

Submitted by

TRIAL (Swiss Association against Impunity)

Association of the Concentration Camp-Detainees Bosnia and Herzegovina

Association of Detained - Association of Camp Detainees of Brčko District Bosnia and Herzegovina

Association of Families of Killed and Missing Defenders of the Homeland War from Bugojno Municipality

Association of Relatives of Missing Persons from Ilijaš Municipality

Association of Relatives of Missing Persons from Kalinovik (“Istina-Kalinovik ‘92”)

Association of Relatives of Missing Persons of the Sarajevo-Romanija Region

Association of Relatives of Missing Persons of the Vogošća Municipality

Association Women from Prijedor – Izvor

Association of Women-Victims of War

Croatian Association of War Prisoners of the Homeland War in Canton of Central Bosnia

Croatian Association of Camp-Detainees from the Homeland War in Vareš

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TABLE OF CONTENTS

Contents	Paragraphs
Background	
1. The Implementation of the National War Crimes Processing Strategy	1-6
2. The Provision of Psychological Support and Protection to Witness and Victims of War Crimes	7-17
3. The Lack of Harmonized Jurisprudence between State and Entity Courts	18-20
4. The Obligation to Declare Missing Persons Dead in order to Access Monthly Disability Pensions	21-24
5. Other Matters of Concern	25-26
5.1 The Failure to Implement the Law on Missing Persons	27
5.1.1 The Functioning of the Missing Persons Institute (MPI)	28-31
5.1.2 The Completion of the Central Records of Missing Persons (CEN)	32
5.1.3 The Non-Establishment of the Fund for the Support of Families of Missing Persons	33-34
5.2 The Status of Draft Legislation Relevant for Victims of Gross Human Rights Violations during the War	35-37
5.2.1 The Draft National Strategy on Transitional Justice	38-41
5.2.2 The Programme for Improvement of the Status of Survivors of Conflict Related Sexual Violence	42-45
5.2.3 The Draft Law on the Victims of Torture	46-49
5.2.4 The Draft Law on Free Legal Aid	50-52
5.3 The Limitations to the Freedom of Expression and the Right of Peaceful Assembly with regard to Associations of Victims of War from the Prijedor Area	53-56
5.4 The Pace of Exhumations of Missing Persons	57-59
5.5 The Inadequacy of the Criminal Legislation on Sexual Violence, Torture and Enforced Disappearance	60-65
5.6 Ratification of Relevant International Treaties	66-67
6. Conclusions and Recommendations	68-69
7. The Associations Submitting this Written Information	

Background

On 17 November 2010 Bosnia and Herzegovina (BiH) presented its second periodic report (CCPR/C/BIH/2) to the Human Rights Committee.

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In **December 2011** TRIAL and 16 organizations from BiH submitted written information to the Human Rights Committee to highlight **matters that in their view should be included in the list of issues** (“December 2011 report”).¹

* * *

In **September 2012** TRIAL and 17 organizations from BiH submitted an **alternative report** to the Human Rights Committee in view of the exam of the second periodic report submitted by the State. Reference will be made to such document as “**September 2012 alternative report**”.²

* * *

On **2 November 2012** the Human Rights Committee adopted its **concluding observations** on BiH (CCPR/C/BIH/CO/2). In para. 23 of the concluding observations the Human Rights Committee requested BiH to provide, **within one year, relevant information on its implementation of the recommendations made in paragraphs 6, 7 and 12.**

1. The Implementation of the National War Crimes Processing Strategy

Para. 7 of the 2012 Concluding Observations

The State party should **expedite the prosecution of war crimes cases.** [...]

¹ The report submitted in December 2011 by TRIAL, Association of Families of Killed and Missing Defenders of the Homeland War from Bugojno Municipality, Association of Relatives of Missing Persons from Hadžići Municipality, Association of Relatives of Missing Persons from Ilijaš Municipality, Association of Relatives of Missing Persons from Kalinovik – “Istina-Kalinovik 92”, Association of Relatives of Missing Persons of the Sarajevo-Romanija Region, Association of Relatives of Missing Persons of the Vogošća Municipality, Association of Women from Prijedor – *Izvor*, Association of Women-Victims of War, Sumejja Gerc, Viktorija 99, *Vive Žene* Tuzla, Women’s Section of the Concentration Camp Torture Survivors Canton Sarajevo, Association of the Concentration Camp-Detainees – Bosnia and Herzegovina, Croatian Association of War Prisoners of the Homeland War in Canton of Central Bosnia, Regional Association of Concentration Camp-Detainees Višegrad, and Prijedor 92 can be found at: http://www2.ohchr.org/english/bodies/hrc/docs/ngos/TRIAL_2_BosniaHerzegovina104.pdf (hereinafter “December 2011 Report”).

² The report submitted in September 2012 by TRIAL, Association of the Concentration Camp-Detainees Bosnia and Herzegovina, Association of Detained – Association of Camp-Detainees of Brčko District Bosnia and Herzegovina, Association of Families of Killed and Missing Defenders of the Homeland War from Bugojno Municipality, **Association of Relatives of Missing Persons from Ilijaš Municipality**, Association of Relatives of Missing Persons from Kalinovik (“Istina-Kalinovik ‘92”), Association of Relatives of Missing Persons of the Sarajevo-Romanija Region, Association of Relatives of Missing Persons of the Vogošća Municipality, Association Women from Prijedor – *Izvor*, Association of Women-Victims of War, Croatian Association of War Prisoners of the Homeland War in Canton of Central Bosnia, Croatian Association of Camp-Detainees from the Homeland War in Vareš, Prijedor 92, Regional Association of Concentration Camp-Detainees Višegrad, Sumejja Gerc, Union of Concentration Camp-Detainees of Sarajevo-Romanija Region, *Vive Žene* Tuzla, and Women’s Section of the Association of Concentration Camp Torture Survivors Canton Sarajevo can be found at http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/BIH/INT_CCPR_NGO_BIH_14658_E.pdf (hereinafter “September 2012 Alternative Report”).

1. On 29 December 2008 the Council of Ministers of BiH adopted the National War Crimes Processing Strategy which, among other things, establishes that the most complex crimes (i.e. mass crimes) will be dealt with as a matter of priority within 7 years and the prosecution of other crimes will be dealt with within 15 years from the adoption of the strategy.
2. Over the past years, several domestic mechanisms and international institutions, including the Human Rights Committee, have consistently denounced the slow pace of implementation of the strategy.³ Among others, in its recent concluding observations on BiH, the Committee on the Elimination of All Forms of Discrimination against Women (“CEDAW”) expressed its deep concern about “the slow pace of prosecutions and very low level of conviction rates of perpetrators of sexual violence which result in pervasive impunity, despite the implementation of the 2008 National War Crimes Prosecution Strategy”⁴ and it accordingly recommended BiH to “speed up the implementation of the National War Crimes Strategy and increase the number of prosecutions of war crimes cases by allocating more financial resources and investigative capacities to address the large backlog of cases”.⁵
3. Although over the past months moderate progress has been made in the implementation of the strategy, in its latest report the High Judicial and Prosecutorial Council (HJPC) affirmed that “prosecutor’s offices around the country are currently unable to process all the cases from the 1990s conflict that remain open”.⁶ More than 1,000 war crimes related investigations would still be ongoing across the country. During 2012, the Court of BiH rendered 32 verdicts on war crimes cases, the courts in Republika Srpska rendered 17, the courts in the Federation of BiH rendered 16, and those in Brčko District rendered 4 verdicts. According to the HJPC the implementation of the strategy has been enhanced by forwarding a significant number of cases from the State to Entity levels. Nevertheless, in order to be effective and sustainable, this requires additional human resources (esteemed by the HJPC in the number of 28 new prosecutors). At present, the Prosecutor’s Office of BiH has announced that it is in the process of hiring an additional 18 prosecutors to work on war crimes cases, but they have not been appointed yet.
4. Associations of victims of gross human rights violations during the war remain generally dissatisfied with the implementation of the strategy.⁷ Some of their members are dying without seeing justice done and this is fostering an overall sense of frustration among people who have been waiting over the past 20 years to see those responsible for crimes under international law and gross human rights violations duly prosecuted and sanctioned. The general feeling of abandonment is further nourished by the fact that

³ See September 2012 Alternative Report, *supra* note 2, paras. 2-19.

⁴ Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), *Concluding Observations on BiH*, doc. CEDAW/C/BIH/CO/4-5 of 19 July 2013, para. 9.a.

⁵ *Ibid.*, para. 10.a.

⁶ For a summary (in English) of the HJPC 2012 Report see “Bosnia ‘failing’ to Prosecute War Crimes Efficiently”, 13 August 2013, at http://www.balkaninsight.com/en/article/bosnia-war-crimes-prosecutions-dubbed-not-efficient?utm_source=Balkan+Transitional+Justice+Daily+Newsletter&utm_campaign=c430046f67-RSS_EMAIL_CAMPAIGN&utm_medium=email&utm_term=0_561b9a25c3-c430046f67-309711333.

⁷ Among the associations subscribing the present document, only the Association of Women Victims of War highlights the existence of tangible improvements in the arrest of alleged perpetrators of war crimes and in the investigations against them.

perpetrators are getting increasingly low sentences.⁸

5. Another problem that, with two notable exceptions,⁹ has been reported by the associations subscribing the present document is the extremely difficult communication with prosecutors' offices and the lack of access to information concerning ongoing or forthcoming trials. In the opinion of several of the associations of victims of war subscribing this report the communication with prosecutors' offices became even worst in comparison to the problems already highlighted in the September 2012 alternative report.¹⁰ As a matter of fact, at the time of writing, despite the recommendations issued by international human rights mechanisms, victims of gross human rights violations during the war and their associations are not systematically associated as closely as possible to the investigative stages,¹¹ and no regular mechanism of information on the process of investigation has been established.
6. Another problem related to the prosecution and sanction of those accused of war crimes or crimes against humanity and access to related information has emerged because of the new policy of anonymization implemented by the Court of BiH. In March 2012 the State Court of BiH amended its rulebook on public access to information under the Court's Control and Community Outreach.¹² Currently, documents issued by the Court are censored and the Prosecutor's Office of BiH does not provide complete information on the indictments of war crimes. Arts. 41 to 46 of the amended rulebook of the Court set forth the "anonymization of Court decisions and other documents distributed to the public", thereby disposing that certain data (including names and surnames of those accused, suspected of, or convicted for war crimes, their representatives, the places where the crime has happened, as well as the names of private companies, institutions and the like) are substituted or removed from Court's decisions and other forms of information (case summaries, audio-video materials and the like). This situation has already been the subject of harsh criticism¹³ and is a source of further anguish for victims of crimes committed during the war, who fear that their access to investigations

⁸ *Infra* paras. 18-20.

⁹ The Association of Women-Victims of War and the Association of Women from Prijedor *Izvor* report being satisfied about their communication and cooperation with the Prosecutor's Office of BiH.

¹⁰ See September 2012 Alternative Report, *supra* note 2, para. 19.

¹¹ In this sense see Working Group on Enforced or Involuntary Disappearances (WGEID), *Report on the Mission to BiH*, doc. A/HRC/16/48/Add.3 of 28 December 2010, para. 63. In this sense see, among others, Principle 16 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, recommended by Economic and Social Council resolution 1989/65 of 24 May 1989; and WGEID, *General Comment on the Right to the Truth in relation to Enforced Disappearances*, 2010, para. 3.

¹² The integral version, in English, is available at: http://www.sudbih.gov.ba/files/docs/Rulebook_on_Access_to_Info_Court_20_03_12.pdf.

¹³ Balkan Investigative Reporting Network, *Anonymization "Threat" to Bosnian Justice Criticized*, 25 December 2012, at <http://www.bim.ba/en/354/10/36420/>. See also Recommendations by the European Commission after the 4th Plenary Meeting of the Structured Dialogue on Justice between the European Union and BiH (hereinafter "2013 Recommendations by the European Commission"), April 2013, available at <http://www.delbih.ec.europa.eu/News.aspx?newsid=5654&lang=EN>, recommendation No. 14, according to which the European Commission "Invites competent authorities to develop a balance between the necessary protection of personal data and the requirement for publicity of courts' rulings and proceedings, especially with regard to cases of general interest to the public, such as war crimes, organised crime and corruption and terrorism. This can be achieved by looking at the relevant Council of Europe instruments, and the jurisprudence and practice of the European Court of Human Rights" (emphasis is added).

related to their cases or to ongoing proceedings, if any, as well as their right to know the truth may be further hampered. The anonymization policy does not seem to be in line with international standards and, in particular, with Art. 14, para. 1, of the International Covenant on Civil and Political Rights which establishes that “any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children”. Notably, on 18 July 2013, the HJPC issued a recommendation to all tribunals and prosecutors’ offices across the country, declaring that they are not under an obligation to anonymize their legal acts, but they have to balance between private and public interests.¹⁴ Moreover, the HJPC called for the establishment of a working group to elaborate guidelines on which tribunals and prosecutors’ offices across the country should base their policy on access to information. The Court of BiH should afterwards adapt its rules of procedure. It remains to be seen whether and how the HJPC recommendations will be implemented.

2. The Provision of Psychological Support and Protection to Witness and Victims of War Crimes

Para. 7 of the 2012 Concluding Observations

[...] The State party should also continue to provide **adequate psychological support to victims of sexual violence**, particularly during the conduct of trials. [...]

Para. 13 of the 2012 Concluding Observations

[...] the Committee is concerned at the **prevailing deficiencies in the implementation of the witness support programme in entities where war crime cases have been transferred, such as the lack of adequate psychological support and that witnesses have been made to confront accused persons in and outside courts**. The Committee is concerned that this affects the willingness of witnesses to provide testimony during trials (arts. 6 and 14).

The State party should take **practical measures to increase the effectiveness of the witness protection programme to ensure the full protection of witnesses**. The State party should also **ensure that witnesses continue to receive adequate psychological support in entities where war crimes have been transferred**. The State party should further ensure that authorities **fully investigate cases of suspected intimidation of witnesses to put an end to the climate of fear** that stifles efforts to prosecute war crimes at the entity level in the State party.

7. The associations subscribing this document, and especially those working with women victims of rape or other forms of sexual violence during the war, highlight the insufficiency of the psychological support provided to witnesses and victims during trials.¹⁵ The situation is particularly critical in Republika Srpska and before district prosecutors’ offices. In Republika Srpska, the government suspended the budget line concerning support of victims and witnesses during war crimes trials, thus worsening an already precarious situation where local Centres for Social Work were in charge of this task without having the necessary training to do so. To face this situation the Association of Women-Victims of War had to

¹⁴ See (in Bosnian) http://www.bhrt.ba/107.html?&L=uxtnbhdwmtm&cHash=ebf175bf61318428343df31c863fbcce&tx_ttnews%5Btt_news%5D=2452.

¹⁵ See September 2012 Alternative Report, *supra* note 2, paras. 20-30.

engage a psychotherapist to support its members.

8. According to associations of victims of war crimes even when some support is provided, this is generally not done in a professional manner and by people adequately trained to this aim. Some victims and witnesses reported that they were accompanied during trials by personnel supposed to be supporting them that actually limited to asking them whether they needed something or they wanted some water. Associations of victims of war consistently denounce that the little support they may get is limited to when they are present in the courtroom, especially to testify. Several among the associations subscribing this report mentioned that the fact that there is no psychological support once the victim or witness leaves the court room is perceived by their members as if “they are forgotten again and left alone to take care of themselves and to cope with their trauma”. This situation cannot but foster the sense of marginalization and abandonment that victims of war crimes have been experiencing over the past 20 years.
9. It must be referred that in September 2013 new departments to offer support to witnesses during war crimes trials have been set up at the Cantonal Court in Novi Travnik and at the Cantonal Prosecutor’s Office in Travnik, as well as at the Cantonal Court and the Cantonal Prosecutor’s Office in Bihać. These departments have been established with the support of the United Nations Development Programme (“UNDP”). In this sense, if BiH authorities do not provide for adequate and sufficient financial and human resources to ensure future activities, the sustainability of these new departments may be at risk.
10. Since September 2012 new instances of harassment and threats against witnesses at war crimes trials have been reported while, to the knowledge of the associations subscribing the present report, this kind of crimes is not being duly investigated and those responsible are not being prosecuted and sanctioned.
11. An example that has been referred to is that of Mr. Šefik Hasanović, who testified at a war crime trial in Brčko District. Before and during the trial, between April and May 2012, Mr. Hasanović was subjected to verbal threats, followed by a car, and offered money (10,000 BAM, i.e. 5,000 Euros) to desist from testifying or to alter the contents of his testimony from a personal friend of the accused. When Mr. Hasanović refused to change his statements, the threats and harassment increased and on one occasion someone broke into his house. At present, Mr. Hasanović is under protection. Although Mr. Hasanović has duly reported these events to the police station in Brčko, to his knowledge to date no one has been prosecuted and sanctioned for the harassment he has been subjected to.
12. Witnesses testifying at a trial that is taking place before the Court of BiH against a person accused of having committed war crimes and crimes against humanity in Vogošća have also been subjected to harassment. In particular, they have been receiving threatening anonymous phone calls and messages, as well as silent calls in the middle of the night. To the knowledge of the subscribing associations, BiH authorities have not undertaken any thorough investigation on these events and no one has been prosecuted and sanctioned.
13. Another example that can be referred took place in May 2013, during the trial against Ms. Monika Karan

Ilić before the District Court in Brčko. After giving his testimony, V.P.¹⁶ was approached by the husband of the accused, who hit his leg while he was leaving the court-room. This was denounced by V.P. to local authorities, which answered that this does not fall within their competence. V.P. is very scared after these events took place and has lived the whole experience as a form of re-traumatization.

14. It must be also stressed that in several cases the manner in which war crimes trials are being conducted fosters a general sense of distrust among potential witnesses, who feel discouraged and exposed to security risks without any serious protection.
15. For instance, it has been referred that the fact that those accused of war crimes and crimes against humanity are not detained while trials against them are carried out fosters fear among victims and potential witnesses. An example that has been referred is that of the trial currently taking place before the Court of BiH against Mr. Dragomir Soldat, Mr. Velimir Đurić, and Mr. Zoran Babić for crimes against humanity and war crimes committed in Prijedor in 1992. In this case the defendants are not in custody during the trial. In particular, Mr. Velimir Đurić lives in Prijedor and is often seen in the area. This situation is perceived as a source of concern and distress for witnesses in this trial.
16. It must also be highlighted that the relevant legal framework for victims' and witnesses' protection remains inadequate. The CEDAW recently expressed its deep concern because of "the deficiencies of witness protection measures in cases prosecuted at district and cantonal levels, where the Law on Witness Protection Programme is not applicable"¹⁷ and it recommended to BiH to "ensure the effective implementation of the new Law on Witness Protection Programme and establish sustainable and operational witness protection measures at district and cantonal levels".¹⁸
17. While few attempts to amend the existing legal framework on witnesses' protection already failed, in July 2011 a working group composed of different authorities was established with the aim of putting forward another draft law. The Council of Ministers of BiH prepared a draft law on Witness Protection Programme in BiH, which was adopted in first reading by the House of Representatives of the Parliamentary Assembly of BiH on 18 July 2013. On 3 October 2013 the Constitutional Commission discussed in a second reading the draft law and adopted 11 amendments to the draft law. On 7 October 2013, the House of Representatives decided to send the draft law with the mentioned amendments to the Collegium of the House of Representatives for further comments. The report of the Collegium should be presented to the House of Representatives on 28 October 2013 for further analysis and

¹⁶ Due to security and privacy reasons, certain victims of gross human rights violations during the war who accepted to render their testimony for this follow-up report to the Human Rights Committee expressly requested that their identity is not disclosed to the wider public. In the present document, letters are used to designate the persons concerned. Their full names could be disclosed, upon request, to the Human Rights Committee, given that guarantees are provided that these data will not be made public in any way.

¹⁷ CEDAW, *Concluding Observations on BiH*, *supra* note 4, para. 9.e.

¹⁸ *Ibid.*, para. 10.d.

adoption. In the meantime, the system continues being uneven and overall deficient.¹⁹

3. The Lack of Harmonized Jurisprudence between State and Entity Courts

Para. 7 of the 2012 Concluding Observations

[...] Furthermore, the State party should ensure that the judiciary in all entities strongly pursues efforts aimed at harmonizing jurisprudence on war crimes and that **charges for war crimes are not brought under the archaic Criminal Code of the former Socialist Federal Republic of Yugoslavia, which does not recognize certain offences as crimes against humanity.**

18. As already reported in September 2012,²⁰ in particular district and entity courts across the country tend to apply the SFRY Criminal Code instead of the 2003 Criminal Code. In practice this means that persons convicted of war crimes before different courts may receive widely divergent sentences, taking into account that the SFRY Criminal Code prescribes lower mandatory maximum and minimum penalties in war crimes cases than the 2003 Criminal Code. The minimum sentences prescribed by the 2003 BiH Criminal Code for genocide, crimes against humanity, and war crimes is 10 years' imprisonment, while the maximum sentence is 45 years' imprisonment. The SFRY Criminal Code prescribes a minimum sentence of 5 years' imprisonment and a maximum sentence of 15 years' imprisonment or death, which could be commuted to 20 years' imprisonment.
19. Notably, while in 2007 the Constitutional Court of BiH had issued a decision – in line with the recommendations issued by a number of international institutions,²¹ including the Human Rights Committee – on the leading case *Maktouf* (AP/1785/06 of 30 March 2007) affirming that the 2003 BiH Criminal Code must be applied, on 18 July 2013 the Grand Chamber of the European Court of Human Rights rendered a judgment on the case *Maktouf and Damjanović*²² finding a violation of Art. 7 of the European Convention on Human Rights (no punishment without law). The European Court upheld the complaints by the two men, previously convicted by the Court of BiH of war crimes pursuant to the 2003 BiH Criminal Code. The European Court found that, given the type of offences of which the applicants had been convicted (war crimes as opposed to crimes against humanity) and the degree of seriousness (neither of the applicants had been held criminally liable for any loss of life), Mr. Maktouf and Mr.

¹⁹ In an interview released to a Bosnian newspaper, Mr. Francesco Caruso, officer of the Organization for Security and Cooperation in Europe (OSCE), coordinator of the prosecution of war crimes project, declared that OSCE will be funding travel expenses of witnesses. Although this is certainly a welcome initiative, this does not relieve the State from its international obligations. For the integral version of the interview, in the local language, see <http://www.oslobodjenje.ba/vijesti/intervju/1320-predmeta-ratnih-zlocinajosa-cekaj>.

²⁰ September 2012 Alternative Report, *supra* note 2, para. 18.

²¹ See, *inter alia*, (OSCE) – Mission in BiH, *Delivering Justice in BiH – An Overview of War Crimes Processing from 2005 to 2010*, *supra* note 12, pp. 19, 48, and 70-74.

²² European Court of Human Rights, Case *Maktouf and Damjanović v. Bosnia and Herzegovina*, judgment of 18 July 2013.

Damjanović could have received lower sentences had the SFRY been applied.²³ The Court found that since there was a real possibility that the retroactive application of the 2003 Criminal Code operated to the applicants' disadvantage, in the special circumstances of this case, they had not been afforded effective safeguards against the imposition of a heavier penalty.

20. Both Mr. Damjanović and Mr. Maktouf filed petitions to reopen the proceedings.²⁴ On 4 and 8 October 2013 respectively the panel of judges of the Court of BiH issued decisions allowing the re-opening of proceedings and ordering new trials. It has been assessed that the European Court of Human Rights' judgment and the recent decisions issued by the Court of BiH could pave the way for appeals in over 50 war crimes cases already decided by the latter since 2003.²⁵ A wave of such appeals may actually paralyze the Court of BiH that is already coping with a considerable backlog of cases.

4. The Obligation to Declare Missing Persons Dead in order to Access Monthly Disability Pensions

Para. 12 of the 2012 Concluding Observations

The State party should **abolish the obligation in cases of disappearance which makes the right to compensation dependent on the family's willingness to have the family member declared dead.** The State party should ensure that any compensation or other form of redress adequately reflects the gravity of the violation and the harm suffered.

21. The Human Rights Committee has repeatedly expressed its concern because of the practice of obliging relatives of disappeared persons to declare their loved ones dead in order to obtain compensation or social allowances. Along the same line, the Working Group on Enforced or Involuntary Disappearances stressed that "[...] *social allowances and/or measures of reparation should not be made conditional on the requirement that the relatives of the disappeared person produce a death certificate*".²⁶
22. Recently, in a case concerning BiH, the Human Rights Committee found a violation of Arts. 2, 6, 7 and 9 of the Covenant with regard to the obligation imposed on relatives of missing persons to obtain a death certificate in order to have access to social welfare and reparation and it recommended to BiH "the abolition of the obligation for family members to declare their missing dead to benefit from social allowances or any other forms of compensation".²⁷
23. On 23 September 2013 representatives of TRIAL met with members of the Commission for Human

²³ Mr. Maktouf had been sentenced to five years' imprisonment, the lowest possible sentence under the 2003 Code. In contrast, under the 1976 Code he could have been sentenced to one year's imprisonment. As regards Mr. Damjanović, he was sentenced to 11 years' imprisonment, slightly above the minimum of ten years. Under the 1976 Code, it would have been possible to impose a sentence of only five years.

²⁴ Notably, in the meantime Mr. Maktouf has already been freed and left BiH. Further, on 11 October 2013 Mr. Damjanović has been released while awaiting retrial.

²⁵ In this sense see <http://www.bihdaytonproject.com/?p=2204>. In the week between 21 and 25 October 2013 the Constitutional Court of BiH quashed 10 war crimes verdicts on this basis, see <http://www.justice-report.com/en/articles/bosnia-quashes-ten-war-crimes-convictions>.

²⁶ WGEID, *Annual Report for 2012*, doc. A/HRC/22/45 of 22 January 2013, para. 50 (emphasis is added).

²⁷ HRC, Case *Prutina, Zlatarac, Kozica, Čekić v. Bosnia and Herzegovina*, views of 28 March 2013, para. 11.

Rights and Freedoms of the Federal Parliament and called on them to amend the existing legislation (i.e. the Federal Law on Social Protection, the Protection of Civilian Victims of War and Families with Children, and the Federal Law on the Rights of Demobilized Defenders and their Families) abolishing the obligation to declare a disappeared person dead in order to have access to social allowances. The Commission expressed its willingness to consider potential amendments and requested TRIAL to present a draft text in this sense, which was done on 30 September 2013. The draft document was forwarded for consideration to the competent federal ministries on 10 October 2013 and is currently being examined.

24. It must be further highlighted that, besides the above-mentioned legislation, Art. 27 of the Law on Missing Persons²⁸ establishes that “three years after the date of the coming into force of the law, persons registered as missing in the period from 30 April 1991 to 14 February 1996 whose disappearance has been verified within the Central Records on Missing Persons (“CEN”) BiH, *shall be considered dead* and this fact shall be officially entered in the Register of Death [...]” (emphasis is added). Notwithstanding the recommendations issued by international human rights mechanisms,²⁹ to date BiH authorities have not carried out any particular assessment, nor have they consulted with associations of relatives of missing persons on this subject. Accordingly, the risk remains that enforced disappearance is unduly treated as a direct death, without taking into account its continuous nature.

5. Other Matters of Concern

25. Besides the various issues of concern highlighted in the previous paragraphs and on which the Human Rights Committee expressly requested BiH to provide follow-up information, there are other matters that the associations subscribing the present report would like to bring to the attention of the Human Rights Committee.
26. In fact, the associations subscribing the present document have a number of concerns with regard to the implementation by BiH of its obligations pursuant to the International Covenant on Civil and Political Rights, and of the recommendations formulated in November 2012 by the Human Rights Committee. However, given the particular expertise of the associations concerned, this document focuses solely on matters related to missing persons and their relatives, former camp-detainees, and victims of rape or other forms of sexual violence during the war. The omission of other subjects does not imply by any means that the associations submitting this report consider that BiH fully complies with all its obligations under the International Covenant on Civil and Political Rights or that it has implemented all the recommendations contained in the concluding observations adopted by the Human Rights Committee in November 2012.

5.1 The Failure to Implement the Law on Missing Persons

27. One subject of particular concern is the ongoing non-implementation of crucial provisions of the Law on

²⁸ *Infra* paras. 27-34.

²⁹ WGEID, *Report on the Mission to BiH*, *supra* note 11, paras. 46 and 85.

Missing Persons (Official Gazette of BiH No. 50/04) which entered into force on 17 November 2004.³⁰ This piece of legislation aims at establishing a comprehensive regime to deal with missing persons, defined as an individual “about whom his family has no information and/or is reported missing on the basis of reliable information as a consequence of the armed conflict that happened on the territory of the former SFRY” (Art. 2). The law applies to persons who went missing in the period from 30 April 1991 to 14 February 1996 and it contains provisions recognizing, among others, the right to know the fate of missing persons (Art. 3) and the obligation to provide information (Art. 4). Nine years after the entry into force of the Law on Missing Persons and despite reiterated recommendations by international human rights mechanisms in this sense, to date several provisions of the law remain dead letter.³¹

5.1.1 The Functioning of the Missing Persons Institute (MPI)

Para. 9 of the 2012 Concluding Observations

The Committee recalls its previous recommendations and **regrets the slow progress that has been made to find persons who went missing during the armed conflict between 1992 and 1995**. The Committee is also concerned at the budget cuts for the Missing Persons Institute that adversely affect the implementation of its mandate (arts. 2, 6 and 7).

The Committee reiterates its previous concluding observations and recommends that the State party **should expedite the investigation of all unresolved cases involving missing persons**. Furthermore, the State party should take all necessary measures to **ensure that the Missing Persons Institute is adequately funded and able to fully implement its mandate with a view to completing the resolution of these cases as soon as possible**. The State party should also continue to **provide adequate psychological support to families of missing persons during the conduct of exhumations**.

28. Art. 7 of the Law of Missing Persons provides for the establishment of the Missing Persons Institute (“MPI”), mandated to improve the process of tracing missing persons and expedite identifications of mortal remains of missing persons. The MPI became fully operational only from 1 January 2008. Despite the recommendations from international mechanisms,³² the MPI is experiencing troubles with regard to the appointment of the members of its different managing bodies.
29. The MPI is composed of three management bodies, namely: a six-member Steering Board, a three-member Supervisory Board and a three-member Board of Directors. The staff reports to the Board of Directors, which reports to the Steering Board, which reports to the founders;³³ while the Supervisory Board is a reviewing body that reports to the two other management boards and to the founders. There is also an Advisory Board, composed by representatives of associations of relatives of missing persons

³⁰ See 2012 September Alternative Report, *supra* note 2, paras. 31-42.

³¹ Notably, Art. 24, para. 1, of the Law on Missing Persons provides that: “the BiH Ministry of Human Rights and Refugees shall oversee the enforcement of this Law”.

³² Committee against Torture (CAT), *Concluding Observations on BiH*, doc. CAT/C/BIH/CO/2-5 of 19 November of 2010, para. 24 (a); and WGEID, *Report on the Mission to BiH*, *supra* note 11, para. 78 (f). For the whole set of recommendations issued see para. 78.

³³ The International Commission on Missing Persons and the Council of Ministers of BiH. An English version of the Agreement on Assuming the Role of Co-founders of the MPI can be found at: www.ic-mp.org/wp-content/uploads/2007/11/agreement_en.pdf.

(so far composed by two Bosniak, two Bosnian Serb and two Bosnian Croat members).³⁴ The members of these associations also participate in the work of the Steering Board, but without the right to vote.

30. On 30 June 2012 the mandate of the members of the Board of Directors expired and those currently holding the posts are doing so *ad interim* pursuant to a mandate of technical nature. A call for the election of new members was issued at the end of June 2012 and the process remains ongoing more than one year later. With regard to the members of the Steering Board, they are also holding the posts pursuant to a mandate of technical nature. Moreover, since 2008 there are five members instead of the six prescribed by the Law on Missing Persons.
31. In general, while the fact that members of an institution may hold a technical mandate for a limited period of time is natural, the same cannot be said if over the past three years a considerable number of posts in the managing bodies of the MPI have formally been vacant or held *ad interim*. Such a situation does not contribute to the regular functioning of an institution or to the overall perception of trustworthiness when it comes to public scrutiny. Furthermore, representatives of associations of relatives of missing persons also expressed concerns because of the alleged presence of people who have political affiliations within the managing bodies of the MPI³⁵ and stressed that this undermines the overall credibility of the institution.

5.1.2 The Completion of the Central Records of Missing Persons (CEN)

32. Art. 21 of the Law on Missing Persons provides for the creation of the CEN, intended to include all records that were or are kept at local or Entity levels, by associations of families of missing persons and other associations of citizens, Tracing Offices of the organizations of the Red Cross in BiH, as well as international organizations. Art. 22, para. 4, of the Law on Missing Persons prescribes that “verification and entry of previously collected data on missing persons into CEN should be completed by the competent authority *within a year* of the date of the establishment of the MPI” (emphasis added). This means that the process of verifying and entering data in the CEN *should have been completed by 1 January 2009*. Despite the repeated recommendations in this sense issued by various international human rights mechanisms,³⁶ at November 2013 the CEN has not been completed yet. It currently contains data of a total of 34,964 missing persons whose status needs to be additionally verified. Since November 2012, the status of 2,393 people has been verified. Despite the deadlines clearly set by the Law on Missing Persons, representatives of the MPI allege that “it is impossible to predict the date of

³⁴ It must be noted that, while in BiH access to power or positions should be granted to Bosniaks, Bosnian Croats, Bosnian Serbs and to “others” (including, for instance, Roma, or those who identify themselves simply as Bosnian-Herzegovinians), at present the organizational structure of the MPI includes no representation of the “others” category in its organizations structure. Moreover, the association *Izvor* expresses serious concerns with regard to the transparency of the process followed to appoint the members of the Advisory Board.

³⁵ In this sense, it must be recalled that Art. 5 of the Law on Missing Persons clearly establishes that “*officials with duties related to the tracing of missing persons cannot carry out this duty if they are members of steering or other boards, or executive bodies, of political parties, or if they are politically engaged representatives, and must not follow political party instructions*” (emphasis is added).

³⁶ CAT, *Concluding Observations on BiH*, *supra* note 32, para. 24 (c); and WGEID, *Report on the Mission to BiH*, *supra* note 11, paras. 24 and 75.

finalization of the verification". This situation is clearly a source of deep distress for relatives of missing persons.

5.1.3 The Non-Establishment of the Fund for the Support of Families of Missing Persons

33. Art. 15 of the Law on Missing Persons prescribes the creation of a Fund for the Support of Relatives of Missing Persons ("the Fund"), intended to be a means of support for families of missing persons in BiH. Paragraph 2 of the provision indicates that a decision on the setting up of the Fund "shall be issued by the Council of Ministers of BiH *within 30 days from the date of the coming into force of the Law*" (emphasis is added). The same was provided for the organization of issues related to the work of the Fund. Given that the Law on Missing Persons entered into force on 17 November 2004, a decision on the establishment of the Fund should have been issued by the Council of Ministers of BiH by 17 December 2004.
34. Despite reiterated recommendations issued from international human rights mechanisms,³⁷ at November 2013 the Fund does not exist yet. BiH authorities do not show any willingness to address this matter. It has to be stressed that, besides being an ongoing breach of BiH's international obligations, the non-establishment of the Fund causes serious damage to relatives of missing people who are denied their right to obtain support and compensation. Associations of relatives of missing people throughout the country express their deep concern because of this situation and their loss of trust towards domestic institutions. Many of their members are dying without having ever realized the rights they are entitled to, and without having ever obtained any form of support from the Fund. Finally, it must be noted that the non-establishment of the Fund amounts also to non-implementation of a significant number of decisions delivered by the Constitutional Court of BiH on the subject of missing people, whereby the payment of compensation to relatives recognized as victims of grave human rights violations was associated to the establishment of the Fund, which was expressly ordered by the Constitutional Court of BiH.

5.2 The Status of Draft Legislation Relevant for Victims of Gross Human Rights Violations during the War

35. Over the past years, a number of legislative initiatives were launched in order to bring BiH legal framework in line with international standards, pursuant to reiterated recommendations issued in this sense by international human rights mechanisms, including the Human Rights Committee.³⁸ Notably, some of these initiatives have now been ongoing for over more than seven years, fostering first the illusions of victims of gross human rights violations during the war and then their frustration. Despite pledges and assurances given by BiH in this sense, to the great disappointment of the associations subscribing the present document, at November 2013 none of those initiatives has seen the light of the day. Time passes, BiH authorities fail to take any positive measure and indulge into lulls, while in the meantime victims of gross human rights violations continue claiming for their rights.

³⁷ See, among others, CAT, *Concluding Observations on BiH*, *supra* note 32, para. 24 (b); and WGEID, *Report on the Mission to BiH*, *supra* note 11, para. 84 (a).

³⁸ See September 2012 Alternative Report, *supra* note 2, paras. 53-63.

36. The present document focuses on four major and long due initiatives, namely the draft National Strategy on Transitional Justice, the Programme for Improvement of the Status of Survivors of Conflict related Sexual Violence, the draft Law on the Rights of Victims of Torture, and the draft Law on Free Legal Aid.
37. In its recent concluding observations on BiH, the CEDAW recommended to BiH to “expedite the adoption of pending draft laws and programmes designed to ensure effective access to justice for all women victims of wartime sexual violence, including adequate reparation, such as the Draft Law on the Rights of Victims of Torture and Civilian War Victims, the Programme for Victims of Sexual Violence in Conflict and Torture (2013-2016) and the Draft Strategy on Transitional Justice aimed at improving access to justice; [...] expedite the adoption of the Draft Law on Legal Aid aimed at unifying the provision of free legal aid in the State party in order to facilitate access to justice for all women, in particular those belonging to disadvantaged groups”.³⁹

5.2.1 The Draft National Strategy on Transitional Justice

38. The process of drafting and adopting a Transitional Justice Strategy, supported by the UNDP, started in 2010. The working document containing the draft Transitional Justice Strategy was expected to be presented for adoption to the Parliamentary Assembly during the summer of 2012.
39. In her 2013 report on the mission to BiH, the Special Rapporteur on Violence against Women referred that she was “[...] also informed of the Transitional Justice Strategy (TJS), which is spearheaded by the Ministry of Human Rights, with the participation of the judiciary, other authorities, and in collaboration with civil society representatives. In June 2012, a working document was presented by the Ministry of Human Rights and Refugees, together with the Ministry of Justice and the United Nations Development Programme. The Strategy is yet to be adopted. The Strategy is focused on non-judicial transitional justice mechanisms such as reparations, memorials, truth telling, and institutional reform. It aims to address the issue of past war-crimes, [...] The Strategy does not deal with women victims as a separate category, yet women are considered within the category of ‘civilian victims of war’. While the Strategy does not define actions specifically intended for women, it reportedly aims to ensure that the basic principles of gender equality, as well as the special needs of this category of victims are recognized and taken into consideration when developing concrete programmes. The Strategy recognizes that the war had a differentiated impact on women which has also affected their post-war situation. It also stresses women’s roles during the war, not only as victims of sexual violence, but also as witnesses, veterans, and even perpetrators. The Special Rapporteur was informed that the Transitional Justice Strategy aims to establish non-judicial mechanisms to address these concerns through fact-finding and truth-telling activities, memorialisation, reparation and compensation programs, as well as rehabilitation through, *inter alia*, psycho-social services. Civil society representatives from both Entities expressed their support for this initiative and have made efforts to contact women victims of rape, as well as associations of victims of concentration camps, in order to organize consultations. However, *while the CSO sector from the Republika Srpska has been involved in the development of the Strategy, the Entity-*

³⁹ CEDAW, *Concluding Observations on BiH*, *supra* note 4, paras. 10.c and 16.c.

level authorities have not been as supportive. While they were formally involved in the development of the Strategy during the pre-drafting consultations, and as members of the Working Group, they then left the Working Group half-way through the process. The Gender Centre in the Republika Srpska is reportedly engaging and discussing with relevant entity level Ministries and authorities to reconcile views and prompt the participation of the Entity in this important initiative. State-level authorities are also striving to create an atmosphere for minimum consensus. According to interviewed stakeholders, some progress had been achieved and it is hoped that political divisions will be overcome to facilitate a process that would be very beneficial for women victims of war of all ethnic and religious backgrounds".⁴⁰

40. The Special Rapporteur recommended to BiH to "*finalize the launch of a nation-wide Transitional Justice Strategy that includes: (i) Fact-finding and truth-telling activities that acknowledge the war-crimes experienced by women, regardless of their religious or ethnic background, and also recognize how shame, trauma or fear of stigmatization have restricted victims from speaking out. (ii) Memorialisation activities that foster the widespread societal recognition of the harms suffered by women during wartime, as well as the disparate and disproportionate consequences that these crimes had on them. (iii) Reparations programs that target the rehabilitation and de-victimization of survivors, as well as the improvement of their psycho-social and physical health, including by better coordinating the existing services provided by both State and civil society organizations. A clear differentiation should also be made between any reparations programs and the social welfare provisions to which women are entitled. (iv) Compensations schemes that avoid the differentiated treatment currently being received by civilian victims of war throughout the country. Such schemes should broadly include employment, housing and financial incentives for women survivors of war-time violence*".⁴¹
41. Although UNDP is supporting a dialogue between government institutions in cooperation with civil society organizations on the draft Strategy on Transitional Justice, at November 2013 the draft has not yet been presented for adoption to the Parliamentary Assembly. At present, the Ministry of Justice of BiH is coordinating new efforts into organizing further consultations at the local and other levels with a variety of actors to gather their comments to the draft document, enter amendments and advocate for its adoption. Considering that the latter should have taken place in the summer of 2012, it would seem that the adoption of the draft Strategy on Transitional Justice is not a priority for BiH authorities. On the contrary, for victims of the war that have been waiting for justice and redress over the past 20 years, this piece of legislation is a top priority that cannot be eluded any further.

5.2.2 The Programme for Improvement of the Status of Survivors of Conflict Related Sexual Violence

42. The process of drafting and adoption of the "Programme for Improvement of the Status of Survivors of Conflict related Sexual Violence", coordinated by the United Nations Population Fund ("UNPFA") and the BiH Ministry of Human Rights and Refugees, was launched at the end of 2010. The finalization of

⁴⁰ Special Rapporteur on Violence against Women, *Report on the Mission to BiH*, doc. A/HRC/23/49/Add.3 of 29 April 2013, paras. 58-61 and 98-100 (emphasis is added).

⁴¹ *Ibid.*, para. 105 (k) (emphasis is added).

the draft programme was initially expected by the end of 2011 and was then repeatedly postponed.

43. In the Progress Report for 2012, the European Commission noted that “a *comprehensive approach to improving the status of victims of rape and sexual violence remains outstanding*. The adoption of a State-level programme for improving the status of victims of war crimes involving sexual violence is pending”.⁴²
44. In the 2013 report on her visit to BiH the Special Rapporteur on Violence against Women referred that “the Programme for Victims of Wartime Rape, Sexual Abuse and Torture, and their Families 2013-2016 is also led by the Ministry of Human Rights and Refugees, with the support of the United Nations Population Fund (UNFPA). The programme will focus on issues including the implementing of rehabilitation programs, the right to compensation, and the social integration of victims. The development of the program is important to provide clarity *vis à vis* the scope and nature of transitional justice mechanisms and their differentiation from provisions related to social security. The prevailing confusion as regards these concepts has negatively affected the way authorities have responded to wartime victims. It is hoped that this programme will also foster social integration and better understanding within communities. *While the Programme was originally conceived to focus on women, it was later modified to recognize the existence of male victims of war-time rape. As with the Transitional Justice Strategy State level authorities and NGO’s have been very supportive of the initiative, yet Entity level governments have shown less support. This is particularly the case for the Republika Srpska which has reportedly still not delegated members to the program’s working groups. The program has been debated in public and in Parliamentary committees, but still has no endorsement. It is argued that financial implications may be the main obstacle*”.⁴³ The Special Rapporteur recommended BiH to “finalize and launch the Programme for Victims of Wartime Rape, Sexual Abuse and Torture, and their Families 2013-2016 and ensure allocation of necessary financial and human resources for its implementation. The programme should be implemented with the full participation of relevant entity-level authorities and in consultation with civil society and victims’ organizations”.⁴⁴
45. At November 2013, the draft programme has not yet been submitted to Council of Ministers of BiH for approval and it remains at the Entities’ level. The programme was submitted for feedback opinions to entity governments, but the government of Republika Srpska failed to formulate its opinion so far,⁴⁵ thus paralyzing the whole process.⁴⁶ Anew, this situation casts serious doubts on the level of priority

⁴² European Commission, *Progress Report for 2012 on Bosnia and Herzegovina*, doc. SWD(2012)335final of 10 October 2012, p. 13.

⁴³ Special Rapporteur on Violence against Women, *Report on the Mission to BiH*, *supra* note 40, paras. 62-63 (emphasis is added).

⁴⁴ *Ibid.*, para. 105 (j).

⁴⁵ Some opinions were actually given, namely: the government of Brčko District sent a positive opinion; the Legislative Office of BiH gave its positive opinion; the Gender Centre of Republika Srpska expressed “support to the programme”, as well as the Gender Centre of the Federation of BiH.

⁴⁶ In the meantime, the Ministry for Human Rights and Refugees, in cooperation with UNFPA, continued to promote the draft of the programme in local communities. In partnership with the Una Sana Canton and Bosansko podrinjski Canton, namely with their Cantonal Ministries of Social Work and Health, they agreed to implement pilot projects of the programme relating to the provision of direct support to victims. In this regard, they held consultative discussions with key stakeholders in Bihac and Goražde and introduced them with the idea for the establishment of the Protocol on cooperation. When official agreement on the mentioned Protocol will be reached, assistance will be delivered in these pilot areas in accordance with the programme.

attributed by BiH authorities to this legislative initiative and discloses a discrepancy between the expectations of women victims of rape or other forms of sexual violence during the war and the attitude demonstrated towards them by the State. It would now seem that BiH is planning a “modular implementation” of the Programme, but this would largely depend on the financial support of external donors and it is not clear how it could be put in place without the support of one of the entity governments and without formal approval.

5.2.3 The Draft Law on the Victims of Torture

46. Since 2006 (i.e. seven years ago) BiH has been affirming before international mechanisms that the adoption of a Law on the Rights of Victims of Torture was “imminent”. Yet, international human rights mechanisms, including the Human Rights Committee,⁴⁷ continue highlighting the importance of the adoption of such law. Among others, the Special Rapporteur on Violence against Women recommended BiH to “expedite the enactment of the Law on Civilian War Victims and Victims of Torture”.⁴⁸
47. In 2012 the BiH Ministry of Human Rights and Refugees had re-launched the initiative to draft a law on the rights of victims of torture and had submitted a draft for comments to entities. On 15 March 2013 a meeting was held at the Ministry for Human Rights and Refugees of BiH where the Ministry representatives highlighted that there seems to be no readiness from the side of the entities to adopt the law. The governments of the Federation of BiH and Republika Srpska did not send feedback with regard to the draft law and its adoption. It was also said that the issue of the adoption of the law has not been included in the Action Programme for the work of the Ministry for 2013.
48. In September 2013 one of the delegates in the House of Representatives of the Parliamentary Assembly sent a notification to the Houses of Representatives and the Ministry of Human Rights and Refugees in BiH affirming that some members of the Parliamentary Assembly have accepted the role of proposing the draft law. Accordingly, consultations with all delegates and the competent ministries should take place over the next months, although there is no clear deadline set for this.
49. This callous inactivity of BiH authorities in the face of the acute suffering of victims of torture during the war, who have been waiting for a law to eventually realize their fundamental rights, is not only a flagrant breach of BiH’s international obligations, but discloses an obstinate disregard of recommendations repeatedly put forward by international human rights mechanisms, and is perceived by thousands of victims as a mockery.

5.2.4 The Draft Law on Free Legal Aid

50. In April 2012 a draft law on free legal aid was submitted to the BiH Council of Ministers, adopted by the latter as a proposal, and forwarded to undergo the parliamentary procedure. The draft was introduced into the BiH Parliamentary Assembly on 23 July 2012, but was eventually not approved. The deadline for the drafting of a new law is now December 2013. On such date the new draft prepared by the

⁴⁷ HRC, *Concluding Observations on BiH*, doc. CCPR/C/BIH/CO/2 of 2 November 2012, para. 8.

⁴⁸ Special Rapporteur on Violence against Women, *Report on the Mission to BiH*, *supra* note 40, para. 105 (b).

Ministry of Justice should be submitted to the BiH Council of Ministers. The latter should then approve it and forward it to the Parliamentary Assembly.

51. At the time of writing, the contents of the new draft are unknown. This is a source of concern because the great majority of victims of gross human rights violations during the war are in dire financial conditions and cannot pay for legal assistance and representation. Even though some of the associations subscribing the present document are among those NGOs providing free legal aid to victims of the war, and this kind of initiatives are laudable and certainly most welcome, this does not relieve the State from its international obligations. As recently pointed out by the Special Rapporteur on the Independence of Judges and Lawyers “*States bear the primary responsibility to adopt all appropriate measures to fully realize the right to legal aid for any individual within its territory and subject to its jurisdiction*”.⁴⁹ NGOs’ projects, even though positive, cannot replace the adoption of an integral State policy on the matter, supported by adequate legislation and practice. Over the past decade different international mechanisms have been calling on BiH for the adoption of a law on free legal aid. As noted in the European Commission Progress Report for 2013: “The system of free legal aid remains fragmented and unregulated in three Cantons. The adoption of a State-level Law on Free Legal Aid remains pending. Free legal aid in civil cases continues to be provided, mainly by privately-funded NGOs. Free legal aid in administrative cases remains insufficient”.⁵⁰ Lately, the Special Rapporteur on Violence against Women emphasized that “survivors needs include services such as free legal aid advice to help them navigate the complex legal framework in the entities and apply for welfare or other benefits [...]”.⁵¹
52. Despite some attempts and a number of drafts, thousands of victims of gross human rights violations during the war are left without access to free legal aid and see their right to access to justice daily hindered, while their trust towards institutions is seriously jeopardized. The adoption of a law on free legal aid is a priority that cannot be postponed anymore.

5.3 The Limitations to the Freedom of Expression and the Right of Peaceful Assembly with regard to Associations of Victims of War from the Prijedor Area

⁴⁹ Special Rapporteur on Independence of Judges and Lawyers, *Legal Aid, a Right in Itself*, 2013, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13382&LangID=E>. See the integral report on this subject, doc. A/HRC/23/43 of 15 March 2013.

⁵⁰ European Commission, *Progress Report for 2013 Bosnia and Herzegovina*, doc. SWD(2013)415final of 16 October 2013, p. 13. See also: European Commission, *Progress Report for 2012 Bosnia and Herzegovina*, *supra* note 42, p. 16.

⁵¹ Special Rapporteur on Violence against Women, *Report on the Mission to BiH*, *supra* note 40, para. 27.

Para. 19 of the 2012 Concluding Observations

The Committee is concerned at reports of restrictions on freedoms of expression and assembly in Prijedor town, where the Mayor on 9 May 2012 prohibited public commemorations for the twentieth anniversary of mass atrocities which had been organized by local non-governmental organizations. The Committee is concerned at reports that public announcements were made that any failure to comply with the prohibition and the use of the term “genocide” when referring to the crimes committed in Omarska would be prosecuted (arts. 19 and 21).

The State party should ensure that restrictions on freedoms of expression and assembly comply with the strict requirements of articles 19 and 21 of the Covenant respectively. In this regard, the State party should **conduct investigations regarding the legality of prohibitions to conduct commemorations in the town of Prijedor in May 2012.**

53. In the September 2012 alternative report restrictions on freedom of expression and assembly in Prijedor, as well as prohibitions to hold public commemorations were reported.⁵² Since November 2012 other similar episodes have been registered and generally it is held that Arcelor Mittal, the corporation currently owning the site where the Omarska detention camp was set up during the war, imposes severe restrictions to former camp-detainees willing to visit the site.⁵³ For instance, on 9 May 2013, representatives of former-camp detainees were not allowed to commemorate the Day of Camp Detainees and to visit the site.
54. On 31 May 2013 around 400 people, mainly young persons, gathered in Prijedor on the occasion of the “White Arm Band Campaign”, designated to draw attention to the continued denial of crimes and discrimination of the non-Serb victims by the local government in the city of Prijedor. The mayor of Prijedor publicly and disdainfully referred to the manifestation as an “ordinary Gay Parade”,⁵⁴ further accusing NGOs and civil society organizations to be responsible for the unemployment of young people, because with their manifestations they would cast a bad reputation on Prijedor and frighten potential investors. These discriminatory and insulting affirmations issued by a State authority cannot but foster the feeling of marginalization of victims of gross human rights violations from the war. Associations working in the area report that these incidents are also nourishing a sense of fear, in particular among returnees.
55. In this sense it must be referred that in October 2013 a global campaign was launched⁵⁵ calling on the mayor of Prijedor to publicly acknowledge and memorialize the non-Serb victims of atrocities committed in the city in the early Nineties and to avoid any further restrictions to the freedom of expression and the right of peaceful assembly. The open letter to the mayor of Prijedor has been subscribed by leading world experts on truth-seeking and memorialization, including the United Nations Special Rapporteur on

⁵² September 2012 Alternative Report, *supra* note 2, paras. 87-99. See also EU Progress Report on BiH for 2013, *supra* note 50, p. 17.

⁵³ Visitors are obliged to notify at least seven days earlier through a request with full data of the visitors and the purpose of the visit. This does not necessarily guarantee that the visit will be permitted.

⁵⁴ In this sense see <http://www.klix.ba/vijesti/bih/marko-pavic-nazvao-dan-bijelih-traka-slavljem-i-gay-paradom/130601057> (in the local language); and <http://dalje.com/en-world/prijedor-mayor-calls-commemoration-of-war-victims-gay-parade/470516> (in English).

⁵⁵ See <http://ictj.org/sites/default/files/ICTJ-Prijedor-Bosnia-Herzegovina-Letter-New-2013.pdf>.

Torture.

56. In the September 2012 alternative report the fact that some civil society organizations headquartered in Prijedor, namely *Izvor* and Prijedor 92, had been subjected to attacks on their premises was referred. Those events were promptly denounced to the local police. At the time of writing, investigations are allegedly ongoing and no one has been prosecuted and sanctioned for those events.

5.4 The Pace of Exhumations of Missing Persons

57. In the September 2012 alternative report reference was made to the obstacles faced by relatives of missing persons and their representative associations with regard to the carrying out of exhumations of mass graves.⁵⁶ In this sense, between October 2012 and September 2013 the Prosecutor's Office of BiH coordinated the process of exhumation on 108 locations across the country.⁵⁷ Most notably, in September 2013 a mass grave was discovered in Tomašica, near Prijedor.⁵⁸ This mass grave is likely to contain the bodies of some of the estimated 1,200 civilians still registered as missing after being held at one of the area's notorious detention camps. The discovery of this mass grave is the source of renewed hope for local associations of relatives of missing persons, who hope to finally be able to find the remains of their loved ones and to mourn, honour and bury them in accordance with their religious beliefs and customs. For this reason, local associations were disappointed when access to the area was restricted for their members, in order to rather facilitate the official visit to the site of Ambassador Peter Sørensen, EU Special Representative for BiH.
58. Another problematic case concerning the carrying out of exhumations has been reported by the Association of Relatives of Missing Persons of the Sarajevo-Romanija Region, according to which exhumations initiated on 22 July 2013 at a city dump in Buća potok were suspended on 30 August 2013 because the Prosecutor's Office of BiH failed to pay the contractors in charge of the task. The operations have not been resumed since then.
59. Furthermore, relatives of missing persons continue not receiving any form of adequate psychological support during and after exhumations, remaining subjected to ongoing stress and instances of re-traumatization.

5.5 The Inadequacy of the Criminal Legislation on Sexual Violence, Torture and Enforced Disappearance

60. In the September 2012 alternative report a detailed analysis of the inadequacy of the criminal legislation on sexual violence, torture and enforced disappearance was provided.⁵⁹ Recently, the CEDAW expressed deep concern about "The inadequate definition, both at the State and Entity levels, of acts of

⁵⁶ September 2012 Alternative Report, *supra* note 2, paras. 43-47.

⁵⁷ On the improvements in the pace of exhumations see also *EU Progress Report on BiH for 2013*, *supra* note 50, p. 21.

⁵⁸ See, *inter alia*, <http://www.dailymail.co.uk/news/article-2444015/Dozens-bodies-discovered-Bosnian-mass-grave-believed-victims-genocide-carried-Serb-forces.html> and <http://www.justice-report.com/en/articles/268-victims-remains-found-in-bosnia-mass-grave>.

⁵⁹ September 2012 Alternative Report, *supra* note 2, paras. 81-84.

sexual violence as war crimes and crime against humanity, in particular the elements of the crime of rape, which are not in line with international standards, the large number of cases at district/cantonal levels, in which rape continues to be prosecuted as an ordinary crime, without taking into account the dimension of the armed conflict, and the parallel applicability of different Criminal Codes resulting in inconsistent jurisprudence and lenient sentencing practices”⁶⁰ and it recommended to BiH to “amend all relevant Criminal Codes to include a definition of wartime sexual violence in line with international standards, including a specific definition of rape as a war crime and as a crime against humanity, in order to adequately reflect the gravity of the crimes committed and intensify its efforts to harmonize the jurisprudence and sentencing practices of its courts throughout the State party, by establishing effective cooperation mechanisms between prosecutors and courts competent to deal with war crimes at all levels of the State party”.⁶¹

61. On 22 October 2013 the draft law on changes of the Criminal Code of BiH was approved by the Constitutional-Legal Committee and is waiting to be referred to the House of Representatives. The proposed draft law contains some remarkable proposals.
62. In the draft law on changes of the Criminal Code of BiH an amendment of Art. 190 is proposed in order to reproduce a definition of the crime of torture in line with the one contained in the Convention against Torture. The proposed amendment seems to meet international standards, but the sanctions envisaged (deprivation of liberty for a minimum of 6 years, while the maximum sentence is not fixed) do not seem to fully take into account the extreme seriousness of the crime.
63. In the draft law on changes of the Criminal Code of BiH the introduction of Art. 190a is also proposed, with the aim of codifying enforced disappearance as a separate criminal offence also when it is not committed as part of a widespread or systematic attack against any civilian population. This inclusion would certainly be welcomed. However, it must be noted that in the proposed text, the sanction envisaged for the perpetrator is deprivation of liberty for a minimum of eight years (while the maximum sentence is not indicated), also for superiors implicated in the commission of an enforced disappearance. It is doubtful that this formula would be proportionate to the gravity of the crime and meet international human rights law requirements.
64. Finally, in the draft law on changes of the Criminal Code of BiH the definition of sexual violence as a war crime and as a crime against humanity contained in Arts. 172 and 173 is amended removing from the definition the condition “coercing another by force or by threat of immediate attack”.
65. While the majority of the above-mentioned amendments shall certainly be welcomed and would represent significant steps forward, it remains to be seen if and when they will be adopted as such or whether they will be subjected to further changes. Moreover, as indicated, some aspects of the definitions remain at variance with international standards. Finally, the amendment of the Criminal Code of BiH would in any case not be enough to make up for the existing loopholes in the Entity codes, which shall therefore be

⁶⁰ CEDAW, *Concluding Observations on BiH*, *supra* note 4, para. 9.b.

⁶¹ *Ibid.*, para. 10.b.

amended as well.

5.6 Ratification of Relevant International Treaties

66. Associations of victims of gross violations committed during the war are firmly persuaded of the need to prevent similar crimes from ever happening again. In this sense, it is essential that BiH ratifies relevant international treaties and adopts adequate implementing legislation.
67. While it is positive that on 11 April 2002 BiH ratified the Rome Statute for the establishment of an International Criminal Court (“ICC”) and on 24 January 2012 it accepted the Agreement on Privileges and Immunities of the Court (APIC),⁶² at the time of writing BiH has not yet ratified the Kampala Amendments⁶³ to the Rome Statute and national legislation does not seem to be fully in line with all obligations under the Rome Statute both with regard to the definition of genocide, crimes against humanity and war crimes⁶⁴ and with regard to effective cooperation.

6. Conclusions and Recommendations

68. In general, it is the view of the subscribing organizations that there has not been a significant progress in the implementation of the recommendations formulated in November 2012 by the Human Rights Committee and a number of issues remain the source of deep concern. While the relatives of missing persons, former camp-detainees and women victims of rape or other forms of sexual violence during the war continue experiencing isolation and indifference, the recommendations issued by the Human Rights Committee have not been duly implemented and the situation remains almost unchanged. Victims of gross human rights violations during the war are left to bear the brunt of violations that have been ongoing over the past 20 years. The lack of consistent steps forward and the non fulfilment of long-due promises increase the frustration among these people and many feel that the State is indulging into lulls until they die, avoiding to provide any meaningful answer to their quest for justice, truth and reparations. BiH remains in breach of its international obligations as spelled out, among others, by the International Covenant on Civil and Political Rights.
69. For the reasons explained above, the associations subscribing the present document respectfully request the Human Rights Committee to recommend to BiH to:
 - ▶ Ensure that the National Strategy for Processing War Crimes is duly implemented without any further delay and that adequate financial and human resources are allocated to guarantee that the pace of proceedings increases.
 - ▶ Ensure that victims of gross human rights violations during the war and their representative associations are given information on a regular basis on the process of investigation carried out

⁶² The APIC is a separate treaty, designed to provide officials and staff of the ICC with certain privileges and immunities necessary for them to perform their duties in an independent and unconditional manner. States that are not parties to the Rome Statute can nonetheless ratify/accede to the APIC.

⁶³ At the Review Conference held in Kampala in 2010, amendments were adopted relating to the prohibition of the use of certain weapons in a non-international armed conflict (Art. 8.2.e), and to the crime of aggression (Art. 8 bis).

⁶⁴ See *supra* paras. 60-65.

by the prosecutor's offices, the results of those investigations and whether trials might be forthcoming. Courts at all levels shall have consistent rules in dealing with the public in general and with victims of war crimes in particular.

- ▶ Ensure that the anonymization policy adopted by the Court of BiH is amended so that the judicial determination of the facts in trials concerning war crimes, crimes against humanity and, in general, gross violations committed during the war are disclosed to the general public without restriction, allowing victims of the crimes concerned, their families and society as a whole to fulfil their right to know the truth.
- ▶ Ensure that a comprehensive programme of witness protection and psychological accompaniment is granted at all levels prior, during and after the trial takes place. Instances of threats or harassment against witnesses, victims, their families, their counsels as well as against their representative associations shall be promptly and thoroughly investigated and those responsible shall be judged and sanctioned. Witness protection and support shall be victim-oriented and supplied by experts who are adequately trained to provide these services and are financed by the State. The draft law on witnesses' protection and support currently pending before the House of Representatives must be discussed and enacted without further delay.
- ▶ Guarantee that witnesses obtain adequate material support, including safe and free of charge transportation to and from the court.
- ▶ Ensure that those accused of crimes committed during the war, and in particular of crimes against humanity, are investigated and prosecuted pursuant to the provisions of the 2003 Criminal Code instead of those of the Criminal Code of the SFRY.
- ▶ Ensure that domestic legislation in cases of disappearance which makes the right to compensation and social allowances dependent on declaring the victim dead is amended without further delay; and that an assessment of the compatibility with international human rights standards of Art. 27 of the Law on Missing Persons is carried out to ensure that enforced disappearance is not unduly dealt with as a direct death. Associations of relatives of missing persons shall be duly involved in such assessment.
- ▶ Ensure that, within the MPI, the recourse to mandates of "technical" nature or the holding of posts *ad interim* is limited to exceptional circumstances, while all the posts of the management of the MPI are filled through a regular and transparent election process. The regular budget for 2014 must be secured as a priority. To increase the authority of the MPI, during their term of office the members of the Steering Board, of the Board of Directors and of the Supervisory Board shall not engage in any activity which is incompatible with their independence, impartiality or with the requirements of a full-time office.
- ▶ Ensure that the Law on Missing Persons is fully implemented and that the CEN is completed within the shortest delay. Failure to comply with this shall be prosecuted and sanctioned. The information contained in the CEN shall be as complete and accurate as possible.
- ▶ Ensure that the Fund is set up without any further delay and its financing is entirely secured. In any case, BiH shall ensure that, besides measures of social assistance, all relatives of missing

persons are granted integral reparation and prompt, fair and adequate compensation for the harm suffered.

- ▶ Ensure that the National Strategy for Transitional Justice is adopted and implemented without further delay, keeping in mind that fact-finding processes, although crucial for the establishment of the truth, cannot replace access to justice and redress for victims of gross human rights violations and their relatives that must thus be guaranteed such rights independently from the adoption of the strategy concerned.
- ▶ Ensure that the Programme for Improvement of the Status of Survivors of Conflict related Sexual Violence is referred for approval to the Council of Ministers of BiH without further delay. Representatives of the Entities must express their opinion on the programme and show their genuine support without further delay. Measures envisaged by the programme shall have a transformative aim, in the sense that they must allow women to ameliorate or at least consolidate their position in society. In this sense women victims of rape or other forms of sexual violence during the war shall be guaranteed full participation in the implementation, evaluation and decision-making related to the programme.
- ▶ Ensure that the obstacles for the adoption of the Law on the Rights of Victims of Torture are swiftly removed and this crucial piece of legislation is adopted and enforced without further delay. Financial resources for its implementation must be secured and the overall exercise must be coordinated with the other mentioned legislative initiatives concerning victims of the conflict in BiH in order to avoid overlapping or lacunae. To ensure the finalization of a sound draft law, all parties shall constructively participate to the endeavour and associations of victims of torture during the war must be thoroughly involved and allowed to express their opinions, needs and expectations.
- ▶ Ensure that a new draft law on free legal aid is finalized without delay and that associations of victims of gross human rights violations during the war are thoroughly involved in such process and allowed to express their opinions, needs and expectations. The draft law on free legal aid shall be promptly approved and its funding secured. BiH must ensure to set up without delay an effective public system of free legal aid enabling victims of war to receive legal support (counselling and, if need be, access to court), if they are not able to afford it.
- ▶ Ensure that restrictions on freedoms of expression and peaceful assembly comply with the strict requirements of Arts. 19 and 21 of the Covenant respectively. BiH must conduct investigations regarding the legality of prohibitions to conduct commemorations in the town of Prijedor since May 2012.
- ▶ Ensure that episodes of harassment and defamation of those participating to peaceful assemblies and commemorations of war crimes are duly investigated and, where appropriate, prosecuted and sanctioned. In particular, BiH must ensure that a prompt, independent, impartial and thorough investigation is carried out to identify, judge and sanction those responsible for the attacks committed during in 2012 and 2011 respectively against the premises of the associations *Izvor* and *Prijedor 92*.
- ▶ Ensure that consultations with victims and survivors of gross human rights violations from the war

and their representative associations are launched without delay with the aim of designing and building a memorial to non-Serb victims in Prijedor.

- ▶ Ensure that the process of exhumation of mortal remains is accelerated and the necessary staff and resources are allocated to this end. Moreover, BiH must ensure that the Prosecutor's Office of BiH establishes a mechanism to regularly inform relatives of missing persons, including those residing outside BiH, and their associations on the progresses made in the process of exhumation and identification of mortal remains and to answer the questions that they may have in this regard. Finally, BiH must ensure that during and after the processes of exhumation and identification of mortal remains relatives of missing persons receive, free of charge, adequate psychosocial accompaniment, provided by teams of professionals especially trained for this work and financed by the State.
- ▶ Proceed without delay to amend the criminal codes at the State and Entity level to include a definition of sexual violence in accordance with international standards and jurisprudence related to prosecution of war crimes of sexual violence and to remove the condition of "force or threat of immediate attack".
- ▶ Ensure that the Criminal Code of BiH is amended and that the punishment for the offence of torture is commensurate to the gravity of the crime. Ensure that the criminal codes at the Entity level integrate the crime of torture as defined under Article 1 of the Convention against Torture, criminalizing also the incitement, instigation, superior orders or instructions, consent, acquiescence and concealment of acts of torture. Entities shall also integrate torture as a crime against humanity and as a war crime in accordance with international standards.
- ▶ Ensure that the criminal codes at the Entity level are harmonized with the criminal code at the State level, in particular with the view to integrate the crime of enforced disappearance as a crime against humanity, and set appropriate penalties. The criminal codes at all levels shall be amended to integrate the autonomous crime of enforced disappearance and shall establish that the statutes of limitations for criminal proceedings on cases of enforced disappearance take into account the continuous nature of the offence and hence commence to run from when the fate or whereabouts of the victim are established with certainty and made known to their relatives.
- ▶ Ratify without delay the Kampala Amendments to the Rome Statute. Moreover, it must ensure that it fully aligns its national legislation with all obligations under the Rome Statute, including providing for effective cooperation with the ICC as set out in the Rome Statute and defining genocide, crimes against humanity, and war crimes in accordance with the Rome Statute and the Elements of Crimes. BiH must conclude specialized agreements with the ICC on the enforcement of sentences, and witnesses protection and relocation.

On behalf of:

Association of the Concentration Camp-Detainees Bosnia and Herzegovina

Association of Detained - Association of Camp-Detainees of Brčko District Bosnia and Herzegovina

Association of Families of Killed and Missing Defenders of the Homeland War from Bugojno Municipality

Association of Relatives of Missing Persons from Ilijaš Municipality

Association of Relatives of Missing Persons from Kalinovik ("Istina-Kalinovik '92")

Association of Relatives of Missing Persons of the Sarajevo-Romanija Region

Association of Relatives of Missing Persons of the Vogošća Municipality

Association Women from Prijedor – *Izvor*

Association of Women-Victims of War

Croatian Association of Prisoners of the Homeland War in Canton of Central Bosnia

Croatian Association of Camp-Detainees from the Homeland War in Vareš

Prijedor 92

Regional Association of Concentration Camp-Detainees Višegrad

Sumejja Gerc

Union of Concentration Camp-Detainees of Sarajevo-Romanija Region

Vive Žene Tuzla

Women's Section of the Concentration Camp Torture Survivors Canton Sarajevo



Philip Grant

TRIAL Director

7. The Associations Submitting this Follow-up Report

a) TRIAL (Track Impunity Always)

TRIAL (Track Impunity Always) is a Geneva-based NGO established in 2002 and in consultative status with the United Nations Economic and Social Council (ECOSOC). It is apolitical and non-confessional. Its principal goals are: the fight against impunity of perpetrators, accomplices and instigators of genocide, war crimes, crimes against humanity, enforced disappearances and acts of torture. TRIAL has set up an Advocacy Centre, born from the premise that, despite the existence of legal tools able to provide redress to victims of international crimes, these mechanisms are considerably underused and thus their usage should be enforced.



Considering that the needs of victims of gross human rights violations during the war, their relatives and the organizations which represent them are sadly overwhelming and that there is no similar initiative in BiH and the region, TRIAL has been active and present in the country since early 2008. TRIAL is thus currently providing legal support to victims of gross human rights violations committed during the war and their relatives who wish to bring their cases before an international human rights mechanism. So far, TRIAL has submitted 43 applications related to gross human rights violations perpetrated during the war to the European Court of Human Rights (ECtHR) and to United Nations Human Rights Committee (HRC). TRIAL works in close cooperation with local associations of victims of gross human rights violation during the war and supports them in the submission of general allegations to the UN Special Procedures and of alternative reports to the UN Treaty Bodies, including the CAT, the HRC and the Committee on the Elimination of Discrimination against Women.

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b) Association of the Concentration Camp-Detainees – Bosnia and Herzegovina

The **Association of the Concentration Camp-Detainees – Bosnia and Herzegovina** was established on 25 August 1996. It is a non-governmental, non-partisan and multinational federation of associations of citizens of BiH, of survived detainees and family members of detainees who were killed. It is composed by many associations in the country, as well as in diaspora. The association consists of 52 municipal associations, four associations in the diaspora (Germany, Denmark, Sweden, United States of America), six cantonal Association of Detainees (Una-Sana, Central Bosnia, Neretva, Zenica-Doboj, Tuzla and Sarajevo).



Representatives of the Association of the Concentration Camp-Detainees – Bosnia and Herzegovina participated to one of the sub-thematic working groups coordinated by UNDP for the development of a National Strategy for Transitional Justice.

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c) Association of Detained – Association of Camp-Detainees of Brčko District Bosnia and Herzegovina

Association of Detained – Association of Camp-Detainees of Brčko District Bosnia and Herzegovina is a non-governmental and non-partisan association of citizens, former detainees from the area of Brčko District in BiH, and it gathers the persons who went through different types of torture during the war. It was established on 25 September 2005 in Brčko. In its database, the association registered 1,300 persons who were arbitrarily detained in different camps on the territories of BiH, Serbia and Croatia. 421 members of the association went through the procedure for obtaining a status of camp detainees. In its activities, among others, the association does the following: registers former detainees, gives statements for the purposes of proving the arrests and detention, identifies mass graves, gathers documents and other evidences of detention, cooperates with domestic judicial institutions.



*Udruga zatočenih
Udruženje logoraša
Brčko Distrikt
Bosne i Hercegovine*

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E-mail: fadilredzic@yahoo.com

Website: www.logorasi.bdbih.net

d) Association of Families of Killed and Missing Defenders of the Homeland War from Bugojno Municipality

The **Association of Families of Killed and Missing Defenders of the Homeland War from Bugojno Municipality** was founded in 1995 and it has 98 members. To date, the Association is seeking for 35 missing persons (20 soldiers and 15 civilians). The association represents the relatives of missing persons of Croat origin in and around Bugojno Municipality and it is actively involved in different types of activities such as: 1) collecting information with regard to missing persons; 2) providing help and support to families of missing persons in the realization of their rights; and 3) cooperating with other associations of relatives of missing persons, with the ICMP and the MPI, with the ICRC, with government institutions and with the Prosecutor's Office.

The association actively participates to the work of the Regional Coordination of Family Associations of Relatives of Missing Persons from former Yugoslavia, and until the end of September 2011 Ms. Vanda Havranek was a member of the MPI Advisory Board.

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e) Association of Relatives of Missing Persons from Ilijaš Municipality

The **Association of Relatives of Missing Persons from Ilijaš Municipality** was founded on 6 June 2009 with its headquarters in Ilijaš. The Association represents the families of missing persons in and around this region and it is actively involved in different types of activities. In particular: 1) pointing out to families of missing persons the significance of giving their blood samples for DNA analysis; 2) collecting information with regard to missing persons; 3) helping the

relatives of missing persons to fulfil their rights, and to obtain disability pensions, return of property, etc.; 4) cooperating with the MPI, the ICMP and the ICRC.

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f) Association of Relatives of Missing Persons from Kalinovik (“Istina-Kalinovik ‘92”)

The **Association of Relatives of Missing Persons from Kalinovik** was established in August 2004 under the name “Istina-Kalinovik ‘92”. It is a non-governmental, non-political, multiethnic and multinational association of citizens. The association gathers members of families of missing persons from Kalinovik area, as well



as families of missing persons from other municipalities whose loved ones went missing on the territory of Kalinovik. The association implements many activities and among them are the following: gathering data about missing persons from Kalinovik; establishing a missing persons database; drafting a book about killed civilians at the area of municipality Kalinovik; gathering information about the process of identification of the missing people from Kalinovik.

Representatives of the association participate to the work of the Regional Coordination of Family Associations of Relatives of Missing Persons from former Yugoslavia.

Contact person: Mr. Kemal Pervan (President)

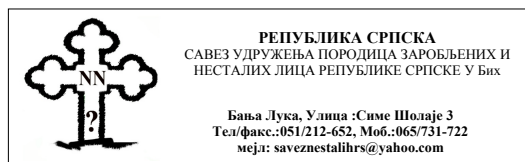
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g) Association of Relatives of Missing Persons of the Sarajevo-Romanija Region

The **Association of Relatives of Missing Persons of the Sarajevo-Romanija Region** was founded on 12 December 2002 with its headquarters in East Sarajevo. The association represents the victims of the war in and around this region and has about 1,500 members. Some of the association’s activities are: 1) pointing out to relatives of disappeared persons the significance of giving their blood samples for DNA analysis; 2) collecting information with regard to missing persons; 3) organizing the commemoration day for the suffering of Bosnian Serbs on 20th August each year; 4) helping the relatives of missing persons to fulfil their rights (e.g. to obtain disability pensions or the return of property); 5) helping relatives of disappeared people with procedures before domestic and international human rights mechanisms; and 6) cooperating with the MPI, the ICMP and the ICRC.



The President of the association, Mr. Milan Mandić, is a member of the Regional Coordination of Missing Persons’ Family Associations from the former Yugoslavia.

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h) Association of Relatives of Missing Persons of the Vogošća Municipality

The **Association of Relatives of Missing Persons of the Vogošća Municipality** was established in 2001 and its main aim is to help relatives of disappeared people to realize their rights before domestic courts and State institutions. The association represents the interests of its members before all relevant institutions and organizes the holding of a commemoration ceremony (in June each year) to mark the enforced disappearance of people from Vogošća. The association is also an active member of the Regional Coordination Board of Family Associations of Relatives of Missing Persons from BiH, the Republic of Croatia and the Republic of Serbia. As part of this engagement, the association gives its contribution in organizing conferences and lobbying for the signing of an agreement between neighbouring countries of the former Yugoslavia for the establishment and disclosure of the fate and whereabouts of missing persons. This work of the Board is supported by the ICMP. Since 2008 the association cooperates actively with the TRIAL to implement activities related to, among others, the filing of individual communications on behalf of relatives of victims of enforced disappearance to the HRC. On 28 March 2013 the latter delivered its views on the case *Prutina et al. v. Bosnia and Herzegovina*, based on three communications filed by TRIAL on behalf of members of the association. The HRC found several violations of the International Covenant on Civil and Political Rights inflicted on relatives of missing persons.

The President of the association, Ms. Ema Čekić, is also the President of the Regional Coordination of Missing Persons' Family Associations from the former Yugoslavia.

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i) Association of Women from Prijedor - Izvor

The **Association of Women from Prijedor - Izvor** was founded on 3 June 1996 with its headquarters in Prijedor, Bosanska Krajina region. The Association represents the victims of the war in and around this region. Over the past years, *Izvor* has been working on the collection of data and the documenting of facts about the people from this region who were arbitrarily killed or were subjected to enforced disappearance. A concrete result from this effort is an established database and two editions of a book "*Ni krivi ni dužni*" where 3,227 disappeared persons from Prijedor municipality have been registered. In addition to this, *Izvor* gives advice and provides help to all the victims of gross human rights violations perpetrated during the war and their relatives to realize their rights and obtain justice and reparation before domestic institutions and judicial bodies. One of the most frequent activities of *Izvor* is the support given to witnesses in war crimes trials before the State and other courts in BiH. Since 2008 *Izvor* established cooperation with the TRIAL and the two organizations are filing applications to the ECtHR and to the HRC on behalf of relatives of disappeared people from the Bosanska Krajina region.



Izvor participated to the expert working group coordinated by the UNDP for the development of a National Strategy for Transitional Justice. The association also participated in consultation meetings convened by the UNPFA for the development of the Programme for Improvement of the Status of Survivors of Conflict related Sexual Violence.

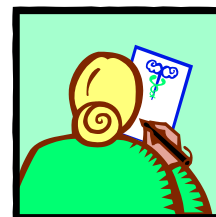
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j) Association of Women-Victims of War



The **Association of Women-Victims of War (*Udruženje Žena Žrtva Rata*)** is a NGO which was founded in 2003 with the aim to gather women who have been subjected to rape or other forms of sexual violence during the war in order to help them in fulfilling their rights and in acceding the benefits they are entitled to under the law, also in terms of social and health protection. As a part of its mandate, the association is multiethnic and multinational. In 2006 also some men who were subjected to rape or other forms of sexual violence during the war joined the association. The main activities of the Association are: 1) capacity building of its members; 2) helping its members to return to normal life after the grave violation they have suffered; and 3) enabling members to enjoy health protection, as well as to obtain a stable employment and to solve housing problems.

The Association of Women-Victims of War is one of the institutions designated in Federation of BiH to issue certificates attesting the situation of victims of sexual violence which enable the holders to apply for the status as civilian victim of war. **Moreover, the association** formed part of one of the sub-thematic working groups coordinated by UNDP for the development of a National Strategy for Transitional Justice, and it is participating to the working group coordinated by UNPFA for the development of the Programme for Improvement of the Status of Survivors of Conflict related Sexual Violence.

Contact person: Ms. Bakira Hasečić (President)

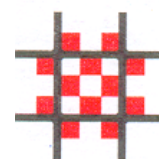
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k) Croatian Association of War Prisoners of the Homeland War in Canton of Central Bosnia



The **Croatian Association of War Prisoners of the Homeland War in Canton of Central Bosnia** was established in 2004. The primary goal of the association is to ensure that former camp-detainees enjoy the fundamental rights to which they are entitled. At present, the association counts with approximately 4,000 members. The association premises are based in Busovača, and are complemented by six branches based in Fojnica, Novi Travnik, Travnik, Kiseljak, Bugojno and Jajce.

Mr. Anđelko Kvesić, as president of the Croatian Association of War Prisoners of the Homeland War in Canton of Central Bosnia participated to one of the sub-thematic working groups coordinated by UNDP for the development of a National Strategy for Transitional Justice.

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l) Croatian Association of Camp-Detainees from the Homeland War in Vareš

The **Croatian Association of Camp Detainees from the Homeland War in Vareš** was established in 1998 but after the reorganization, it started being active only in 2004. It works with families of missing persons and former camp detainees from Vareš, Kakanj, Breza, Ilijaš, Visoko and Olovo, aiming to be of help to war victims through its work. The association is a multi-ethnic non-governmental organization whose main characteristic is the good cooperation with other association, especially with the Bosniak association of former camp detainees from Vareš.



HRVATSKA UDRUGA LOGORAŠA
domovinskog rata u ZE-DO županiji
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m) Prijedor 92

The Association **Prijedor 92** from Prijedor was established in July 2007. Previously, they worked informally due to the political situation in the country and fear, until they registered in 2007. The association brings together survivors of detention camps, families of killed persons in camps, people who were taken to forced labour. Even if most of the members are Bosniaks (90%), the association also counts with members pertaining to other ethnic groups. At present the association has approximately 4,000 members.



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Website: www.prijedor92.tk

n) Regional Association of Concentration Camp-Detainees Višegrad

The **Regional Association of Concentration Camp-Detainees Višegrad** was founded in December 2003 and it is a member of the Association of Concentration Camp-Detainees of Republika Srpska. The association is organized and operates at a regional level and includes the following municipalities: Višegrad, Rudo, Foča, Čajniče, Kalinovik and Novo Goražde. In its work, the association strives to gather information regarding camp-detainees in the region. The association has been implementing different activities and by now has implemented projects of different nature, including healthcare treatment, employment, and housing. The primary goal of the association is to help the population of former camp-detainees, especially ensuring that they overcome their trauma and are fully inserted in Bosnian society.



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o) Sumejja Gerc



The Association **Sumejja Gerc**, also known as **Centre for Victims of the Vojno Concentration Camp** fights for the rights of 120 women victims of concentration camps and war torture, 56 children victims of torture, 134 men former concentration camp-detainees of Herzegovina camps and 28 women victims of war torture from the area of Prozor Municipality. The association has a mandate to empower victims to regain their dignity; to gather information and written statements about places and manner of suffering; to cooperate with the Prosecutor's Office and the Court of BiH and establish a network of children and women who have suffered on the territory of Herzegovina. The protection of social rights of the victims is also one part of the mandate of the Association as well as the organizing of rehabilitation activities (organizing field-trips, social events, and medical treatments). Educational programmes for the economical empowerment for victims are also initiated and realized by the association and they lead to the overall development of the local community. The association cooperates with social and medical institutions with the aim of providing expert help in the treatment of victims of war.

Sumejja Gerc participated in consultation meetings convened by the UNPFA for the development of the Programme for Improvement of the Status of Survivors of Conflict related Sexual Violence.

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p) Union of Concentration Camp-Detainees of Sarajevo-Romanija Region

The **Union of Concentration Camp-Detainees of Sarajevo-Romanija Region** was established at the end of 2008 and has been gathering data and information concerning former camp-detainees in the Sarajevo-Romanija region. The association is active in supporting victims of torture and sexual violence and it holds trainings and workshops for its members.



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q) **Vive Žene Tuzla**

The Association **Vive Žene Tuzla** (Centre for Therapy and Rehabilitation) is a NGO which was established in 1994 and that focuses on psycho-social help and support, education, and promotional-editorial activities with a multi-disciplinary, democratic and participatory approach to the work with traumatized



families and individuals. The primary goal of *Vive Žene Tuzla* is to improve the mental health of people who were subjected to torture during the conflict in BiH, minimizing the effects of trauma-related disorders in the lives of tortured, raped or abused victims and facilitating their emotional healing. *Vive Žene Tuzla* considers that the maintaining and protection of the mental health of citizens is a sound way to contribute to the reconstruction of a war-torn society. While respecting the basic principles of humanity and human rights, the organization implements basic values laid through the work with marginalized groups, civilian victims of war and the protection of the families with children. The work carried out by *Vive Žene Tuzla* aims at preventing torture through a multidisciplinary approach, including psychotherapy, psychosocial, social, medical and legal counselling. Accordingly, the team of *Vive Žene Tuzla* consists of psychologists, social workers, instructors, teachers, doctors, a nurse, a psychotherapist and a legal counsel. Besides working with individuals, the organization works also in the community, with a view to foster reconciliation, representation, rebuilding of trust and reconstruction of broken relationships and reduction of ethnic barriers.

Representatives of *Vive Žene Tuzla* took part to the consultation process for the development of a National Strategy for Transitional Justice lead by the UNDP. The association also participates to the extended working group coordinated by UNPFA for the development of the Programme for Improvement of the Status of Survivors of Conflict related Sexual Violence.

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r) **Women's Section of the Association of Concentration Camp Torture Survivors Canton Sarajevo**

The **Women's Section of the Association of Concentration Camp Torture Survivors Canton Sarajevo** which functions as part of the Union of Concentration Camp Torture Survivors of Canton Sarajevo (formed in 1997) is a non-governmental association which gathers women who were forcibly taken away and interned in concentration camps during the war in BiH. The Section has about 1,000 members out of which around 60% came from Eastern Bosnia: Foča, Rogatica, Rudo, Višegrad, Čajniče while around 40% from the area of Sarajevo Canton. Most of the members of the association suffered the worst possible psychological and physical torture, rape or other forms of sexual violence which left a deep mark on their mental and physical health. The Section of Women works with people who have altered their personality, who consider themselves persons who have been changed forever and for whom it is unlikely that they would ever be able to function in line with their role in the family and society. The Women's Section offers to these victims the following programmes of support: computer school; English school; sewing classes; nature empowerment programme; human rights classes; discount on bus tickets; support packages (including food and hygienic items); medical and psychological support in collaboration with the Centre for Victims of Torture; and massage treatments in collaboration with the Healing Hands Network. It is noteworthy that ten members of the Women's Section participated in the award-winning film *Grbavica* directed by Ms. Jasmila Žbanić.

The **Women's Section of the Association of Concentration Camp Torture Survivors Canton Sarajevo** participates to the extended working group coordinated by UNPFA for the development of the Programme for Improvement of the Status of Survivors of Conflict related Sexual Violence.

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