DECLARATION ON THE ROLE OF THE STATE IN ADDRESSING THE ISSUE OF PERSONS MISSING AS A CONSEQUENCE OF ARMED CONFLICT AND HUMAN RIGHTS ABUSES

Considering States’ obligations stemming from principles embraced by instruments such as the Charter of the United Nations, the Universal Declaration of Human Rights, the Geneva Conventions on Protection of Victims of War (1949) and their Additional Protocols (1977), the International Convention for the Protection of All Persons from Enforced Disappearance, international covenants and other instruments safeguarding the dignity and human rights of all persons;

Recognizing that many persons missing as a consequence of armed conflict and human rights abuses will not be found alive, but that their mortal remains are hidden, often in remote locations; Recognizing that survivors of armed conflict have suffered severe hardship and often injustice, and that large numbers of missing persons can prolong the trauma of a painful past, exacerbate the fragility of peace and reconciliation processes and may be an impediment to the development of democratic society through accountable and just institutions;

Considering that the failure to provide answers on the fate and whereabouts of missing persons to their families prolongs their suffering and threatens their human rights and needs to be redressed through efficient, reliable and transparent processes;

Recalling that the largest effort to systematically locate and reliably identify persons missing as a consequence of armed conflicts and human rights abuses has been undertaken in Bosnia and Herzegovina, Croatia, Montenegro and Serbia, and wishing to encourage other States to address the problem of missing persons through similar processes that are based on fundamental human rights principles and the rule of law, which characterize a just and peaceful society;

Aiming to promulgate basic principles and practices in addressing the issue of missing persons, We, the Representatives of States joining in this Declaration, herewith affirm and declare:

1. A commitment to addressing the issue of missing persons as a consequence of armed conflict and human rights abuses as a responsibility of the State to ensure a lasting peace and to promote cooperation and reconciliation within democratic societies that uphold and protect human rights. We recognize that resolving the fate of the missing in a manner that is commensurate with human rights and the rule of law is an integral part of these objectives.

2. Our determination to uphold a profound commitment to the rights of survivors, including the right of families of the missing to know the fate and whereabouts of persons missing as a consequence of armed conflict and human rights abuses.

3. A commitment to strengthen domestic capacities to effectively address the problem of missing persons, to ensure access to information on the whereabouts of missing persons, and to enable the participation of civil society in these efforts, and especially that of survivors of armed conflict and human rights abuses, first of all the families of missing persons.
4. Our conviction that cooperation between governments is necessary and that the exchange of information is encouraged and is often a necessary condition for establishing efficient, reliable and transparent processes of locating and identifying the missing, and that such cooperation ought to be based on adequate agreements incorporating, inter alia, the principles of this Declaration. In this regard, the cooperation with international and other organizations engaged in this human rights issue is also desired and encouraged.

5. In recognition of the problem of missing persons as a significant human rights concern, we affirm that all efforts to redress the problem ought to conform to the requirements of human rights obligations and the rule of law, including the requirement to protect the dignity and privacy of individuals, and to locate, recover, examine and identify the missing by methods that are accurate, reliable and commensurate with standards of justice, including those of criminal justice.

6. Our determination to work towards establishing the truth about the circumstances of persons missing as a consequence of armed conflict and human rights abuses, and to facilitate all processes that aim to counter any enduring sense of impunity.

7. Our strong commitment to fully assist the role of the judiciary, in particular that of the criminal justice system, in addressing the problem of missing persons through the prosecution of perpetrators of crimes that have caused persons to disappear or to remain missing, and to foster international and regional judicial cooperation to that end.

8. Our commitment to pursuing legislative measures as part of domestic legislation to implement the principles set forth in this Declaration and to advance their universal recognition, inter alia, through international instruments to this effect.

9. This Declaration shall not derogate from obligations to protect the rights and freedoms recognized or existing pursuant to law, conventions, and regulations or custom on the pretext that the present Declaration does not recognize such rights or that it recognizes them to a lesser extent.

10. In signing this Declaration, the Parties encourage others to follow suit. This Declaration is hence open to others to join the Signatory Parties to this Declaration in supporting the principles and commitments contained herein.

11. This Declaration is originally drafted and signed in the English language and may be translated into other languages. In case of a conflict between the English text and that of any translation, only the English text shall be considered authoritative.

12. The International Commission on Missing Persons, as the organization that throughout its work has led the effort of expounding the principles set forth herein, shall notify the Signatory Parties of others joining in this Declaration.

13. The International Commission on Missing Persons shall transmit certified copies of this Declaration to all Signatories of this Declaration.

14. This Declaration shall take effect on the date of signature.
For Bosnia and Herzegovina
Bakir Izetbegović
Chairman of the Presidency of Bosnia and Herzegovina
At MOSTAR, 29/8/2014

For the Republic of Croatia
Ivo Josipović
President of the Republic of Croatia
At MOSTAR, 29/8/2014

For Montenegro
Filip Vujanović
President of Montenegro
At MOSTAR, 29/8/2014

For the Republic of Serbia
Tomislav Nikolić
President of the Republic of Serbia
At MOSTAR, 29/8/2014