

MONTENEGRO SHADOW REPORT TO THE UN COMMITTEE ON ENFORCED DISAPPEARANCES

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INTRODUCTION

Distinguished members of the Committee on Enforced Disappearances,

In relation to the *List of Priority Themes concerning the Additional Information submitted by Montenegro under Article 29* of the International Convention for the Protection of All Persons from Enforced Disappearance (hereinafter: the Convention), please find attached this alternative report prepared by the non-governmental organization Human Rights Action (HRA) from Podgorica, Montenegro.

This 10-page report, presents HRA's independent assessment, including substantiated conclusions and recommendations on the implementation of the Convention in Montenegro. It follows the thematic structure and methodology outlined in the Committee's 2025 List of Priority Themes and aims to contribute constructively to the review process.

Founded in 2004, HRA is a non-profit organization dedicated to the protection and promotion of human rights and the rule of law in Montenegro. We advocate for the consistent application of international human rights standards through legal advocacy, strategic litigation, policy monitoring and public engagement. HRA is recognized as a reliable source of information for domestic and international stakeholders.

HRA has contributed alternative reports to several UN treaty bodies, including:

- In September 2014 the [alternative report](#) to the Human Rights Committee;
- In April 2014 the [alternative report](#) to the Committee against Torture;
- In October 2014 the [alternative report](#) to the Committee on Economic, Social and Cultural Rights together with 14 Montenegrin NGOs;
- In July 2017 the [alternative report](#) to the Committee on the Rights of Persons with Disabilities together with the Centre for Women's and Peace Education (ANIMA) and the Mental Disability Advocacy Center (MDAC);
- In March 2022 the [alternative report](#) to the Committee against Torture;
- In March 2022 [joint submission](#) (along with Civic Alliance, Phiren Amenca and European Network on Statelessness) to the Committee against Torture on the rights of stateless persons and human rights challenges pertaining to statelessness;
- In October 2022 [contribution](#) to the Universal Periodic Review of Montenegro by the UN Human Rights Council;
- In May 2025 the [contribution](#) to the List of issues prior to the submission of Montenegro's Fourth Periodic Report to the Committee against Torture;
- In May 2025 the [alternative report](#) to the Human Rights Committee.

HRA pays particular attention to addressing enforced disappearances and advocating for the rights of families of the disappeared, emphasizing the state's duty to ensure truth, justice, and reparations. We closely monitor trials related to war crimes and enforced disappearances, regularly report on institutional shortcomings, and support efforts to combat impunity. Through national and international partnerships, HRA works to uphold every family's right to know the fate of their missing loved ones.

Thank you very much for your attention.

1. HARMONIZATION OF LEGISLATION WITH THE CONVENTION, AND INSTITUTIONAL FRAMEWORK (paragraph 3)

As a result of longstanding advocacy by Human Rights Action (HRA), Montenegro has made a significant step forward by accepting the proposal to define enforced disappearance as a separate criminal offence in its national legislation in line with the Committee's previous recommendations.¹

The Ministry of Justice has formulated the draft amendment introducing Article 446a, *Enforced Disappearance*, which defines the offence as follows:

1. A public official who detains, imprisons, forcibly abducts, kidnaps, or otherwise deprives a person of liberty and refuses to acknowledge it or conceals the whereabouts of that person or other facts related to their disappearance, thereby depriving them of legal protection, shall be punished by imprisonment for a term of not less than five years.
2. The same penalty shall apply to a public official who orders the commission of the offence referred to in paragraph 1 or who knew or consciously disregarded information clearly indicating that a subordinate under their authority and control was committing or preparing to commit enforced disappearance, and failed to take measures to prevent it.
3. The same penalty shall apply to any other person who commits the offence referred to in paragraph 1 with the authorisation, support, or acquiescence of the state.
4. If the disappeared person has been held for more than thirty days or treated cruelly, or has suffered serious health damage, or if other serious consequences have occurred, or if the offence is committed against a child or a pregnant woman, the perpetrator shall be punished by imprisonment for a term of not less than eight years.
5. If the offence resulted in the death of the disappeared person or was committed by an organised group, the perpetrator shall be punished by imprisonment for a term of not less than eight years or long-term imprisonment.
6. A perpetrator who substantially contributes to locating and releasing the disappeared person, or to clarifying cases of enforced disappearance, or to identifying the perpetrators, may be punished more leniently.

The proposed definition largely complies with Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance by:

- Establishing enforced disappearance as an autonomous offence, irrespective of whether it amounts to a crime against humanity.
- Covering acts committed by state agents and, importantly, by other persons with the authorisation, support, or acquiescence of the state.
- Introducing command responsibility for superiors who knew or consciously disregarded information about enforced disappearance and failed to prevent it.

However, the draft provision does not explicitly state the continuous nature of enforced disappearance as a crime that persists until the fate or whereabouts of the person is clarified as the Committee previously recommended.² This is a key aspect of the Convention and relevant

¹ Concluding observations on the report submitted by Montenegro under article 29 (1) of the Convention, 16 October 2015, paragraph 9.

² *Ibid*, paragraph 11.

international jurisprudence, ensuring that statutes of limitations do not commence until the disappearance ceases.³

Recommendation:

- Incorporate the continuous nature of enforced disappearance explicitly in the legal definition to ensure that:
 - Any statute of limitations starts only from the moment the disappearance ceases.
 - Victims' rights to justice and reparation remain enforceable throughout the period of disappearance.
- Ensure full alignment of the legal definition with Article 2 of the Convention, by clarifying that enforced disappearance is constituted by the refusal to acknowledge deprivation of liberty or concealment of the fate or whereabouts of the disappeared person, regardless of duration.

2. ONGOING LEGISLATIVE AND POLICY REFORMS AIMED AT IMPROVING THE REALIZATION OF VICTIMS' RIGHTS (paragraphs 4/11)

(a) In the framework of the Judicial Reform Strategy 2024–2027, the process of developing the national strategy for the protection of victims' rights for the 2025–2028 period and the corresponding action plan has not yet been finalized.⁴ Despite the fact that half of 2025 has already passed, the national strategy for victims of criminal offences is still neither drafted nor adopted, and thus its main priorities have not been publicly presented.⁵

(b) In August 2022, the draft law on amendments to the Criminal Procedure Code was made available for public consultation.⁶ At that time, the definition of a victim read as follows:

“(5a) Victim of a criminal offence is a natural person who has suffered physical and psychological consequences, material damage, or a significant violation of basic rights and freedoms that are a direct consequence of a criminal offence of domestic violence or violence in the family community, human trafficking, criminal offences against sexual freedom, and war crimes. The spouse and common-law partner, same-sex partner, children, and if there are none, parents, adopted children, adoptive parents, brothers and sisters, shall also be considered victims if the criminal offence has resulted in the death of a person as a more serious consequence.”

However, according to the Ministry of Justice, the draft law has been under alignment with the European Commission for three full years, and its current version remains unavailable to the public.⁷ Consequently, it is unclear whether the definition of “victim” has been further amended

³ *Ibid.*

⁴ Annual Report on the Implementation of the Action Plan for the Judicial Reform Strategy 2024–2027, for the period 1 January 2024 – 31 December 2024, Ministry of Justice, p. 27.

⁵ Information obtained from a CSO representative in the working group for drafting the Victims' Rights Protection Strategy

⁶ Available at: <https://www.gov.me/dokumenta/5a6f3785-9087-498c-bcd4-c69ab4fd2aa1>

⁷ Response of the Ministry of Justice to the HRA's request for free access to information dated 18 October 2024, No. UPI - 04 - 037/24 - 1251/1.

to align with Article 24(1) of the Convention, which requires a broad and inclusive definition encompassing relatives of disappeared persons and others who have suffered harm as a result of an enforced disappearance.⁸ Also, no specific measures have yet been taken to guarantee victims' rights to truth, justice, and reparation through a differential approach.

Additionally, the implementation of the Law on Compensation for Victims of Crime, adopted already in 2015 has been postponed until the accession of Montenegro to the European Union, which remains uncertain.⁹ This is unacceptable, since there is no international or other standard that would prevent the state from enforcing this law immediately. The victims have been left without access to compensation all this time without any reasonable justification.

Furthermore, under this Law, which is to be implemented when and if Montenegro joins the EU, claims will need to be submitted within six months of the occurrence of the crime,¹⁰ meaning that victims of past crimes, including war crimes and enforced disappearances that remain unpunished, have been excluded from its scope. This effectively denies redress to many victims, particularly those whose cases predate the law's enforcement.

Moreover, even when criminal proceedings result in convictions, victims are often left without compensation. For example, in Montenegro's first-ever war-time rape case, the perpetrator was recently sentenced at first instance to 20 years in prison. However, the victim, who was awarded identity protection measures, was not awarded compensation in criminal proceedings. Instead, she was referred to initiate civil litigation, which she will not pursue, because it would require her to publicly reveal her identity. This illustrates how the absence of a functioning compensation mechanism forces victims to choose between their privacy and their right to reparation.

Furthermore, many perpetrators are insolvent, preventing victims from receiving any compensation even if they pursue civil claims. This undermines the very purpose of the law and signals a lack of political will to protect victims' rights and align with EU standards, including Directive 2012/29/EU, which obliges states to ensure victims of violent crimes receive compensation, regardless of the offender's solvency.

This demonstrates the urgent need to adopt and implement a comprehensive compensation law that covers all victims – including those of past unpunished crimes – and that provides state-funded compensation without requiring civil litigation that exposes victims to further trauma.

Recommendations:

- Adopt the national strategy for the protection of victims' rights for the 2025–2028 period without further delay, ensuring the inclusion of specific measures for victims of enforced disappearance to guarantee their rights to truth, justice, reparation, and guarantees of non-repetition.
- Publish the current version of the draft law on amendments to the Criminal Procedure Code and conduct a public consultation in line with principles of transparency

⁸ Concluding observations on the report submitted by Montenegro under article 29 (1) of the Convention, op.cit, paragraph 29.

⁹ Law on Compensation for Victims of Violent Criminal Offences, Official Gazette of Montenegro, No. 35/2015, Article 44.

¹⁰ *Ibid*, Article 25.

and participation to ensure that the definition of victim is aligned with Article 24(1) of the Convention and encompasses all persons affected by enforced disappearance.

- Amend national legislation to explicitly guarantee victims' right to truth, including access to information on the fate and whereabouts of disappeared persons, the status of investigations, reparations measures, and institutional reforms to prevent recurrence.
- Ensure the immediate enforcement of the Law on Compensation for Victims of Crime.
- Ensure the Law on Compensation for Victims of Crime covers victims of enforced disappearance and war crimes.
- Establish a state compensation fund to guarantee effective reparation for victims, particularly in situations where perpetrators are insolvent.

3. STEPS TAKEN TO ADOPT GUIDELINES FOR THE SEARCH FOR DISAPPEARED PERSONS (paragraph 5)

On 2 October 2024, the Supreme State Prosecutor's Office sent a letter to the Commission on Missing Persons, initiating the drafting of Guidelines for the Search for Missing Persons, in line with the Guiding Principles for the Search for Disappeared Persons adopted by the Committee on Enforced Disappearances, as well as other relevant international standards.¹¹ However, to date, the Guidelines have not yet been adopted, and there is no public information on the timeline for their adoption or implementation.

Also, there are no specific mechanisms currently in place to guarantee effective participation of families of disappeared persons in the search and criminal processes. While families may communicate individually with prosecutors or the Commission on Missing Persons, there is no established online platform or systematic interactive mechanism to facilitate their participation, ensure timely access to information, or enable effective consultation in line with international standards.

Recommendations:

- Ensure that the Guidelines for the Search for Missing Persons, drafted in line with the Committee's Guiding Principles and other international standards, are finalised and adopted as a matter of priority, with a clear and publicly available timeline for their implementation.
- Develop and operationalise specific mechanisms that guarantee the effective participation of families of disappeared persons in the search and related criminal proceedings, in accordance with international standards.
- Set up an accessible, secure online platform that would enable families of disappeared persons to:

¹¹ Report on the Implementation of the Strategy for the Investigation of War Crimes 2024–2027 with the accompanying Action Plan 2024–2025 for the period: I, II, III, and IV quarters of 2024, Supreme State Prosecutor's Office, p. 5.

- Access timely and updated information about the status of search and investigation processes;
 - Communicate directly with competent institutions;
 - Participate effectively in decision-making processes regarding the search and investigation.
- Require relevant authorities, including the Commission on Missing Persons and the Prosecutor's Office, to establish systematic, proactive, and transparent communication channels with families to enable their meaningful involvement throughout all procedures.
 - Ensure that civil society organisations are actively included in the drafting, consultation, and public discussions of the Guidelines for the Search for Missing Persons, as well as in all processes related to the search for disappeared persons and the realisation of their families' rights.

4. OUTCOME OF THE ANALYSIS OF THE WAR CRIME PROCEDURES RELATED TO ENFORCED DISAPPEARANCES PERPETRATED DURING THE CONFLICTS IN THE FORMER YUGOSLAVIA (paragraph 5)

Since the 1990s, Montenegro has conducted eight war crimes trials, indicting 38 individuals. In four cases, 11 persons were convicted (five in the Klapuh case; one in Štrpci; four in the Morinj prison camp case; and one in the Vlado Zmajević case). Out of those 11, four were tried *in absentia* (Klapuh case) and had not served a day of their sentences.

As many as 24 individuals were acquitted in three key cases involving numerous victims: the Deportation of refugees, Bukovica, and Kaluđerski Laz. **The case of Deportation of refugees includes enforced disappearances.** In these cases no individuals have been held accountable, despite the European Commission's consistent criticism since 2013, highlighting impunity, lack of proactivity, and misapplication of international law¹². Although the Supreme State Prosecutor's Office adopted a new Strategy for the Investigation of War Crimes (2024–2027), re-examining old cases handled in violation of international law remains unaddressed, despite being a longstanding obligation under the previous 2015 Strategy, which has been reiterated in the new Strategy.

Among old cases, the Deportation of Refugees case and the Štrpci case concern enforced disappearances, as the bodies of all victims have still not been found. The process of locating their remains is extremely slow, with no available information indicating active cooperation with Bosnia and Herzegovina to find those missing from the Štrpci case, or the Deportation of Refugees case. Overall, the search for missing persons in these cases remains stagnant, leaving families without answers and reinforcing their suffering.

In February 2025, the Special State Prosecutor's Office (SSPO) reopened the Deportation of Refugees case. Mauricio Salustro, a former state prosecutor from Italy who was engaged by the European Commission in 2014 to analyse the work of the Montenegrin prosecution and

¹² The findings of the European Commission were largely based on the assessment of the expert Maurizio Salustro, former state prosecutor in Italy and international judge in Kosovo, Peer-based Assessment Mission to Montenegro on the Domestic Handling of War Crimes by Maurizio Salustro, 2014.

courts in war crimes cases as an expert, assessed the court's positions in the Deportation case as "obviously wrong" and "unprecedented."¹³ He also noted the prosecutorial failure to qualify the acts properly, as the prosecution did not refer to all the acts of execution that could have been proven in order to charge the accused with specific acts of hostage-taking and unlawful deprivation of liberty, which were established with final court decisions, either as co-perpetrators or as accomplices.¹⁴ It is crucial that the reconsideration of this case be thorough and serious, as it involves potential responsibility of the highest political leadership of Montenegro in the 1990s. However, all war crimes cases are assigned to only two state prosecutors, who are not spared the workload of other cases involving corruption and organised crime. They are assisted by only one expert assistant who is also not committed solely to war crimes cases

It is important to note that on 8 March 2023, the SSPO opened a case based on HRA's submission requesting the expansion of the investigation into the Štrpci abduction of 27 February 1992, to include additional direct perpetrators, organisers, commanders, and those who had prior knowledge of the planned abduction but failed to act to prevent it.¹⁵ However, no progress has been publicly reported by the SSPO during 2024 and 2025, and the investigation remains without transparency regarding its outcome.¹⁶

Recommendations:

- Ensure that the SSPO is well capacitated for review of old mishandled cases under the new Strategy for the Investigation of War Crimes (2024–2027) and that the review is carried out in full compliance with international humanitarian law including the relevant practice of the ICTY. The Supreme State Prosecutor's Office should publish the analysis of such review, should it not decide to further conduct criminal proceedings in these cases. This is essential to prevent similar shortcomings in future, guarantee transparency, public accountability, and victims' right to truth.
- Prioritise locating the remains of victims of enforced disappearances, i.e. from the Deportation of Refugees and Štrpci case. Conduct coordinated efforts with neighbouring countries and relevant international organisations to establish the fate and whereabouts of all victims and ensure accountability for these crimes.
- The SSPO should provide regular public updates on investigative progress, guaranteeing transparency and accountability to victims' families in cases of enforced disappearances.

¹³ By a final judgment of the High Court in Podgorica in 2012, confirmed by the Court of Appeal in 2013, the defendants in the Deportation case were acquitted because they did not have the required "status" to be held responsible for a war crime, namely "membership in the military, political, or administrative organisation of a party to the conflict," nor did they "act in the service of a party to the conflict." Salustro assessed this position of the court as "obviously wrong" and "unprecedented," stating that it does not derive from the wording of the war crime against civilians provision, nor from the jurisprudence of courts worldwide, as it is well established that for the existence of a war crime it is sufficient that, during an armed conflict, a prohibited act is committed against a protected person and in close connection with the armed conflict – nexus. Peer-based Assessment Mission to Montenegro on the Domestic Handling of War Crimes (by Maurizio Salustro), 2014, pp. 14 and 16.

¹⁴ Ibid.

¹⁵ Prosecution of War Crimes in Montenegro 2023-2024, HRA, pp. 28-30: <https://www.hraction.org/wp-content/uploads/2025/04/HRA-Ratni-zlocini-u-CG.pdf>

¹⁶ Ibid.

5. WORK OF THE COMMISSION ON MISSING PERSONS (paragraph 6):

The Commission on Missing Persons of the Government of Montenegro is currently searching for 50 persons.¹⁷

Between 2015 and 2025, a total of 8 persons have been located, with the annual breakdown as follows:¹⁸

- 2016: 1 person
- 2019: 6 persons
- 2025: 1 person

During the same period, 4 exhumations were carried out:¹⁹

- 2024: 1 exhumation for the purpose of collecting bone samples for DNA analysis
- 2025: 3 exhumations

Between 2015 and 2025, the remains of 3 persons have been found.²⁰ It is presumed that these are the victims of the war crime involving the killing of three members of the Klapuh family on 6 July 1992 in Plužine.²¹ The exhumation was carried out at the request of the Institute for Missing Persons of Bosnia and Herzegovina. Bone samples have been sent for DNA analysis, and if confirmed, the remains will be handed over to the families. However, the identification process is still ongoing, and no remains have yet been officially identified or returned.

In summary, despite the Commission having 50 active cases, the results over the past decade are extremely limited, with only 8 persons located and 3 remains found since 2015. The identification process remains slow and incomplete, and no systematic information is available on family involvement or their regular notification. The lack of proactive initiatives and limited exhumations indicate insufficient implementation of Montenegro's obligations under Articles 12-15 of the Convention to conduct effective searches, exhumations, identifications, and ensure the right of families to know the truth.

Recommendations:

- Develop and adopt a national strategy with annual targets for searches, exhumations, identifications, and return of remains to families.
- Ensure systematic and meaningful involvement of families of disappeared persons in all stages of search, exhumation, and identification processes, and regularly inform them of progress.
- Accelerate DNA analysis and identification procedures to avoid unnecessary delays in returning remains to families.

¹⁷ Response of the Ministry of Social Welfare, Family Care and Demography, No. UPI - 17 - 037/25 - 90/3, dated 23 June 2025, to the HRA request for free access to information.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Exhumation of three persons carried out in Nikšić, Ministry of Social Welfare, Family Care and Demography, 4 June 2025: <https://www.gov.me/clanak/ekshumacija-tri-lica-izvrsena-u-niksicu>

- Increase the financial, technical, and human resources available to the Commission to enable it to fulfil its mandate effectively.
- Establish an independent monitoring mechanism with the participation of civil society organisations and families' associations to ensure transparency, accountability, and compliance with international standards in the work of the Commission.

6. TRAINING ON ENFORCED DISAPPEARANCE AND THE CONVENTION (paragraph 9):

No specific training sessions on the crime of enforced disappearance or on the rights of relatives of missing persons were organised by the Centre for Training of Judges and Prosecutors (CTJP) during 2023 or 2024, despite the obligation of continuous capacity building under Article 23 of the Convention.²²

In November 2024, the SSPO initiated the process of developing a curriculum, training programme, and training materials on the rights of missing persons by formally requesting CTJP to commence this process. A needs assessment within the prosecution service was launched in the same month to identify priority training areas, including enforced disappearance. The assessment findings were shared with CTJP to inform the 2025 training plan.²³

According to the Continuous Training Programme for Judges and Prosecutors for 2025, only one training session on “War Crimes and Enforced Disappearance / International Humanitarian Law and Legal Protection in the Field of Missing Persons” is scheduled for 15–16 September 2025.²⁴

CTJP, with UNDP Montenegro support under the regional project “EU Support to Confidence Building in the Western Balkans”, has published a call for an international consultant to develop the curriculum, training programme, and materials, and to deliver the training. The consultancy is scheduled between 16 July and 1 October 2025 (20 consultancy days). It is expected that the expert will be selected in July, the curriculum drafted and ready for comments in August, and piloted during the September training before finalisation.²⁵

There is no information indicating participation of civil society organisations or associations of families of missing persons in the development of the curriculum, training programme, or delivery of training sessions. The lack of inclusion of CSOs, especially those representing families of missing persons, in the design and delivery of training programmes undermines the relevance, quality, and victim-centred nature of the trainings.

In summary, no training on enforced disappearance has been held in recent years. Although the development of a curriculum and training programme has now been initiated, its implementation is significantly delayed, with the first training expected only in September

²² Response of the CTJP to HRA's requests for access to information, dated 11 March 2025 and 1 July 2025.

²³ Report on the Implementation of the Strategy for the Investigation of War Crimes 2024–2027 with the accompanying Action Plan 2024–2025 for the period: I, II, III, and IV quarters of 2024, op.cit, p. 30.

²⁴ Response of the CTJP to HRA's requests for access to information, dated 1 July 2025.

²⁵ Ibid.

2025. Additionally, the current plan foresees a single training session, which is insufficient to ensure systematic and continuous capacity building required by the Convention.

Recommendations:

- Ensure systematic and regular training on enforced disappearance and the Convention for all relevant actors, including judges, prosecutors, police, forensic experts, and victim support services.
- Integrate enforced disappearance and missing persons' rights as a mandatory module within the continuous training curricula of CTJP and other training institutions.
- Expand training beyond a single session to include periodic refresher courses and specialised trainings focused on victim-centred approaches, investigation techniques, and international legal standards.
- Ensure meaningful participation of civil society organisations and associations of families of missing persons in the development of curricula, training programmes, and delivery of trainings to strengthen victim-centred approaches and incorporate practical expertise.
- Monitor and evaluate the impact of trainings to ensure that knowledge gained is effectively applied in practice and leads to improved prevention, investigation, and protection in cases of enforced disappearance.

7. ACCESS TO JUSTICE, COMPENSATION, AND REPARATION FOR VICTIMS OF ENFORCED DISAPPEARANCE (paragraph 12)

Regarding the State's statement in its report (paragraph 83) that a total of 5,714,656.20 euros has been awarded in damages to the victims of war crimes, HRA would like to emphasize that only two cases out of these refer to victims of enforced disappearance – the Štrpci case and the Deportation of refugees case.

Although Montenegro states that in the Štrpci case, the claims were upheld with final force and effect in three cases, and in the Deportation case, 42 cases were settled, it omits the fact that none of the three Štrpci victims' families received compensation from the Montenegrin budget. Instead, Serbia paid the awarded amounts, as Serbia had been the defendant in these cases.²⁶

Furthermore, following the settlement in the Deportation case, reached in December 2008 between the Government of Montenegro and some 200 relatives of 42 victims, no further relatives of victims had received redress, after the final verdict in the criminal case determined that what had happened did not amount to a war crime (as the Montenegrin officers allegedly did not possess the necessary status of combatants in the conflict in Bosnia and Herzegovina to be held accountable for the war crime). Hence, the victims and their relatives were unreasonably discriminated, as some had been awarded compensation and not the others.

²⁶ Victims of war crimes receive compensation, while the masterminds of these crimes remain free, Al Jazeera, 2017: <https://balkans.aljazeera.net/teme/2017/9/2/zrtvama-ratnih-zlocina-odsteta-nalogodavcima-zlocina-sloboda>

Nevertheless, the legal standard, i.e. „the necessary status of combatants in the conflict in Bosnia and Herzegovina“ requested by the Montenegrin courts to proclaim the crime of illegal apprehension of Bosnian Muslim refugees by Montenegrin police and their delivery to their enemies Bosnian Serbs a war crime, the EU expert Maurizio Salustro called „clearly wrong“ and „unprecedented“.²⁷

Finally, despite the State’s assertion that all victims of war crimes or their families in Montenegro are guaranteed access to justice, compensation, and reparation (paragraph 79), it is important to note that Montenegro still does not guarantee the right to free legal aid for families of missing persons, despite HRA’s requests during the amendments to the Law on Free Legal Aid, which referenced the recommendations of the UN Working Group on Enforced or Involuntary Disappearances and the Committee on Enforced Disappearances.²⁸

Recommendations:

- Montenegro should adopt a state-funded administrative reparations programme to guarantee prompt, adequate, and effective reparations to all victims, including families of missing persons, without requiring court proceedings. The wrong towards the victims of the Deportation war crime who were deprived of compensation should be remedied.
- Montenegro should urgently amend the Law on Free Legal Aid to include families of missing persons as beneficiaries, in line with recommendations from the UN Working Group on Enforced or Involuntary Disappearances and the Committee on Enforced Disappearances, ensuring their access to justice without financial barriers.

8. VICTIM SUPPORT SERVICES AND REPARATION PROGRAMMES (paragraphs 13/14)

While Montenegro claims to support witnesses and victims of war crimes through a service operating in the High Courts of Podgorica and Bijelo Polje since 2009, there are discrepancies about the service’s operations. Despite the claims of support, in response to a request for more details, the High Court in Podgorica stated on January 28, 2025, that no dedicated service exists, and there are no available reports or brochures. Their establishment is currently pending the adoption of the new Criminal Procedure Code, which represents an unnecessary delay, as these services could be established immediately under existing institutional mandates to ensure that victims receive adequate support without waiting for legislative reform.

Moreover, there are no comprehensive reparation programmes in place that go beyond financial compensation. Reparations in Montenegro remain limited to partial and *ad hoc*

²⁷ Salustro went on to explain that such legal standard „does not arise from the text of the provision on the criminal offense of war crimes against civilians, nor from international court practices, as it is well-known that for a war crime to exist, it is sufficient for a prohibited act to be committed against a protected person during a time of war and in close connection with the armed conflict – the nexus“. Peer-based Assessment Mission to Montenegro, on the Domestic handling of war crimes, Maurizio Salustro, 2014, p. 14 and p. 16.

²⁸ Report of the Working Group on Enforced or Involuntary Disappearances, UN General Assembly, 10. 9. 2018, para. 31: “The WGEID recommends that a category of relative of missing person is included in Article 12 of the Law on Free Legal Aid”.

compensation, with no broader programmes ensuring rehabilitation, psychosocial support, guarantees of non-repetition, truth-seeking, and public acknowledgment of harm, as required under Article 24 of the Convention.

Recommendations:

- The Government should urgently establish dedicated services for the support and protection of witnesses and victims of war crimes in all competent courts, without waiting for the adoption of the new Criminal Procedure Code, by utilising existing institutional mandates and resources.
- Montenegro should design and implement a reparations programme that includes not only financial compensation but also rehabilitation, psychosocial support, guarantees of non-repetition, truth-seeking, public acknowledgment of harm, and other forms of reparation in accordance with Article 24 of the International Convention for the Protection of All Persons from Enforced Disappearance and other relevant international standards.
- Establish formal consultation mechanisms with victims' associations and civil society organisations to ensure that reparations measures address victims' actual needs and comply with international human rights obligations.

9. PROTECTION OF THE RIGHTS OF FAMILIES OF DISAPPEARED PERSONS (paragraph 15)

In the field of reparations, Montenegro should be commended for finally adopting an appropriate law on the status of civilian victims of war, which includes monthly subsidies for family members of victims.²⁹ Under this law, all family members of persons killed or disappeared in the territory of the former Yugoslavia during the wars of the 1990s have now been recognized as civilian victims of war.³⁰ Furthermore, the Government decided to provide 16 families with one-off payments in the amount of 100.000e in compensation for leaving them 30 years without social aid.³¹

The law came 30 years too late, as the wars in Croatia and Bosnia and Herzegovina ended already in 1995, while the conflict in Kosovo ended in 1999. As a result of this delay, children of disappeared persons could no longer exercise the right to monthly subsidies, as the law limits payments only to children up to the age of 26, and if they are still students.³² Given that most of them are now well over this age limit, in practice only surviving spouses can receive monthly payments – if they are still alive.

²⁹ Decree on the Proclamation of the Law on Amendments to the Law on Veterans' and Disability Protection, No. 011/25-412/2-01, 7 March 2025: <https://zakoni.skupstina.me/zakoni/web/dokumenta/zakoni-i-drugi-akti/455/3618-21016-09-2-25-6-11.pdf>

³⁰ Law on Veterans' and Disability Protection, "Official Gazette of the Republic of Montenegro", No. 69/2003, and "Official Gazette of Montenegro", Nos. 21/2008, 40/2011 (other law), 1/2015, 52/2016, and 24/2025, article 18a.

³¹ Information on the allocation of one-off financial assistance to the families of victims of the Deportation of Refugees, the tragic events in Štrpce, and the bombings in Murino and Tuzi, Government of Montenegro, 25 April 2025: <https://www.gov.me/dokumenta/a4531f8a-25aa-46dd-83ad-3f774ab74923>

³² Ibid, article 34.

While HRA has welcomed the adoption of the Law as well as one-off payments, it protested the fact that only 16 families had received such compensation, although valid evidence exist that there are others who are in the same situation.³³

Among those who have not received any compensation are family members of persons who remain missing to this day in Kosovo, Bosnia and Herzegovina, and Croatia, while families of the disappeared from the Štrpci war crime have been compensated and recognized by the State.

Recommendation:

- Provide symbolic and financial compensation to all families of disappeared persons for the decades during which they lived without any form of social protection or reparations.

³³ Major Decision By The Government Of Montenegro – To Compensate The Families And Other Victims, Hra, 25 April 2025: <https://www.hracion.org/2025/04/25/velika-odluka-vlade-crne-gore-obestetiti-porodice-i-ostalih-zrtava/>