



International Covenant on Civil and Political Rights

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Human Rights Committee

Communication No. 2003/2010

Views adopted by the Committee at its 111th session (7–25 July 2014)

<i>Submitted by:</i>	Zilkija Selimović et al. (represented by counsel, Track Impunity Always–TRIAL)
<i>Alleged victim:</i>	The authors and their missing relatives
<i>State party:</i>	Bosnia and Herzegovina
<i>Date of communication:</i>	4 May 2010 (initial submission)
<i>Document references:</i>	Special Rapporteur's rule 97 decision, transmitted to the State party on 16 November 2010
<i>Date of adoption of Views:</i>	17 July 2014
<i>Subject matter:</i>	Enforced disappearance and effective remedy
<i>Substantive issues:</i>	Right to life, prohibition of torture and other ill-treatment, liberty and security of person, right to be treated with humanity and dignity, recognition of legal personality, right to an effective remedy, and every child's right to such measures of protection as are required by their status as minor
<i>Procedural issues:</i>	None
<i>Articles of the Covenant:</i>	2 (para. 3); 6; 7; 9; 10; 16; 24 (para. 1)
<i>Articles of the Optional Protocol:</i>	2

GE.14-18623 (E)



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Annex

Views of the Human Rights Committee under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights (111th session)

concerning

Communication No. 2003/2010*

Submitted by: Zilkija Selimović et al. (represented by counsel, Track Impunity Always–TRIAL)

Alleged victim: The authors and their missing relatives

State party: Bosnia and Herzegovina

Date of communication: 4 May 2010 (initial submission)

The Human Rights Committee, established under article 28 of the International Covenant on Civil and Political Rights,

Meeting on 17 July 2014,

Having concluded its consideration of communication No. 2003/2010, submitted to the Human Rights Committee by Zilkija Selminović et al. under the Optional Protocol to the International Covenant on Civil and Political Rights,

Having taken into account all written information made available to it by the authors of the communication and the State party,

Adopts the following:

Views under article 5, paragraph 4, of the Optional Protocol

1. The authors of the communication, dated 4 May 2010, are 25 relatives¹ of Rasim Selimović, Mensud Durić, Safet Hodžić, Himzo Hadžić, Abdulah Jelašković, Sinan Salkić,

* The following members of the Committee participated in the examination of the present communication: Yadh Ben Achour, Lazhari Bouzid, Cornelis Flinterman, Yuji Iwasawa, Walter Kälin, Zonke Zanele Majodina, Gerald L. Neuman, Sir Nigel Rodley, Víctor Manuel Rodríguez Rescia, Fabián Omar Salvioli, Dheerujall B. Seetulsingh, Anja Seibert-Fohr, Yuval Shany, Konstantine Vardzelashvili, Margo Waterval and Andrei Paul Zlătescu. The text of a joint opinion by Committee members Fabián Omar Salvioli and Víctor Manuel Rodríguez Rescia (concurring) is appended to the present Views.

¹ Zilkija Selimović, Admir Selimović (wife and son); Mejra Durić, Suljo Durić (mother and brother); Rabija Hodžić, Munevera Zahirović (wife and daughter); Nada Hadžić, Mirza Hadžić, Muhamed Hadžić (wife and sons); Aida Abadija (daughter of Abdulah Jelašković); Zilka Salkić, Nijaz Salkić (wife and son); Mediha Alić, Amra Alić, Samra Alić (wife and daughters); Halida Podžić (daughter of Emin Jelečković); Servedina Abaz, Jasmin Abaz, Eldijana Džogić (wife, son and daughter); Emina Kander, Nermin Kander, Eldina Kander (wife, son and daughter); Habiba Fejzović (wife); Ajnija Šehić and Berina Šehić (wife and daughter). On 15 July 2013, the authors informed the Committee that Mejra Durić had passed away.

Idriz Alić, Emin Jelečković, Hasan Abaz, Hakija Kander, Esad Fejzović and Đemo Šehić, 12 nationals of Bosnia and Herzegovina who were detained on 4 May 1992 and disappeared thereafter. The authors are submitting the communication on their behalf and on behalf of their disappeared relatives. They claim to be victims of a violation by Bosnia and Herzegovina of their rights under articles 6, 7, 9, 10 and 16, in conjunction with article 2, paragraph 3, of the International Covenant on Civil and Political Rights. The nine authors who were minors at the time of the arrest and disappearance of their relatives allege that the State party violated their right for special protection as minors until they reached their majority. They claim a violation of article 7 and article 2, paragraph 3, in conjunction with article 24, paragraph 1, of the Covenant. The authors are represented by Track Impunity Always (TRIAL).²

The facts as presented by the authors

2.1 The events took place during the armed conflict surrounding the independence of Bosnia and Herzegovina. On 4 May 1992, the victims and their families were arbitrarily deprived of their liberty in Svrake by members of the army of the Republika Srpska (Vojaska Republike Srpske–VRS) together with most of the inhabitants of the same village (about 850 people). Himzo Hadžić, Safet Hodžić, Mensud Durić, Rasim Selimović, Sinan Salkić, Idriz Alić, Hasan Abaz, Hakija Kander, Emin Jelečković, Esad Fejzović and Đemo Šehić had all been enlisted since the beginning of the conflict.³ However, when the events took place, they were all at home with their respective families and they were not taking part in any combat operation. They were taken from their homes by members of VRS and subsequently transferred to a concentration camp called “Kasarna JNA”, in Semizovac, where the barracks of the National Yugoslav Army (Jugoslavenska Narodna Armija–JNA) were located. The survivors of the events recognized some of the soldiers as former neighbours.

2.2 On 14 May 1992, some older men, and women and children, including some of the authors, were allowed to leave the camp with the help of the local Visoko Red Cross. Some of them could go home, and on 23 May 1992, they were transported to the town of Visoko, which was under the control of the Bosnian army.

2.3 In the meantime, the men of the village were taken to the concentration camp called “Nakina Garaža”. After 21 days in the camp, Rasim Selimović, Safet Hodžić, Himzo Hadžić, Abdulah Jelašković, Idriz Alić, Emin Jelečković, Hasan Abaz, Hakija Kander, Esad Fejzović and Đemo Šehić were released and could go home under the condition to report twice a day to members of VRS. Three days later, they were requested to report three times a day to the concentration camp known as “Planjina Kuća”, located in Svrake, where they were also forced to sleep. According to survivors, the men had to perform forced labour, such as rebuilding their houses for other people to use, digging trenches and working in a nearby factory, and they were beaten and tortured. Eyewitnesses stated that, on 16 June 1992, Mensud Durić, Himzo Hadžić, Safet Hodžić, Idriz Alić, Hakija Kander and Emin Jelečković were taken with other prisoners (a total of 12 persons) by a member of VRS, Dragan Damjanović,⁴ to an unknown destination. That was the last time they were seen. Rasim Selimović, Abdulah Jelašković, Hasan Abaz and Esad Fejzović were last seen in the same concentration camp on 18 June 1992, when they were also taken away in a truck, along with a group of other prisoners, by soldiers of the army of the Republika Srpska. Đemo Šehić witnessed the first group of men being taken away on 16 June 1992 to an unknown destination. He immediately took the decision to escape towards the village of

² The Optional Protocol entered into force for the State party on 1 June 1995.

³ During the conflict, military conscription was mandatory.

⁴ With regard to Dragan Damjanović’s later history, see paragraph 2.14 below.

Paljevo, which was under the control of JNA. His family thinks that he was captured and arbitrarily executed by members of JNA, but his remains have never been located and his fate and whereabouts remain unknown.⁵ Sinan Salkić was released on 14 May 1992, under the condition that he would report three times a day to Planjina Kuća. A camp guard named Z.L. informed the author Nijaz Salkić of hearsay concerning his father's death, saying that three or four armed men had gone to Sinan Salkić's house on 10 June 1992, had arrested him without charge, had arbitrarily executed him on the bridge near the entrance of village of Svrake and had thrown his body into the Bosna river. His remains have never been found.

2.4 The armed conflict came to an end in December 1995, when the General Framework Agreement for Peace in Bosnia and Herzegovina (the Dayton Agreement) entered into force.⁶

2.5 More than 18 years after the disappearance of the 12 victims, no ex officio, prompt, impartial, thorough, independent and effective investigation has been carried out by the State authorities. Notwithstanding the existence of evidence as to those responsible for the apprehension and enforced disappearance of the victims, no one has been summoned, indicted or convicted for these crimes, thus fostering an ongoing climate of impunity.

2.6 As to the exhaustion of domestic remedies, the authors submit that, even though entire family groups were affected by the disappearance of their loved ones, each family decided that only one person (usually the spouse or the mother of the disappeared and, in some other cases, the sons or daughters) would represent officially the family before local authorities in order to avoid confusion or duplication.

2.7 Under the Federation Law on Administrative Procedure,⁷ relatives of disappeared persons were requested to obtain, through a non-litigation procedure, a decision from local courts declaring their loved ones dead. Furthermore, article 21 of the law on the rights of demobilized soldiers and their families established that "the rights referred to in paragraph 1 of this article shall be also employed by members of [the] family of [the] missing defender until he is declared deceased but no longer than two years after this Law comes into force if during that period they do not commence a procedure to declare the missing defender deceased".⁸ Despite the severe additional pain caused by this procedure, Zilkija Selimović, Mejra Durić, Nada Hadžić, Rabija Hodžić, Nijaz Salkić, Aiša Jelečović (the wife of Emin Jelečović), Servedina Abaz, Emina Kander, Mediha Alić, Habiba Fejzović and Ajnija Šehić declared their respective relatives dead, as it was the only way for them to alleviate a particularly difficult material situation. The corresponding decisions of the Municipal Court of Sarajevo were obtained between 1993 and September 2005,⁹ and those 11 authors obtained monthly pensions.¹⁰ This pension is a form of social assistance, and therefore cannot be considered to be an adequate measure of reparation for the violations

⁵ In 1998, the family of Đemo Šehić received a report that his body had been buried in a certain woods. They informed the police in Vogošća, but there was no official follow-up, and the family's own efforts to find the alleged burial place were not successful.

⁶ In accordance with the Dayton Agreement, Bosnia and Herzegovina consists of two entities: the Federation of Bosnia and Herzegovina and the Republika Srpska. The Brčko District, under the exclusive sovereignty of the State and international supervision, was formally inaugurated on 8 March 2000.

⁷ Federation of Bosnia and Herzegovina, Gazette Nos. 2/98 and 48/99.

⁸ Translation provided by the authors.

⁹ A copy of each corresponding decision is available in the file.

¹⁰ The monthly pensions granted ranged from KM58 (about 30 euros) to KM443.10 (about 228 euros).

suffered. Admir Selimović, Aida Abadija,¹¹ Munevera Zahirović, Suljo Durić, Muhamed Hadžić, Nijaz Salkić, Halida Podžić, Nermin Kanđer and Amra Alić are not even receiving such social assistance and have not been awarded any compensation for the harm suffered.

2.8 On 16 August 2005, the authors, together with other members of the Association of Families of Missing Persons from Vogošća, reported the kidnapping¹² of 98 people, including their missing relatives, to the Fifth Police Station in Vogošća. On 9 September 2005, they filed a criminal complaint with the Sarajevo Cantonal Prosecutor against unidentified members of VRS in relation to the disappearance of their relatives. They did not receive any response. The 12 victims are registered as missing persons in the databases of the State Commission for the Search of Missing Persons and of the International Committee of the Red Cross (ICRC).

2.9 Between September and October 2005, the authors submitted applications to the Human Rights Commission of the Constitutional Court of Bosnia and Herzegovina, claiming a violation of articles 3 and 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) and of article II, paragraph 3 (b) and (f), of the Constitution of Bosnia and Herzegovina.¹³ The Court decided to join all the applications and others submitted by members of the Association of Families of Missing Persons from Vogošća and therefore dealt with them as one collective case. On 23 February 2006, the Court adopted a decision, concluding that the applicants of that collective case were relieved of the obligation to exhaust domestic remedies before ordinary courts, as no specialized institution on enforced disappearance in Bosnia and Herzegovina seemed to be operating effectively.¹⁴ The Court further found that there had been a violation of articles 3 and 8 of the European Convention on Human Rights in view of the lack of information on the fate of the disappeared relatives of the applicants. The Court ordered the Bosnia and Herzegovina authorities concerned to provide “all accessible and available information on members of the applicants’ families who went missing during the war, [...] urgently and without further delay and no later than 30 days from the date of the receipt of the decision”. The Court also ordered the parties referred to in article 15 of the Law on Missing Persons to provide for the operational functioning of the institutions established in accordance with that law, namely, the Missing Persons Institute, the Fund for Support to the Families of Missing Persons in Bosnia and Herzegovina and the Central Register of Missing Persons in Bosnia and Herzegovina, immediately and without further delay and by no later than 30 days, and the competent authorities were requested to submit information within six months to the Court about the measures taken to implement the Court’s decision.

2.10 The Constitutional Court did not adopt a decision on the matter of compensation, considering that it was covered by the provisions of the Law on Missing Persons concerning “financial support” and by the establishment of the Fund for Support to the Families of Missing Persons. The authors argue that the provisions on financial support referred to by the Court have not been implemented and that the fund has still not been established.

¹¹ Under the existing legislation, Aida Abadija, daughter of Abdulah Jelašković, would not have been entitled to receive a monthly pension. She was therefore able to avoid declaring her father dead.

¹² “Kidnapping” is the word used by the authors.

¹³ A copy of the complaints is available in the file.

¹⁴ Principle on admissibility stated in Constitutional Court of Bosnia and Herzegovina, *M.H. et al.* (No. AP-129/04), decision of 27 May 2005, paras. 37–40, referred to in *Stepanović et al.* (No. AP-36/06), judgement of 16 July 2007, in relation to the case of Mensud Rizvanović.

2.11 In July and August 2006, some of the applicants (Aida Abadžija, Zilkija Selimović, Aiša Jelečović, Servedina Abaz, Mediha Alić, Habiba Fejzović) received template letters from the Republika Srpska Government Office for Tracing Missing Persons, whereby it was declared that their loved ones had been inscribed in the register of missing persons of ICRC. That template letter was the last received in the context of the implementation of the Constitutional Court decision. None of the other authors received any letter from the Office. No relevant information on the fate and whereabouts of the authors' relatives was provided to the Constitutional Court or to the authors before the expiry of the time limit set by the Court in its decision of 16 July 2007 (see footnote 14 above).

2.12 On 18 November 2006, the Constitutional Court held that its decision of 23 February 2006 had not been fully enforced. While the Republika Srpska had released all information in its possession, the Federation of Bosnia and Herzegovina, the State and the Brčko District had not. Furthermore, the Missing Persons Institute, the Central Register of Missing Persons and the Fund for Support to the Families of Missing Persons had not yet become operational. The authors were notified of that decision on 18 December 2006 and, as non-enforcement of the decisions of the Constitutional Court constitutes a criminal offence, the decision was submitted to the State Prosecutor. To the authors' knowledge, the Prosecutor's Office has not taken any relevant measure to criminally prosecute those who did not enforce the decision of the Constitutional Court. The ruling of the Constitutional Court being final and binding, the authors have no other effective remedy to exhaust.

2.13 In the context of the ongoing proceeding, many of the authors also filled ante-mortem questionnaires and gave their DNA samples to ICRC, the Red Cross Society of Bosnia and Herzegovina and the Red Cross of the Federation of Bosnia and Herzegovina to facilitate the identification process of the mortal remains exhumed by local forensic experts. To date, none of the authors have received any feedback on the initiative. None of the authors know with certainty the fate or whereabouts of their loved ones, and none have been able to bury their loved ones' mortal remains in accordance with their beliefs and customs.

2.14 On 15 December 2006, the State Court of Bosnia and Herzegovina sentenced Dragan Damjanović to 20 years of imprisonment for crimes against humanity. The indictment alleged that he had gone to the Planjina Kuća camp on several occasions and that, with the help of camp guards, he had used a large number of prisoners as human shields, resulting in serious injury and even in the death of some. However, he was not summoned or convicted for the torture and enforced disappearance of the authors' missing relatives.¹⁵

Complaint

3.1 The authors submit that, even though the events took place before the entry into force of the Optional Protocol for the State party, enforced disappearances are per se a continuing violation of several human rights. The authors refer to (a) the lack of information about the causes and circumstances of the disappearance of their relatives; (b) the failure of the national authorities to conduct an ex officio, prompt, impartial, thorough and independent investigation into their arbitrary arrests and subsequent enforced disappearances; (c) the failure to identify, prosecute and sanction those responsible; and (d) the failure to provide an effective remedy to their respective families. They consider that those violations of their rights continue after the entry into force of the Optional Protocol, and amount to a violation of articles 6, 7, 9, 10 and 16, in conjunction with article 2, paragraph 3, of the Covenant.

¹⁵ See *Damjanović*, judgement of 15 December 2006, which became final on 13 June 2007.

3.2 The authors consider that the responsibility for shedding light on the fate of their missing relatives lies with the State party. They refer to a report of the Working Group on Enforced or Involuntary Disappearances in which it is stated that the primary responsibility for carrying out the tasks required to prove death, namely, excavating mass graves and exhuming and identifying all the mortal remains, lies with the authorities under whose jurisdiction a suspected mass grave falls.¹⁶ The authors further argue that the State party has an obligation to conduct a prompt, impartial, thorough and independent investigation into gross human rights violations, such as enforced disappearance, torture or arbitrary killings. In general, the obligation to conduct an investigation also applies in cases of killings or other acts affecting the enjoyment of human rights that are not imputable to the State. In such cases, the obligation to investigate arises from the duty of the State to protect all individuals under its jurisdiction from acts committed by private persons or groups of persons which may impede the enjoyment of their human rights.¹⁷ In the present case, despite the complaints promptly filed by the authors or their families to the local authorities and to the Red Cross, no ex officio, prompt, thorough impartial, independent and effective investigation has been carried out in order to locate Himzo Hadžić, Safet Hodžić, Mensud Durić, Rasim Selimović, Abdulah Jelašković, Sinan Salkić, Idriz Alić, Hasan Abaz, Hakija Kander, Emin Jelečković, Esad Fejzović and Đemo Šehić, or to clarify their fate and whereabouts. Notwithstanding the existence of strong evidence and concordant testimonies on the identity of those responsible for the arbitrary deprivation of liberty, ill-treatment, forced labour and enforced disappearance or arbitrary killing of the 12 men, to date no one has been summoned, indicted, judged or convicted for the crimes concerned.

3.3 With regard to article 6, the authors refer to the Committee's jurisprudence, according to which a State party has a primary duty to take appropriate measures to protect the life of a person. In cases of enforced disappearance, the State party has an obligation to investigate and bring perpetrators to justice. By not doing so, the State party continues to violate the victims' right to life, in violation of article 6, read in conjunction with article 2, paragraph 3, of the Covenant. The 12 victims in the present case were illegally detained by State agents and have remained unaccounted for since 10 June 1992 (Sinan Salkić), 16 June 1992 (Mensud Durić, Safet Hodžić, Himzo Hadžić, Hakija Kander, Idriz Alić, Emin Jelečković and Đemo Šehić) and 18 June 1992 (Rasim Selimović, Abdulah Jelašković, Hasan Abaz and Esad Fejzović). Although there are reasons to believe that they all have been arbitrarily executed, their mortal remains still have not been located, exhumed, identified and returned to their families. Domestic authorities and international bodies such as ICRC qualify the 12 men as "missing persons", and the State authorities remain under an ongoing obligation to search for the missing persons and to identify them, as well as to investigate the circumstances and cause of their death, and to return the mortal remains.

3.4 The authors further submit that their missing relatives were illegally detained by members of VRS, and that they were held in three different concentration camps without communication with the outside world and were subjected to torture and inhuman and degrading treatment, including forced labour. Their enforced disappearance constitutes in itself a form of torture, into which no ex officio, prompt, impartial, thorough and

¹⁶ The authors refer to the report submitted by Manfred Nowak in his capacity as the expert member of the Working Group responsible for the special process on missing persons in the territory of the former Yugoslavia (E/CN.4/1996/36), para. 78.

¹⁷ The authors refer to the Committee's general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 8; Inter-American Court of Human Rights, *Velásquez Rodríguez v. Honduras*, judgement of 29 July 1988, Series C, No. 4, para. 172; and European Court of Human Rights, *Demiray v. Turkey*, Application No. 27308/95, judgement of 21 November 2000, para. 50, *Tanrikulu v. Turkey*, Application No. 23763/94, judgement of 8 July 1999, para. 103 and *Ergi v. Turkey*, Application No. 23818/94, judgement of 28 July 1998, para. 82.

independent investigation has yet been carried out by the State party in order to identify, prosecute, judge and sanction those responsible. The authors therefore consider that this amounts to a violation of article 7, read in conjunction with article 2, paragraph 3, of the Covenant. They further recall the Committee's jurisprudence, which has recognized that enforced disappearance itself constitutes a violation of article 10 of the Covenant.¹⁸ Since the torture and inhuman and degrading treatment suffered by the victims in detention have never been investigated, the authors consider that the State party has also violated article 10, read in conjunction with article 2, paragraph 3, of the Covenant.

3.5 The victims were arrested on 4 May 1992 by members of VRS without an arrest warrant, and their detention was not recorded in any official register or proceedings brought before a court to challenge the lawfulness of their detention. As no explanation has been given and no efforts have been made to clarify the fate of the victims, the authors consider that the State party has violated article 9, read in conjunction with article 2, paragraph 3, of the Covenant.

3.6 The authors further refer to the jurisprudence of the Committee, under which enforced disappearance may constitute a refusal to recognize the victim before the law if that person was in the hands of the authorities of the State party when last seen, and if the efforts of their relatives to obtain access to effective remedies have been systematically denied.¹⁹ In the instant case, 11 of the victims were last seen in the hands of members of VRS, while Đemo Šehić was last seen in an area under the control of JNA. The ceaseless efforts undertaken by the authors to shed light on the fate of their relatives have been impeded since their disappearance. The State party is therefore also allegedly responsible for a continuing violation of article 16, read in conjunction with article 2, paragraph 3, of the Covenant.

3.7 The authors allege that they are themselves victims of a violation by Bosnia and Herzegovina of article 7, read alone and in conjunction with article 2, paragraph 3, of the Covenant because of the severe mental distress and anguish caused by: (a) the disappearance of their respective relatives; (b) the de facto requirement to declare them dead to be entitled to a pension; (c) the continued uncertainty about their fate and whereabouts; (d) the failure to investigate and ensure an effective remedy; (e) the lack of attention to their case reflected, for example, in the use of template letters to reply to their requests for information as to the fate and whereabouts of their loved ones; (f) the non-implementation of various provisions of the Law on Missing Persons, including those concerning the establishment of the Fund for Support to the Families of Missing Persons; and (g) the failure by the State party to implement the judgement of the Constitutional Court of Bosnia and Herzegovina. The authors therefore consider that they have been victims of a separate violation of article 7, read alone and in conjunction with article 2, paragraph 3, of the Covenant.

3.8 Finally, nine of the authors, namely, Mirza Hadžić, Muhamed Hadžić, Amra Alić, Samra Alić, Jasmin Abaz, Eldijana Džogić, Nermin Kander, Eldina Kander and Berina Šehić, submit that they were minors when they were detained and ill-treated and witnessed the enforced disappearance of their missing relatives. They have experienced the ongoing anguish of not knowing the truth of what happened to the victims. They never received any compensation for the harm suffered as a result of the disappearance of their relatives. The authors submitted that the State party had violated the rights of those nine authors under

¹⁸ The authors refer to *Sharma v. Nepal*, communication No. 1469/2006, Views adopted on 28 October 2008, para. 7.7.

¹⁹ Communications No. 1495/2006, *Madoui v. Algeria*, Views adopted on 28 October 2008, para. 7.7, and No. 1327/2004, *Grioua v. Algeria*, Views adopted on 10 July 2007, para. 7.9.

article 7, read in conjunction with article 2, paragraph 3, of the Covenant and the same rights in conjunction with article 24, paragraph 1, of the Covenant, as they were minors in need of special protection until, respectively, 17 January 2010, 15 December 2001, 26 January 2003, 24 April 2005, 3 February 2003, 24 April 2000, 24 February 2002, 16 July 2003 and 23 May 2005.

State party's observations

4.1 The State party submitted observations on 27 April 2011. It refers to the legal framework that has been established for the prosecution of war crimes in the post-war period, since December 1995. It informs the Committee that a National Strategy for War Crimes Processing was adopted in December 2008, with the objective of finalizing prosecution of the most complex war crimes in 7 years, and of "other war crimes" within 15 years of the adoption of the strategy. The State party further refers to the adoption of the Law on Missing Persons by which the Missing Persons Institute was created, and recalls that, of the nearly 32,000 persons who went missing during the war, the remains of 23,000 have been found, and 21,000 have been identified.

4.2 In its observations, the State party submits that a regional office was established in Istočno Sarajevo, as well as a field office and units in Sarajevo. The State party considers that those initiatives provide the conditions for faster and more efficient processes in the search for disappeared persons in the territory of Sarajevo. Their investigators are present on the sites on a daily basis to collect information on potential mass graves and to establish contact with witnesses. The State party further informs the Committee that the remains of Himzo Hadžić, Safet Hodžić, Mensud Durić, Rasim Selimović, Abdulah Jelašković, Sinan Salkić, Idriz Alić, Hasan Abaz, Hakija Kander, Emin Jelečković, Esad Fejzović and Đemo Šehić could perhaps be found in the area of Vogošća or somewhere in the municipality of Centar, Sarajevo (Nahorevska Brda). The State party reports that, since 1996 to date, the bodies of 135 victims have been found and exhumed, and 120 missing persons have been identified. It guarantees that the Missing Persons Institute, with the support of appropriate authorities, will continue to take all the necessary actions to find missing persons faster and to solve the case of the 12 men who went missing from Svrače, municipality of Vogošća.

4.3 The State party also transmits a report of the mayor of the municipality of Vogošća, indicating that a memorial for the victims of enforced disappearances has been built, that the day of their disappearance is commemorated every year, and that the municipality deploys all efforts to support the tracing of missing persons.²⁰

Authors' comments on the State party's observations

5.1 The authors submitted their comments on the State party's observations on 30 May 2011. They refer to general comment No. 9 (2010) of the Working Group on Enforced or Involuntary Disappearances on enforced disappearance as a continuous crime (A/HRC/16/48, para. 39). They consider that the State party's observations corroborate that the 12 victims remain registered as "unaccounted for", and report that no match has been found through the online inquiry tool set up by the International Commission on Missing Persons. The tracing process is therefore still open under the authorities of the State party.

5.2 The authors consider that the observations of the State party do not raise any challenge to the claims they submitted and that the State party does not refer to any ongoing investigation to identify those responsible, or to any measures taken to establish the fate and whereabouts of the 12 victims. The authors report that, to date, neither they nor any of the

²⁰ Letter dated 15 March 2011, Ref. 09-int-1714/11.

witnesses in their case have been contacted by the regional office in Istočno Sarajevo or the field office in Sarajevo referred to by the State party, despite their assertion that they would be able to provide those authorities with information that could be relevant to locating Himzo Hadžić, Safet Hodžić, Mensud Durić, Rasim Selimović, Abdulah Jelašković, Sinan Salkić, Idriz Alić, Hasan Abaz, Hakija Kander, Emin Jelečković, Esad Fejzović and Đemo Šehić.²¹

5.3 The authors contend that, six years after their filing of the original complaint for the kidnapping of 98 people with the police, they still had received no feedback on whether an investigation was being carried out and whether their case had been given a specific number. Given the lack of feedback, Ema Čekić, in her capacity as President of the Association of Families of Missing Persons from Vogošća, wrote a letter to the Missing Persons Institute to inquire about the status of the investigation. On 29 April 2011, she received a reply from the Cantonal Prosecutor's Office stating that, after conducting the necessary verifications, a case had been filed against Drago Radosavljević and others for war crimes against civilians in accordance with article 142 of the Criminal Code of the Socialist Federal Republic of Yugoslavia. On 1 March 2011, a prosecutor was assigned to the case. While welcoming such developments, the authors express their concern that the prosecutor intends to prosecute the alleged suspects under the Criminal Code of the Socialist Federal Republic of Yugoslavia and not the Criminal Code of Bosnia and Herzegovina of 2003. The authors note that this important piece of information had not been transmitted by the State party in its observations on admissibility and merits; rather, they had had to contact the authorities directly to obtain the information.

5.4 The authors further argue that the large number of war crimes still requiring investigation does not relieve the authorities of the State party of their responsibility to conduct a prompt, impartial, independent and thorough investigation into cases of gross human rights violations, and to regularly inform relatives of the victims on the progress and results of such investigations. Since 1992, the enforced disappearance of Himzo Hadžić, Safet Hodžić, Mensud Durić, Rasim Selimović, Abdulah Jelašković, Sinan Salkić, Idriz Alić, Hasan Abaz, Hakija Kander, Emin Jelečković, Esad Fejzović and Đemo Šehić has been reported to various authorities, including the police in Vogošća. Nonetheless, the authors have not been contacted, nor have they received any feedback from the authorities concerned.

5.5 The authors consider that the implementation of the National Strategy for War Crimes Processing has been deficient and cannot be adduced by the State party in response to complaints about the lack of information on the progress and results of the investigations carried out, or to justify the inactivity of the authorities concerned. The authors further argue that the adoption of a transitional justice strategy cannot replace access to justice and redress for the victims of gross human rights violations and their relatives.

Further submission from the State party

6.1 On 12 September 2011, the State party submitted to the Committee additional replies of different State authorities,²² reiterating the information provided and highlighting

²¹ The authors refer to the report of the Human Rights Council Advisory Committee on best practices in the matter of missing persons (A/HRC/AC/6/2), paras. 53, 56 and 80–97; and to general comment No. 10 (2010) of the Working Group on Enforced or Involuntary Disappearances on the right to the truth in relation to enforced disappearance, p. 14, para. 4.

²² Ministry of Justice, No. 05/37/2199/11, dated 24 August 2011; Missing Persons Institute, No. 01/1-02-2-3258, dated 24 August 2011; Sarajevo Cantonal Prosecutor's Office, No. T09KTRZ001688198, dated 26 August 2011.

the efforts made to determine the fate and whereabouts of all missing persons. The State party further informed the Committee that no relevant developments had occurred in the case of Himzo Hadžić, Safet Hodžić, Mensud Durić, Rasim Selimović, Abdulah Jelašković, Sinan Salkić, Idriz Alić, Hasan Abaz, Hakija Kander, Emin Jelečković, Esad Fejzović and Demo Šehić, and that no evidence was available as to the circumstances of their death or disappearance.

6.2 With regard to the authors' assertion that they had received no information about the status of the cases of the 12 victims, the State party reports that the central database of all pending war crimes cases provided for in the National Strategy for War Crimes Processing is now operational. The State party refers to the proceedings in course against Drago Radosavljević and 10 other suspects for war crimes against civilians under article 142 of the Criminal Code of the Socialist Federal Republic of Yugoslavia. It indicates that "in September, the Prosecutor's Office will give an order to the Federal Ministry of Internal Affairs, Department for War Crimes, for the collection of information and evidence in this case, i.e., [the] hearing of witnesses [and] family members of the missing about what they know about the illegal abduction and disappearance of civilians from the Municipality of Vogošća".²³

Additional submissions from the authors

7.1 On 14 October 2011, the authors sent comments related to the State party's submission dated 12 September 2011. They consider that the only new information included in the additional reply is the reference to the order that the Prosecutor's Office intended to give to the Ministry of Internal Affairs in September for the collection of information and evidence in the case of the illegal abduction and disappearance of civilians from Vogošća. The authors insist on their availability and willingness to be called to render their testimony before the Special Department of War Crimes and to be kept informed of the proceedings.

7.2 The authors further state that on 11 October 2011, the Association of Families of Missing Persons from Vogošća sent a letter to the Cantonal Prosecutor's Office enquiring whether the above-mentioned order had been issued and, if so, which activities had been carried out. In the letter, the Association also reiterated that it was of utmost importance that the case be dealt with pursuant to the 2003 Criminal Code, not to the Criminal Code of the Socialist Federal Republic of Yugoslavia, which did not include crimes against humanity or the crime of enforced disappearance. In that regard, the authors refer to the report of the Working Group on Enforced Disappearance on its mission to Bosnia and Herzegovina, in which the Working Group underlines that enforced disappearance being a continuous crime, it can be punished on the basis of ex post legislation without violating the principle of non-retroactivity, for as long as the fate or whereabouts of the disappeared person has not been clarified (A/HRC/16/48/Add.1, para. 56).

7.3 On 15 July 2013, the authors submitted updates on the case. They informed the Committee that one of the authors, Mejra Durić, had passed away on 26 October 2011 without ever learning the truth about the fate and whereabouts of her son, Mensud Durić. They further argue that the judgement issued on 15 December 2006 by the State Court of Bosnia and Herzegovina cannot be considered as a verdict applicable to the enforced disappearance of their loved ones because Dragan Damjanović was charged and convicted for crimes relating to other persons.

²³ Letter from the Sarajevo Cantonal Prosecutor's Office dated 26 August 2011, annexed to the documentation received by the Committee on 20 September 2011.

7.4 The authors express their satisfaction for the ongoing proceedings before the State Court of Bosnia and Herzegovina against Branko Vlačo, charged with crimes against humanity committed between May and October 1992, including in the camps of Planjina Kuća and Nakina Garaža. Some authors of the communication have been called to give statements before the Prosecutor's Office. However, the authors consider that those proceedings are not sufficient to argue that the State party is complying with its international obligations, because (a) the authors have not been formally notified and are therefore not sure whether Branko Vlačo has in fact been formally charged with the torture and enforced disappearance of their relatives; (b) other persons responsible for the crimes committed against their relatives are still free and have never been charged; and (c) the proceedings cannot be considered to have been prompt, thorough and effective in respect to the standards provided for in the related international jurisprudence. The authors recall that, to date, no one has been convicted for the crimes committed against their relatives, and that the likelihood of gathering evidence for those crimes is decreasing. They further reiterate all the claims submitted to the Committee since their initial communication in the light of the recent jurisprudence of the Committee.²⁴

Additional comments from the State party

8.1 On 31 October 2013, the State party provided further information related to the criminal investigations under way. The Special Department for War Crimes of the Prosecutor's Office is conducting an investigation on a number of persons accused of taking part in planning and organizing the enforced relocation of thousands of non-Serb civilians; of forming, organizing and operating camps and prisons in the territory of municipalities of Hadžići, Vogošća and Ilidža in which they imprisoned non-Serb civilians; of directly taking part in the interrogation of detainees and deciding on the length of their captivity; and of categorizing the detained civilians, thereby deciding their fate.

8.2 The State party refers to two of the war crime cases pending before the Special Department for War Crimes. In the first case, the suspect, who served as the minister's assistant for justice and governance in the Republika Srpska government from 1992 to 1994, is charged with murder, torture, arbitrary detention, enforced disappearance, serious bodily injury and crimes against humanity. In the second case, the suspect is Branko Vlačo, who is charged with killings, torture, the infliction of mental abuse, forced labour and enforced disappearance in relation to 27 prisoners of the Planjina Kuća concentration camp from 16 to 18 June 1992. The State party recalls that between 1992 and 1994, Serbian police and paramilitary forces launched attacks against non-Serb civilians and committed serious human rights violations in the context of the armed conflict.

8.3 The State party contends that the Prosecutor's Office of Bosnia and Herzegovina is currently taking the necessary investigative actions, including steps to locate the whereabouts of mortal remains of the missing persons, hearing witnesses, collecting physical evidence and determining facts that will prove the criminal liability of suspects. The enforced disappearance of the authors' relatives is in the stage of "active investigation" and has been registered under cases KTRZ 55/06 and KTRZ 42/05. In case KTRZ 55/06, 16 "injured parties" are identified, including some of the authors' relatives²⁵ and some of the authors themselves. With regard to case KTRZ 42/05, the State party provides a list of 27 prisoners considered as "injured parties", including the names of some of the missing relatives of the authors. Their cases are considered a high priority under the National Strategy for War Crimes Processing and should accordingly be concluded by the end of

²⁴ The authors refer to communication Nos. 1917/2009, 1918/2009, 1925/2009 and 1953/2010, *Prutina et al. v. Bosnia and Herzegovina*, Views adopted on 28 March 2013.

²⁵ Emin Jelečković and Sinan Salkić are not included in the list of victims.

2015. Nonetheless, as a result of the difficulties faced throughout the process of investigation, notably in the collection of evidence, the Prosecutor's Office is not able to provide a precise timeline for the ongoing criminal proceedings.

8.4 The State party further indicates that DNA tests were carried out for the 12 missing relatives of the authors, but that there was no match for any of them. The Ministry for Issues of the Veterans and Disabled Veterans of the Defensive Liberation War argues that the information available is not sufficient to check whether the authors are beneficiaries of the family benefits. Lastly, through the comments of the Municipality of Vogošća, the State party highlights some of the obstacles encountered in the process of tracing missing persons, including the sluggishness in the work of institutions; the slowness of the Prosecutor's Office regarding the verification of the information about the possible location of individual and mass graves; the insufficient response of the Prosecutor's Office as regards approvals for the exhumation of located graves; the insufficient verification of the information from companies, institutions and individuals who removed the mortal remains of some of the victims; the lack of political will to establish a central register of missing persons and to unify the tracing processes regardless of the nationality of the victims; and the non-implementation of the Law on Missing Persons.

8.5 The State party further contends that it is in direct contact with the Association of Families of Missing Persons from Vogošća, and that it will regularly inform the authors of the communication about the progress and results of the activities undertaken.

Additional comments from the authors

9.1 On 4 December 2013, the authors provided additional comments in response to the State party's submission of 31 October 2013. They express their full agreement with the criticisms by the Municipality of Vogošća regarding the process of tracing missing persons. The authors express their concern that they were informed of the ongoing investigation in case KTRZ 55/06 only through the reply of the State party to the Committee, and that the identity of the suspect remains unclear. They consider that this situation clearly violates their right to have access to information on the investigation of enforced disappearances. Furthermore, the authors inform the Committee that they were never individually and formally notified about the transferral of war crimes cases to the Prosecutor's Office, but only obtained access to this information through a letter received by the Association of Families of Missing Persons from Vogošća in reply to a letter seeking information about other cases already decided by the Committee.

9.2 The authors regret the lack of clarity of the lists of "injured parties" as provided by the State party for cases KTRZ 55/06 and KTRZ 42/05. In that regard, the authors first consider that it is not clear why missing persons and their relatives are both referred to as "injured parties". Second, they express their concern as to the non-inclusion of, respectively, three and two of their relatives in the lists of "injured parties" of the cases, and as to the fact that 18 of the authors of the communication are not referred to as "injured parties", while the others are. Finally, the authors argue that the mistakes in the spelling of some of the names referred to by the State party increase their uncertainty about the ongoing proceedings.

9.3 The authors also express their concern about the delays of the investigations. They consider that, while the National Strategy for War Crimes Processing established that the most complex crimes, such as the mass crime referred to in the present case, would be dealt with as a matter of priority within seven years (namely, by the end of 2015), there does not seem to have been any significant progress in the investigations related to their case.

Additional comments from the State party

10.1 On 14 February 2014, the State party sent updated information on the ongoing criminal investigations. As to the names of the victims, it indicates that they were taken from the respective case files and cannot be modified by the authorities providing the replies to the Committee.

10.2 The State party further considers that the investigation carried out in case KTRZ 55/06 complies with the requirements of efficiency, impartiality and independence, and that articles 6, 7, 9 and 17²⁶ of the Covenant have therefore not been violated in the case under review.

10.3 The State party states that the Law on Missing Persons of 2004 was adopted with the aim to improve the tracing of missing persons, efficiently identify mortal remains and ascertain the circumstances and causes of their death. It reiterates that the Missing Persons Institute is aware of its responsibilities and of the importance of its mission. Nearly 35,000 persons disappeared during the war in Bosnia and Herzegovina; 23,000 remains were found, of which 21,358 were identified. On 3 February 2011, the Central Register of Missing Persons was established. It includes the names of 34,964 missing persons. The updating of the database is ongoing and 13 persons have been employed to accelerate the process. The State party nonetheless regrets that the processes are frequently hampered by the fact that the register depends on the replies provided by other institutions.

10.4 As to the arguments of the authors regarding the non-implementation of the Law on Missing Persons, the State party considers that only some aspects of the Law have not been implemented, such as the Fund for Support to the Families of Missing Persons. Others have been implemented successfully and are the basis of the functioning of the Missing Persons Institute.

10.5 The State party further reiterates the information provided in previous submissions, recalling that it will notify the authors of any progress in the investigation of the enforced disappearance of their relatives.

Issues and proceedings before the Committee*Consideration of admissibility*

11.1 Before considering any claim contained in a communication, the Human Rights Committee must, in accordance with rule 93 of its rules of procedure, decide whether the case is admissible under the Optional Protocol to the Covenant.

11.2 The Committee has ascertained, as required under article 5, paragraph 2 (a), of the Optional Protocol, that the same matter is not being examined under another procedure of international investigation or settlement and that the authors have exhausted all available domestic remedies.

11.3 The Committee notes that the State party has not challenged the admissibility of the communication and that the authors' allegations regarding violations of articles 6, 7, 9, 10, 16 and 24, read in conjunction with article 2, paragraph 3, of the Covenant, and of article 7, read alone, have been sufficiently substantiated for the purposes of admissibility. The Committee therefore declares the communication admissible and proceeds to its examination on the merits.

²⁶ In view of the authors' allegations, the Committee understands that the reference made by the State party to article 17 of the Covenant should read article 16.

Consideration of merits

12.1 The Committee has considered the present communication in the light of all the information made available to it by the parties, as required under article 5, paragraph 1, of the Optional Protocol.

12.2 The authors claim that Himzo Hadžić, Safet Hodžić, Mensud Durić, Rasim Selimović, Abdulah Jelašković, Sinan Salkić, Idriz Alić, Hasan Abaz, Hakija Kander, Emin Jelečković, Esad Fejzović and Đemo Šehić have been victims of enforced disappearance since their illegal arrest by VRS on 4 May 1992, and that despite the numerous efforts of their families, no prompt, impartial, thorough and independent investigation has been carried out by the State party to clarify the victims' fate and whereabouts and to bring the perpetrators to justice. The Committee recalls its general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, according to which a failure by a State party to investigate allegations of violations or bring to justice perpetrators of certain violations (notably torture and similar cruel, inhuman and degrading treatment, summary and arbitrary killings and enforced disappearances) could in and of itself give rise to a separate breach of the Covenant.

12.3 The authors do not allege that the State party was directly responsible for the enforced disappearance of their 12 relatives. The Committee observes that the term "enforced disappearance" may be used in an extended sense, referring to disappearances initiated by forces independent of or hostile to a State party, in addition to disappearances attributable to a State party.²⁷

12.4 The Committee notes the State party's information that it has made considerable efforts at the general level in view of the more than 30,000 cases of enforced disappearance that occurred during the conflict. Notably, the Constitutional Court has established that authorities are responsible for the investigation of the disappearance of the authors' relatives (see para. 2.9 above); domestic mechanisms have been set up to deal with enforced disappearances and other cases of war crimes (see para. 4.2 above); DNA samples from a number of unidentified bodies have been compared with the authors' DNA samples; a criminal investigation into the disappearance of the authors' relatives has been opened; a memorial for all missing persons from Vogošća, including the authors' missing relatives, has been erected; and the day of their disappearance is commemorated every year (see para. 4.3 above).

12.5 The Committee recalls its jurisprudence, according to which the obligation to investigate allegations of enforced disappearance and to bring the perpetrators to justice is not an obligation of result, but of means, and that it must be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities.²⁸ Therefore, while acknowledging the gravity of the disappearances and the suffering of the authors because the fate or whereabouts of their missing relatives has not yet been clarified and the perpetrators have not yet been brought to justice, that in itself is not sufficient to find a breach of positive obligations of the State party under the Covenant in the particular circumstances of the present communication.

²⁷ Compare article 7, paragraph 2 (i), of the Rome Statute of the International Criminal Court (defining enforced disappearance as including disappearances conducted by a political organization) with articles 2 and 3 of the International Convention for the Protection of All Persons from Enforced Disappearance (distinguishing between enforced disappearance conducted by States or by persons or groups acting with their authorization, support or acquiescence, and similar acts conducted by persons or groups acting without such authorization, support or acquiescence).

²⁸ See *Prutina et al.*, para. 9.5, and communication No. 1997/2010, *Rizvanović v. Bosnia and Herzegovina*, Views adopted on 21 March 2014, para. 9.5.

12.6 That being said, the authors claim that at the time of the filing of their communication, 18 years after the initial detention of their missing relatives and more than 3 years after the judgement of the Constitutional Court, the investigative authorities had not contacted them for information regarding the suspected perpetrators of these disappearances, despite the fact that some of the authors were detained along with their missing relatives at relevant times. The authors also claim that they learned of certain important steps taken by the authorities in their case, for example, that identification of mortal remains had been carried out in locations within the municipality of Vogošća and neighbouring municipalities, only during the proceedings before the Committee. The State party does not refute those claims. Moreover, the State party's own submissions highlight the slowness of the Prosecutor's Office regarding the verification of the information about the possible location of individual and mass graves, the insufficient response of the Prosecutor's Office as regards approvals for the exhumation of located graves; the insufficient verification of the information from those who removed mortal remains; and the lack of political will to unify the processes for tracing missing persons (see para. 8.4 above). Furthermore, the Committee considers that authorities investigating enforced disappearance must give the families a timely opportunity to contribute their knowledge to the investigation, and that information regarding the progress of the investigation must be made promptly accessible to the families. It also takes note of the anguish and distress caused to the authors by the continuing uncertainty resulting from the disappearance of their relatives. The Committee concludes that the facts before it reveal a violation of articles 6, 7 and 9, read in conjunction with article 2, paragraph 3, of the Covenant with regard to the missing relatives, and of article 7, read in conjunction with article 2, paragraph 3, of the Covenant with regard to the authors.

12.7 The Committee further notes that the social allowance provided to some of the authors depended upon their agreeing to seek the recognition of their missing relatives as dead, although there is no certainty as to their fate and whereabouts. The Committee considers that to oblige families of disappeared persons to have the family member declared dead in order to be eligible for compensation, while the investigation is ongoing, makes the availability of compensation dependent on a harmful process, and constitutes inhuman and degrading treatment in violation of article 7, read alone and in conjunction with article 2, paragraph 3, of the Covenant with respect to the authors whose families were obliged to obtain such declarations.²⁹

12.8 In the light of the above findings, the Committee will not examine separately the authors' allegations under articles 10, 16 and 24, read in conjunction with article 2, paragraph 3, of the Covenant.³⁰

13. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the State party has violated articles 6, 7 and 9, read in conjunction with article 2, paragraph 3, of the Covenant with regard to the authors' missing relatives; article 7, read in conjunction with article 2, paragraph 3, with regard to all the authors; and article 7, read alone and in conjunction with article 2, paragraph 3, with regard to the authors whose families were obliged to obtain declarations of death.

14. In accordance with article 2, paragraph 3, of the Covenant, the State party is under an obligation to provide the authors with an effective remedy, including: (a) continuing its efforts to establish the fate or whereabouts of Himzo Hadžić, Safet Hodžić, Mensud Durić,

²⁹ See *Rizvanović v. Bosnia and Herzegovina*, para. 9.6. One author was not eligible for benefits and therefore no declaration was required regarding her father (see para. 2.7 above).

³⁰ *Rizvanović v. Bosnia and Herzegovina*, para. 9.7.

Rasim Selimović, Abdulah Jelašković, Sinan Salkić, Idriz Alić, Hasan Abaz, Hakija Kander, Emin Jelečković, Esad Fejzović and Đemo Šehić, as required by the Law on Missing Persons of 2004; (b) continuing its efforts to bring to justice those responsible for their disappearance without unnecessary delay, as required by the National Strategy for War Crimes Processing; and (c) ensuring adequate compensation for all the authors. The State party is also under an obligation to prevent similar violations in the future and must ensure, in particular, that investigations into allegations of enforced disappearances are accessible to the missing persons' families, and that the current legal framework is not applied in a manner that requires relatives of victims of enforced disappearance to obtain certification of the death of the victim as a condition for obtaining social benefits and measures of reparation.

15. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether or not there has been a violation of the Covenant and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective remedy where it has been determined that a violation has occurred, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the present Views. The State party is also requested to publish the present Views and to have them widely disseminated in all three official languages of the State party.

Appendix

Joint opinion of Fabián Omar Salvioli and Víctor Manuel Rodríguez Rescia (concurring)

1. We concur with the decision of the Committee in *Selimović et al. v. Bosnia and Herzegovina* (communication No. 2003/2010). However, we consider that the legal conclusion should have focused on a breach of article 2, paragraph 3, read in conjunction with articles 6, 7, and 9 of the Covenant, since the violation that engages the responsibility of Bosnia and Herzegovina arises from the absence of an effective remedy for the enforced disappearances and their consequences. Those disappearances cannot be attributed to the State of Bosnia and Herzegovina, since they were perpetrated by the army of the Republika Srpska (Vojska Republike Srpske).
2. In its Views on *Selimović et al.*, in which it finds a violation of articles 6, 7, and 9, read in conjunction with article 2, paragraph 3, of the Covenant, the Committee departs from its previous Views in *Rizvanović v. Bosnia and Herzegovina* (communication No. 1997/2010) without offering any explanation.
3. We do, however, believe that the Committee was right to find a direct violation of article 7 in respect of the authors on the grounds that the provision of certain social benefits depended on their agreeing to acknowledge that their missing relatives were dead even though there was no certainty as to their fate or whereabouts.
