

Na osnovu člana 112. stav 1. tačka 2. Ustava Republike Srbije, donosim

UKAZ

o proglašenju Zakona o potvrđivanju Sporazuma
o statusu i funkcijama Međunarodne komisije
za nestala lica

Proglašava se Zakon o potvrđivanju Sporazuma o statusu i funkcijama Međunarodne komisije za nestala lica, koji je donela Narodna skupština Republike Srbije, na Petoj sednici Prvog redovnog zasedanja u 2017. godini, 29. maja 2017. godine.

PR broj 30

U Beogradu, 29. maja 2017. godine

Predsednik Republike,

Tomislav Nikolić, s.r.

ZAKON

**o potvrđivanju Sporazuma o statusu i funkcijama
Međunarodne komisije za nestala lica**

Član 1.

Potvrđuje se Sporazum o statusu i funkcijama Međunarodne komisije za nestala lica, koji je sačinjen u Briselu, 15. decembra 2014. godine, u originalu na engleskom jeziku.

Član 2.

Tekst Sporazuma u originalu na engleskom jeziku i u prevodu na srpski jezik glasi:

AGREEMENT ON THE STATUS

AND

FUNCTIONS OF THE

INTERNATIONAL COMMISSION ON MISSING PERSONS

The Parties to this Agreement,

Concerned that in the world today large numbers of persons go missing every year as a result of armed conflicts, human rights abuses, natural and man-made disasters and other involuntary reasons;

Noting that the problem of missing persons does not respect borders and that the issue of the missing is increasingly viewed as a global concern, which warrants a structured and sustainable international response;

Understanding that in the last two decades there have been important advancements in addressing the issue, including law-based efforts to locate missing persons and the use of modern forensic methods to accurately account for them;

Aware of the cost to societies and families resulting from a failure to locate the missing, including the anguish suffered as a consequence of not knowing a loved-one's whereabouts or the circumstances of their disappearance;

Noting that predominantly men go missing, particularly as a result of armed conflicts and human rights abuses, and that those left behind, women and children, are especially vulnerable;

Acknowledging the efforts of governmental and nongovernmental organizations to address the issue of the missing around the world;

Affirming that States should take all practicable steps to locate the missing, as part of their commitments under international law, in particular human rights instruments and Articles 32-34 of Additional Protocol I to the Geneva Conventions;

Noting the extensive experience on issues of the missing that has been gained through the International Commission on Missing Persons, and expressing their commitment to improve on legal frameworks underpinning efforts to locate the missing;

Recalling that the International Commission was established at the initiative of US President Bill Clinton in 1996 at the G-7 Summit in Lyon, France, initially to secure the cooperation of governments to locate persons missing from the conflicts in the former Yugoslavia;

Further recalling that since 2004, the International Commission on Missing Persons has been a globally active organisation, assisting public authorities in locating and identifying missing persons, whether as a

consequence of armed conflicts, human rights abuses, natural and man-made disasters and other involuntary reasons, and contributing to justice and the advancement of the rule of law, thus redressing omissions in humanitarian law;

Welcoming the initiatives taken at the International Conference “The Missing: An Agenda for the Future,” The Hague, 2013, including the establishment of a Global Forum on Missing Persons;

Recognising the successful work of, and wishing to establish a clear legal status for, the International Commission on Missing Persons as an international organisation in order to better enable it to carry out its functions internationally;

Have agreed as follows:

ARTICLE I

Establishment and Status

1. The International Commission on Missing Persons is hereby established as an international organisation, hereinafter referred to as “the Commission”.
2. The Commission shall possess full international legal personality and enjoy such capacities as may be necessary for the exercise of its functions and the fulfilment of its purposes.
3. The Commission shall operate in accordance with this Agreement.

ARTICLE II

Purposes and Functions

The Commission endeavours to secure the co-operation of governments and other authorities in locating persons missing as a result of armed conflicts, human rights abuses, natural and man-made disasters and other involuntary reasons and to assist them in doing so. The Commission also supports the work of other organisations in their efforts, encourages public involvement in its activities and contributes to the development of appropriate expressions of commemoration and tribute to the missing.

ARTICLE III

Board of Commissioners and Director General

1. The Commission shall be composed of a Board of Commissioners, a Director General and Staff. The Commissioners shall be appointed from among eminent persons. The current members of the Board of Commissioners are listed in the Annex to this Agreement.
2. The Board of Commissioners shall have the right to adopt Regulations regarding inter alia the appointment of Commissioners and their terms, the terms of appointment of the Director General and other staff of the Commission. The Board of Commissioners shall adopt a programme of work that may be amended from time to time. The programme of work shall normally not exceed five years and shall include the Commission’s requirements for completing such work.
3. The Board of Commissioners shall take decisions to invite others to join the Board of Commissioners by consensus. Other decisions may be taken with one dissenting vote or abstention. The Board of Commissioners shall elect a Commissioner as chairperson.
4. The Board of Commissioners may decide to invite other eminent persons to join them as necessary and may invite the nomination of Commissioners by States, whether or not such States are Parties to this Agreement.
5. The Director General may retain external advisers and experts and maintain advisory mechanisms that include representatives of international and other organisations, as well as of civil society and academia.

ARTICLE IV

Conference of States Parties

1. The Conference shall represent the States Parties to this Agreement.
2. The Government of each State Party shall appoint a representative to act as a member of the Conference.
3. The Conference shall elect a President and a Vice President.
4. The Board of Commissioners and the Director General shall invite the Conference to convene at least every 3 years.
5. If the Conference wishes to meet in between the periods mentioned in paragraph 4 of this Article, such a meeting must be called by the Board of Commissioners and the Director General at the request of a majority of the Conference members.
6. The Conference shall:

- a. consider the Commission's reports on activity;
 - b. propose policy directives for the Board of Commissioners' programme of work;
 - c. recommend to States Parties measures to advance the aims of the Commission;
 - d. adopt the Conference's rules of procedure.
7. Decisions shall be taken by a majority of votes of States Parties present, including the election of the President and the Vice-President.
 8. The Board of Commissioners and the Director General may on an ad hoc basis invite non-States Parties, as well as international and other organisations, that support the work of the Commission to participate in the meetings of the Conference in the capacity of observers.
 9. A State Party shall be invited by the Director General to host the meeting of the Conference. Travel and accommodation costs related to the meeting will be borne by each State Party. The Director General shall provide the secretariat to the Conference.
 10. The Conference shall have a Financial Committee.

ARTICLE V

Financial Committee

1. The Committee shall represent States Parties that have supported the Commission financially during a reporting period.
2. The Government of each State Party referred to in paragraph 1 of this Article shall appoint a representative to act as a member of the Committee.
3. The Committee shall elect a Chairperson and a Vice Chairperson.
4. The Committee shall meet in the last quarter of each year.
5. The Committee shall:
 - a. consider the Commission's report on activity for the elapsed year and coming year;
 - b. adopt recommendations relating to the Commission's financial management in respect of which it shall take into account the views of important contributors to the Commission;
 - c. review and approve the Commission's Financial Regulations and reporting format;
 - d. adopt the Committee's rules of procedure.
6. The Chairperson, in consultation with the Director General may allow for the participation of other States, whether or not they are States Parties as well as international and other organisations as observers without a vote.
7. The Committee shall take decisions by majority of votes of its members present.
8. Each year a member of the Committee shall be invited by the Director General to host the Committee's meeting. Travel and accommodation costs related to the meeting will be borne by each member.

ARTICLE VI

Powers

In furtherance of the foregoing purposes and activities, the Commission shall have the following powers:

- a. to acquire and dispose of real and personal property;
- b. to enter into contracts and other types of agreements, including agreements to operate bank accounts and engage in other banking and financial transactions;
- c. to employ persons;
- d. to institute and defend in legal proceedings; and
- e. to take other lawful action necessary to accomplish the purposes of the Commission.

ARTICLE VII

Headquarters and International Agreements

1. The Commission shall establish a Headquarters in The Hague, the Netherlands. It shall conclude with the Host State a Headquarters Agreement according the Commissioners, staff, premises, archives and property the privileges and immunities that are necessary for the effective exercise of its functions and the fulfilment of its purposes.
2. The Commission shall seek agreements with the governments of States where its activities are to take place. These agreements should include provisions that accord its Commissioners, staff, premises, archives and property the privileges and immunities that are necessary for the effective exercise of its

functions and the fulfilment of its purposes.

3. The Headquarters Agreement referred to in paragraph 1 of this Article shall constitute the point of reference for the Commission for the conclusion of the international agreements referred to in paragraph 2 of this Article.

ARTICLE VIII

Financing

The financial requirements of the Commission, including its programme of work, shall be met through voluntary contributions, grants, donations and similar forms of income. No State Party to this Agreement or any other State or international organisation shall be required under this Agreement to make assessed or other contributions to finance the work of the Commission.

ARTICLE IX

Concluding Provisions

1. This Agreement shall be open for signature by all States at Brussels on 15 December 2014 and at The Hague from 16 December 2014 to 16 December 2015. A State which has signed this Agreement may declare that it shall apply this Agreement provisionally pending its entry into force.

2. This Agreement is subject to ratification, acceptance or approval by signatory States. Instruments of ratification, acceptance or approval shall be deposited with the Government of the Netherlands.

3. This Agreement shall be open to accession by all States. Instruments of accession shall be deposited with the Government of the Netherlands.

4. This Agreement shall enter into force thirty days after two States have expressed their consent to be bound in accordance with paragraph 2 or 3 of this Article.

5. For each State consenting to be bound after the date of entry into force of this Agreement, the Agreement shall enter into force for that State thirty days after the deposit of its instrument expressing its consent to be bound.

6. Any State Party may withdraw from this Agreement. Withdrawal shall take effect twelve months after receipt of the notification of withdrawal by the Depositary.

7. This Agreement shall be concluded for an initial period of five years, following which it may be reviewed or amended at the initiative of the original signatory States. It shall be extended for an indefinite period of time thereafter.

8. This Agreement shall be deposited with the Government of the Netherlands, which shall serve as the Depositary and shall provide each State Party with a certified copy of the Agreement.

9. The Depositary shall notify the States that have signed, ratified, accepted, approved or have acceded to this Agreement in accordance with paragraphs 1, 2 and 3 of this Article of the following:

- a. the signatures, declarations, ratifications, acceptances, approvals and accessions referred to in paragraphs 1, 2 and 3 of this Article;
- b. the dates of entry into force referred to in paragraphs 4 and 5 of this Article;
- c. any withdrawal and its date of effect referred to in paragraph 6 of this Article.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Agreement.

DONE at Brussels, on 15 December 2014, in the English language, in a single copy.

Certified true copy of the original

The Director of Treaties

of the Ministry of Foreign Affairs

of the Kingdom of the Netherlands

SPORAZUM

O STATUSU I FUNKCIJAMA

MEĐUNARODNE KOMISIJE ZA NESTALA LICA

Strane u ovom sporazumu,

Zabrinute što u današnjem svetu svake godine veliki broj lica nestane kao posledica oružanih sukoba, zloupotrebe ljudskih prava, prirodnih katastrofa i nesreća koje je izazvao čovek i drugih nedobrovoljnih razloga;

Primećujući da problem nestalih lica ne poštuje granice i da se pitanje nestalih sve češće posmatra kao nešto što izaziva zabrinutost na svetskom nivou, a za šta je potreban definisan i održiv međunarodni odgovor;

Shvatajući da je tokom poslednje dve decenije došlo do važnih pomaka u bavljenju ovim pitanjem, uključujući tu i pravno zasnovana nastojanja da se utvrdi gde su nestala lica i korišćenje savremenih sudskomedicinskih metoda radi tačnog ustanovljavanja njihove sudbine;

Svesne troškova po društvo i porodicu koji proističu iz nemogućnosti da se utvrde gde su nestali, kao i pretrpljene tuge i bola zbog neznanja gde su im voljeni ili okolnosti pod kojima su nestali;

Imajući na umu da su nestala lica uglavnom muškarci, naročito kada se radi o posledicama oružanih sukoba i zloupotrebe ljudskih prava, a da su oni koji za njima ostanu, žene i deca, naročito ranjivi;

Pozdravljajući napore vladinih i nevladinih organizacija na bavljenju pitanjem nestalih širom sveta;

Potvrđujući da države potpisnice treba da preduzmu sve praktične korake radi utvrđivanja gde se nalaze nestali, i to kao deo obaveza po osnovu međunarodnog prava, naročito instrumenata ljudskih prava i čl. 32–34. Dopunskog protokola I iz Ženevske konvencije;

Imajući na umu obimno iskustvo na pitanjima nestalih koje je stečeno preko Međunarodne komisije za nestala lica, te izražavajući rešenost da se poboljšaju pravni okviri koji podržavaju napore na traženju nestalih;

Podsećajući da je Međunarodna komisija osnovana na inicijativu predsednika SAD Bila Klintonu 1996. godine na Samitu G-7 u Lionu u Francuskoj, prvobitno radi obezbeđivanja saradnje vlada na traženju nestalih iz sukoba u bivšoj Jugoslaviji;

Dalje podsećajući da je Međunarodna komisija za nestala lica od 2004. godine organizacija koja je aktivna u celom svetu, pomažući organima državne vlasti u traženju i identifikovanju nestalih lica, bilo da je njihov nestanak usledio kao posledica oružanih sukoba, zloupotrebe ljudskih prava, prirodnih katastrofa ili onih koje je čovek uzrokovao, ili drugih nedobrovoljnih razloga, te dajući doprinos pravdi i unapređenju vladavine prava, čime se otklanjaju propusti u humanitarnom pravu;

Pozdravljajući inicijative pokrenute na Međunarodnoj konferenciji „Nestali: na dnevnom redu za budućnost” održanoj u Hagu 2013. godine, uključujući tu i uspostavljanje Globalnog foruma za nestala lica;

Prepoznajući uspešan rad Međunarodne komisije za nestala lica i sa željom da se uspostavi njen jasan pravni status kao međunarodne organizacije, a radi toga da joj se bolje omogući da sprovodi svoje funkcije na međunarodnom nivou;

Saglasile su se kako sledi:

ČLAN 1.

Osnivanje i status

1. Ovim se Međunarodna komisija za nestala lica osniva kao međunarodna organizacija, a u daljem tekstu pominje se kao „Komisija”.
2. Komisija ima puni međunarodni pravni subjektivitet i uživa takva svojstva koja mogu biti neophodna za vršenje njenih funkcija i ispunjenje njenih svrha.
3. Komisija deluje u skladu sa ovim sporazumom.

ČLAN 2.

Svrhe i funkcije

Komisija nastoji da obezbedi saradnju država i drugih organa u traženju lica nestalih kao posledica oružanih sukoba, zloupotrebe ljudskih prava, prirodnih katastrofa i onih koje je čovek izazvao i drugih nedobrovoljnih razloga, i pomaže im u tome. Komisija takođe podržava rad drugih organizacija u njihovim naporima, podstiče učešće javnosti u svojim aktivnostima i doprinosi razvoju odgovarajućih vidova komemoracija i odavanju počasti nestalima.

ČLAN 3.

Odbor poverenika i Generalni direktor

1. Komisiju čine Odbor poverenika, Generalni direktor i zaposleni. Poverenici se biraju među eminentnim ličnostima. Sadašnji članovi Odbora poverenika navedeni su u Aneksu uz ovaj sporazum.
2. Odbor poverenika ima pravo da usvaja propise koji se odnose, između ostalog, na imenovanje poverenika i njihove mandate, mandat imenovanja Generalnog direktora i mandat drugih zaposlenih u Komisiji. Odbor poverenika usvaja program rada koji se može po potrebi menjati. Program rada obično ne prelazi period od pet godina i sadrži potrebe Komisije za obavljanje takvog rada.
3. Odbor poverenika donosi odluke da pozove druga lica da se pridruže Odboru poverenika konsenzusom. Druge odluke mogu biti donete uz jedan glas protiv ili jedan uzdržan glas. Odbor poverenika bira jednog poverenika za predsedavajućeg.

4. Odbor poverenika može odlučiti da pozove druge eminentne ličnosti da im se pridruže ukoliko je to potrebno i može pozvati da se poverenici nominuju od strane država, bilo da su takve države strane ugovornice u ovom sporazumu ili nisu.

5. Generalni direktor može zadržati spoljašnje savetnike i stručnjake i održavati savetodavni mehanizam koji obuhvata predstavnike međunarodnih i drugih organizacija, kao i civilnog društva i akademske zajednice.

ČLAN 4.

Konferencija država potpisnica

1. Konferencija predstavlja države potpisnice u ovom sporazumu.
2. Vlada svake države učesnice imenuje predstavnika koji deluje kao član Konferencije.
3. Konferencija bira predsednika i potpredsednika.
4. Odbor poverenika i Generalni direktor sazivaju Konferenciju najmanje jednom u tri godine.
5. Ako Konferencija ima želju da se sastane između perioda pomenutih u stavu 4. ovog člana, takav sastanak moraju sazvati Odbor poverenika i Generalni direktor na zahtev većine članova Konferencije.
6. Konferencija:
 - a. razmatra izveštaje o aktivnosti Komisije;
 - b. predlaže programske smernice za rad Odbora poverenika;
 - c. preporučuje državama učesnicama mere radi postizanja ciljeva Komisije;
 - d. usvaja poslovnik o radu Konferencije.
7. Odluke se donose većinom glasova prisutnih država potpisnica, uključujući tu i biranje predsednika i potpredsednika.
8. Odbor poverenika i Generalni direktor mogu povremeno i po potrebi (ad hoc) pozvati strane koje nisu države učesnice, kao i međunarodne i druge organizacije, a koje podržavaju rad Komisije, da učestvuju na sastancima Konferencije u svojstvu posmatrača.
9. Državu potpisnicu poziva Generalni direktor da bude domaćin sastanku Konferencije. Troškove putovanja i smeštaja koji se odnose na sastanak snosiće svaka država učesnica. Generalni direktor obezbeđuje sekretarijat za Konferenciju.
10. Konferencija ima finansijski odbor.

ČLAN 5.

Finansijski odbor

1. Odbor predstavlja države potpisnice koje su finansijski podržale Komisiju tokom izveštajnog perioda.
2. Vlada svake države potpisnice iz stava 1. ovog člana imenuje predstavnika koji nastupa kao član Odbora.
3. Odbor bira predsedavajućeg i zamenika predsedavajućeg.
4. Odbor se sastaje poslednjeg kvartala svake godine.
5. Odbor:
 - a. razmatra izveštaj Komisije o radu za godinu na isteku i sledeću godinu;
 - b. usvaja preporuke koje se odnose na finansijsko upravljanje Komisije u vezi sa čim obavezno uzima u obzir stanovišta važnih davalaca doprinosa Komisiji;
 - c. preispituje i odobrava Finansijske propise i format za izveštavanje Komisije;
 - d. usvaja poslovnik o radu Odbora.
6. Predsedavajući u konsultaciji sa Generalnim direktorom može dozvoliti učešće drugih država, bilo da su države potpisnice ili ne, kao i međunarodnih i drugih organizacija kao posmatrača, bez prava glasa.
7. Odbor donosi odluke većinom glasova prisutnih članova.
8. Svake godine Generalni direktor poziva člana Odbora da bude domaćin sastanku Odbora. Troškove putovanja i smeštaja koji se odnose na sastanak snosi svaki član.

ČLAN 6.

Ovlašćenja

Radi napredovanja u vezi sa prethodno pomenutim svrhama i aktivnostima Komisija ima sledeća ovlašćenja:

- a. da stiče nepokretnu i ličnu imovinu i da njome raspolaže;