

The Rights of Families of Missing Persons in Continuous Systematic Neglect

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Analysing the relevant legal framework, the author notes the numerous obstacles and obstructions facing families of missing persons in BiH in exercising their rights and questions the ability of international mechanisms for the protection of human rights to affect government inertia regarding this question.

Introduction

Transitional justice includes activities on the normalisation of the situation in a country where systematic violations of human rights have occurred. This approach has its place in international law, meaning that the responsibility for its implementation lies with the country where such violations have occurred. According to activists from this area, reparations are a key element in initiatives for the implementation of transitional justice, although on their own they can not yield results without a simultaneous effort on ascertaining the truth, institutional reform, the implementation of mechanisms for the criminal prosecution of perpetrators and projects for the commemoration of victims.

Although in the past years, work has been done on reforming the relevant institutions and bringing to trial those indicted for war crimes, and although there are quite a few memorial centres in BiH, the victims are unsatisfied with the way that these processes have been addressed. The first and foremost reason for this lack of satisfaction is that the goal of the whole process, that is justice in the context of the mass violations of human rights that occurred during the war in BiH, has been relegated to the backburner. The priorities are the political interests of the ruling structures who are using the entire process, just as they are using the victims, as a means for manipulation in order to realise their political interests and to stay in power. In this context, it is clear why the existing laws that deal with the victims of the war in BiH can not completely answer the problems that this population faces.

The categorisation of the victims of the war is a particular problem. Namely, the relevant entity laws treat all civilian victims of the war as a single category. However, in practice, such an approach has proven to be inadequate and unsatisfactory for some of them. This is the case with families of missing persons and this is also the reason why this text gives them special attention.

Namely, the families of missing persons have the right to find out the truth about the fate of their nearest and dearest, but they also have the right to reparation in the form of material or other types of support that the state is obliged to provide. Of course, we should not forget the moral satisfaction necessary to enable victims to live a life befitting a human being, and such satisfaction is only possible with the criminal persecution of those who have perpetuated crimes against the missing persons and with a public ascertaining of their guilt.

Even a decade after the end of the war, there is no adequate systematic solution that would make possible in practice for these individuals to enjoy their rights. The problems were first apparent in the lack of an adequate legal framework and later, after the state Law on Missing Persons was adopted, in its inefficient implementation. Also, the legal system in BiH can not solve the problem of each family of a missing person individually in an adequate and prompt manner, first and foremost because of the overloading of the courts and also because of the fact that a court decision on its own does not solve the problem if the decisions are not implemented in practice. In such an atmosphere, the question of the possibility for this category of BiH

citizens to enjoy their rights through international legal and quasi-legal instances is raised.

Transitional Justice and Reparations in International Law

Transitional justice includes all activities initiated in answer to mass violations of human rights in a country with the aim of ensuring official ascertaining of the truth regarding these events and the promotion of various mechanisms for the complete implementation of peace, reconciliation and democratisation. Since it includes the term “justice”, this concept is often misinterpreted as a special form of justice. Still, we are dealing with justice in its essential form, a form that, because of the recently past period of systematic violations of human rights (in our case the many years of conflict), must be adapted to the circumstances under which this has occurred, all with the aim of creating conditions for the normalisation of the situation in such a state so that its citizens can continue with a life befitting a human being.

In a broader sense, the basic obligations of a state stemming from international law in the process of achieving transitional justice can be seen as the following: undertaking rational steps for averting violations of human rights; initiating serious investigations into violations of human rights when they occur; ensuring that violators are adequately punished; and ensuring that victims receive reparations. The basis for transitional justice in international law was laid by the Order of the Inter-American Court of Human Rights in the case of *Velasquez-Rodriguez vs. Honduras*. Following this extremely important decision by the court, these principles were affirmed in other instances such as the rulings of the European Court of Human Rights and the decisions of the United Nations Human Rights Committee (for more information see the web page of the [International Centre for Transitional Justice](#)).

In any case, experience has shown that there is no single fixed model for transitional justice and that its mechanisms are defined in accordance with the specific circumstances of the concrete context. However, there are common elements that are necessary for achieving the aforementioned goals: criminal persecution of those who systematically violate human rights; establishing a truth commission (or another adequate way for ascertaining the truth); compensation programs for victims; reforming the armed forces, the police and the judiciary, as well as other relevant institutions; constructing memorial centres that aim to raise consciousness about the tragic events in order to ensure that they are not repeated, and other efforts. According to past experience, the only efficient approach to transitional justice is multidisciplinary or holistic. In other words, none of the aforementioned elements can be efficient unless it is implemented together with other mechanisms.

Previous issues of the *Pulse of Democracy* have already addressed some aspects of transitional justice in our country, as well as its status in international law (see the series of texts on a possible truth and reconciliation commission in the Bosnian-Herzegovinian context, the text by [Marko Prelac](#) on the role of courts in ascertaining the truth about the war in BiH and the text by [Amra Mehmedić and Ermin Sarajlija](#) on the Missing Persons Institute in BiH.) Therefore, this article will focus exclusively on the topic of reparation as a key element of transitional justice with a special accent on reparation for families of missing persons.

Therefore, reparation for war victims is a very important part of the complete system of normalisation of the situation in a country. First and foremost, international law regulations guarantee to families of missing persons the right to find out the truth about the fate of their members who disappeared during conflict ([Article 32 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts](#)). No matter what the circumstances under which the systematic violation of human rights has occurred, victims have the right to prompt, adequate and efficient

reparation which includes restitution, i.e. returning the status of the victim to what it was before the violation of human rights occurred. This includes, again depending on the circumstances, freedom, the respect of human rights, the right to identity, family life, citizenship, a return to their pre-war homes, a return to their workplace and a return of property. Also, victims have a right to compensation for any form of harm that has been done to them that can be economically evaluated, as well as a complete rehabilitation of their status and psycho-physical state, including medical and psychological care, as well as access to judicial and social services. (See the United Nations document entitled "[Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law](#)")

Therefore, on the international plan it has been established with authority (although, of course, the aforementioned documents on their own are not of a binding character) that families waiting for information about their missing members at the same time have specific material, financial, psychological and legal needs that the relevant government bodies are obliged to provide for. Apart from the urgent steps that have to be taken in order to satisfy the material needs of families of missing persons, the legal status of persons who have been declared missing must be defined by the law, so that, in accordance with that definition, the legal status of their families can be ascertained.

Reparations for Families of Missing Persons in BiH

As we already know, in the context of reparations for victims of conflicts according to international standards, a series of activities have been undertaken in our country. Some of them have been successful (such as the reparation of property through the implementation of property laws), while others have been less successful. In the latter case, it is impossible not to mention so-called "sustainable return", that is the fact that with the return of property, sustainable return of citizens to their pre-war places of residence has not been achieved. The return of property in itself, does not guarantee a dignified and economically sustainable life for the returnees, and government representatives have again, for their own political reasons, done everything in their power to cripple this process. Other issues, however, have not even been addressed. For example, despite the fact that any conflict has numerous psychological consequences for survivors, very little has been done on providing professional help to Bosnian-Herzegovinian citizens in this regard. This is illustrated by the fact that Post-Traumatic Stress Disorder has not been recognised as an injury or the cause of an injury by the laws regulating the rights of war victims. This is a subject that certainly warrants special and detailed analysis.

Our state has initially regulated the status and rights of war victims through entity laws on civilian war victims (Law on the Basic Principles of Social Welfare, Welfare of Civilian Victims of War and Welfare of the Families with Children of the Federation Bosnia and Herzegovina and Law on Protection of Civilian Victims of War of Republika Srpska), which were motivated by the idea to treat all civilian war victims as a single category. With these laws, families of missing persons are also recognized as civilian war victims and as such, at least in a de jure sense, are assured financial support.

Some members of families of missing persons have managed to exercise their right to family invalid pensions through the aforementioned legal framework as both entities have included into the definition of civilian war victims the category of families whose members went missing at a time when they were civilians, that is they were not members of the armed forces. The International Commission on Missing Persons (ICMP) has published a Guide for Civilian War Victims that provides more information about rights in the [Federation of Bosnia and Herzegovina](#) and the [Republika Srpska](#).

These guides refer the victims to relevant legal provisions that regulate ways of exercising their rights. Namely, in the Guide on exercising rights in the Federation it is stated that citizens of BiH who have citizenship of Republika Srpska, but have permanent or temporary residence on the territory of the Federation, exercise their rights according to the laws of the Federation, under the condition that these rights have not been exercised in Republika Srpska. Furthermore, civilian war victims and members of families of civilian war victims with temporary residence on the territory of the Federation can exercise the rights that they held in their places of residence in the Federation after returning to their previous places of residence in Republika Srpska or the Brčko District. Their rights are decided on by the responsible municipal services according to their last place of temporary residence prior to their return to Republika Srpska or the Brčko District.

As far as exercising rights in Republika Srpska, the aforementioned Guide warns that with Article 36 of the aforementioned Law of Republika Srpska, the right to submit a request has been limited for persons who have realised certain rights as civilian war victims according to the regulations of the Federation or the regulations of one of the countries in the region. Namely, such a person does not have the right to request recognition of their rights according to this Law.

In practice, most of these families have not to this day exercised their rights to a pension in Republika Srpska since, according to some sources of information, municipal departments for invalid and veteran welfare in Republika Srpska still, in many cases, carry out long lasting background checks to see if applicants are already receiving support on this basis in the other entity. According to Ms. Fatima Fazlić, the president of the “Izvor” Association of Prijedor Women, this process is “a set up” and the powers in Republika Srpska want the complete procedure to be dragged out for as long as possible, since everyday there are fewer and fewer persons who could gain benefits on this basis (we are dealing here with older persons who pass away and children who, having grown up in the meantime, do not have the right to these benefits).

Others, however, have exercised these rights through provisions of entity laws regarding the rights of veterans. Families of members of the Army of the Republic of Bosnia, the Croatian Defence Council and the police of the responsible internal affairs bodies who disappeared during the war are recognized as “members of families of killed, deceased, missing or deceased, or war military disabled” (Law on the Rights of Demobilized Soldiers and Their Families of the Federation of Bosnia and Herzegovina). Families of missing members of the Army of Republika Srpska are recognised as “members of families of killed, deceased or missing soldiers from the defensive-homeland war” (Law on the Rights of Veterans, Military Disabled and Families of Killed Soldiers of RS).

Weaknesses in the Implementation of the Legal Framework

Still, it is important to again consider the international standards that indicate the fact that exercising the right to material support is only one aspect of reparations. Also, we should not neglect the fact that, in practice, war victims differ according to their specific needs. Therefore, for example, families of missing persons want and have the right to find out the fate of their nearest and dearest, individuals who were imprisoned in camps ask for compensation for the time spent in the camp, individuals who have been sexually abused or raped have their own specific needs when it comes to reparations, etc. In accordance with this, a single legal solution does not make it possible for various categories of victims to exercise their rights. Instead, they can exercise only the right to material support.

Even so, the aforementioned analysis indicates that even the exercising of the right to material support is

not always possible on the inter-entity level. With all the aforementioned reasons, we may conclude that a state legal framework for regulating the rights of families of missing persons is necessary. Therefore, the Law on Missing Persons in BiH, adopted in 2004, regulated, among other things, the status of missing persons, the obligations of relevant government bodies, inter-entity cooperation and the specific rights of families of missing persons. The adoption of such a law aimed to overcome existing problems facing the families of missing persons and to accelerate the process of finding missing persons.

Quite a lot of public attention has been given to the right of missing persons to find out the truth about their nearest and dearest, as well as to the sluggish nature of the relevant government bodies in this area and to the legal framework, that is the weak implementation of this framework. For example, this topic has been analysed in detail in a [previous issue of the Pulse of Democracy](#), a year ago to be precise, as well as in other places. Since then, the situation has become even worse as representatives from Republika Srpska have left the state Missing persons Institute and formed a parallel structure on the entity level named the [Operative Team of Republika Srpska for Finding Missing Persons](#), once again using BiH citizens, especially the most endangered ones, for political manipulations.

Before the Law on Missing Persons was adopted, it was necessary to proclaim a missing person as dead in a nonlitigation procedure, so that the family of the missing person could receive the status of victim and thus exercise their rights according to the aforementioned laws. It is not necessary to stress how much additional emotional pain to these families was caused by such procedures. However, since this was the only way for them to alleviate an often difficult material situation, most of them underwent such procedures. [According to a statement by a representative of the International Committee of the Red Cross](#) (ICRC), this is no longer the case since the Law on Missing Persons has been adopted. Of course, it would be interesting to carry out a detailed analysis on the usefulness of this legal provision and on how it functions in practice, considering that nine years have passed from the end of the war (or even since they have gone missing) until the Law on Missing Persons was adopted. This means that, during this period, most families have already declared their members to be missing and thus have been subject to the procedures that were in place before this Law was adopted.

Also, in the past year, very little has been done on the implementation of the Law on Missing Persons in BiH, considering that GEN (Central Records of Missing Persons, provided for by Chapter V of this Law) is still not in function. For the aforementioned reasons and for other reasons, the Institute exists more as a beaurocratic institution, while associations of missing persons, despite various initiatives, are still not able to work on the implementation of this Law without more efficient involvement by relevant government bodies. While the agony of waiting to find out something about the fates of their nearest and dearest is extended for families of missing persons, and while government bodies are still hiding behind complex beaurocratic structures, very little is being said about the other legal and socio-economic problems facing this population.

Chapter IV of the Law on Missing Persons regulates the rights of families of missing persons, including the right to financial support. However, in order for these rights to be exercised, this Chapter also provides for the formation of a Fund for Support to the Families of Missing Persons of Bosnia and Herzegovina that, even four years after the Law has been adopted, does not exist. The Ministry for Human Rights and Refugees in BiH, the institution that this same Law names to oversee its implementation, has initiated an action for the creation of more delegated legislation including a decision on establishing the Fund and the Central Records of Missing Persons. As part of this initiative, a work group has been formed consisting of representatives of the Ministry of Human Rights and Refugees, the Office on Missing and Detained Persons of Republika Srpska, the Federal Commission for Missing Persons, the Brčko District Commission for

Missing Persons, the International Commission on Missing Persons and International Committee of the Red Cross. The Ministry has obliged itself to continually inform representatives of associations for missing persons about drafts and suggestions with the possibility of their participation in the work of this Working Group. With the aim of establishing a Fund for Missing Persons as the most urgent obligation of this initiative, the Ministry has recognised the need for gathering as precise as possible information on the potential number of users of this Fund and has initiated an activity to gather all this information by way of questionnaires for families of missing persons. The fact that, after more than four years since the Law was adopted, this initiative has still not been finalised is enough proof on the negligence of governments and the inadequacy of legal solutions for families of missing persons in BiH.

Reparations on the Basis of Court Rulings and Weaknesses in the Legal System

According to the [analysis](#) of the International Centre for Transitional Justice, programs of reparation have to be implemented through as comprehensive a legal framework as possible and should be directed towards groups of victims, instead of having victims seek reparations individually through courts. The reason for this recommendation lies in the actual possibilities of countries in transition, that is in the fact that courts have the capacity to deal with only a limited number of cases. Additional reasons lie in the fact that in court cases victims are asked to give detailed evidence on the violation of their rights so that the victims appearing before the court without adequate legal counsel risk that the final outcome of the court process provides them with no or with inadequate compensation. However, in countries where there is no adequate program of reparations for victims of war, and the aforementioned analysis indicates that this is the case with BiH, victims can only try to exercise their rights through the courts.

However, considering the numerous shortcomings of the Bosnian-Herzegovinian legal system, it is not surprising that there are very few who have managed to realise their rights in this way. Namely, the key problems in this context can be placed into a few categories: the scepticism of families of missing persons concerning the possibility of positive outcome to such procedures; their difficult economic situation because of which they can not afford adequate legal counsel (considering that the legal framework for free legal counsel has still not been solved, although this could be seen as a special form of reparations, which is again a separate subject that should be addressed); the complex question of the competencies of regular courts in this area; the non-implementation of finally binding court decisions. One of the most crushing facts for all of us as members of the Bosnian-Herzegovinian society is the fact that a large number of victims are not even aware that they can try to exercise their rights through the courts.

Unfortunately, it is difficult to come by exact facts concerning the number of cases of this kind brought before the regular courts. However, the regular courts are overwhelmed and their work is very slow, meaning that victims of war, like everyone else, must wait a long time for their case to be brought before the courts. In conversations with lawyers working on these cases, we have discovered that a positive outcome in such cases is a given. However, they are most worried, of course, about the implementation of such decisions.

The inefficiency of the regular courts is further attested to by the considerable number of law suits pertaining to the solution of the fates of missing persons that were addressed first to the Human Rights Chamber for Bosnia and Herzegovina and later, after it was shut down, to the Constitutional Court of BiH. The most famous cases related to the solution of the fate of missing persons that were brought before the Human Rights Chamber are certainly Avdo and Esmā Palić vs. BiH and RS (case number CH/99/3196), Selimović and others vs. Republika Srpska (CH/01/8365) and rulings on coerced disappearances in Foča, Višegrad, Vlasenica, Rogatica and other places.

In one such case, the Constitutional Court concluded that there exist special conditions concerning the inefficiency of the relevant institutions because of which the court freed the appellants from the obligation of conducting proceedings before ordinary courts and that it considers that it entertains jurisdiction over the case in question ([see the case AP 129/04, and an earlier text on this subject published in Pulsu demokratije](#)). Also, indicatively, in the decision for the same case, the Constitutional Court stated that addressing the regular court in cases concerning missing persons would yield no result (Paragraph 39), and that the competence of regular courts in such cases is problematic since, among other reasons, it is not completely clear where these persons disappeared (paragraph 37).

However, as can be seen from this and other cases relating to missing persons, the Constitutional Court has not provided for the financial aspect of reparations with its decisions, instead making referrals to relevant institutional solutions. Namely, in each of these decisions the Court ordered the relevant institutions to promptly establish and make provisions for operation of institutions under the Law on Missing Persons, including the establishment of the Fund for Support to the Families of Missing Persons in BiH, which would enable the realisation of the financial aspect of reparations.

As far as the Constitutional Court is concerned, despite the series of decisions in which the Court has ascertained the violation of human rights of family members of missing persons, the largest problem is again the implementation of these decisions. Namely, some decisions of the Constitutional Court, reached on the basis of appeals because of missing persons who went missing during the war, on the territory of BiH, ascertained a violation of the right to prohibition of inhumane treatment from Article II/3 b) of the BiH Constitution and Article 3 of the European Convention on Human Rights as well as the right to respect for private and family life from Article II/3 f) of the BiH Constitution and Article 8 of the European Convention. Despite this, all these decisions contain typical instructions to relevant institutions (the Council of Ministers, the Government of the Federation of Bosnia and Herzegovina and the Government of Republika Srpska) to promptly provide, through their responsible commissions for finding missing persons, to the appellants all available information concerning members of their families who went missing during the war on the territory of Bosnia and Herzegovina. These decisions are delivered for implementation to the responsible institutions with instructions that they should submit information to the Constitutional Court of Bosnia and Herzegovina about the measures taken within six months from when the decision was delivered (in accordance with the Rules of Procedure of the Constitutional Court of Bosnia and Herzegovina).

Ironically, in the aforementioned decision, parties from Article 15, Paragraph 3 of the Law on Missing Persons (again the Council of Ministers of Bosnia and Herzegovina, the Government of the Federation of Bosnia and Herzegovina, the Government of Republika Srpska and the Government of the Brčko District) are ordered to promptly ensure the operation of institutions established in accordance with the Law on Missing Persons, that is the Missing Persons Institute, the Fund for Support to the Families of Missing Persons in BiH and the Central Records of Missing Persons in BiH.

In practice, most cases look like this: not one of the aforementioned institutions reports within six months to the Constitutional Court of Bosnia and Herzegovina on measures undertaken to implement the decisions on missing persons. In some cases, the commissions on Missing Persons contacted families with template letters stating that the person they are searching for can not be found in their records and that the commission in question will give its fullest contribution to ascertaining the fate of the family member in question. Without even questioning the efficiency of these commissions, and at the same time taking into consideration the large number of cases that the commissions must deal with, the fact that these letters are

being sent as templates is, in the very least, degrading to families of missing persons.

Furthermore, on the basis of Article 74, Paragraph 6 of the Rules of Procedure of the Constitutional Court of Bosnia and Herzegovina, the Constitutional Court can render a ruling in which it establishes that its decision has not been enforced which is transmitted to the Prosecutor's Office of Bosnia and Herzegovina, responsible for criminally persecuting those who do not enforce the decision of the Constitutional Court of BiH.

In practice, the problem can be seen in two aspects: first, the Constitutional Court does not make such decisions in due time for all the cases concerning missing persons (for example, the case AP 36/06 from July 2007); second, according to the available information, the Prosecutor's Office of Bosnia and Herzegovina has done nothing concerning these decisions, at least in cases concerning missing persons (see more on the non-enforcement of decisions of the Constitutional Court of Bosnia and Herzegovina in the text by [Erliha Bičakčić](#) published in the *Pulse of Democracy*).

At the end of this discussion, it should be noted that some families of victims, in accordance with the specific circumstances of their cases, have tried to exercise their rights at the judicial institutions of other states. Namely, families of Bosniaks who were deported back to Bosnia and Herzegovina in 1992 from the territory of Montenegro and later killed brought their case in front of the court in Montenegro. In December 2008, a court settlement was reached awarding compensation for material and non-material damages caused by the deportation. The importance of this decision can be seen in several aspects: apart from the symbolic compensation, which can never compensate for a lost life, it was extremely important for the families of victims that someone had, in this way, taken responsibility for their tragedy (see more in the text by Erna Mačkić and Nedeljko Rudović, BIRN, January 2009).

The Possibility for Families of Missing Persons to Exercise their Rights on the International Level

Owing to all the aforementioned reasons that, in the final analysis, all lead to the same conclusion, that is the existence of inadequate legal and other solutions for families of missing persons, the question arises: Why do they not exercise their right through employing international mechanisms for the protection of human rights?

It is known that decisions of the European Court of Human Rights are implemented in all member countries using a very well established implementation mechanism, as is shown by the statistics on the implementation of the decisions of this Court. This court instance also has a rich legal practice dealing with coerced disappearances in other countries. One of the most famous cases at the European Court for Human Rights concerning coerced disappearances is certainly the case of [Cyprus vs. Turkey](#) from 2001 and one of the most recent decisions (from September 2008) concerning this issue is the case of [Takhayeva and others vs. Russia](#).

Another instance that the families of missing persons could address is the United Nation Human Rights Committee that also has an impressive number of cases from countries across the globe relating to this matter. Individuals can appeal to this body individually concerning the violation of human rights guaranteed by the International Covenant on Civil and Political Rights as this body is responsible for overseeing the implementation of the aforementioned Covenant. According to this principle, citizens can also appeal to the United Nations Committee against Torture.

Some families from BiH have already decided to try to exercise their rights at the international level. One of

these cases is *Avdo and Esma Palić*, that the wife of *Avdo Palić*, a missing colonel of the Army of Bosnia and Herzegovina, initiated at the European Court of Human Rights once it had become clear, after several years, that the state would not do anything to find her husband or to compensate her for her suffering, despite the decisions of the Human Rights Chamber that had ascertained the violation of her rights and those of her husband and ordered the relevant government institutions to carry out a series of activities with the goal of solving this case. The court in Strasbourg has still not reached a decision concerning this case.

Following this example, in October 2008, six families whose members went missing at Korićanske stijene in 1992 brought a case against BiH at the European Court of Human Rights. Namely, in 2007, the Constitutional Court reached a decision in this case ascertaining that human rights had been violated. These families of the missing persons decided to file this case on the international level, having learned from the experience of the inactivity of government institutions and the fact that the decision of the Constitutional Court was not enforced even a year and a half after it was reached. The Swiss Association "Trial" provided them with free legal counsel, and the "Izvor" Association of Prijedor Women invested their efforts and assisted in coordination (see more about this at <http://pravnicentar-trial.blogspot.com/>)

Unfortunately, despite the fact that it is almost impossible for families of missing persons in BiH to exercise their rights, these are the only cases in which members of this category complained about the violation of their human rights to an international instance. In conversation with associations of families of missing persons, it has been noted that many of their members are not aware of this procedure and that, as was previously stated, they do not initiate cases at the local level. This is very important because each of the aforementioned international instances can accept a case only if the appellant has exhausted all effective legal remedies provided by local laws or if they can prove that such legal remedies on the local level do not exist or are not efficient.

Conclusion

The aforementioned facts clearly indicate that families of missing persons in BiH have no possibility to systematically exercise their material and nonmaterial rights through the existing mechanisms provided for by the law. Also, it is obvious that with the limited capacities of the courts and the fact that court decisions concerning this are generally not implemented, a prompt and completely efficient answer to this problem can not be expected from the Bosnian-Herzegovinian legal system. At the same time, there are a large number of associations of war victims, including a large number of associations of families of missing persons, that could with their coordinated and unique efforts affect changes on the entire system. To date, such efforts have had certain results but, with better coordination and a unified stance, much more could be achieved.

Finally, families of missing persons should not underestimate the potential of appealing to international legal and quasi-legal instances. Unfortunately, in Bosnia and Herzegovina, there are still no programs for strategic litigation in the area of the protection of human rights. Therefore, those who decide to undertake such a step must depend on the legal counsel of individual lawyers dealing with these issues, such as was the case with Ms. Palić. Concretely, it is still early to speak of the outcome of the Palić case at the European Court but it is important to again emphasise the fact that the implementation of the decisions of the European Court, achieved through pressure on the Committee of Ministers of the Council of Europe, is impressive. In this context, probably the most important aspect of this Court can be seen in the fact that the Court, in relevant cases, does not make decisions for only the case in question, but also rules on general systematic measures. In the case of families of missing persons in BiH, this could mean a ruling on forming efficient institutions and other mechanisms that would enable families of missing persons to finally exercise

their rights in the near future.