Interview

Kathryne Bomberger: One director of the Missing Persons Institute of Bosnia and Herzegovina is sufficient

You recently met with Mr. Mladen Ivanic, after which the public statement noted that you shared the view that we need to find a solution and speed up the stalled process of tracing and identifying the missing. Is this one of your regular meetings with members of the Presidency, or is there a special reason?

I met with Chairman of the Presidency Ivanic on 24 February to brief him on the progress that has been made by Bosnia and Herzegovina and other countries in the region in addressing the issue of missing persons. Mr. Ivanic has on many occasions and in different capacities helped the process of accounting for the missing and I wanted to ask for his continued support for an effective, transparent and non-discriminatory effort and alert the Presidency to some of the pressing issues currently affecting this effort.

It was noted that there are problems that are slowing down the effort. What problems did you mean?

Almost 23,000 missing persons have been accounted for – but approximately 8,000 are still missing. A key challenge in Bosnia and Herzegovina today is to maintain public and political focus on the effort to find those who are still missing. Since fewer people are missing, the number of those being found annually has decreased, and the task is harder now. That’s why we have to look at potential additional sources of information (for example, aerial photography – to locate clandestine gravesites). This is a phase where more resources and intensified effort is required, but many politicians may believe that public pressure for effective action has diminished. This is one of the problems that Bosnia and Herzegovina must address.

What is currently going on at ICMP? How far has the “transformation” gone? What does the future hold for the Western Balkans program?

As you know, ICMP’s sphere of activities was extended by supporting governments in 2004 to address the issue of missing persons throughout the world, including cases arising from natural and manmade disasters. Since then, ICMP capacity building and technical assistance has had a major – often a pivotal – impact on the location, recovery and identification of missing persons in many countries. ICMP has been involved in identifying victims of natural disasters, such as the Asian tsunami in 2004, for example, and Hurricane Katrina in the US in 2005, and it is working to help account for the missing as a result of conflict and political instability in places such as Libya and Iraq. So, for more than a decade, we have been active throughout the world, managing operations from our headquarters in Sarajevo. DNA samples from around the world have been sent to Bosnia and Herzegovina, to ICMP’s facilities in Tuzla, Banja Luka and Sarajevo for processing, as these facilities are among the best in the world and have pioneered innovative techniques in DNA-led
identification. In December last year, the Netherlands, the UK, Sweden, Belgium and Luxembourg signed a Framework Agreement establishing ICMP as a treaty-based international organization in its own right. This means that we will be able to operate like other treaty-based organisations – the International Organization for Migration, for example, or UN agencies such as UNHCR. It gives us more freedom to operate around the world. In conjunction with this change in ICMP's status, we are planning to move our headquarters to The Hague. There are practical reasons for this. The Hague is the seat of a large number of international organizations that work in the same field as ICMP; the Dutch legal system and The Hague's local administration are designed to help international organizations operate in an optimal way, and so on. I'm very glad you have asked about the future of the Western Balkans program, because I would like to emphasise that ICMP is NOT ending its operations in Bosnia and Herzegovina or the region. Our Western Balkans program should continue at least through the end of 2016. At the same time, as you know, ICMP from the very beginning of its operations here in 1996 has had a fundamental commitment to the development of domestic institutions. That's why we helped create the BIH Law on Missing Persons and we are a co-founder, with the BIH Council of Ministers, of the Missing Persons Institute. ICMP doesn't direct the effort to account for the missing in Bosnia and Herzegovina or in the Western Balkans. The relevant domestic institutions, the courts and prosecutors and the MPI and government agencies are responsible for this task. ICMP played a major role in developing capacity within governments and civil society and pioneered the use of DNA.

What functions will remain in Bosnia and Herzegovina?
We are still looking at the logistics. As you can imagine, it’s a huge task. What I can tell you is that, for the time being, a small component of our headquarters staff will begin working in The Hague during the course of 2015.

In Tuzla the other day it was mentioned that BIH needs to strengthen its forensic capabilities, and the establishment of the Institute of Forensic Medicine FBIH was also mentioned. Our public have for years pointed to the absurd fact that this institute did not start work immediately since there are so many missing? How can we get personnel? How do we set it up? Do you have any suggestions for a solution?
In the first instance this is a question that you should address to the State and Entity authorities. A forensic institute is a key facility that works on a variety of issues, not just issues related to missing persons from conflict, but criminal investigations, paternity issues, and so on. What I can tell you is that ICMP has lobbied very hard to have the FBIH Institute of Legal Medicine established because it is an essential component of the effort to account for the missing. We launched the initiative, we got support from the Federation Prime Minister and the relevant ministries, and the relevant legislation was passed in the House of Representatives last year. The Decision is still pending the approval from the Federation House of Peoples. The associations of families have also lobbied hard. You will do a great service to the families if you draw attention to this issue. Establishing the Federation Institute of Forensic Medicine is one of the key recommendations in the BIH Stocktaking Report which ICMP published in December last year and we believe that it should be done without further delay.

What is holding up the bilateral agreements between BIH and other countries in the region? Who’s responsible? The issue of overlapping lists has been discussed for years. Are there signs that this will be resolved?
Even though ICMP has been advocating for bilateral agreements for years, ICMP does not have an active role in the process and therefore cannot comment on a holdup. We have been facilitating the process of harmonization of the basic elements of the agreement between BIH and Croatia and
between BiH and Serbia on the level of the state bodies in charge of missing persons in these countries. Therefore, we were glad to hear that the signing of the Agreement with Serbia is in its final stage and that negotiations with Croatia have begun.

However, ICMP is responsible for a different initiative that could help the process at the regional level – the creation of the Regional List of the missing. The conflicts in the former Yugoslavia had a pronounced regional character and addressing the issue of missing persons demands a regional approach. It is for this reason that ICMP has been working with BIH, Croatia, Montenegro, Kosovo and Serbia to establish a regional list of missing persons that utilizes cutting-edge technology to enable the upload and updating of records on missing persons in real time and in a transparent way. The added value of the list is that it would facilitate the establishment of more reliable records of missing persons. It would do this by addressing the need for the removal of duplicate records of missing persons and to assist in resolving jurisdictional issues related to the search for persons reported missing in more than one country. Further, creation of the Regional List will facilitate a process of harmonization of lists of missing persons held by national counterparts with data held by the ICMP on missing persons cases, for which ICMP has also received blood reference samples from family members, but which do not appear on the aforementioned national lists. Similarly, creation of the Regional List will provide a platform through which states can review, verify and reach agreement on missing persons cases that are subject to query by one state or another. As you can see, it will be an invaluable tool that will push the process forward. This effort has been recognized by the Ministers of Foreign Affairs of Croatia and Serbia, who supported the creation of harmonized records between the two countries publically. We also have reason to believe that Kosovo and Serbian authorities are on board. We intend to hold another regional meeting soon and our sincere hope is that the process will be finalized within the coming years.

**What are we to make of the fact that BIH is still talking about the establishment of the CEN and the Fund to support the families of the missing? How can this not be a problem as far as you are concerned?**

Actually the Bosnian authorities created the Central Records on missing persons in 2011. What is yet to be completed is the verification process. To date, over 17,000 records of approximately 34,000 have been verified, but the process has been complicated by politics. The exact list of missing would put an end to speculation about the number of missing persons from the conflicts of the 1990s and it would therefore narrow the space for the manipulation of numbers and the creation of alternative narratives. We believe that accurate and verified records are of the outmost importance for the future of BIH. The fact that the BIH authorities have still not established the Fund for families of missing persons more than 10 years since the adoption of the Law on Missing Persons, which prescribes its creation, is shameful. When established the fund will provide financial support to the most vulnerable of families of missing persons, as well as support the activities of associations of families and fund the marking of sites from which missing persons have been recovered. It remains an obligation of the state, and the state must step up and accept its responsibilities for the families and the missing.

**In what form will ICMP continue to function as advisor, supervisor of MPI?**

ICMP proposed more than two years ago that the co-founders agreement on the creation of the Missing Persons Institute should be amended in such a way that ICMP relinquishes its managerial responsibility for the Institute whereas the Council of Ministers would assume full responsibility. This is entirely in line with the principles of the ICMP Declaration on the role of the state in addressing the issue of persons missing as a result of conflict and human rights abuses, which Bosnia and Herzegovina signed last year. Even after amending the agreement, ICMP would continue to provide
technical assistance to the MPI. ICMP has further proposed that the MPI be reformed so that the Steering and Supervisory Boards are eliminated which would save costs. This would allow the Board of Directors to report directly to the Council of Ministers, or the Parliamentary Assembly of BIH in the interest of increased transparency and the level of understanding about the mission and the results of MPI. In addition, ICMP proposed that there should be only one director and two deputies, rather than a collegium of 3 directors. Reform of the MPI is crucial for it to come into line with other BIH state institutions and become more efficient and cost effective. Almost three years have passed since ICMP submitted these proposals to the Council of Ministers and no action has been taken. We would like to see this issue addressed without any further delay.

How is ICMP’s current relationship with the MPI?

The creation of the Missing Persons Institute in 2005 remains a milestone in Bosnia and Herzegovina’s efforts to search for missing persons. It is critical that the search for missing persons remains at the level of the state and that persons continue to be searched for in a non-discriminatory fashion. The MPI serves as a model for what other states in the world should do. In order for MPI to function effectively, it needs resources and it need to cooperate effectively with other state institutions such as the Prosecutor’s Office and the Court. However, the MPI like the Prosecutor’s office and the Court continues to be a victim of broader political in-fighting among politicians and other authorities on how to address both the past and the future of the country. It is critical that these structures remain strong and that there isn’t a return to a segregated process of searching for the missing by entity governments based on the ethnic, religious or national origin of the person who went missing. However, Prosecutor’s Offices and the BIH Court have a crucial role in the process. All excavations of clandestine graves take place within a rule-of-law framework, meaning in very practical terms that excavations are only conducted on the legal basis of a court order. From the perspective of the crime technicians, investigators and prosecutors the remains of the missing persons recovered from grave sites are evidence to be used for court purposes, i.e. to support and substantiate the points of the indictment against war-crime suspects. In order to obtain a court order for excavation, the prosecutor requires substantial and credible information. In case of insufficient information, prosecutors call on crime technicians and investigators to gather additional information to justify raising a court order.

ICMP continues its cooperation with MPI through provision of technical assistance when and if necessary. The structure of the MPI and its staff are prescribed by the MPI’s Statute that was created in line with the BIH legislation pertaining to the state level institutions and agreed with the Entities, District Brcko and the Ministry of Human Rights and Refugees. ICMP is in favor of MPI’s restructure (as explained under question 8), but the CoM did not yet respond to ICMP’s proposal.

I have heard that MPI is going to have only two cars left – how can it function like that?

This was one of the subjects that I raised with Chairman of the Presidency Ivanic. Reductions in the budget of the Missing Persons Institute (MPI) cannot continue. The budget has dropped for over 50% between 2008 and 2011. In 2015, the MPI budget amounts to approximately BAM 3 million. The budget dropped by more than 50% between 2008 and 2011. Bear in mind, that the smallest percentage of these funds is being spent on the functioning of the MPI. The greatest portion of MPI’s budget is spent on burials, funds for the lower level POs for the completion of pending cases and safekeeping of mortal remains. Even though the number of missing persons has been reduced from 30,000 to 8,000, the number is still large. In addition, it is getting harder to find the remaining missing persons, which means that a greater effort has to be invested in accounting for fewer people – and this means that the MPI must intensify its efforts to locate clandestine and mass graves. The
BIH political establishment can make this happen, which means they need to provide the MPI with the resources necessary to carry-out their work.

How is the process of reviewing the mortuaries going?
One of the recommendations in the Stocktaking Report is that the relevant authorities in BIH at all levels must continue to conduct a thorough review of all 11 mortuaries in the country to help ICMP understand why almost 3,000 bone samples received from local authorities do not match the genetic profiles of over 9,000 reference samples provided voluntarily to ICMP by more than 27,000 family members with missing relatives. It is not yet clear why such a large number of bone samples do not match the available genetic profiles. It may be that the bone samples received are not from the conflict of the 1990s, or it may be that mis-identifications occurred in the 8,000 cases that were closed prior to the use of DNA. The review process undertaken by the NN Working Group began in 2014 following the engagement of the Prosecutor’s Office. To date, three mortuaries have been reviewed. These are Sutina, Nevesinje and Gorazde. As a consequence of these efforts new identifications have been made. The review teams, currently working at the mortuaries in Visoko and the Commemorative Center Tuzla are making good progress, and are scheduled to complete the review of all the mortuaries in the country by the middle of 2016.

Are you concerned by the fact that last year only 214 bodies were found? I ask you, bearing in mind that the ICMP still one of the co-founders of the MPI?
This a permanent concern and as time goes by, it will become even more difficult, and less successful unless the sources of information and the process of collection/exchange of information are expanded and streamlined. This is a reason for ICMP’s initiative for further analysis of all the data collected to date, for intensified exchange of information between the agencies and institutions involved in the search, investigation and identification of missing and, finally, for the attempts to utilize new potential sources of information (i.e. aerial imagery). There must be better exchange of information on missing persons cases and clandestine gravesites between the Prosecutor’s Office, the MPI and the various criminal investigation agencies such as SIPA and OSA, and Entity-level institutions, and of course under the Law on Missing Persons any member of the public who has information concerning a missing person is legally obliged to report this to the MPI.

How many people were identified last year by DNA analysis?
In the region a total of 1,390 DNA match reports have been submitted, of which 516 represent new identifications and 874 reports concern the re-association of body parts. In Bosnia and Herzegovina a total of 1,135 DNA match reports have been submitted, of which 398 represent new identifications and 737 reports concern the re-associations of body parts.

What is the total thus far identified?
The remains of around 8,000 individuals were accounted for using traditional means, while 14,756 have been identified since 2001 using DNA. However, as noted earlier, there might be problems in cases where DNA was not used to make identifications, which is why the mortuary review process is important.

Are there any other topics that you would like to raise that aren’t covered in the questions?
Your questions cover many of the key points addressed in the BIH Stocktaking Report, which Oslobodjenje readers can find in local language and in English at [http://bit.ly/1LO06Fj](http://bit.ly/1LO06Fj). The
Stocktaking Report concludes with a series of recommendations. In February we organized Town Hall meetings in Sarajevo, Tuzla, Brcko, Banja Luka and Mostar where representatives of family associations and the MPI, government officials, prosecutors, and other stakeholders examined how the recommendations can be put into practice. The recommendations highlight the need to maintain the search for the missing, to support the MPI, to establish the Federation Institute of Legal Medicine and the Fund for the Missing, among other things. This month we have invited academics, legal experts and government officials to participate in roundtables in Tuzla, Mostar, Banja Luka and Sarajevo. At the end of this process, we will produce a report, which will be submitted to the BIH authorities at the highest level. This is part of a continuous process that is central to Bosnia and Herzegovina’s postwar recovery. We are fully engaged in helping to sustain the effort to account for the missing and we will continue to be fully engaged.