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Date: 26/11/2019

DH-DD(2019)1406

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Meeting: 1362nd meeting (December 2019) (DH)

Communication from a NGO (EHRAC) (25/10/2019) in the KHASHIYEV and AKAYEVA group of cases v. Russian Federation (Application No. 57942/00)

Information made available under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1362^e réunion (décembre 2019) (DH)

Communication d'une ONG (EHRAC) (25/10/2019) dans le groupe d'affaires KHASHIYEV et AKAYEVA c. Fédération de Russie (requête n° 57942/00) (**anglais uniquement**).

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



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Sent by email

24 October 2019

Re: Rule 9(2) submission to the Committee of Ministers of the Council of Europe concerning implementation of the 'Khashiyev & Akayeva group' of cases.

Dear Sir/Madam,

We are writing to make a submission under Rule 9(2) of the Rules of the Committee of Ministers, for consideration at the Committee of Ministers' 1362nd meeting in December 2019. This submission is communicated by the European Human Rights Advocacy Centre ['EHRAC'] and Memorial Human Rights Centre ['MHRC'] as non-governmental organisations and focuses on the hundreds of cases of enforced and involuntary disappearances within the Khashiyev group that are still awaiting implementation and in particular the potential for humanitarian resolution of these cases.

We remain at the Department's disposal should any additional information be required.
Could you please confirm the receipt of this submission.

Yours faithfully,

Joanna Evans

EHRAC Legal Director

Attachments:

1. Rule 9(2) submission to the Committee of Ministers of the Council of Europe concerning implementation of the 'Khashiyev & Akayeva group' of cases. – 27 pages

DGI

25 OCT. 2019

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH



Rule 9(2) submission to the Committee of Ministers of the Council of Europe concerning implementation of the 'Khashiyev & Akayeva group' of cases.

24 October 2019

1. Introduction

1.1 This submission is communicated by the European Human Rights Advocacy Centre ['EHRAC'] and Memorial Human Rights Centre ['MHRC'] as non-governmental organisations under Rule 9(2) of the Rules of the Committee of Ministers ['CM'], for consideration at the CM's 1362nd meeting in December 2019. It is also supported by Stichting Justice Initiative ['SJI']. The combined litigation of EHRAC, Memorial and SJI accounts for approximately 80% of all the cases contained within the Khashiyev and Akayeva group of cases ['The Khashiyev group'].¹

1.2 The Khashiyev group encompasses a wide range of serious violations by the Russian security forces in the North Caucasus² in respect of which grave failures in implementation have subsisted for more than a decade.

1.3 This submission does not attempt to address all the outstanding issues relevant to the group as a whole. Instead, its narrow focus is upon the hundreds of cases of enforced and

¹ EHRAC and MHRC litigated the cases which resulted in the first Chechen judgments before the European Court of Human Rights in 2005 and have been engaged with the CM in seeking to achieve full implementation of those judgments since that date. For a fuller picture of the history of these cases from the applicants' perspective, this submission should be read in conjunction with previous Rule 9 submissions by EHRAC, MHRC and SJI and in particular the Rule 9(2) submission communicated by EHRAC and MHRC on 19th February 2015 DH-DD(2015)257

SJI litigated the first enforced disappearance case in 2006 as well as the landmark case of Aslakhanova in 2012. Although we represent different applicants, we face similar systemic issues.

² The Khashiyev and Akayeva group encompass a wide range of judgments against Russia arising from the actions of Russian security forces within Chechnya and the North Caucasus primarily during the years 1999-2006. Court judgments within this group include multiple findings against the Russia state in relation to extra-judicial killings, torture, enforced and involuntary disappearances and the unlawful/disproportionate use of lethal force (including the aerial bombardment of civilians).



involuntary disappearances within the Khashiyev group that are still awaiting implementation and in particular the potential for humanitarian resolution of these cases.

1.4 The lack of progress in these cases over many years³ demonstrates the urgent need for independent scientific expertise and assistance in order to establish the fate of the disappeared individuals and provide humanitarian resolution for their families (the applicants in the cases before the CM) as soon as possible.

1.5 Annexed to this submission is a report from two specialist forensic scientists (Professor R.L. Gowland and Professor T.J.U. Thompson) who have expertise and experience in conducting such work globally as well as providing the leading research and training in the latest scientific techniques for those undertaking such operations around the world [the ‘Gowland/Thompson Expert Forensic Report’]. Their report sets out what would be required to apply this framework to the North Caucasus. It also addresses and provides answers to the various obstacles which have been presented by the Russian Federation as preventing progress towards this result.

1.6 The scientific evidence is clear that such a process of humanitarian resolution can be achieved. However, it is also clear that such progress will not be possible without specialist international expertise and assistance.

1.7 To this is end it is submitted that:

a) The Russian Federation be urged to:

³ The first judgment holding Russia responsible for an enforced disappearance arising out of the Chechen conflict was handed down in 2006 [Bazorkina v Russia 27 July 2006]. By 2012, the Court had adopted more than 120 similar judgments and more than 100 similar cases were pending. The Court stated that it was so concerned at Russia’s “*systematic failure to investigate disappearances in the North Caucasus*” that it felt “*compelled to provide guidance on certain measures that must be taken as a matter of urgency, by the Russian authorities to address the systemic failure to investigate disappearances*” [Aslakhanova & others v Russia Applications nos 2944/06, 8300/07, 50184/07, 332/08, 42509/10, 18 December 2012] The Russian authorities have failed to follow the Court’s guidance in spite of more than a decade of supervision.



- i) seek international assistance from a reputable international body with a mandate and established expertise in the search for persons missing as a result of armed conflict or human rights violations (such as the ICRC⁴, the ICMP⁵, the EAAF⁶) in setting the terms of a consultation for a framework of humanitarian resolution in the North Caucasus and for the Russian Federation to provide within its next 'action plan' to the CM, a concrete time-bound strategy for implementation of the same.
 - ii) cooperate with the United Nations Working Group on Enforced and Involuntary Disappearances⁷ ['WGEID'] in resolving communicated cases as well as allowing WGEID to make a country visit to Russia in order to consider any assistance which could be offered in addressing these issues by way of conclusions and recommendations at the conclusion of the visit.
- b) The CM/DEJ take steps to liaise with, and/or request the assistance of the WGEID in order to share expertise and best practice in the joint aims of humanitarian resolution within the North Caucasus.

⁴ The International Committee of the Red Cross

⁵ The International Commission for Missing Persons (Cyprus)

⁶ Equipo Argentino de Antropología or the Argentine Forensic Anthropology Team

⁷ The UN Working Group on Enforced and Involuntary Disappearances was founded in 1980 by the Commission of Human Rights to “*examine questions relevant to enforced or involuntary disappearances of persons*”. One of the primary tasks of WGEID is assisting families to determine the fate or whereabouts of family members who are reportedly disappeared within a humanitarian capacity as well as monitoring the progress of States in fulfilling their obligations deriving from the Declaration on the Protection of All Persons from Enforced Disappearances and providing assistance to Governments in its implementation as well as recommending different ways of overcoming obstacles to the realization of its provisions. <https://www.ohchr.org/en/issues/disappearances/pages/disappearancesindex.aspx>

EHRAC, Memorial HRC and Russian Justice Initiative submitted a General Allegation to WGEID in January 2018 in relation to the systemic problems faced by the families of the disappeared in the North Caucasus and in particular the families whom we represent within the Khashiyev group of cases.



2. Humanitarian resolution – key features

2.1 The key feature of the humanitarian framework is that it decouples location and identification of the missing from criminal prosecution and prioritises reconciliation and the return of the remains of loved ones to their family for reburial.

2.2 Under the humanitarian framework, an impartial agency always has oversight of the process in order to establish a relationship of trust with the affected families. Such independence and impartiality is one reason why the framework is recognised to be particularly effective in building open communication and trust in countries where individuals and communities are ordinarily reluctant to provide information to government agencies due to lack of trust and fear of retribution.

2.3 Once such a framework has been established, the location, excavation and exhumation of mass/individual graves can commence, followed by identification of the individuals within. This requires the type of specialist skills, which have been employed successfully by international teams in Argentina, Cyprus, the Balkans and Sri Lanka to name but a few.

2.4 Russian action plans to date place reliance upon police and forensic pathologists expertise within the domestic criminal justice framework. This approach has not only failed to deliver but also fails to recognise that a humanitarian framework requires reliance upon international teams, working alongside Russian and Chechen specialists, that are able to offer the necessary independence and specialist expertise that is required to operate within the internationally recognised framework and protocols for the location and identification of missing persons.



3. The scientific response to obstacles raised by Russia

3.1 Russian action plans to date have repeatedly raised what are referred to “*objective difficulties in dealing with ‘historical’ investigations*” which are said to prevent the authorities from establishing the fate of the missing.

3.2 These alleged difficulties have been raised over several years as an explanation for why no apparent progress has been made in investigations. They have remained largely consistent over the years and in summary fall into three main areas:

- i. Alleged irreversible loss of evidence due to the failure to conduct pre-burial investigations and passage of time;
- ii. The interference of ‘Islamic canon’ with investigative procedures; and
- iii. Sufficient progress has already been made

3.3 **Irreversible loss of forensic evidence:** Russian action plans place strong emphasis upon the fact that the initial burials of the individuals concerned took place during a time of when ordinary forensic examinations were not possible due to: a) the ongoing conflict; b) the fact that many public institutions were not functioning at the relevant time and c) the impossibility of delaying burials in order to conduct pre-burial forensic and DNA analysis.

3.4 It is suggested that the inability to conduct such examinations prior to burial has led to the “*irreversible loss of the most important evidence as well as the samples necessary to conduct forensic analysis*” and that as a result, “*it is not always possible to conduct the necessary expert examinations, for example molecular and genetic examinations*”. This in turn is put forward as one of the “*main reasons not allowing yet to complete investigation in all cases*”.⁸

⁸ Communication from the Russian Federation concerning the cases of Khashiyev and Akayeva v Russian Federation (Application No. 57942/00) prepared for the 1324th CME meeting in September 2018. This is a position which has been repeated over several years in previous action plans – see by way of example Russian Action Plan of 17 November 2011: *In a number of cases it appeared impossible to carry out necessary*



3.5 The Gowland/Thompson Expert Forensic Report (Annex I), explains why this analysis is misleading in the context of exhuming and identifying the deceased within a humanitarian framework. The primary goal of humanitarian forensic action is to identify the deceased and return them to their loved ones, so that they will finally know the fate of their relative and can give them a proper burial. The fact that no forensic examination took place at the time of death or pre-burial does not present an obstacle to the implementation of a humanitarian framework. Furthermore, advances in scientific methods mean that DNA for identification can now be retrieved from bone, which is recoverable even after many decades have passed, and therefore negates this issue.

3.6 **The interference of ‘Islamic canon’ with investigative procedures:** Russian action plans further place reliance upon the alleged difficulty presented by *“the relatives of missing persons in some cases interfering with carrying out exhumation of corpses”* due to *“national traditions and Islamic canons”*.

3.7 This proposition is problematic on a number of levels. Firstly, the interference of a particular family with the specific exhumation of their particular family member presumes that the fate of the individual in question is already known and that his or her death and place of burial has been established prior to exhumation. That is not a factual scenario which applies to any of the applicants we represent and it is difficult to see how it could apply to any of those classified as ‘disappeared’.

3.8 Furthermore, as set out within the Gowland/Thompson Expert Forensic Report, academic research and practice shows that there is in fact no prohibition of exhumation under Islamic

molecular examination.. one of the reasons is.....that the bodies of persons killed.....were buried right after appearance of such a possibility with the threat to the lives of people who did it, and it was impossible to wait until the bodies would be examined and forensic medical examinations carried out



law in these circumstances. Many such exhumations have been conducted and are currently ongoing for Muslims killed and buried in several Islamic regions, including Iraq.

3.9 Sufficient progress is already being made: Russia has repeatedly made claims which effectively assert that everything which could be done to establish the fate of the missing has been or is already being done. It has also framed its submissions in such a way as to suggest that significant progress has been, and is being, made without the need for further input. In some instances these assertions appear to have been accepted by the CM. By way of example:

- In March 2018, the Deputies “*took note, as regards the identification process, of the information that molecular and genetic forensic examinations have now been undertaken with respect to all the cases in the Khashiyev and Akayeva group so that the identification of any remains has been largely facilitated*”⁹

3.10 For reasons set out in the attached report, on the available evidence to date, it is misleading to suggest that the identification of any remains from the Khashiyev and Akayeva group has been “*largely facilitated*.” Only a very small number of the deceased have been identified and there is no evidence of any exhumations having taken place. Collection of biological samples for DNA analysis from family members is only a small part of the process. Even if such collection had been conducted comprehensively and in line with international protocols, such samples would need to be tested against samples from exhumed bodies before it can be said that identification has been ‘facilitated’. There is no evidence that this has happened to any substantive degree. Furthermore, genetic analysis is only one part of the identification process and should, in accordance with international best practice, be undertaken with additional anthropological analyses.

3.11 Finally, on the subject of the identification and exhumation of mass graves, Russia’s action plan of 24th January 2018 states that “*in case burial places of the persons murdered are found within the territory of the region, the measures aimed to exhume and to identify the remains found*

⁹ CM decision, 1310th meeting, 13-15 March 2018 (DH)



are taken immediately".¹⁰ In light of this statement and the fact that no such exhumations have been reported to the CM as having taken place in relation to the large numbers of missing persons in the region, the evidence would seem to indicate that international assistance is required in applying the various established scientific and human techniques used by experts in this field for identifying such graves within the humanitarian framework.

4. The applicants' perspective

4.1 Close to twenty years have elapsed since Russian military agents began forcibly disappearing individuals as a tool of war and repression within the context of the Chechen conflict. It follows that many families have lived with agonising uncertainty as to the loss of their loved ones for nearly two decades. More than thirteen years have passed since the Court first handed down judgment against the Russian Federation in such a case and more than a decade has passed since the CM commenced supervision of these cases. Throughout that period, the fate of very few individuals has been established.¹¹

4.2 Against this background in 2012, the Court spoke of "*the suffering of the relatives of the victims of disappearances, who continue to remain in agonising uncertainty as to the fate and the circumstances of the presumed death of their family members*"¹² and the urgent measures which should be taken to address such suffering.

¹⁰ Action plan of the Russian Federation concerning the case of Khashiyev and Akayeva v Russian Federation (Application No.57942/00) DH-DD(2018)80

¹¹ In May 2016, the Department for the Execution of Judgments of the European Court of Human Rights published an overview of the Court's judgments concerning enforced disappearances in the North Caucasus between the years 1999 and 2006. This document provides details of nearly 300 disappeared individuals in respect of whom the fate of only 38 were known at the time of judgment. H/Exec (2016) 5, 25 May 2016 Khashiyev and Akayeva v Russian Federation (No. 57942/00) group of cases – Overview of the Court's judgments concerning enforced disappearances in the North Caucasus and the information provided by the Russian authorities as regards the measures taken to establish the fate of missing persons.

¹² Aslakhanova & others v Russia, Applications nos 2944/06, 8300/07, 50184/07, 332/08, 42509/10, 18 December 2012, paragraphs 221 and 223



4.3 We do not claim to speak on behalf of the relatives of all the thousands of disappeared individuals in the region, nor even, at present, on behalf of all those we represent¹³. However, our interviews with applicants accords with the Court's analysis as to the agonising uncertainty and suffering experienced by these families. Their words are powerful: a selection of quotes from applicant interviews conducted by EHRAC/Memorial are set out at Annex II.

5. Conclusion

5. 1. In conclusion, the expert opinion of two specialist forensic scientists/academics is that they see no scientific impediment to the location and identification of those killed and still missing in Chechnya.

“Overall, we see no scientific impediment to the location and identification of those killed and still missing in Chechnya. Success has already been achieved in similar contexts across the world. It is a matter of political will, cooperation, resources and effective management. Progress towards identifying the missing in post-conflict regions is an important step in re-establishing human rights, the rule of law and societal integration.”¹⁴

5.2 The specific form of such a process will require extensive consultation and planning. The wishes and views of the affected families and communities in question are of the utmost importance in deciding how to proceed.

5.3 In order to progress the possibility of such a process in the North Caucasus towards the type of success that has already been achieved in similar contexts across the world, there is a need for specialist expertise and assistance from international teams.

¹³ We have begun the process of interviewing all applicants whom we represent whose cases relate to the loss of a family member who was forcibly disappeared. Due to logistical and resource constraints this is a slow process. As such, the selection of quotations which are included within this submission relate only to those applicants whose views we have been able to ascertain thus far.

¹⁴ See Gowland/Thompson Expert Forensic Report at Annex I



5.4 For this reason, as stated above, is submitted that:

- a) The Russian Federation be urged to:
 - i) seek international assistance from a reputable international body with a mandate and established expertise in the search for persons missing as a result of armed conflict or human rights violations (such as the ICRC, the ICMP, the EAAF) in setting the terms of a consultation for a framework of humanitarian resolution in the North Caucasus and for the Russian Federation to provide within its next 'action plan' to the CM, a concrete time-bound strategy for implementation of the same.
 - ii) cooperate with the United Nations Working Group on Enforced and Involuntary Disappearances ['WGEID'] in resolving communicated cases as well as allowing WGED to make a country visit to Russia in order to consider any assistance which could be offered in addressing these issues by way of conclusions and recommendations at the conclusion of the visit.
- b) The CM/DEJ take steps to liaise with, and/or request the assistance of the WGEID in order to share expertise and best practice in the joint aims of humanitarian resolution within the North Caucasus.

24th October 2019



ANNEX I – EXPERT REPORT

Briefing Note: The recovery and examination on human remains from mass grave contexts in Europe

Professor RL Gowland and Professor TJU Thompson

1. Introduction

This document discusses the key issues associated with the location, recovery and analysis of human remains from grave sites within Europe, with an emphasis on the situation in the North Caucasus region. It includes a brief critique of current action plans relating to the missing in Chechnya. The aim of the document is to provide objective scientific advice to facilitate informed decision making – it is not an action plan in and of itself.

2. Author Biographies

Prof. Rebecca Gowland teaches and researches Human Bioarchaeology in the Department of Archaeology, Durham University. She has a PhD from Durham University and has published four books and over 50 peer-reviewed journal articles and book chapters on skeletal analysis and human identification. She has developed new techniques for estimating age-at-death and sex in adult and non-adult skeletons and has devised new approaches for establishing abuse and trauma in vulnerable demographics. During the last ten years she has developed and delivered a Chartered Society of Forensic Sciences approved course on body location, excavation and analysis to forensic practitioners from National Police forces in the UK and international agencies. She has collaborated with the International Committee of the Red Cross to produce online forensic training provision.

Prof Tim Thompson is Professor of Applied Biological Anthropology and Associate Dean (Learning & Teaching) in the School of Health & Life Sciences at Teesside University. He has a PhD from the Department of Forensic Pathology, University of Sheffield on the effect of burning on identification from skeletal remains. He has published four books and over 70 peer-reviewed journal articles and book chapters on forensic anthropology, human identification, and changes to bone over time. He is a Fellow of the Chartered Society of Forensic Sciences and the Royal Anthropological Institute, and Honorary Fellow of the Faculty of Forensic & Legal Medicine and is a Senior Fellow of the Higher Education Academy. He is Editor-in-Chief of the Journal of Forensic & Legal Medicine, and prior to this was Editor-in-Chief of the journal Science & Justice for three years. He has practiced forensic anthropology in the UK and Europe.



3. Summary

Many countries have sought to identify missing combatants from historic conflicts in Europe and elsewhere (e.g. from World Wars I and II, the Korean War, the Balkans War). There are international standards and methods for locating grave sites, and for exhuming and analysing the bodies. The forensic expertise required is highly specialised and falls beyond the scope of standard criminal investigations. A specialist, independent, forensic team is required, and purpose-built laboratories are necessary for processing the human remains and associated effects. The forensic team should work alongside local groups with the aim of training and capacity building within the region concerned.

Combatants and civilians who die during conflict are often buried in unmarked graves. Following death and burial the soft tissues of the body decompose quickly but the skeleton and teeth can survive for hundreds and even thousands of years. Analysis of the skeleton can establish the sex of the individual, an approximate age-at-death, height and pathological conditions (e.g. dental disease, or evidence for surgical procedures). These characteristics contribute towards establishing the identity of the deceased if relevant ante-mortem records are available. The manner-of-death can also be determined (e.g. gunshot injuries) in some cases. DNA can be extracted from bones and teeth even hundreds of years after death and analysed to establish an individual's identity when matched to samples obtained from close relatives. DNA analysis is one of a suite of methods and should be used in conjunction with other anthropological methods.

In areas of recent conflict, where tensions continue and governmental structures are weak, the humanitarian model advocated by the International Committee of the Red Cross (ICRC) has proven to be an effective way of proceeding. This model prioritises the identification and return of the missing to their families rather than the pursuit of criminal prosecutions. The decoupling of human identification from criminal procedures increases the likelihood of co-operation, information sharing and reconciliation. Experience from other countries (e.g. Cyprus) demonstrates that a timely intervention is advantageous to avoid the loss of witness testimony (through loss of memory or death of those with knowledge) and archives. A quick resolution is also important for family members, for whom the unknown fate of their relatives is a source of severe trauma.

4. A Model for Humanitarian Intervention

- [The location, recovery, analysis and repatriation of human remains does not require a criminal judicial framework](#)
- [A humanitarian model has proven successful in other countries, resulting in cooperation between stakeholders and the identification and return of the missing to their loved ones](#)

Families have a right to know the whereabouts and fate of their loved ones and the deceased have a right to the restoration of their identity after death (Crettol et al. 2017). The humanitarian



framework advocated by the ICRC seeks to prioritise the location and identification of the missing within regions of conflict over and above the pursuit of criminal convictions. This model explicitly recognises the chronic anguish and emotional pain experienced by family members because of the unknown fate of their relatives and the impediment it poses to reconciliation (ICRC 2014). The humanitarian approach has proven particularly effective in countries of recent conflict in which people are reluctant to provide information that might lead to the location of grave-sites or identification of the deceased due to a lack of trust in government organisations and fear of retribution.

Despite the lack of criminal proceedings, the forensic work is conducted to the same high standard. The identification process remains the same, as does the support for the families. The same forensic experts and facilities are required, and the funding requirements remain the same. All of this is important since final identification may still have legal requirements.

The separation between identifying the missing and criminal proceedings has worked successfully in Cyprus with the work undertaken by the Committee on Missing Persons (CMP), an organisation largely funded by the European Union. In Cyprus, remains are located, excavated, identified and returned to families with no attempt to attribute blame, or to pursue retribution. As well as prioritising the immediate needs of the families, this approach encourages greater transparency between stakeholders. Because the fear of criminal action or reprisal is removed, it promotes information sharing and co-operation. Within the current mandate of the CMP, the choice has been made that those who provide information are immune from prosecution and are guaranteed anonymity and confidentiality. The exhumations are, therefore, humanitarian in nature rather than political. Evidence of manner-of-death can still be recorded from the skeletons during the identification process. It is only since de-politicisation that the CMP has made significant progress. In Georgia, Russian, Georgian, Abkhazi, and South Ossetian representatives have adopted a similar model, working alongside the ICRC to identify those missing during the conflict in August 2008 and in the 1990s.

The socio-political circumstances and priorities of each country will differ, and some may wish to pursue both humanitarian and retributive approaches in tandem. It is important that all stakeholders discuss and agree their terms of reference and mandate. Clear procedures should be established prior to the commencement of any investigations. It is essential to ensure the proper management of information if both humanitarian and judicial objectives are pursued, because there will be inter-dependencies in terms of evidence gathering. A clear separation between the humanitarian mandate and justice systems is desirable (Crettol et al., 2017, 603)

5. Comments on current actions to locate, exhume and identify the missing in Chechnya

- It is highly likely that human remains are recoverable from Chechnya in a condition that would allow identification.



- Current action plans lack clarity and detail regarding the methods, expertise and activities of those engaged in searching for the missing.
- It is essential that an independent, international team is given oversight and control of the investigations to ensure that international protocols and standards are met.
- An independent team is also important to build trust between affected families and government authorities.

It is currently estimated that between 3000 to 5000 Chechen individuals are ‘missing’ because of historic conflicts between 1999 and 2006. Interviews with affected Chechen families have repeatedly emphasised that their key priority is to know the fate of their relatives and to have the remains of the missing returned for reburial. Not knowing is a form of psychological torture. Progress towards investigating the fate of the missing in a post-conflict region is an important step in re-establishing human rights and the rule of law (Crettol et al. 2017).

Action plans eg. (DH-DD(2015)23, DH-DD(2015)257, DH-DD(2018)798) provided by Russia do not clearly articulate a systematic programme of activities for the proactive location, identification and return of historical cases of missing individuals. The action plans are difficult to decipher in terms of precise activities, but the procedures alluded to do not follow established international protocols for locating, excavating and identifying individuals from burial contexts. It is unclear as to whether exhumations are currently taking place, and if so, the procedures being used to establish the identity of the deceased.

The action plan argues that neither outside expertise nor independent, impartial oversight is necessary with respect to these investigations. It states that:

“the competent state authorities developed a coordinated position concluding that there was no need to establish a new specialized centralized body responsible for the search for missing persons in the territory of the North Caucasus Federal District.”

The ICRC and organisations such as EAAF (Argentine Forensic Anthropology Team) recommend that humanitarian action requires oversight by impartial, outside, independent experts, working alongside victim groups. It is not advisable to proceed with a Russian team as outlined in the action plan, because affected families will find it difficult to trust their findings. It is important that local Chechen staff as well as Russian staff are employed as part of the team, to help build trust through communication with affected families and also to help navigate the cultural and religious sensitivities involved in the exhumation and identification processes.

The current mechanism that Russia has employed for investigating information relating to the missing falls within existing criminal investigation structures:



“The most experienced officers of the criminal investigation departments of the internal affairs bodies are involved in operational and search activities in connection with the messages on the crimes concerned. The aforesaid authorities start search activities immediately upon receipt of the information on disappearance or kidnapping, irrespective of the fact of the criminal case initiation”

This is not advisable since human identification from historic conflicts requires a specialist team with specific expertise which falls outside of normal law enforcement activities. This is exemplified by the work of the Centre for Missing Persons (CMP) in Cyprus, and also organisations such as the Argentine Forensic Anthropology Team (EAAF), the Peruvian Forensic Anthropology Team (EPAF), The Inforce Foundation and Physicians for Human Rights, which have been involved in investigations of this nature since the 1980s (see section 6 for a full discussion of the expertise required).

Russia states that there is a loss of documentation regarding the location and identities of the missing given the time that has elapsed and changes in personnel in the intervening years. This is not an insurmountable obstacle. The location of mass graves is discoverable using even partial archives, local intelligence, witness testimony, and archaeological techniques (section 7.1). Document DH-DD(2018)798 indicates that some form of search is being undertaken (with no apparent success), but it lacks detail. The successful identification of grave sites has been achieved in numerous post-conflict situations. These searches are improved if investigations are conducted promptly, as the passage of time leads to less reliable witness testimony/local intelligence through the loss of memory or the death of those with relevant knowledge. The latter is now proving an impediment to the work of the CMP in Cyprus. However, even in the absence of such information grave sites can still be found using a suite of techniques.

The action plan alludes to co-operation with NGOs when interviewing affected families:

“Close cooperation and information exchange by the criminal investigation subdivisions with the relatives of missing persons as well as with the citizens and representatives of non-governmental organizations has been organized and is being continued, which allows performing humanitarian functions in the course of relevant work.”

No specifics are provided regarding which NGOs are involved, nor how their work is being co-ordinated across organisations, and with local authorities. Intelligence gathering appears to have been ad hoc and potentially exposes affected families to distressing interviews without discernible benefits (see section 7.3, ante-mortem data).

A database has been created: “a centralized automated missing persons database and informational-search system “Opoznanie”. The contents and functionality of this database should be checked against international standards and advice should be provided by an independent organisation such as EAAF who have specialists in database construction of this kind.



The actions plans emphasise the use of DNA analysis for establishing the identity of those bodies that have been recovered. Genetic analysis should be used as part of a suite of techniques for identification, alongside anthropological analysis. Genetic samples should not be analysed within Russian laboratories and instead should be sent to an external accredited laboratory which has experience in analysing genetic samples from contexts such as these. Families of the deceased may be understandably reluctant to supply comparative DNA samples to Russian authorities given current political tensions and a lack of trust in the process.

The action plan argues that the families of some of the missing '*prohibit*' exhumation due to '*Islamic canon*'. There are several problems with this statement. Firstly, it implies that the identities of those buried are in fact known given that it refers to the wishes of the families. Secondly, a detailed discussion of Islamic law and humanitarian forensic exhumation by Al-Dawoody (2017, p.777) states that "*exhuming dead bodies for the purposes of transfer to the place of origin, and/or establishing the identity of the buried person such as in the case of dead migrants, is permissible under Islamic law*"¹⁵. The exhumation of bodies of Muslims killed and buried during conflict for the purposes of identification is underway in various regions of the world, including the Balkans and Iraq.

The action plans state that laboratory resources and finances are already in place to undertake the necessary investigations. It is imperative that these laboratory facilities are inspected by an independent expert team to check that they are fit for purpose, including whether they meet current ISO17025 standards, but also to scrutinise that investigative procedures conform to international standards. The action plan also implies that multiple laboratories across several geographical locations (some of which are located outside Chechnya) are involved in the analysis. Instead a dedicated and custom designed laboratory facility should be resourced for the analysis only of those 'missing'.

One aim of this humanitarian venture should be capacity-building in Chechnya through the training and establishment of local expertise. This has been a key feature of the work of the ICRC in Georgia, which may serve as a useful regional comparator. The current lack of trust between families and local and Russian government is an obstacle to progress; it is therefore important that this work is overseen by a neutral and impartial organisation.

Overall, we see no scientific impediment to the location and identification of those killed and still missing in Chechnya. Success has already been achieved in similar contexts across the world. It is a matter of political will, cooperation, resources and effective management. Progress towards identifying the missing in post-conflict regions is an important step in re-establishing human rights, the rule of law and societal integration.



6. Forensic Science and Identifying the Missing in Post-Conflict Regions.

- Forensic expertise is already present throughout Europe to support investigations of human remains from burial contexts arising from conflict
- A combination of forensic archaeology, anthropology, odontology and genetics are used to establish individual identity in such contexts
- Standards and accreditation schemes are present but vary from country-to-country

There are four key forensic disciplines that can support the identification of individuals exhumed from graves or recovered from other deposition sites (e.g. bodies left exposed) associated with historic conflicts:

- forensic archaeology (search and recovery of remains)
- forensic anthropology (skeletal analysis)
- forensic odontology (analysis of the teeth)
- forensic genetics (analysis of DNA).

These four disciplines are well established in Europe and elsewhere. Experts tend to work within their own countries since legal frameworks differ, and diverse educational and training pathways exist. The European Network of Forensic Science Institutes (ENFSI) was founded with the purpose of improving the mutual exchange of knowledge and information between countries. High quality peer-reviewed academic journals exist to support these four disciplines. Professional and academic societies exist for these disciplines, including some pan-European ones such as the International Academy of Legal Medicine.

7. The Location, Recovery and Analysis of Human Skeletal Remains

- There are established methods for locating clandestine graves/deposition sites.
- Excavation is destructive; archaeological approaches are therefore required to fully document the grave-site and ensure full recovery of the remains.
- Methods for establishing the identity of human remains from historic conflicts are well established and reliable, even in cases where multiple bodies are placed within a single burial context.

7.1. Locating graves

The first stage in locating potential grave sites is to undertake an intelligence gathering exercise. State authorities are likely to have records and information relating to the identity of many of the deceased and the location of bodies buried, either singly or in mass graves. If such records are not



available or forthcoming, there is usually local knowledge/witness testimony regarding the location of grave sites. These data need to be gathered systematically and witnesses should be guaranteed anonymity and immunity from prosecution.

It is important that a specialist team examine the locations of potential grave sites. If intelligence gathering leads to general rather than specific locations, there are a series of techniques to help refine the search as follows:

Desk-top survey: This takes into account topography, vegetation, soil type, and access. For example, research on the victims of the Spanish Civil war graves have highlighted a pattern whereby victims are buried between 1 to 10km from the place they were detained and almost always within 100 metres of a principal road (Salado Puerto and Tuller 2017).

Aerial survey: This provides a clear perspective on changes in vegetation / area that may indicate the presence of a mass grave. The use of drones is recommended and the exploration of satellite images/Google Earth has also been used to identify grave sites (for example with the Satellite Sentinel Project). The use of infra-red and ultraviolet imaging of the ground surface has proven useful in the identification of grave sites (Abate et al. 2019).

Field walking survey: This traditional survey method is useful for establishing possible grave sites through observing changes in vegetation/topography. Health and safety should be considered here; for example, in the Balkans there was a suspicion that incendiary devices were present within and in the vicinity of mass graves. Field walking as a survey method for identifying the location of mass graves has been employed in a variety of countries (e.g. Chile and the Balkans).

Cadaver dogs: Trained dogs can identify mass graves even after many years have elapsed.

Geophysical Survey: This refers to a variety of non-destructive techniques used to survey an area with the aim of detecting sub-surface anomalies consistent with a grave. Methods include ground penetrating radar, magnetometry, and resistivity. For best results a combination of different techniques are recommended (Pringle et al. 2012, Abate et al., 2019).

7.2. Recovering human remains

Excavation is destructive and it is therefore crucial to proceed using established archaeological techniques (Anderson et al. 2002, Hunter et al. 2013). Detailed recording is essential to ensure that the evidential integrity of the site is preserved, and that stratigraphic and spatial relationships/associations can be reconstructed using site archives. Excavation must be conducted by trained archaeologists working alongside forensic experts. A forensic anthropologist should also be on-site, as well as experts who wish to retrieve any environmental and trace evidence.



Health and safety on site and in the field is also a key concern. As well as basic concerns regarding working in proximity to heavy machinery, this includes ensuring that staff are protected from hostile onlookers.

The edges of the mass grave should be demarcated and a site plan created using a GPS to plot the graves in relation to other features on the landscape. Excavation should proceed initially with the aid of a highly trained mechanical digger operator working alongside an archaeologist. Once signs of bodies or personal effects start to appear, excavations proceed using hand-held tools (e.g. mattocks, spades, trowels).

The bodies should be uncovered and photographed in situ. Personal effects associated with particular bodies should be labelled accordingly so that they can later be re-associated in the laboratory. Each body should be given a unique number and during excavation it is essential that care is taken to ensure that there is no commingling (mixing) of body parts. In mass graves, limbs can become entangled and the bodies are likely to have undergone severe decomposition and potential disturbance (e.g. from animals/tree roots whilst buried, or through later episodes of body deposition). It is therefore essential to precisely record the body position within the grave and that excavation is conducted alongside a trained forensic anthropologist.

Recording should be detailed throughout the excavation and individual bodies 'mapped' three-dimensionally using GPS. Three-dimensional scanning and photogrammetry are now being used during excavation to help record the position of bones/limbs and associated personal effects/artefacts three-dimensionally. These contribute towards understanding the sequence and circumstances of deposition.

In situ recording needs to be very detailed. Even the position of the bones within a skeleton can reveal something about the mode of deposition. For example, in a body that was tightly wrapped at burial, the clavicles (collar bones) will decompose in a more vertical orientation than in a body that was not (Duday 2006). Careful excavation can therefore reveal lots of 'invisible' information about the burials.

Due to the detailed level of recording, the excavation of mass graves can result in a substantial amount of data. Standardised body proformas are often completed electronically in the field during excavation. Excavators should wear protective clothing to reduce the contamination of samples for genetic analysis with their own DNA.

There are published guidelines for excavating mass graves and these protocols should be used as a starting point (e.g.: Cox et al. 2008). Excavation can be a slow process, especially if the weather or physical environment is challenging. Furthermore, the excavation and analysis of human remains from mass violence contexts can generate a significant amount of material and evidence.



Arrangements and facilities for the storage, curation and analysis of this material needs to be fully considered and resourced for the duration.

7.3. Identification of the deceased

The identification of the deceased is a complex multidisciplinary process. Individual identity can be established from a range of biological material (Gowland and Thompson 2013). The soft tissues have often decomposed in historic mass grave contexts, and so we focus on the hard tissues (skeleton and teeth) here.

Ante-Mortem Data: Interviews, testimonies and tissue samples from families are required. There needs to be an organised and sustained effort to gather information in a standardised format. EAAF recommend that such information gathering occurs directly between a member of the forensic team, in conjunction with a local liaison officer, and families concerned. This is because there is often a breakdown of trust between bereaved families and government officials. These interactions also help establish a dialogue as well as trust between scientists and family members. This information needs to be inputted into a database system that allows matches to be secured between ante-mortem and post-mortem records. The location and security of the database needs to be addressed due to the sensitive nature of the information contained.

Post-mortem Analysis: Analysis of human remains from mass grave contexts require laboratories with significant space and environmental controls to store and analyse bodies and their associated personal effects (Wessling 2018). Depending on the burial environment, it may be possible that features such as hair colour can still be observed, and clothing and jewellery may be associated with the body. In instances of significant decomposition, osteological methods of establishing a basic biological profile are often necessary (e.g.: Mitchell and Brickley 2018). It is not acceptable practice to rely on genetic evidence alone. In cases where bodies have been burned or dumped in water etc, it may still be possible to collect useful information from the remains (Thompson 2015; Thompson et al. 2017)

Sex: This can be determined using morphological features of the pelvis and, secondarily, the skull. Metrical methods which examine sexual dimorphism in other bones (such as the humerus and femur) are also useful but are not reliable when used alone (Buikstra and Ubelaker 1994). Sex can also be established from the individual's DNA, or quickly and reliably from the analysis of sexually dimorphic peptides in tooth enamel (Stewart et al. 2017).

Age-at-death: This can be estimated using a variety of features of the skeleton and following established methods. For individuals who have not yet reached skeletal maturity (e.g. adolescent/young adult males), dental development and fusion of the various bones of the skeleton provide a useful guide for age. Once skeletal maturity has been achieved, morphological changes to



the pubic symphyseal face and auricular surface (both located in the pelvis) as well as the sternal rib ends provide a guide to age at death (Buikstra and Ubelaker 1994, Samworth and Gowland 2007).

Stature: Height can be reconstructed through specific measurements of all those bones which contribute to height (Raxter et al. 2006, 2007). If the body is incomplete, height can be estimated through the measurement of the lower limb bones and the use of appropriate, population specific, regression equations.

Pathology: Evidence of ante-mortem trauma (e.g. fractured bones that have healed), or pathological conditions (e.g. joint disease) can provide information for establishing individual identity (Ortner 2003). Evidence of traumatic injury implicated as the cause of death, or indicative of torture prior to death, can be recorded from the skeleton during the identification process or omitted, depending on the remit of the work. Local legal frameworks will determine who can confirm the cause of death (e.g. forensic pathologist). Criminal investigations need to adhere to principles of chain of evidence.

Dentition: Dental recording can be a very useful means of identifying an individual, particularly in instances of obvious dental intervention such as fillings or dental implants. Ante-mortem dental records, however, are not likely to be available for all individuals.

Genetic: There have been many scientific developments in DNA analysis in recent years and viable samples can be retrieved from skeletal remains and processed by specialist labs. This is a common and ongoing practice in post-conflict forensic investigations. For example, for identifying individuals from the Balkans war, from the troubles in Northern Ireland, and in Argentina. The Defence POW/MIA Accounting Agency in the USA routinely identifies fallen soldiers from historic wars, including World War II, the Korean War, and the Vietnam War using anthropological and DNA analysis. While the passage of time and decomposition has some detrimental effects, this can usually be mitigated through the use of new genetic techniques. The petrous portion of the temporal bone (part of the inner skull close to the ear), or the ear ossicles (bones in the inner ear) are a useful reservoir for uncontaminated DNA from deceased individuals (Pinhasi et al. 2015; Sirak et al 2019). It is important to note that the success of DNA analysis depends on the presence of appropriate ante-mortem or familial comparison samples. Without these, DNA identification can be challenging, as was the case in Libya where the DNA profiling struggled to resolve identification issues of deceased individuals following the 2011 revolution.

Establishing Identity and Reconciliation: Co-ordination of the scientific evidence, including ante- and post-mortem data should be overseen by an expert coordinator, with identity established through the integration of all evidence. Forensic scientists do not confer identity – an appropriately mandated Identification Committee will have this role. The composition of these committees depends upon the remit of the investigation, and the legal framework within the particular country of work.



Confirming identity is always more challenging in mass grave scenarios, where multiple bodies are commingled (Fowler and Thompson 2015). DNA analysis is still possible; success depends upon accurate and careful archaeological excavation, coupled with meticulous analysis of the remains in the laboratory. Within Europe, archaeological and forensic experts have considerable success in resolving both historic and recent mass graves.

Repatriation to the families and reburial: A multilingual family liaison officer, together with the scientists responsible for conducting the analysis should meet with the identified individuals' relatives to talk through the evidence and to ensure that the family are satisfied. The family should have the opportunity to view the remains and an appropriately attired 'viewing room' should be set-up to allow this process to occur within a comfortable environment that respects the privacy and emotional nature of the situation. This room can be part of the established forensic identification facility.

8. Capacity Building and Logistical Considerations

- Forensic practice is complex and time-consuming and requires appropriate funding
- Processing of the deceased from burial contexts needs to be undertaken in appropriate laboratory space, close to the graves
- The international community has a duty to train and support local forensic teams

Forensic expertise for investigating clandestine graves is highly specialised and historically the teams involved in such activities are comprised of non-local nationals. This has led to strong criticisms of paternalism and neo-colonialism. More recent approaches have focused on using international forensic experts to support local practitioners, through mentoring, training and peer-review networks (Thompson et al 2018). Local capacity building to develop teams who can investigate their own histories and legal contexts is important. For example, the International Committee of the Red Cross (ICRC) employ Forensic Advisors who work around the world to support local experts and trainees as they develop forensic strategies, processes and facilities.

Effective forensic science requires high-quality material and staffing resources. Designs for appropriate facilities are available, including the pre-fabricated laboratories used by the Centre for Missing Persons in Cyprus. Consideration needs to be given as to whether ISO17025 accreditation is necessary in these contexts. Facilities for processing the human remains and associated personal effects should be located close to the area where the graves are. The facilities should allow for anthropological analysis and work should be overseen by an impartial team of forensic experts alongside appropriate legal experts.



8. References

- Abate D, Sturdy Colls C, Moyssi N, Karsili D, Faka M, Anilir A, Manolis S. 2019. Optimizing search strategies in mass grave location through the combination of digital technologies *Forensic Science International: Synergy* 1: 95-107.
- Al-Dawoody, A. 2017. Management of the dead from the Islamic law and international humanitarian law perspectives: Considerations for humanitarian forensics. *International Review of the Red Cross* (2017), 99 (2), 759–784. The missing doi:10.1017/S1816383118000486, p. 777.
- Anderson A, Cox M, Flavel A, Hanson I, Hedley M, Laver, J. et al., 2008. Protocols for the investigation of mass graves, in: M. Cox, A. Flavel, I. Hanson, J. Laver, R. Wessling (Eds.), *The Scientific Investigation of Mass Graves: towards Protocols and Standard Operating Procedures*, Cambridge University Press, New York, NY pp. 39e108.
- Buikstra J and Ubelaker D. 1994. *Standards for data collection from human skeletal remains* Fayetteville: Arkansas Archeological Survey Research Series No. 44.
- Cheetham P, Cox M, Flavel A, Hanson I, Haynie T, Oxlee D, et al. 2008. Search, location, excavation, and recovery, in: M. Cox, A. Flavel, I. Hanson, J. Laver, R. Wessling (Eds.), *The Scientific Investigation of Mass Graves: towards Protocols and Standard Operating Procedures*, Cambridge University Press, New York, NY, 2008, pp. 183e267.
- Crettol M, Milner L, La Rosa A-M, Stockwell, J. 2017. Establishing mechanisms to clarify the fate and whereabouts of missing persons: A proposed humanitarian approach. *International Review of the Red Cross* (2017), 99 (2), 589–618
- Cox M, Flavel A, Hanson I, Laver J, Wessling R. (eds.). 2008. *The Scientific Investigation of Mass Graves: towards Protocols and Standard Operating Procedures*, Cambridge University Press, New York, NY.
- Duday H. 2006. *Archaeoethnology (Or the Archaeology of Death)*. In R. Gowland and C Knusel (eds) *Social Archaeology of Funerary Remains*. Oxbow.
- Fowler G. and Thompson TJU. 2015. A mere technical exercise? Challenges and technological solutions to the identification of individuals in mass grave scenarios in the modern context. In: Anstett, E. et al (eds.) *Search and identification of corpses and human remains in post-genocide and mass violence contexts*. pp117-141.
- Gowland RL. & Thompson TJU. 2013. *Human Identity and Identification*. Cambridge, Cambridge University Press.



Hunter J, Simpson B, Sturdy Colls C. 2013. *Forensic Approaches to Buried Remains*, New York, Wiley

ICRC (2014) *Living with absence: Helping the families of the missing*. ICRC.

Mitchell PD. and Brickley M. (eds.) 2018 Updated guidelines to the standards for recording human remains. Chartered Institute for Archaeologists / British Association for Biological Anthropology and Osteoarchaeology. <https://babao.org.uk/assets/Uploads-to-Web/14-Updated-Guidelines-to-the-Standards-for-Recording-Human-Remains-digital.pdf>

Ortner DJ. 2003. *Identification of Pathological Conditions in Human Skeletal Remains*. Academic Press, New York.

Pinhasi R. et al. 2015. Optimal Ancient DNA Yields from the Inner Ear Part of the Human Petrous Bone. PLOS ONE. <https://doi.org/10.1371/journal.pone.0129102>

Pringle JK, Ruffell A, Jervis JR, Donnelly JD, McKinley J, Hansen JD, Morgan R, Pirrie D, Harrison M. 2012. The use of geoscience methods for terrestrial forensic searches, *Earth Sci. Rev.* 114 108e123.

Raxter MH, Auerbach BM and Ruff CB. 2006. Revision of the Fully technique for estimating stature. *American Journal of Physical Anthropology* 130: 374–384.:

Raxter MH, Ruff CB, and Auerbach BM. 2007. Technical note: Revised Fully stature estimation technique.” *American Journal of Physical Anthropology* 133: 817–818.

Samworth R. & Gowland R. 2007. Estimation of adult skeletal age-at-death: statistical assumptions and applications. *International Journal of Osteoarchaeology* 17(2): 174-188.

Salado Puerto M & Tuller H. 2017. Large-scale forensic investigations into the missing: Challenges and considerations. *Forensic Science International*, 279: 219-228

Sirak K, et al. 2019. Human Auditory Ossicles as an Alternative Optimal Source of Ancient DNA. *BioRxiv*, <https://doi.org/10.1101/654749>

Stewart N, Fernanda Gerlach R, Gowland RL, Gron, K & Montgomery, J 2017. Sex determination of human remains from peptides in tooth enamel. *Proceedings of the National Academy of Sciences* 114(52): 13649-13654.

Thompson TJU. (ed.) 2015. *The Archaeology of cremation: Burned human remains in funerary studies*. Oxbow Books.



Thompson TJU, Gonçalves D, Squires K. and Ulguim, P. 2017. Thermal alteration to the body. In: Schotsmans, E. et al (eds.) Taphonomy of human remains: forensic analysis of the dead and the depositional environment. Wiley-Blackwell. pp318-334.

Thompson TJU, Jiménez Gaytan D, Bedoya Sánchez S. and Ninel Pleitez Quiñónez, A. 2018. Forensic anthropology: Whose rules are we playing by? - Contextualising the role of forensic protocols in human rights investigations. In: Waterlow, J. and Schuhmacher, J. (eds.) War crimes trials and investigations: A multidisciplinary introduction. Palgrave Macmillan: UK. pp59-80.

Wessling R. 2018. The Influence of operational workflow and mortuary environment on identification: a case study from the WWI Battle of Fromelles. In: Latham et al. (eds.) New perspectives in forensic human skeletal identification. Academic Press: USA. p323-332.

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ANNEX II - Humanitarian resolution (the applicants' perspective)

A selection of quotes from applicant interviews conducted by EHRAC/Memorial in recent years:

"If in the beginning I was also seeking punishment of perpetrators, today I'm old, and I want to find out the truth about my son before I die, irrespective of how painful that truth might be. Punishing anyone will not restore the balance of what they have done to me, the suffering they have caused me. No amount of money will make the pain go away."

"We only have one aim now- to find out what has happened to our sons."

"The CM I would want to ask to oblige Russia to inform us on the fate of our children."

".....all we want is to find out what happened to our son, but we are prevented from achieving even that."

"I do not wish for anyone to feel what I feel right now, all we want is to determine the fate of my son, whatever it might be."

"I just want to know if he is alive, serving this number of years in prison, or if he is dead. I want some peace in my heart,"

"I went to the ECtHR not for compensation, but because I hoped that when I sent my application to the Court, people would start searching for my son. Maybe he is serving a prison sentence somewhere, you never know. To this day I do not give up hope to find him and I will not give up my hope until the day I die."

"In case my brother is no longer alive, we would like to receive some proof of this, either a DNA-backed proof, or better to have his body returned to us."

"I do not need anything aside from finding out what happened to my son, is he alive, is he dead, is he serving a prison sentence? these are my thoughts, and concerns."

"...17 years have passed..... I support myself with hope that he is in prison, after all, you do hear stories like these and like, any mother, I hope he is alive even if this will mean that he is in prison."



“All I want and care about is for my son to be found dead or alive, the rest does not matter now that so much time has passed. I do still hope he is alive though like any mother would. People do return after serving 20, 25 years prison sentence after all.”

“We envy people who have found and buried their sons. We do not know anything about our sons, their fate is undetermined, hangs in the air. We don’t know whether they are dead or alive, if they are hungry or cold.”

“I would like to tell to the CoM to focus all their efforts on helping us to find our missing people, and to punish those who are responsible for their disappearance.”

“I do not need a compensation, I want to find my son.”

“To this day, we keep hoping to receive news about him, we keep giving charity on his behalf and on behalf of all other disappeared asking Allah to return them to us. I haven’t given up hope.”

“Even if I ask to find perpetrators, no one will search for them, and no one will find them, we know that too well. But if I could find my son and bury him (of course, I would prefer him to be alive), then I would stop suffering. Every night, I dream as if he is calling me, the suffering does not go away. Once you know that a person is dead, you bury him and continue your life, the suffering stops. What causes me pain today is not knowing whether my son is alive or dead. In my heart, I always feel that he needs my help. Crying does not help. But I doubt that I will ever find out the truth about my son. There are many other families whose relatives have disappeared. No one in this country is looking for my son or for them. No one came to me to tell me that they know about my pain, to tell me that they will do everything to find my son. Even if they pretended they have found him (meaning if they would tell him the son is dead), then my suffering would stop, and I would stop hearing my son’s call for help every night. Once you bury a person, your suffering eventually stops, but it never stops if the person is disappeared.”