the creation of an adequate legal and institutional framework, both internal and external. This article deals with an international institutional structure created for international cooperation in this field, the International Commission on Missing Persons (ICPM). Its roots, the context of constitutionalization, structure, jurisdiction, and activities will be analyzed and explored. As to preliminary issues, the pertaining obligations of the Republic of Serbia under international law will be briefly displayed.

Keywords: International Commission on Missing Persons, Former Yugoslavia, International Committee of the Red Cross, International Humanitarian Law, ICTY.

INTRODUCTION

War or armed conflict — the moniker used in modern International Humanitarian Law (IHL) treaties — is a multifaceted threat to individuals, groups, nations, and the international community as a whole. Some of its

* Full Professor and Docent, Faculty of Political Sciences, University of Belgrade. E-mails: vesna.knezevicpredic@fpn.bg.ac.rs; janja.simentic@fpn.bg.ac.rs

consequences are immediate: battle deaths, wounds, starvation, deprivation of basic existential needs, and forced migrations. But some of them may be felt long after the conflict is over. They affect entire generations of individuals long after the original stimulus is gone: permanent debilitating disabilities, psychological impact, and the destruction of productive facilities. Among those consequences that are imminent and persistent, individual as well as collective, the phenomenon of those whose fate is not known causes the same or the worst trauma. On an individual and family level, it is the source of persistent pain and horror, and it precludes the start of the mourning process. On the level of communities, it is an obstacle to the reconciliation process, contributing to the decrease in confidence in authorities and breeding hatred. The imminent and persistent consequences of armed conflicts during the 1990s that can be traced back to the demise of the Socialist Federative Republic of Yugoslavia (SFRY) were not an exemption in that respect. More than 35,000 people were reported missing to the International Committee of the Red Cross (ICRC). The destiny of approximately 10,000 of them is still uncertain (ICRC five-year strategy on the missing in the former Yugoslavia).[1] For almost three decades, the Republic of Serbia has made considerable efforts to deal with the issue of missing persons through the creation of an adequate legal and institutional framework, both internal and external. Nevertheless, conflict-related disappearance, with all its complexity and perplexity, still poses numerous humanitarian, as well as political and legal challenges. It is worth noting that the issue of missing persons is an important element of the bilateral dialogue between the European Union (EU) and Serbia, as well as Bosnia and Herzegovina. The dialogue takes place in the framework of the sub-committee on Justice, Freedom and Security under the Stabilization and Association (SA) Agreement and at the political level under the SA Committee and SA Council. EU delegations in the region regularly monitor the implementation of the obligations stemming from International Law, primarily from International Humanitarian Law (IHL), and this is done in close cooperation with the International Committee of the Red Cross (ICRC) and the International Commission on the Missing Persons (ICMP) (Working Party of Public International Law (COJUR), Report on the EU guidelines on promoting compliance with international humanitarian law, 2021, pp. 11, 17.). Having that in mind, the pertaining obligations of the Republic of Serbia under international law will be briefly displayed as a preliminary point.

[1] According to the ICMP the total number of conflict-related disappearance is 40 000.

INTERNATIONAL HUMANITARIAN LAW AND THE CONFLICT-RELATED DISAPPEARANCE

International humanitarian law deals with conflict-related disappearances through a comprehensive and complex body of rules (Knežević-Predić, 2007a). It dates back to the Hague Conventions (1899 and 1907) and the Geneva Convention of 1906, pertaining to the individual identification and exchange of information on prisoners of war and wounded soldiers.[2] During the first half of the XX century, the focus on missing combatants shifted to the other categories of war victims. The Second World War brought attention to civilians, who increasingly became victims of war. To respond to that fact, the Diplomatic Conference convened in Geneva in 1949 adopted the Convention (IV) relative to the Protection of Civilian Persons in Time of War, providing, *inter alia*, for the provisions dealing with missing civilians in the occupied territories (Article 26). The 1974-1977 Geneva Diplomatic Conference that led to the adoption of two Additional Protocols to the Geneva Convention (AP I and AP II) further improved the body of rules pertaining to conflict-related disappearances (Knežević-Predić et al., 2007b). First of all, the participating states did not hesitate to reveal the ratio inspiring all the novelties: "To mitigate the suffering of the families of those who disappeared in war by removing the uncertainty about their fate and to give them an opportunity to remember their dead in the place where their remains lay was a fundamental humanitarian principle" (ICRC, Commentary on the Additional Protocol I, Article 32, Para. 1196). The ratio got its legal expression in the form of the right of families to know the fate of their relatives in article 32 of AP I. The participants made it clear that the provision of Article 32 invests no enforceable individual right in the members of the missing person's family. It has also not affected the person's right to know his or her fate as a party to the conflict.[3] As Marco Sassoli concludes, "Persons are considered

[2] Articles 14 and 19 of the Hague Regulations respecting the Laws and Customs of War on Land annexed to the Hague Convention II of July 29, 1899, and the Hague Convention IV (Convention for the Pacific Settlement of International Disputes of October 18, 1907). Article 3 and 4 of the Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field provide for measures to search for the wounded, protect them, and to exchange information between belligerents on the wounded and on internment and transfers.

[3] The Commentary to the Additional Protocol suggests that the right to know is a shared right but that priority should be given to the right of the family. For the legal character of the right to know, see the ICRC, Commentary on the Additional Protocol I, Article 32, Paras. 1197-1203, 1211-1216.

missing if their relatives, the power on which they depend (in the case of combatants), or the country of which they are nationals or in whose territory they reside (in the case of civilians), have no information on their fate" (Sassoli, 2019, 339). The wording of article 32 AP I also specifies the entities upon which the obligation regarding the missing and dead persons is vested: parties to the conflict, contracting parties, and international organizations.

As the Commentary to the Additional Protocol I informs us, the drafters of the Protocol deliberately applied the rather vague expression "international organizations" to cover all international forms of organizations active in the field, both intergovernmental and non-governmental (ICRC, Commentary on the Additional Protocol I, Article 32, Paras. 1208-1210). On the other hand, Article 33 of AP I, devoted to the obligations of the parties to the conflict, aimed "to extend the obligation to search for missing persons to embrace also persons not covered by the Conventions, and on the other hand, to reinforce the duty to furnish and exchange information on the missing and the dead in order to facilitate the search for them" (ICRC, Commentary on the Additional Protocol I, Article 32, Para. 1222). The article itself provides that: "As soon as circumstances permit, and at the latest from the end of active hostilities, each Party to the conflict shall search for the persons who have been reported missing by an adverse Party. Such adverse Party shall transmit all relevant information concerning such persons in order to facilitate such searches". Paragraph 2 of Article 33 defines a particular regime for all those who do not receive a more favorable regime under the Conventions and Additional Protocol I, i.e., prisoners of war, wounded, sick, shipwrecked, interned or detained persons. It includes the obligation of the party to the conflict to (a) record information in respect of missing persons who have been detained, imprisoned or otherwise held in captivity for more than two weeks as a result of hostilities or occupation, or who have died during any period of detention; and (b) facilitate, to the fullest extent possible, and if need be, carry out the search for and recording of information concerning such persons if they have died in other circumstances as a result of hostilities or occupation. The information should be exchanged directly or via an intermediary (Protecting Power, the Central Tracing Agency of the ICRC, or national Red Cross (Red Crescent, Red Lion, and Sun) Societies. The missing persons could be dead or alive. Once their faith is ascertained, they enjoy the protection that the IHL provides for the category of protected persons they belong to (Boutruche, 2009, Paras. 1-25; Kleffner, 2008, pp. 337-339). Additional Protocol II to the Geneva Convention, applicable in non-international armed conflicts, lacks explicit provisions pertaining to missing persons. Nevertheless, the parties to a non-international conflict are obliged

to account for persons reported missing and to provide their family members with any information they possess on their fate on the basis of customary law (ICRC, Study on customary international humanitarian law, Rule, p. 117).

THE INTERNATIONAL COMMISSION ON MISSING PERSONS

The origins, early work and context

The previously described legal regime was in force when the armed conflicts on the territory of the Socialist Federative Republic of Yugoslavia (SFRY) broke out in 1991. Having in mind that the SFRY was a State Party to the Geneva Conventions and the Additional Protocol I and that it was obliged via customary law, the parties to the conflict had not only a moral but also a legal obligation to take care of the persons missing because of the conflict. However, this obligation did not materialize. After the conflict was over, a number of missing persons were accounted for, and the states that came into being after the dissolution of the SFRY could not fulfill their international obligations in this regard. In such circumstances, the international community, reflected in the leading role of the United States of America (US), headed what was to become an initiative for the establishment of a specialized organization that should support the endeavors to search for the missing. At the meeting of G7 states in Lyon in 1996, the United States president, Bill Clinton, proposed the creation of an international Blue Ribbon Commission on the Missing in the Former Yugoslavia. The establishment of the Commission was put in the context of the cooperation of parties to the Dayton Peace Agreement, and its primary and overall task was to secure such cooperation through "locating the missing from the 4-year conflict and to assist them [the state parties to the Dayton Agreement] in doing so" (Administration of William J. Clinton, June 29, 1996, Statement on the Blue Ribbon Commission on the Missing in the Former Yugoslavia, p. 1159). Cooperation between the parties in this matter was of the utmost importance, having in mind that "there is virtually no aspect of the missing person's effort that does not depend upon the active and/or passive cooperation of the parties" (Blue Ribbon Commission on the Missing, Concept Paper). The pivotal role of the US in the creation of the Commission is seen in several aspects. As for the financial aspect, President Clinton pledged that "the United States will make a startup contribution of $2 million" (*Ibidem*). Moreover, President Clinton appointed the former Secretary of State, Cyrus Vance, as the chairman of the Commission. As the

blue ribbon moniker in the name of the Commission pointed out, it would "be made up of distinguished members of the international community." (*Ibidem*). Sarajevo, the capital of Bosnia and Herzegovina, was established as the seat of the organization.[4] While the overall task conferred on the Commission was clear — to secure the cooperation of stakeholders in the process of location and identification of the missing persons in the former Yugoslavia — the means through which to achieve this task could vary. From the original contours of the Commission's tasks, it was clear that it was based on a two-pirogue approach: the first one was to enable scientific support in the process of identification of the remains of the missing persons; and the second one was to establish strong roots in the local community through outreach initiatives, specially oriented to relatives of the missing persons (Juhl, 2009, pp. 257-258). The actual work of the Commission in these early days is not easy to track. On October 11, 1996, the ICMP held its initial meeting in Geneva; "during the fall of 1996, the ICMP established an office in Sarajevo, and in late November, the Chairman and some members paid a first visit to the region (Commission on Human Rights, 1997, Paras. 47-48); while the first full meeting was held in Zagreb on March 21, 1997 (Nowak, 1998, p. 120). In November 1997, a new chairman was appointed — US Senator Robert (Bob) Dole. On that occasion, Secretary of State Madeleine K. Albright pointed out that under the leadership of Vance, the Commission's work has resulted in "the release of illegally held prisoners, the exchange of records that reveal the fates of hundreds of individuals, efforts to find and identify human remains throughout Bosnia, and support for the families of the missing and the organizations that they have formed." (Press Conference at the Department of State Washington, D.C., November 7, 1997). As for the legal status of the Commission, it became a bit clearer after the conclusion of the international agreement with Bosnia and Herzegovina — on April 26, 1998, Dole signed the Headquarters Agreement between ICMP and the Council of Ministers of Bosnia and Herzegovina. This Agreement marked the beginning of the regulation of the legal status of the Commission, albeit in the national legal framework. The Agreement explicitly stated that "the status of the ICMP shall be comparable to that of an intergovernmental organization" (Headquarters Agreement, 1998, Article 1) and that "the ICMP shall have juridical personality". Bosnia and Herzegovina recognizes that the ICMP has the capacity to contract

[4] It is interesting to note that the Concept Paper on the Commission proposed that the seat of the Commission be in the US, in either Washington or New York.

obligations, institute legal proceedings, and acquire rights, and to acquire and dispose of movable and immovable property" (Headquarters Agreement, 1998, Article 2). While the Headquarters Agreement confirmed the international organization features of the ICMP, these features were based on the domestic legal personality in the law of Bosnia and Herzegovina, which proved to be an obstacle when the Commission started to expand its work.[5] In the early days of the ICMP, it was clear that it focused its work on the territory of Bosnia and Herzegovina. From 1999, the Commission focused its work also on Kosovo; the ICMP opened an office in Belgrade, Serbia, in March of 2001; in Zagreb, Croatia, on April 2, 2001; and signed an agreement with Macedonia in 2003, thereby truly encompassing the whole of the territory of its title. In material terms, it was also clear that the Commission put emphasis on the scientific part of its work. In that regard, it quickly established the "DNA-led" approach to DNA identification of the missing on a very large scale" (Parsons et al., 2019, p. 237). In order to implement its DNA-led approach, the ICMP established "(a) a network of Family Outreach Centers to collect blood references from living family members; (b) DNA laboratories to extract and test DNA from bone and blood specimens; and (c) training for local scientists in state-of-the-art DNA identification technology" (Huffine et al., 2001, p. 273; Annual Report of the ICTY, 1996; Cordner & Mckelvie, 2002; Commission on Human Rights, 1997).[6] The ICMP came to be in the ambit of the conflict in which many other international actors were already involved. In that context, the ICMP needed to position itself amid already functioning actors, among which of special importance in this regard were the ICRC and the International Criminal Tribunal for the former Yugoslavia (ICTY). The special role of the ICRC in dealing with the missing persons was provided in Article V, Annex 7 of the

[5] From this characterization, the following legal consequences were also determined: the immunity and inviolability of ICMP premises, property and assets; regulation of financial resources, taxes and charges; status of international staff as international civil servants and in accordance with the Vienna Convention on Diplomatic Relations; comparable status of ICMP members, advisors, and experts on temporary mission; freedom of movement; cooperation; freedom to display emblem; and freedom to cooperate with the government authorities.

[6] At the beginning of the ICMP work, the forensic expertise was offered by the Physicians for Human Rights (PHP), a US-based non-governmental organization that uses its scientific expertise and investigations to document evidence in cases of severe human rights breaches. Physicians for Human Rights were also included in the work of the ICTY in the gathering of the relevant evidence for the Prosecutor's Office.

Dayton Peace Agreement, which stated that "The Parties shall provide information through the tracing mechanisms of the ICRC on all persons unaccounted for. The Parties shall also cooperate fully with the ICRC in its efforts to determine the identities, whereabouts, and fate of the unaccounted for". The ICRC was, and still is, involved in the process. Throughout the years, the ICRC has developed a wide array of different mechanisms to address the issues of missing persons in general (Sassoli, Tougas, 2002) and in the Western Balkans in particular (Commission on Human Rights, 1997; ICRC five-year strategy on the missing in the former Yugoslavia, 2020). However, the role of the ICRC had one important intrinsic limitation when it came to collecting and using evidence in criminal procedure. Namely, the evidence that the ICRC gathered in individual cases could not be used in potential trials (Sassoli, Tougas, 2002, p. 745; Rona, 2002, p. 207). This was an important limitation, having in mind the judicial accountability that was strived for in the case of the former Yugoslavia conflicts and that was put in the limelight by the creation and promotion of the work of the ICTY. Wagner explains that the "two primary instances of international intervention have dominated post-war Bosnia's reparation politics and effort aimed at transitional justice: the proceedings at the ICTY (…), and the identification process led by ICMP" (Wagner, 2010, p. 28). The interlinkage between the ICMP and the ICTY was evident from the very beginning. On the occasion of taking the post of Chairman of the Commission in 1997, Senator Dole stated: "So, in my view, the work of the Commission can also play an integral part in facilitating the work of the War Crimes Tribunal. Mr. Chairman, I'll look for new ways in which the work of the Commission can complement the work of the Tribunal" (Press Conference at the Department of State Washington, D.C., November 7, 1997). And in the years to come, the ICMP and its DNA-oriented approach did complement the work of the ICTY, which was most apparent in the following cases: *Haradinaj et al, Popović et al, Tolimir, Mladić,* and *Karadžić* (Vanderpuye and Mitchell, 2020, pp. 215-218; Fournet, 2020). In these cases, the ICMP "provided scientific methodology reports, archaeology and anthropology reports, DNA match report lists, selected DNA case files … and expert witness testimony" (Parsons et al., 2019, p. 241).

The expansion and the constitutionalization

The ICMP has slowly but firmly started to expand, both in territorial and material scope. Regarding the material scope, the Commission started to be included in the work not only strictly related to armed conflicts. This change

went hand in hand with the further widening of the territorial scope. "In the aftermath of the terrorist attacks on the United States in 2001, he (*the Chairman, James V. Kimsey*) deployed the Commission's DNA experts to assist in the identification of remains found at Ground Zero" (Westpoint, Distinguished Graduate Award, 2008). In the years to follow, the Commission was also involved in: "Efforts after the fall of the Saddam Hussein regime in Iraq in 2003 to begin locating and identifying people missing for decades; the Asian Tsunami in December 2004; Hurricane Katrina in the United States in 2005; efforts in Colombia in 2008 and after the Peace Agreement of 2016 to help coordinate the location and identification of persons who went missing since the early 1960s; efforts in Chile to begin locating and identifying those who went missing during almost two decades of authoritarian rule; and efforts to begin locating and identifying missing persons in Libya following the violent collapse of the 42-year long Gaddafi regime in 2011" (ICMP, 2022). Other indicators of the Commission's abundant and versatile work are also seen in the fact that the Commission lost its link with the former Yugoslavia in its title in 2003-2004 (Agreement on the Status and Functions of the International Commission on Missing Persons, 2014), as well as in the international treaties it signed with different stakeholders: the International Criminal Police Organization – INTERPOL in 2007, the International Organization for Migration in 2013, and the Office of the Prosecutor of the International Criminal Court in 2016. This amplification of the Commission's work clearly pointed out the need for the regulation of its international legal status in a uniform manner and not in the form of a patchwork of bilateral agreements with interested parties. The multifaceted expansion revealed the need to constitutionalize the ICMP as a genuine international organization. The first attempt at constitutionalization was rather short-lived and unsuccessful. The US Secretary of State, Collin Powel, was credited as the one who moved forward the work of the Commission. In 2002, at the Board of Commissioner's meeting in Washington, he said that "The Commission has created a capacity that goes well beyond Bosnia and Herzegovina (…). Our challenge now is to translate that progress into a lasting change in the Balkans and throughout the world" (U.S. Secretary of State Colin L. Powell Attends ICMP Board Meeting). For that purpose, a working group with representatives from the United States, the United Kingdom, the Netherlands, Denmark, and Pakistan was formed (HM Queen Noor, 2015, p. 4). However, it seems that the group did not have any substantial success until 2004, when Powel was succeeded by Condoleezza Rice, who, however, did not share the support for the ICMP work. Her Majesty Queen Noor of Jordan, one of the ICMP Commissioners

since 2001, stated that in 2005 she received notice from the US that they do not support the "proliferation of international organizations". HM Queen Noor also hinted that the wariness towards such proliferation rests on financial and political issues (related to the issue of state sovereignty), but also on the stance that international organizations as bureaucratic structures are redundant and costly (HM Queen Noor, 2015, p. 4). Be that as it may, in the case of the US, the fact that the state which initially established the ICMP stepped back from the process of strengthening the legal personality and capacity of the organization meant that all other states stepped back as well. The second and most successful attempt at the Commission's constitutionalization was led by the Netherlands and the United Kingdom, and it began in 2013. As Blokker notes, the ICMP was created as an international organization only when "a number of governments became convinced that ICMP needed this international status in order to be able to perform its functions effectively in a growing number of countries, including countries that are unstable or are recovering from an armed conflict" (Blokker, 2016, 33). He pointed out the ICMP as an example of a new international organization that was created because "the new area for international cooperation is not or not yet covered by existing organizations, or when it is decided that focused cooperation in this field is so urgent that it needs a separate, visible institution of its own" (*Ibidem*). However, even when the ICMP was constitutionalized as an international organization, it had distinct features. The idea behind the process of inaugurating the ICMP as an international organization was to establish a "light but efficient modern international organization" (HM Queen Noor, 2015, p. 5). This characterization is probably crucial both for the understanding of the success of this second attempt as well as for the understanding of the content of its constituent document — the Agreement on the Status and Functions of the International Commission on Missing Persons (the Agreement), which was concluded on December 15, 2014, between the Netherlands, the UK, Sweden, Luxembourg, and Belgium.[7] It could be said that the "lightness" of the organization is reflected in the arrangements for its financing (it was agreed that the Commission's work would be based on voluntary contributions) and in the fact that the Commission "does not entail new international commitments in respect of missing persons" (*Ibidem*). Article I of the Agreement leaves no doubt as to the legal status of the Commission — it is

[7] While Belgium did sign the Agreement on December 15, 2014, it has still not ratified it.

an international organization with full international legal capacity and enjoys such capacities as may be necessary for the exercise of its functions and the fulfillment of its purposes (Agreement, Article I). While this provision is clear in its terms, it is not that often in practice that those constituent documents of international organizations actually entail such unambiguous statements about the legal personality. Namely, "most constitutions of international organizations lack explicit provisions on legal personality under international law" (Schmalenbach, 2020, Para. 20). While the Agreement entails the explicit legal personality of the ICMP, it also stresses that that personality is functional and that it rests on the functions and purposes of the Commission. This international legal capacity is further underpinned by the Powers of the Commission enumerated in Article VI and in the Headquarters and International Agreements which it can sign according to Article VII. The Membership of the organization is open only to States (Article IX), and there are no special requirements in that regard. Any State Party can also withdraw from the organization, unilaterally. Current State Parties to the Agreement are Luxembourg, the Netherlands, Sweden, the United Kingdom, Serbia, Afghanistan, Chile, and Cyprus, while Belgium and El Salvador signed but did not ratify the Agreement. It is evident that the number of state parties to the ICMP Agreement is not abundant, and therefore it is even more notable that the Republic of Serbia is one of the state parties. Namely, Serbia signed the Agreement on December 16, 2015, and ratified it on July 21, 2017. The Agreement was implemented by the Serbian national law, and on that occasion, the reasons for Serbia's inclusion in the Agreement were stated. It was underlined that the support of the ICMP regarding the resolution of the missing persons' problem in Serbia is of great importance, especially having in mind that the remains of a large number of missing persons are not in the territory of Serbia and that Serbia has made pertaining to several states in the region. Moreover, the active participation of Serbian representatives in the ICMP could be used in order to hinder the politization and the misuse of this, in essence, humanitarian but very sensitive issue (Proposal for the Law on Confirmation of the Agreement on the Status and Functions of the International Commission for Missing Persons).

CONCLUSIONS

Dealing with conflict-related disappearances is a difficult process fraught with technical, practical, financial, logistical, and, not least, political stumbling blocks. Its success depends upon the receptiveness of the parties to the conflict. The parties to the conflict continue to bear primary

responsibility for granting family members the right to know the fate of missing persons. Success also presupposes the presence of a minimum of structured authorities that are able and willing to gather information in the field and inform relevant authorities. Unfortunately, those assumptions are not always fulfilled during and after armed conflict, and the engagement of external actors is needed. For the 1990s war in the former Yugoslavia, the traditional actor in that regard – the ICRC – did not suffice. It was not only due to the ICRC's limited resources; it was also due to the inherent limitations reflected in its solely humanitarian mandate, which was founded on the principles of impartiality, neutrality, and confidentiality. In order to support not only humanitarian goals in the search for the missing but also the internationally broadly accepted policy of accountability of those responsible for massive atrocities, as reflected in the work of the ICTY, a new actor was needed. Therefore, the ICMP evolved from the top-down and not from the bottom-up. The paternalistic decision to establish the ICMP lacked explicit provisions on its goals, competences, institutional framework, legal capacity, and legal personality. This vague legal framework enabled the ICMP to develop in practice a wide range of goals and activities that went beyond the humanitarian field, strictly speaking, but which perfectly fit with the emerging concept of the international criminal judiciary and transitional justice. This perfect fit was coupled with the proven and praiseworthy expertise in forensics that was the solid basis for the long and troublesome, but finally successful process of ICMP's evolution toward a full-fledged international intergovernmental organization with strong legal capacity and legal personality in international law. And, perhaps more importantly for the Republic of Serbia, the explanation for its ongoing presence and significant role in the Western Balkans. According to the European Commission, the most important issue to be resolved in the Western Balkans is conflict-related disappearances (European Commission Serbia Report, 2021, p. 76).

REFERENCES

Administration of William J. Clinton. (June 29, 1996). *Statement on the Blue Ribbon Commission on the Missing in the Former Yugoslavia*

Agreement on the Status and Functions of the International Commission on Missing Persons (2014). Oxford, International Organizations.

Annual Report of the ICTY to the Security Council and to the General Assembly. (1996). A/51/292, S/1996/665, 1996. Retrieved from:

https://www.icty.org/x/file/About/Reports%20and%20Publications/AnnualReports/annual_report_1996_en.pdf. Accessed 10.03.2022.

Blokker, N. (2016). On the Nature and Future of Partnerships in the Practice of International Organizations, *International Organizations Law Review* 13, pp. 21-36.

Blue Ribbon Commission on the Missing Person. (1996). Concept Paper, Retrieved from: https://clinton.presidentiallibraries.us/files/original/1460a93a7a8128ecb4fa8269abeab4c5.pdf. Accessed 10.03.2022.

Boutruche, T. (2008). Missing and Dead Persons. *Max Planck Encyclopedias of International Law.* Amsterdam, Elsevier.

Commission on Human Rights (1997). *Report submitted by Mr. Manfred Nowak, Expert member of the Working Group on Enforced or Involuntary Disappearances, responsible for the special process, pursuant to Commission resolution 1996/71,* E/CN.4/1997/55.

Cordner, S., Mckelvie, H. (2002). Developing standards in international forensic work to identify missing persons, *International Review of the Red Cross,* 84 (848), pp. 867, etc.

Dayton Peace Agreement. (14 December 1995). Retrieved from: https://www.osce.org/files/f/documents/e/0/126173.pdf, Accessed, 1.03.2022.

EU, Working Party of Public International Law (COJUR). (2021). *Report on the EU guidelines on promoting compliance with international humanitarian law*. Retrieved from https://www.consilium.europa.eu/en/documents-publications/publications/ihl-report-eu-guidelines-2021/ Accessed, 1. 3. 2022.

European Commission. (2021). *Serbia Report 2021*. Retrieved from: https://ec.europa.eu/neighbourhood-enlargement/serbia-report-2021_en. Accessed, 1.03.2022.

Fournet, C. (2020). 'Face to face with horror': the Tomašica mass grave and the trial of Ratko Mladić. *Human Remains and Violence*, 6 (2), pp. 23-41. doi: 10.7227/HRV.6.2.3

Hague Regulations respecting the Laws and Customs of War on Land annexed to the Hague Convention II of 29 July 1899 and the Hague Convention IV (Convention for the Pacific Settlement of International Disputes of Headquarters Agreement between ICMP and the Council of Ministers of Bosnia and Herzegovina, 1998.

Her Majesty Queen Noor. (2015). *The Creation of a Modern International Organization: The Story of the International Commission on Missing Persons* (ICMP)

Huffine, E, Crews, J, Kennedy, B, Bomberger, K, Zinbo, A. (2001). Mass Identification of Persons Missing from the Break-up of the Former Yugoslavia: Structure, Function, and Role of the International Commission on Missing Persons. *Croatian Medical Journal,* 42(3), pp. 271-275.

ICMP (2022). *About us.* Retreived from: https://www.icmp.int/about-us/ Accessed, 22.03.2022.

ICRC. (1906). *Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field,* Geneva, July 6.

ICRC. (2005). Study on customary international humanitarian law. Cambridge, University Press. Retrieved from: https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule117. Accessed, 22.03.2022.

ICRC. (2022). *Commentary on the Additional Protocol I of 8 June 1977 to the Geneva Conventions of, article 32*, Retrieved from: https://ihldatabases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=7222C1E312C46E5CC12563CD00431F66. Accessed, 1.3.2022.

ICRC. (2022). *ICRC five-year strategy on the missing in former Yugoslavia*. Retrieved from: https://www.icrc.org/en/document/missing-bosnia-herzegovina-croatia-serbia-kosovo. Accessed, 1.03.2022.

Juhl, K. (2009). The Problem of Ethnic Politics and Trust: The Missing Persons Institute of Bosnia-Herzegovina, *Genocide Studies and Prevention* 4(2), pp. 257-258.

Kleffner, K, J. (2008). Protection of the wounded, sick and shipwrecked, in Fleck, D. (ed). *The Handbook of International Law* (pp. 337-339). Oxford, University Press.

Knežević-Predić, V. (2007a). *Ogled o međunarodnom humanitarnom pravu: Izvori, domen primene , subjekti.* Beograd, Fakultet političkih nauka

Knežević-Predić, V., Avram, S., Ležaja, Ž. (2007b). *Izvori međunarodnog humanitarnog prava*. Beograd, Fakultet političkih nauka, Crveni krst Srbije.

Nowak, M. (1998). Disappearances in Bosnia-Herzegovina, Annex in: O'Flaherty, M, Gisvold, G (Eds.), *Post-War Protection of Human Rights in Bosnia and Herzegovina* (pp. 107-121). Hague, Kluwer Law International.

Parsons, T.J, Huel, R.M.L, Bajunović, Z, Rizvić. A. (2019). Large-scale DNA identification: The ICMP experience. *Forensic Science International: Genetics* 38, pp. 236-244. doi: 10.1016/j.fsigen.2018.11.008

Press Conference at the Department of State Washington, D.C. (November 7, 1997). Retrieved from: https://1997-2001.state.gov/statements/971107.html. Accessed, 7.03.2022.

Rona, G. (2002). The ICRC's privilege not to testify: Confidentiality in action, *International Review of the Red Cross*, 84(845) pp. 207-219.

Sassoli, M, Tougas, M-L. (2002). The ICRC and the missing, *International Review of Red Cross*, 84(848), pp. 727-750.

Sassoli, M. (2019). *International Humanitarian Law*. Edward Elgar Publishing Limited.

Schmalenbach, K. (2020). International Organizations or Institutions, General Aspects, *Max Planck Encyclopedia of Public International Law*. Amsterdam, Elsevier.

Stephen, C, Mckelvie, H. (2002). Developing standards in international forensic work to identify missing persons, *International Review of Red Cross*, 84(848), pp. 867-884.

U.S. Secretary of State Colin L. Powell Attends ICMP Board Meeting. Retrieved from: https://www.globenewswire.com/ne/news-release/2002/10/08/290934/889/en/U-S-Secretary-of-State-Colin-L-Powell-Attends-ICMP-Board-Meeting.html. Accessed, 7.03.2022.

United Nations Treaty Series. (1950). *Convention (IV) relative to the Protection of Civilian Persons in Time of War,* August 12, 1949.

Vanderpuye, K, Christopher M. (2020). Lessons Learned from the Use of DNA Evidence in Srebrenica-related Trials at the ICTY, in: Stahn, C, Carmel Agius, Serge Brammertz, Colleen Rohan (Eds.), *Legacies of the International Criminal Tribunal for the Former Yugoslavia: A Multi-disciplinary Approach* (pp. 209-224). Oxford, University Press.

Wagner, S. (2010). Identifying Srebrenica's Missing, The "Shaky Balance" of Universalism and Particularism, in: Hinton, A, L, (ed.), *Transitional Justice: Global Mechanisms and Local Realities after Genocide and Mass Violence*, (pp. 25-48). New Brunswick, Rutgers University Press.

Westpoint. (2008). *Distinguished Graduate Award.* Retrieved from: https://www.westpointaog.org/page.aspx?pid=2714. Accessed, 7.03.2022.