



Helsinki Citizens'
Assembly
Vanadzor office

SIGRID RAUSING TRUST

REPORT

THE SITUATION OF THE RIGHTS OF
MISSING PERSONS AND THEIR FAMILY
MEMBERS DURING THE 44-DAY WAR
IN 2020



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DURING THE 44-DAY WAR IN 2020

Vanadzor, Republic of Armenia
2022

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SUMMARY

Helsinki Citizens' Assembly Vanadzor Office (HCA Vanadzor) carried out this study on the problems faced by the families of missing persons during the 44-day war, which took place from the 27th of September 2020 until the 9th of November 2020. The issues discussed in this report consider the responsibility of the state to ensure the rights to life, health and safety of its citizens. We wish to also raise public awareness about these issues. The results of the study are presented in this report.

The problems relating to the protection of the rights of missing persons and their families in the Republic of Armenia arose during the first Karabakh war, following the Ceasefire Agreement signed on the 12th of May 1994. According to official data, between, 1988-2005 the number of missing persons from Armenia is 437, of which 224 are servicemen and 213 are civilians. 723 people are considered missing from the NKR, of which 250 are servicemen and 473 are civilians. According to the International Committee of the Red Cross (ICRC), the number of people missing in the aftermath of the first Karabakh conflict in Armenia was about 400.

After the ceasefire agreement signed on the 12th of May 1994, no active hostilities took place until the 2nd April 2016. However, the problems for the protection of the rights of the missing and their families have not received a legal or institutional solution.

In the first days of the four-day war in April 2016, we had a situation when the whereabouts and fate of some servicemen went unknown. This situation, once again, put on the agenda the need to provide systemic and legislative solutions to the issues of protection of the rights of the missing and their families. However, the state once again, did not fulfill its obligations of providing a legal or institutional solution.

On the 27th September 2020, a large number of people went missing again due to the war unleashed by Azerbaijan with the support of Turkey and the involvement of mercenaries.

In 2020, as a result of the 44-day war, in the Republic of Artsakh (RA) and the Republic of Armenia (RA), the total number of servicemen and civilians killed was 3809 as of 19 January 2022, of which are 3712 servicemen and 76 are civilians. As of the same day, the fate and whereabouts of 199 servicemen and 21 civilians still is unknown.¹

Various materials, articles and videos about the 44-day war have been published in mass media, but complete and concise information on the missing persons and the circumstances of their disappearance has not yet been published and is not available to the public.

On the 5th October 2020, the HCA Vanadzor started collecting information from the family members and relatives of those missing through its hotline phone number, which compiled a detailed description of each person and then passed the information to the RA Ministry of Defense (RA MoD) so that the Ministry had the necessary preliminary information on the search for missing persons and transferred the information to the relatives of the missing person. From

¹ <https://www.investigative.am/news/view/gerevarvac-zincarayox-veraberyal.html>



the 5th October 2021 to December 2021, the hotline of HCA Vanadzor office received calls from the relatives on about 700 missing persons. Over time, some of those 700 were found, some returned, and some were found dead.

In addition to statistics, the report addresses legislation on the rights of missing persons and their families, the legislative gaps, the problems faced by families of missing persons and the situation of the state's obligations taken before missing persons and their families.

LEGAL MECHANISMS, OPPORTUNITIES AND PROBLEMS OF PROTECTION OF MISSING PERSONS AND THEIR FAMILIES IN THE REPUBLIC OF ARMENIA

The rights of missing persons during hostilities are protected by the International Humanitarian Law, in particular the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Section 3, Articles 32-33). In applying the provisions of this section, the parties to armed conflicts and the international humanitarian organizations referred to in the Protocol shall be prompted by the right of families to know the fate of their relatives. According to international humanitarian norms, the conflicting parties must set up information bureaus to collect and exchange information about their country's missing citizens, and provide information to the relatives of the missing. This requirement stems from the obligation of states to their citizens. In addition to country-specific legislations several resolutions have been adopted at the international level which received very wide support and, outlining the overall responsibility to clarify the fate of the missing persons. For example, in a resolution on assistance and cooperation in accounting for persons who are missing or dead in armed conflicts, adopted in 1974, the UN General Assembly defines that "the desire to know the fate of loved ones lost in armed conflicts is a basic human need" and called on parties to armed conflicts, regardless of their character, "to take such action as may be within their power ... to provide information about those who are missing in action."²

The former UN Commission on Human Rights and the UN General Assembly reaffirmed "the right of families to receive information on the fate of relatives missing in the aftermath of an armed conflict." International Conference of the Red Cross and Red Crescent has also adopted resolutions on various occasions, emphasizing the right of families to be informed about the fate of their relatives in times of armed conflict.

Under International Humanitarian Law (hereinafter referred to as the IHL), there are two main responsibilities of the state in relation to disappearances: to prevent the disappearance of people and to clarify their fate and whereabouts.

Under international humanitarian law, the parties to an armed conflict must provide means of identification for their armed forces or armed groups. According to the IHL, it is important to ensure that people at risk; such as children, the injured, the sick, the elderly, the disabled, the detained, are registered. It also provides for the burial of the dead and the treatment of the remains of the dead, recording all information about them in the registers, as well as the issuance of death certificates in accordance with the relevant procedures.

Following the above measures, will help prevent the disappearance of people during an

² UN General Assembly, Res. 3220 (XXIX) (adopted by 95 votes in favour, none against and 32 abstentions) (ibid., § 76)



armed conflict.

The adoption and effective implementation of a separate law regulating the status of the missing and the rights of their families is a manifestation of the responsible attitude of the state from the point of view of providing legal protection for missing persons and their family members, in particular, from the view point of the study of the circumstances of disappearance, which is not regulated by any law or norm in the Republic of Armenia. The state must also recognize, by law, the legal status of the missing during hostilities³, and according to that status, guarantee the realization of the social, psychological, financial, educational and other rights of the relatives of the missing.

In Colombia, South America, for example, several laws have been adopted that provide access of social protection for the families and relatives of the missing. The National Missing Persons Strategy sets out a mandatory methodology to be followed by the judiciary in the investigation of missing persons' cases.

In June 2016, Peru, South America, they also adopted a law on the search for missing persons. The law sets out the provisions of the guidelines developed by the International Committee of the Red Cross, which set out the principles for legislating the status of persons missing through armed conflict or violence inside the country.

The Law on missing persons adopted in Bosnia and Herzegovina in 2004 preserves the right of relatives to know the truth about the fate of missing persons, as well as the right to information about the investigation. The Missing Persons' Institute has been established, by law, a state-run institution with a mandate to carry out search and identification operations throughout Bosnia and Herzegovina. The law also established the Central Register of Missing Persons (database) and the Fund for Families of Missing Persons.

HCA Vanadzor developed a draft law "On Missing Persons", proposing it to the state agencies, considering the constant danger of escalation of the conflict, and regularly had discussions with various agencies on the need to adopt the law.

In 2010-2011, the working version of the draft law "On Missing Persons" was developed by a working group established by the initiative of the Ministry of Foreign Affairs of the Republic of Armenia. This draft law was, however, not considered urgent by the Government of the Republic of Armenia and was not adopted.

The state authorities did not attach importance to the significance of the adoption of this law, a significant necessity for the missing and their families.

During the 2016 War, the issue of missing persons became relevant again, and we could immediately see the negative impact of the absence of the law "On Missing Persons", which would have legally assumed the obligations of the state under the Geneva Conventions and the state would have the necessary legal and institutional mechanisms for their implementation.

It should be noted that back in 2007, the Parliamentary Assembly of the Council of Europe

³ See APPENDIX 1 on the need and grounds for the legal status of missing persons. The analysis has been prepared by "Tumanyan" law office.

(PACE) adopted Resolution 1553 (2007) on the rights of missing persons and their families due to conflicts in the South Caucasus and the Republic of Armenia, as a member state of the Council of Europe, undertook to implement PACE resolutions and recommendations. However, this did not become a necessary stimulus for the state to assume its obligations to the missing at the legislative level.

After the Velvet Revolution of 2018, the new government was not consistent in solving this problem. In 2020, HCA-Vanadzor again applied to the Minister of Justice about the need to adopt the law, but we had no results.

The state system, as always, was not consistent and HCA Vanadzor received a position on the draft law from the RA Ministry of Justice, the RA Ministry of Defense and the RA Ministry of Foreign Affairs only after the second Karabakh War of 2020, when the state must fulfill their obligations before the relatives of a large number of missing persons.

In February 2021, the Ministry of Justice of the Republic of Armenia stated the position of the Ministry of Defense of the Republic of Armenia, which says that at the present stage, the adoption of the law is not expedient and that the presented relations are almost completely regulated by the RA legislation, namely the RA Civil Code, the law "On Military Service and the Status of a Serviceman", the law "On Compensation for Damage Caused to the Serviceman's Life or Health during the Defense of the Republic of Armenia", by decisions of the RA Government, the RA Prime Minister and by the decree of the RA Minister of Defense.

During and after the 44-day NK War, alarms from the families of missing persons indicated that it was not clear which institutions are dealing with the protection of the rights of missing persons and their families and what powers they have to carry out their functions, and which legal norms are designed to guarantee the realization of the various rights of the missing and their families.

It should be reminded that immediately after the first Karabakh war, an international working group was set up to search for the missing, release prisoners and hostages, co-chaired by Bernhard Klassen, Paata Zakareishvili and Svetlana Gannushkina. The group has regularly worked with governments, NGOs, the ICRC and the OSCE. The group has made numerous visits to the conflict zone since 1989. The group was registered on August 18, 2000.

On 23 October 2000, the Commission on Prisoners of War, Hostages and Missing Persons was established by Decree NH-693 of the President of the Republic of Armenia. It was replaced by the Interagency Commission on Prisoners of War, Hostages and Missing Persons dealing with the same issues established by the RA Prime Minister's Decree No. NH-693 of 19 November 2006.

During the 2020 hostilities, by the order of the Minister of Defense of the Republic of Armenia, a commission was set up to collect the data of other servicemen who were taken prisoner or whose location was unknown, who were engaged in collecting data on missing persons. According to official information, such data are collected by the relevant subdivisions of the RA Ministry of Defense and the General Staff of the RA Armed Forces (RA GS) within

the framework of their functions, as well as the RA National Security Service (NSS) and the RA Investigative Committee.

During the 2020 hostilities, by order of the Minister of Defense of the Republic of Armenia, a commission was set up to verify and collect the data of servicemen who were taken prisoner or whose location was unknown during the hostilities, and of other persons, which was engaged in collecting data on missing persons. According to official information, such data are collected by the relevant subdivisions of the RA Ministry of Defense, the General Staff of the RA Armed Forces (General Staff of the RA Armed Forces) within the framework of their functions, as well as the RA National Security Service (NSS) and the RA Investigative Committee (RA IC). Moreover, after the war, on 9 December 2020, by the decision of the Prime Minister of the Republic of Armenia, Nikol Pashinyan, another interdepartmental working group was set up "to coordinate the work related to discovery and return of the bodies of the victims, captives and missing persons."⁴ The head of the working group was the RA Deputy Prime Minister Tigran Avinyan.

Establishment of several such institutions or commissions shows that there is not a single main state agency that would continuously deal with the problems of missing persons and their families, especially in crisis situations and who would have the appropriate knowledge and capacity, skills, institutional memory, trained staff to ensure the effective solution of the issues related to the protection of the rights of missing persons and their families.

Of particular concern is the exercise of the right of families of missing persons to information on the fate, whereabouts and circumstances of disappearance of their relatives, in sense of obtaining and providing such information by the state, although it is clear that this is also connected with the adequate will of the other party.

In addition to the issue of access of information on those missing, the families face a number of other issues. In particular, the lack of legal status also leads to social, legal, and other problems. Due to the lack of legal status of the missing person, the families, have to go to court to declare him missing, as before when they had to declare their relative dead by going to court. This is inadmissible in the sense that it is left to the will of the relative. Many relatives of the missing refuse to recognize their relative as dead or missing due to a number of procedural issues. A number of legislative changes adopted after the 44-day of 2020 are just fragmentary approaches, and are not systemic solutions, and most specifically they do not comply with the principles of the IHL.

In the absence of the law "On Missing Persons", a number of government decisions were adopted and legislative changes have been made to address the social security issues of the families of the missing. In particular, regarding the procedure for compensating the families for the missing servicemen,⁵ the term of which was extended several times, some changes have

⁴ <https://www.arlis.am/DocumentView.aspx?DocID=148148>

⁵ <https://www.arlis.am/DocumentView.aspx?DocID=157616>
<https://www.arlis.am/DocumentView.aspx?docid=153492>
<https://www.arlis.am/DocumentView.aspx?docid=157609>

been made to the RA Civil Code to declare him missing.⁶

As for the official statistics on missing persons as a result of the 44-day hostilities, it should be noted that the Ministry of Defense of the Republic of Armenia refused to provide information on the victims, injured and missing as a result of the war based on the requirements of Article 8, Part 1, Point 2 of the RA law "On Freedom of Information."

Regarding the existence of a joint database on missing persons, servicemen, and civilians, who died and prisoners of war, the Ministry of Defense of the Republic of Armenia informed that the information was being collected in accordance with decree N 1114-L from 09.11.2020 "On the establishment of a commission for the verification and recruitment of data on servicemen taken hostage during military actions or servicemen whose whereabouts are unknown and other persons." However, based on the functions of the relevant subdivisions of the Armed Forces General Staff of the Ministry of Defense of the Republic of Armenia, they collect relevant information too. The representative of the RA Ministry of Defense informed that the subdivisions of the RA Armed Forces General Staff have information about the servicemen and reservists. However, the collection and processing of data on unregistered volunteers and civilians prior to departure for military operations is beyond the scope of these units' authority.

The RA Ministry of Defense informed that the captured servicemen and civilians' information is collected and processed by the RA NSS and RA MFA.

The Office of the Prime Minister of the Republic of Armenia forwarded the request for information on the number of missing persons due to the 44-day war to the Ministry of Defense of the Republic of Armenia, who again refused to provide the information based on Part 1, Point 1 of Article 8 of the RA law "On Freedom of Information" and point 55 of appendix 1 to decree N 9 of the RA Ministry of Defense from 9 July 2015.

It should be noted that the Organization requested the Ministry of Defense of the Republic of Armenia to provide such information, which by its nature refers to official information of public importance. In other words, the Ministry of Defense of the Republic of Armenia refuses to provide the Organization with information that is directly related to human rights the provision of which is in the public interest.

In addition, it is known that the "Armenian Joint Information Center", which is headed by the Public Relations and Information SNCO under the Prime Minister's Office, disseminated information about the killed servicemen during and after the war. Moreover, their names and surnames were also mentioned.

Therefore, according to the logic of the RA Ministry of Defense, it turns out that information violating the privacy of personal data protection was published during that whole period.

⁶ <https://www.arlis.am/DocumentView.aspx?DocID=148978>

METHODOOGY

Purpose of the study

The purpose of the report is to study the state's fulfillment of its obligations to address the problems of missing persons and their families during the 44-day hostilities and post-war period.

Objectives of the study

The objectives of the study are to identify:

- the problems of missing persons and their families during and after the 44-day war,
- the current legislative gaps regulating the problems of missing persons and their families,
- the situation of fulfillment of state's obligations before the missing persons and their families.

Information Collection Method

A method of quantitative interviews was used to collect information, which made it possible to find out the problems facing the families of missing persons who lived in different settlements across the Republic of Armenia. The study was conducted in July-September 2021 among the families of 104 missing persons living in the city of Yerevan and all regions of the Republic of Armenia.

Selection of regions: 10 regions of the Republic of Armenia and the city of Yerevan were included for the study. Meetings and interviews were held with families who contacted and provided information to HCA Vanadzor during the 2020 war as well as with other families identified during interviews.

Direct interviews were conducted through face-to-face meetings with the interviewer. Prior to the interviews, the interviewers were trained in interviewing skills, communication skills, and skills specifically on how to handle sensitive information. They also received training on identifying and preventing potential emotional burnout.

A standardized questionnaire, consisting of closed and semi-closed questions, was used as the research tool.

The data collected during the interviews were analyzed in such a way that personal data would not be disclosed and the confidentiality of the interviewees would be assured.

An overview of the circumstances of the disappearance of the missing, and the problems their families encountered were completed by combining the information received from their families, relatives, mass media, the Ministry of Defense of the Republic of Armenia.

Out of the mentioned 104 families, 17 live in the city of Yerevan, 34 in the urban communities

of the named regions and 53 in rural communities.

Map 1. Places of residences of missing persons



During the interviews, in addition to information on the circumstances of the disappearance, evidence was also collected on the health conditions during the military service, possible problems during the military service, and the social security status of their families.

Socio-demographic description of the respondents

Family members of 104 missing persons from all regions of Armenia and the city of Yerevan took part in the survey. The table below shows the type of military service of missing persons. The vast majority of missing persons surveyed are mandatory servicemen - 48%.

Table 1. Missing persons' service type

| Service type | Number | % |
|-----------------------------|------------|-------------|
| Mandatory term conscription | 49 | 48% |
| Volunteer | 18 | 17% |
| Reserve | 15 | 14% |
| Contract based | 16 | 15% |
| Officer | 5 | 5% |
| Police officer | 1 | 1% |
| Total | 104 | 100% |

During the interviews, we also studied the family status and family composition of the missing, their housing, everyday problems, social problems and any special needs of the family.

66% of missing persons are not married, 32% are married and 2% are divorced.

The study also discussed the health conditions of the missing persons before serving in the military. Thus, at least 31 (30%) persons had health problems, the majority of them were mandatory conscripts, and 13 (27%) of mandatory conscripts who did not have health problems before military service; however, developed problems during the war, which were reported to the relatives before their disappearance.

According to the family composition, out of **104** missing persons

- 1 lived with **1 person**,
- 29 missing persons (28%) lived with **2 persons**,
- 38 missing persons (37%) lived with 3 persons,
- 19 (18%) lived with 4 persons,
- 7 missing persons (7%) lived with 5 persons,
- 10 missing persons (10%) lived with 6 and more persons.

At the time of the interviews, in 25 (24%) families of the 104 missing persons' families were minors, including the minor siblings of the missing persons, in 16 (15%) families there were elderly, and in 10 (10%) families there were both minor children and elderly.

Thus, the consequences of the disappearance of 104 missing persons had a direct impact on 355 members of their families. At least four persons related to each missing person needed psychological support.

Of importance, 51 of the surveyed families had 29 elderly people, with at least 41 minor children (not all of them mentioned the number of minors in the family).

Description of socio-economic problems of the families of the missing persons

Housing conditions of the families of the missing persons

During the interviews we also tried to observe the housing conditions of the families of the missing persons. According to these observations, many families had housing problems. Even the private houses or apartments need renovation or improvement.

It should be noted that only 57 (55%) of the households surveyed were in good condition or were renovated, 27 (26%) had apartments that needed repair, and the conditions of 7 (7%) were assessed as bad or very bad, and in some cases the apartments were under renovation or construction. One of the families lived in a temporary dwelling place with a child.

It should be noted that in 3% of 7 (7%) families with poor or very bad housing conditions, there is no person working in the family. However, they are the beneficiaries of the "Bridge" program, receiving three hundred thousand drams a month from the state. In addition to being the beneficiaries of the "Bridge" program, 4 of the families received financial support from the regional administration or the community administration.

We also tried to find out to what extent the land plot allows the families to take care of the family, and according to the interviews it turned out that 38 families have a land plot, of which 26 (68%) cultivate their land, 6 families (16%) mentioned the lack of irrigation or poor water or water supply as an obstacle.

Employment of family members of missing persons

Referring to the employment and social problems of family members of missing persons, it should be noted that 28 (27%) out of 104 families surveyed did not have a job, 20 out of those 28 families (19%) have pensioners.

Out of 104 families, 19 (18%) are employees of state institutions, 44 (43%) are employees of private institutions, 11 (11%) are employees of both private and state institutions.

In 48% of 104 families, only one person works in the family, in 18% - 2 and in 7% - 3 people.

In the case of 9 of the above 28 unemployed families, the missing person is a volunteer, 4 are reservists, 8 are conscripts (1 of them serving within "I am" program), 6 are contract-based servicemen and 1 is an officer. That is, in at least 12 families (12%) the only employee was actually the missing person. In the case of volunteers, it is not known whether the person had a job or

not. 14 out of 28 unemployed families have pensioners (in 1 case the family gets social benefit), in 5 families (5%) there are minors, in 6 families (6%) there are both pensioners and minors.

The average monthly income distribution of the surveyed families is presented in Table 2.

Table 2. Average monthly income distribution of the surveyed families of the missing persons

| Average income in AMD | Number | % |
|-----------------------|------------|-------------|
| 69 000 – 150 000 | 47 | 45% |
| Up to 68 000 | 40 | 38% |
| 151 000-250 000 | 8 | 8% |
| 251 000 and more | 7 | 7% |
| Did not inform | 2 | 2% |
| Total | 104 | 100% |

Considering the compliance of the income of the families of the missing persons with their needs, it should be noted that the income of 73 (70%) out of 104 families is sufficient only to buy food. 5% of families do not even have enough money to buy food. Only 12 families (12%) reported that the money was enough to buy food, clothes and other goods.

Financial, health and other problems of the families of the missing persons

Financial

We also tried to identify issues the families of the missing might be experiencing. They have diverse problems, although they primarily mention financial and health problems as most critical.

67% of families have credit/loan obligations, of which 45% still have such obligations at the time of interviews.

9 (9%) missing persons of these families are volunteers, 12 (12%) are reservists, 5 (5%) are contract-based servicemen, 21 (21%) are mandatory conscripts.

15% of the families have loan obligations, but loan interest rates have been frozen by the banks. 4 missing persons (4%) of these families are volunteer, 1 person is a reservist, 8 (8%) are contract-based servicemen, 2 (2%) are mandatory conscripts and 1 is an officer. Only 7% of the families (of which 3 are mandatory conscripts /1 serving within "I am" program/, 2 are contract-based servicemen, 1 is a reservist, 1 is a volunteer, have been released from loan obligations.

19% of families with credit/loan obligations are unable to fulfill their obligations after the war, due to which they have to pay a fine. Due to non-fulfillment of credit/loan obligations, the

case of 8% of the families is either in the service of compulsory execution of court acts or in court.

A special concern is the emergence of many new problems for the relatives due to the lack of status of a missing person. In particular, relatives are facing issues related to the return of goods pledged in banks, loan that have frozen in the banks, and other issues.

There are families who even have to get a loan to spend on the search for their missing relative.

Health

73% of the families of the missing persons reported about having health problems, of which 42% had those health problems before the disappearance of a relative, and 31% had health problems after the disappearance of a relative.

Educational

89% of the families of the missing did not mention any educational needs. Some families informed that the two children of a missing person and other members of another missing person studied on a paid basis and had not yet received any tuition assistance. However, it should be noted that in some cases, when financial problems arose for getting an education, were solved either by international organizations, or by the regional administration, or by relatives.

Social guarantees for the families of the missing and the state of social security

In the aftermath of the war, the government adopted a number of decisions and amendments that made it possible to temporarily address the current issues of social assistance to the families of the missing.

Compensation for the servicemen whose whereabouts is unknown (hereinafter referred to as missing persons) and their families as a result of the war unleashed by Azerbaijan on 27 September 2020, is provided by the Insurance Foundation for Servicemen, as part of the "Bridge" funding program.

300,000 AMD monthly assistance is foreseen to the families of servicemen missing due to the war before they become beneficiaries of the fund, according to the RA Government decision No. 2001-L⁷, of 10 December 2020 that provided assistance for 6 months. However, the mentioned term was changed and the support was provided for 9 months in accordance with the RA Government decision N 973-L⁸ of 10 June 2021 and then for 12 months in accordance with the RA Government decision N 1832-L⁹ of 11 November 2021.

⁷ <https://www.arlis.am/DocumentView.aspx?DocID=157616>

⁸ <https://www.arlis.am/DocumentView.aspx?docid=153492>

⁹ <https://www.arlis.am/DocumentView.aspx?docid=157609>

Such changes demonstrate a discretionary approach to providing social assistance, which cannot be a systemic solution, unless defined by law as a state obligation to provide social assistance to the family of a missing person.

The vast majority of families surveyed - 96%, have received and continue to receive this support.

At the same time, it should be noted that initially the families were not aware of such social assistance, in some cases they were not informed about the procedures for making use of the assistance, and in some cases they had obstacles in being included in the relevant lists or obtaining supporting documents.

In addition to this support, some families have also received support from other government agencies, private organizations, local government bodies, individuals, and sometimes the same family has received support from several agencies. Families received financial, food, and household assistance from individuals, the church, or local government. In some cases, they also received psychological support.

It should be noted that the compensation for the missing persons due to the war unleashed by Azerbaijan on 27 September 2020 and their family members, is provided by Insurance Foundation for Servicemen after becoming a beneficiary of the foundation.

In order for the family members of missing servicemen to become beneficiaries of the Insurance Foundation for Servicemen, a family member of a missing person becomes a beneficiary if the relative is declared missing in court, which causes difficulties for families as they are sometimes unaware of this possibility or are not aware of the procedures.

Out of 104 families surveyed, only 49 (47%) applied to the court to declare their relative missing, of which 37% through a pro bono lawyer, 6% personally, 3% did not provide details, 1% through an NGO and 1% could not answer.

It should also be noted that 88% of families are not aware of the obligations of the state before them. Only 15% gave a positive answer, detailing these responsibilities, in particular, "providing information", "providing financial and other assistance," providing free or preferential medical care to relatives", "conducting war crimes investigations and identifying culprits", etc.

Information on the conscription and change of place of military service of missing persons

According to the place of residence, 104 missing persons are from different regions. In particular, 23 (22%) from Ararat region, 16 (15%) from Yerevan, 11 (11%) from Lori region, 5 (5%) from Shirak, 1 (1%) from Artsakh Lachin region, 2 (2%) from Artsakh Shahumyan region, 1 (1%) from Aragatsotn region, 2 (2%) from Gegharkunik and 2 (2%) from Kotayk regions, 7 (7%) from Tavush and 7 (7%) from Vayots Dzor regions, 4 (4%) from Syunik and two did not provide data.

The overview by service type is as follows:

- 49 mandatory conscripts (27%),

- 18 volunteers (17%),
- 16 contract-based servicemen (16%),
- 15 reserve servicemen (14%),
- 5 officers (5%),
- 1 police officer (1%).

Importantly, it should be mentioned that out of 49 missing persons, 10 mandatory conscripts were drafted in 2020 summer conscription, only one or two months before the war.

S. was serving only for 2 months and his lack of experience could only have meant that he did not have a good handling of weapons and military service. The command went to the new conscripts and said that they needed 2 courageous soldiers. S. was out from the line and introduced himself. He was taken to the positions. "

25 (51%) of the 49 missing mandatory conscripts were not transferred from their initial conscription place to another military unit during the pre-war period. In particular:

- 2 out of 8 servicemen conscripted to Artsakh/NKR Martuni 2 military unit,
- 4 out of 5 servicemen conscripted to Artsakh/NKR Hadrut military unit,
- 3 servicemen conscripted to Artsakh/NKR Jabrail military unit,
- 3 servicemen drafted to Artsakh/NKR Askeran military unit,
- 3 servicemen drafted to the RA Syunik region,
- 3 out of 4 servicemen conscripted to the RA Vayots Dzor region,
- 2 servicemen conscripted to Artsakh/NKR Kubatlu military unit,
- 1 of 2 servicemen conscripted to Artsakh/NKR Martuni military unit,
- 1 serviceman conscripted to Artsakh/NKR Martuni 3 military unit,
- 1 serviceman conscripted to Artsakh/NKR Khojalu military unit,
- 1 serviceman conscripted to Artsakh/NKR Talish military unit,
- 1 serviceman conscripted to military unit of Tavush region (Ijevan).

24 of the missing persons were transferred from their initial conscription place to another military unit during their military service prior to the war. In particular:

- 2 out of 8 conscripts of Artsakh/NKR Martuni 2 military unit were transferred to Jabrail, 1 to Fizuli, 3 to Hadrut,
- 2 out of 5 servicemen of the military units of the RA Armavir region were transferred to Hadrut, 1 to Kubatlu, 1 to Jabrail, 1 to Khojalu,
- 4 servicemen of Artsakh/NKR Mataghis military unit were transferred to Talish,

- 1 out of 5 conscripts from Hadrut military unit was transferred to Fizuli,
- 1 of the 4 servicemen of the RA Vayots Dzor region was transferred to Nakhijevan,
- 1 of the 2 conscripts of Martuni military unit was transferred to Fizuli,
- 1 conscript of the RA Aragatsotn region Mughni military unit was transferred to Jabrayil,
- 1 of the 2 servicemen of the RA Shirak region military units was transferred to Fizuli, 1 to Araler,
- 1 serviceman of Artsakh/NKR Stepanakert military unit was transferred to Araler,
- 1 serviceman of the RA Lori region military unit was transferred to Ijevan,
- 1 serviceman of Yerevan military unit was transferred to Artsakh/NKR Mataghis military unit.

On 23 October, 28 soldiers rescued from the explosion were taken to one military unit, and on October 24, by the order of Commander Harut Hartinyan, they were taken out again. In one night, the soldiers were constantly moved from place to place."

In accordance with Article 26 of the Law of the Republic of Armenia "On Military Service and Status of Servicemen", within the framework of mandatory military service, according to Article 25, Part 2, Point 2 of the Law, the designation of places of service for conscripts, except for the servicemen mentioned in part 5 of this article, shall be carried out in a centralized way and by lottery - in accordance with the order established by the decree of the Minister of Defense of the Republic of Armenia, taking into account the requirements of parts 2-4 of this article.¹⁰

As noted, 24 servicemen were transferred to other locations after being assigned to service specific sites by lottery.

It is also clear that Article 27 of the same law stipulates that mandatory conscripts and officers may be transferred to another place of service upon service necessity, in accordance with the order established by the decree of the Minister of Defense of the Republic of Armenia, but it is not clear what the specific service necessity was. In addition, this contradicts the principle of legal certainty.

Similarly, according to Article 42 of the RA Law of the Republic of Armenia "On Military Service and Status of Servicemen," contract-based servicemen are transferred to a new place of service due to service necessity, but here, too, the question arises whether the service necessity was properly substantiated or not.

40 (39%) of the missing persons took part in the hostilities in the period from 27 September to 30 September, 2020 and 64 (62%) from 1 October 2020 until the end of hostilities.

¹⁰ <https://www.arlis.am/DocumentView.aspx?DocID=158649>

From those who took part in the hostilities in the period from 27 September to 30 September, 2020

- 28 are mandatory conscripts (one of which is a conscript serving within "I am" program),
- 7 are volunteers,
- 3 are officers,
- 2 are contract-based servicemen.

From those who have been involved in hostilities since October

- 21 are mandatory conscripts (one of which is a conscript serving within "I am" program),
- 15 are reservists,
- 14 are contract-based servicemen,
- 11 are volunteers,
- 2 are officers,
- 1 is a police officer.

The information indicates, the majority of the missing persons (33%), according to the latest data of relatives, are missing in Jabrayil (Jrakan), 15% in Zangelan (Kovsakan), 10% in Varanda, 8% in Hadrut, which indicates the hot spots of the military actions. In order to have substantiated information on the hot spots there is need for a comprehensive study of the circumstances of the conduct of military actions, as well as of the circumstances of the disappearance of missing persons.

According to our information, several servicemen went to Talish for a task. They were accompanied by Colonel Sevak Abrahamyan's orderly (who should always be with the commander). He said that G. was dead, he took him down and helped the others. We asked where the body was, and he answered that the Azeris had taken it to be exchanged later. He does not say where the other soldiers of the group are. We applied to the Investigative Committee to interrogate the orderly, but they have not interrogated yet. And the immediate commander of G. told us that he personally closed G.'s eyes, that is, he clearly saw that he was dead. However, days later, after midnight, he called to say that a shell had fallen and that he had not seen G. The nurse of the Mataghis military unit, who recognized G., informed us that he was in hospital, not dead, as soon as it was convenient, he would personally pass the phone to G. to call the family. Later, the nurse gave evasive answers. We recently found out that the nurse was fired from work. The information we received contradicts each others' statements."

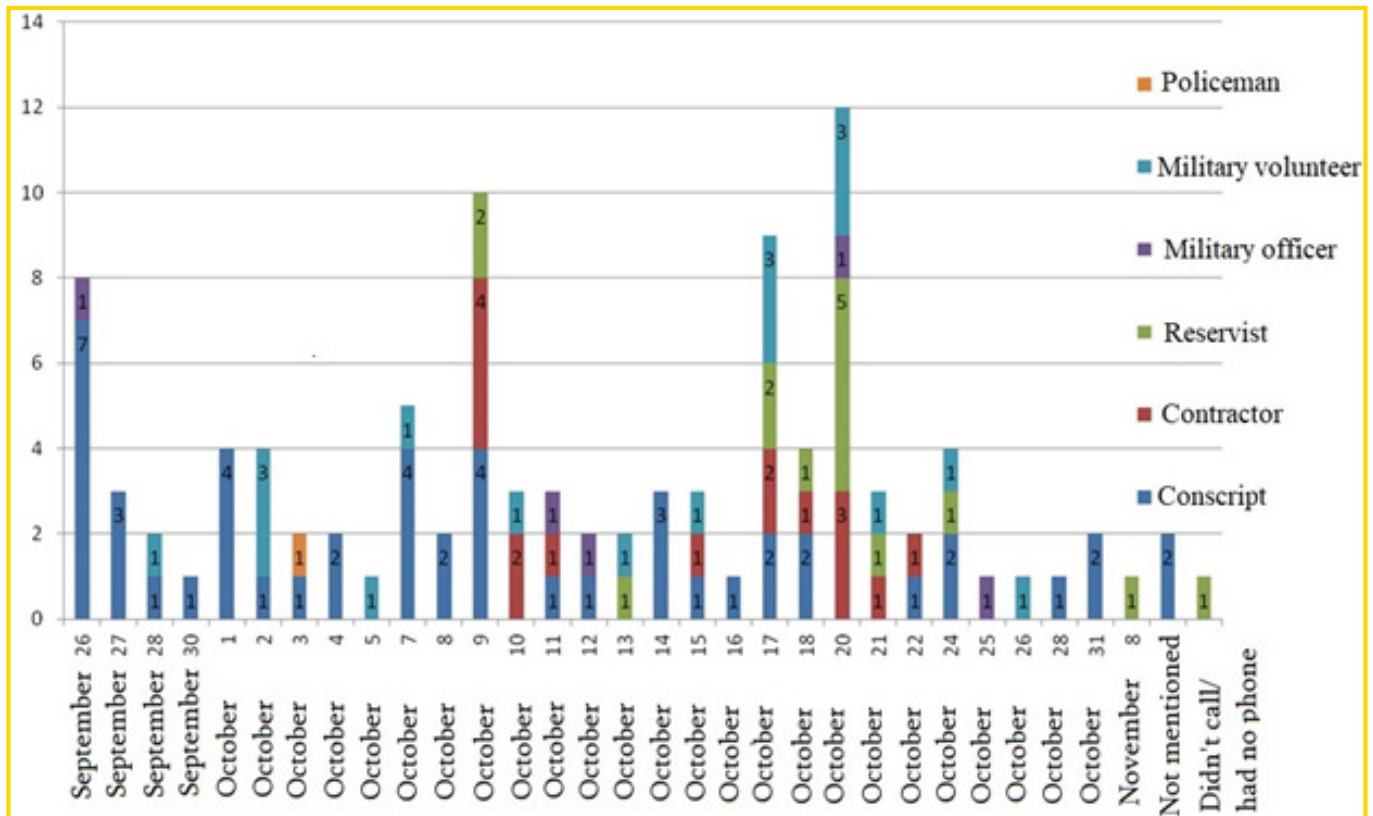
1. "One of my son's co-servicemen informed that he saw him on 30 October. After the war I went to Artsakh to talk to one of the officers. He said that the incident took place on

26 October, but I said that I talked to my son on 28 October. He said "then the incident took place on the 28th." I told him that someone saw A. on 30 October as well. He did not answer anything. Then I talked to the deputy on the affairs with the staff of the military unit and I asked him if there was a report that this soldier was missing. After that they have made a report about it. I also asked him if my son was sent to the position in a helmet or a body armor. He said, "If we do not have it with us now, means he had them."

2. "On 18 October, while moving from Ijevan to Artsakh, H. called from Khndzoresk and said that they were being taken as a live target. According to our information, Ijevan's reservists refused to go, that's why the mandatory servicemen were taken. H. participated as a volunteer. On 19 October, I could not contact my son, I called the platoon commander, who said that everything was fine with the boys, passed the phone number of the deputy on the affairs with the staff of the military unit, who was with the servicemen, but we could not contact him. Two days later, one of the servicemen informed that before the incident he left his position to bring a shovel, at that moment shelling started. After the shelling, he got up, the boys were lying (dead), he moved them, saw that they were not alive and he left. According to him, there were no traces on H. A few days later, the Azerbaijani side released a video from the area where the boys' bodies were visible, but H. was not there. 6 of the platoon members are missing. We contacted Nver Mangasaryan, the deputy on the affairs with the staff of the military unit, who said that the boys had died and that he had taken out many bodies from that area, that is, they had taken as many bodies as many they had taken to fight. And when we went to Mangasaryan, he denied that he had said this."

We also refer to the participation of the servicemen in the hostilities by days, which is presented in the chart below.

Chart 1. The start of the missing person's participation in hostilities by type of service and by days



From the chart we can see that the majority, 27 (26%) of **49 missing mandatory conscripts** have been involved in hostilities since the very first day of hostilities, 27th of September. The others were involved on different days.

The majority, 7 (7 %) of **missing contract-based servicemen**, were taken to the place of hostilities on the 12th day – 12 October, the others were involved on different days.

The majority, 6 (6 %) of **15 missing reservists**, were taken to the place of hostilities on the 21 October, the others were involved on different days.

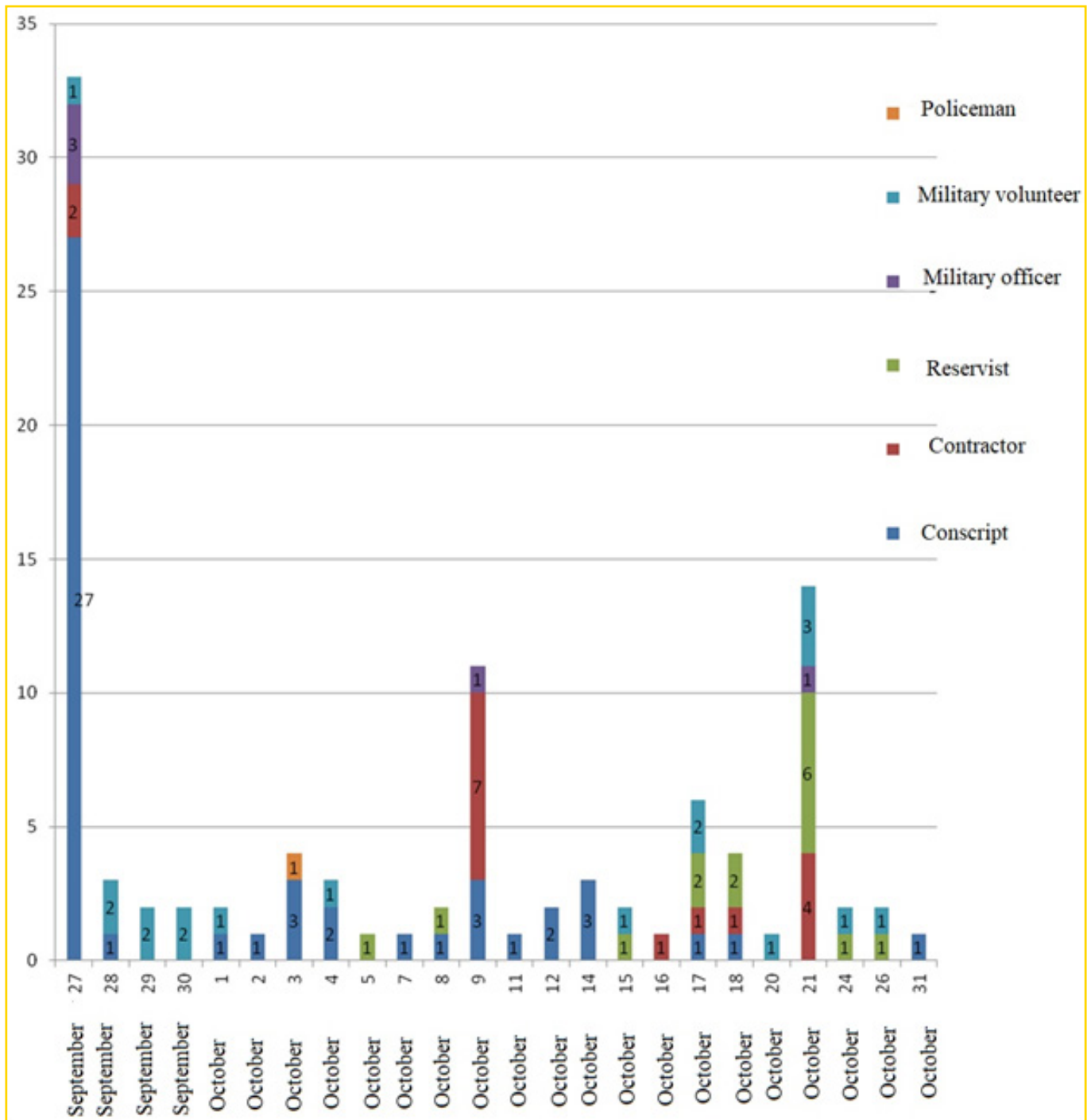
3 (3 %) of the 5 missing officers were involved from the very first day of hostilities, 27 of September.

18 missing volunteers took part in the military actions on different days in September and October.

The missing police officer was involved on 3 October.

We also present the period of time when the relatives of missing persons contacted for the last time.

Chart 2. Last day of contact



Of 49 missing mandatory conscripts

- 7 (7%) last spoke to their relatives before the start of hostilities on September 26,
- 4 (4%) on 1 October, 4 (4%) on 7 October and 4 (4%) on 9 October,
- 3 (3%) on 27 September and 3 (3%) on 14 September,
- 2 servicemen (2%) on 4 October, 2 servicemen (2%) on 8 October, 2 servicemen (2%) on 17 October, 2 servicemen (2%) on 18 October, 2 servicemen (2%) on 24 October and 2 servicemen (2%) on 31 October,
- Relatives of 2 missing servicemen do not remember when was the last time they had a

telephone conversation with their relative;

- 1 (1%) serviceman on September 28, 1 (1%) serviceman on 30 September, 1 (1%) serviceman on 2 October, 1 (1%) serviceman on 3 October, 1 (1%) serviceman on 11 October, 1 (1%) serviceman on 12 October, 1 (1%) serviceman on 15 October, 1 (1%) serviceman on 16 October, 1 (1%) serviceman on 22 October, 1 (1%) serviceman on 28 October.

Of 16 missing contract-based servicemen

- 4 (4 %) last spoke to their relatives on 9 October,
- 3 (3 %) on 20 October,
- 2 (2%) on 10 October and 2 (2%) on 17 October,
- 1 serviceman (1%) on 11 October, 15 October, 18 October, 21 October, 22 October.

Of 15 missing reservists

- (5 %) last spoke to their relatives on 20 October,
- 2 servicemen (2%) on each of the days – 9 October and 17 October,
- 1 (1%) serviceman on 13 October, 1 (1%) serviceman on 18 October, 1 (1%) serviceman on 21 October and 1 (1%) serviceman on 24 October.

Of 15 missing officers

- 1 (1%) officer last spoke to their relatives on 26 September, 1 (1%) officer on 11 October, 1 (1%) officer on 12 October, 1 (1%) officer on 20 October and 1 (1%) officer on 25 October.

Of 18 missing volunteers

- 3 (3%) last spoke to their relatives on 2 October, 3 (3%) on 17 October, 3 (3%) on 20 October,
- 1 (1%) on 28 September, 1 (1%) on 5 October, 1 (1%) on 7 October, 1 (1%) on 10 October, 1 (1%) on 13 October, 1 (1%) on 15 October, 1 (1%) on 21 October, 1 (1%) on 24 October and 1 (1%) on 26 October.

The missing police officer last spoke to his relatives on 3 October.

As can be seen from the above data, the vast majority of mandatory conscripts and officers were involved on the very first day of war - on the 27th of September, and many of them last had contact with their relatives one day before the hostilities, after which they no longer communicated. Only one of the officers last contacted one day before the war, the others, however, were able to contact in October as well.

Summarizing the data on disappearances by days and taking into account the recent communication of relatives with the missing persons, we can conclude that the missing persons most often disappeared on the first day of the war and on the 9th of October 2020, 17th of October 2020, and the 20th of October 2020.

Description of the process of identification of missing persons and providing information to their relatives

In order to identify the fact of the possible death of the missing persons, DNA samples from family members were taken by the RA Ministry of Healthcare "Scientific-Practical Center of Forensic Medicine" SNCO.

According to an interview with media, the RA Ministry of Healthcare stated that as of the 5th of May 2021, 3752 bodies and remains of war victims were subjected to forensic medical examination, 70 of which are under examination. Forensic genetic examination of 2875 samples of bodies and remains was carried out by the 4th of May, of which 2580 samples have been identified.¹¹

According to the information provided by the RA Ministry of Healthcare to HCA Vanadzor, as of the 1st of June 2021, forensic medical examination of 3756 corpses and remains was carried out.

The RA Investigative Committee also reported that on the 16th of August 2021, 53 complex samples were sent to the Netherlands for forensic genetic examination, to which they received the answers.

Accordingly, 44 out of 53 samples were identified with previously identified bodies, 5 samples were not identified with a parent DNA sample, 2 samples identified one new person, and 2 samples could not obtain a DNA profile.

In addition, in November 2021, another 47 complex samples were sent to the Netherlands for forensic genetic examination, the answers to which have not yet been received as of the 24th of December 2021.

Of the 104 families surveyed by the organization, sampling was taken from the relatives of 99 (95%) missing persons. Double sampling was taken from 43 (43%). In the case of double sampling, 2 (5%) out of 43 families were sampled abroad.

In the case of the other 5 persons, the relatives refused to provide samples. In one case, the reason for not providing the sample was the suspicion that their relative was in captivity. In two cases, the families reported that in the video released by the Azerbaijani side, they saw one person resembling their relative, and in two cases, they simply did not want to provide samples.

It should be mentioned that the families received information confirming or denying the results of the first sampling at least one month later, at most 11 months later, and in some cases even families do not remember when they were notified of the identification results.

There are many concerns for families regarding the identification process. The organization received alerts that DNA samples had not been matched for months, but as soon as families began to apply to the court for social assistance programs, they were informed a few days

¹¹ <https://news.am/arm/news/644135.html>

later that they had a match, which raised suspicions among relatives and they stopped their participation in that process, fearing that the state would stop searching for their relatives.

When there was a match with the DNA samples, and we did not accept it, because there was an obvious difference between our son and the body showed to us. Someone, called Marutyan, told us the following: "take the body now and bury it, and in 2 days you can take it out and insist that the body is not ours." Both from the regional administration and the military commissariat told us to take the body, so that at least we could get support. But we do not need their support, we need our son. We applied to the Government, the Prime Minister to send the DNA abroad, but they said that the results would be ready in 6 months. The body that was offered to us as our son's body was buried by another family in our neighboring village Azatamut."

It is noteworthy that families receive information about the identification results from various agencies. In other words, there is no consistent approach to this issue, which causes great unpredictability and distrust of this process for the relatives. At the same time, it is not clear to families which institution they can turn to for information. It was primarily the Scientific-Practical Center of Forensic Medicine who provided the information both for the first and the second identification, however, there were cases when families applied and only after applying they found out that the samples matched.

Unlike the first sampling process, in the case of double sampling, some individuals were identified earlier, within three days to one month, although most took months. Such problems have raised suspicions and mistrust among families.

Samples were generally taken from the father and mother at the same time in 36% of cases, only from the mother in 24% of cases, only from father in 17% of cases. In other cases, the samples were taken from parents and children or siblings.

The number of cases of samples taken from only one relative is 47 (46%). In 25 cases DNA sampling was taken only from the mother of the missing person, in 18 cases only from the father, in 3 cases only from the son, in 1 case only from the brother.

Moreover, only in 2 cases (17%) out of 18 cases of sampling from the father (2%) the relatives of the missing persons did not mention other relatives with whom they live and from whom it would be possible to take DNA sampling. Thus, one of them lived only with his father, and the other with his wife and minor child, and it is not known whether he has genetic relatives or not.

In 4 (4%) out of 24 (24 %) cases of sampling only from the mother, the missing persons lived with mother, wife and minor child, in 1 case only with the mother, in 1 case with the mother, the deceased brother's wife and minor children.

In 3 (3%) of the cases of DNA sampling only from the child (son) of the missing person other

persons also lived in the family, from whom it was possible to take the sample, in particular, in 1 case the missing person lived with the father, mother, minor child and the wife; in 1 case - the mother, a minor child and the wife; in 1 case the other adult child and the wife.

Only in 1 case (1%) of DNA sampling from a brother, the family of the missing person lived with other relatives - grandparents, aunts.

The fact that the purpose of sampling and the DNA examination has not been properly explained to families is worrisome. In about 84% of the cases, the families were not explained the purpose of the DNA examination at all, only 12% said that the DNA examination was performed to identify the suspicious remain or they were provided with a general explanation about DNA examination.

All 27 families with confirmed identifications were asked to accept their relative's body or remains.

It is noteworthy that 22 of the families (81%) who were offered the body or remains of a relative noticed structural differences between their relative and the body or remains handed over to them.

1. "On 23 November a DNA sample was taken from my husband. Some time later, on the internet, we saw a soldier like A. among the photos of the captives, in connection with which we applied to the investigative bodies. The next day they informed us that there was a DNA match /this was 4 months later, in March 2021/. However, we are not sure that the remains are his, because the jaw did not correspond to the structure of his jaw. On the same day that the DNA was confirmed, they took a DNA sample from me (the mother), with which we have not had a match so far. My husband's name was mentioned on the DNA sample taken from me. I asked why, they said it's to check if we are spouses or not. "
2. "After the DNA was confirmed, they called me (the father), told me about the match, and said that they could bring the body themselves. But we refused because we wanted to go in person, recognize him and then accept the body. During the recognition we noticed simple discrepancies: the size of the ears, the size of the feet, the presence of moles on the body, the cross he had on the neck. That is why we did not accept the body. And the second time, when they took a DNA sample from the brother, they informed a few days later that the previous time the DNA match was a mistake.
3. "During the meeting with Pashinyan, I asked angrily why all the officers returned and the mandatory conscripts did not. Vardanyan (investigator) put down my name. The same day they called and said that the DNA had a match. I was first told that the body was not complete, that it was a remain. I took care of all the expenses, went to get the remains but I saw that it was a complete body and the teeth did not match. In late August 2021, someone from the Missing Persons Commission called my neighbor whose son is missing,

too, in order to update them, my neighbor asked about my son too. He was told that as if we had buried my son's body on 2 August. I asked them about it and they answered that there had been a misunderstanding, so they apologized.

4. "We received a positive answer about DNA matching twice. They reported for the first time after we called to ask for information. They reported for the second time, 20 minutes after the quarrel in front of the Government building with Nairi Sargsyan, assistant to Nikol Pashinyan, and then talking to another assistant - Gagik Isakhanyan. We do not believe in DNA matches because the body is burnt, unrecognizable, the teeth are decayed, even though all of H.'s teeth were healthy before he was conscripted. That is why we do not bury the body.

In particular, in 15% of cases they noticed a difference in the teeth, in 11% of the cases the delivered bone was completely unrecognizable, in 7% of cases the size of the foot did not match, in all other cases several discrepancies were observed at the same time, in particular, the structure of the teeth, the size of the body parts, the structure of the skull, the form of the jaw, the general structure of the body, the marks on the body, as well as differences between the objects the person had with him. In some cases, the family was informed that the missing person was on the tank and burned, but the remains were not burned. In other cases, things were missing, the body mark /the mole/ was not there. The papers also stated that he had a chest injury and died from an explosion.

It can be concluded from the above-mentioned, that the information on the results of identification is received in an unreasonable period of time. Families received information about the results from different agencies which indicates the lack of the state's unified approach to ensure the right of families to receive information, which causes unpredictability and distrust for the process. There was also a lack of trust due to the structural differences between the missing person and the body or remains handed over to the families. Besides, the purpose of DNA examination has not been properly explained to families.

S.'s name was published in the list of the dead, but it was also included in the list of the missing, as the body was not found until then. DNA sampling was taken from the father. Four months later, they informed us that the DNA sampling had a match, but having doubts, we applied for a double DNA examination. They took the sample from me (mother). Shortly after that, Zaruhi Matevosyan (from the office of RA Deputy Prime Minister Tigran Avinyan) informed on the phone that she had been verbally informed by the Scientific-Practical Center of Forensic Medicine that the DNA sample did not match, and advised us to visit the center and meet the director. On the way there, they called and said that based on double DNA samples, it was confirmed that S. had died.

We were told that if we did not take the remains, they would bury it in the mass grave. So, we had to bury. However, since only the extremities were found, we buried them in a closed coffin. But we do not believe in the results of the DNA examination, because the data we received are contradictory. "

During the study, apart from sampling, we tried to find out the situation of other work carried out with relatives by various state bodies. According to 40 (38%) out of 104 families participating in the interviews, other explanations/information were taken from them, in particular, in 58% of cases by the investigative bodies and the NSS, in 25% only by the investigative bodies, in 10% by the NSS, in 5% of cases by the investigative bodies, the prosecutor's office and the NSS, and in 3% of cases by the military police.

Considering the fact that explanations were taken from the relatives of the missing persons and the involvement of various agencies, we can say that not all relatives of the missing persons were asked to give accounts. The agencies that take explanations are not the same in all cases, that is, several agencies took explanations from some families at the same time, from some families only one agency took explanations, and some families were not asked to give explanations at all. In addition, it is not known to what extent these actions are related to the circumstances of the disappearance of the missing persons and whether they were committed in the framework of a criminal cases. These questions prove the lack of a uniform, well-developed, legally substantiated policy by the state on the rights of missing persons and their relatives.

The study also looked at the nature of relatives' problems after the disappearance of missing persons and the attitude of the state agencies towards them. The main problem was and is the provision of information by the state agencies to the relatives of the missing (78%) and the bad or indifferent attitude of the state agencies (43%). The relatives particularly mentioned the fact that the state agencies did not provide information, did not respond to inquiries, and also mentioned the provision of contradictory data. In some cases, relatives stated they did not answer their calls or ask the relatives for information.

In terms of treatment, we can state that many state agencies show indifference (see Table 3).

Table 3. Treatment by the state bodies

| Description of treatment | Number of families | % |
|--|--------------------|-----|
| Indifference | 5 | 56% |
| The do everything indifferently | 1 | 11% |
| They receive us, hear but do not proceed further | 1 | 11% |
| They don't receive us, ask to wait | 1 | 11% |

| | | |
|--|----------|-------------|
| The state is not interested in the social status of the family members of the missing person | 1 | 11% |
| Total | 9 | 100% |

The relatives also provided details on how indifferent the state agencies are when they tried to get any information.

Table 4. Treatment towards the relatives of the missing persons when applying for information

| Description of treatment | Number of families | % |
|---|--------------------|-------------|
| No response to letters, sometimes they verbally urged to wait | 17 | 46 |
| No information provided | 13 | 36 |
| They try to get information from relatives | 2 | 6 |
| They are indifferent and they do not provide information | 1 | 3 |
| They answer only after arguing, and they give a non-exhaustive answer | 1 | 3 |
| They are very dissatisfied with the attitude of state bodies | 1 | 3 |
| In the past, family members' phone calls were answered, but later they did not even provide any information | 1 | 3 |
| Total | 36 | 100% |

Most of the families applied to different organizations at the same time to find their relatives, the majority (88%) applied to the International Committee of the Red Cross, 85% to the RA Ministry of Defense, 82% to the Commission on Missing Persons, 57% to the Human Rights Defender, 47% to the Ministry of Defense of the Republic of Artsakh, 45% to the Russian peacekeeping forces deployed in Artsakh/Nagorno Karabakh, 26% to various embassies in Armenia, 10% to the NSS. In some cases, they applied to MPs, lawyers and other persons or agencies.

The relatives applied to various state agencies both during the war and after the end of hostilities.

As we have mentioned, relatives of about 700 missing persons applied to HCA Vanadzor office as a non-governmental organization.

According to the vast majority of interviewees, the Ministry of Defense did not provide any information to the relatives of the missing persons either during the hostilities (76%) or after the end of the hostilities (75%). During the hostilities (in the case of 5%) and after the end of the hostilities (in the case of 8%), the RA Ministry of Defense responded, but did not provide anything specific.

In all other cases, they either give contradicting answers or provide insufficient information,



and sometimes they even called relatives to get information from them.

As for the response of the Commission on Missing Persons, again most of them did not say anything or did not respond to the questions from the relatives.

According to the vast majority of interviewees, the Committee on Missing Persons did not report anything to the relatives of the missing, either during the hostilities (89%) or after the end of the hostilities (74%). In 4% of cases during the hostilities and in 5% of cases after the end of hostilities, the Committee on Missing Persons urged them to wait, stating that they were working on it or that search operations were being carried out, but did not provide any specific information. In all other cases, they either give contradictory answers or provided some information, and sometimes they also called the relatives to ask for information.

About half of the relatives also applied to the Ministry of Defense of the Republic of Artsakh for information about their missing relative, but both during the war (59%) and after it (57%) they did not say anything or did not respond in any way. During the hostilities (in case of 6% of cases) and after the end of hostilities (in case of 12% of cases) the Ministry of Defense of the Republic of Artsakh/Nagorno-Karabakh did not provide any clear answer. Both during and after the war (in the case of 4%) the relatives were provided with contradictory information by the Ministry of Defense of the Republic of Artsakh/Nagorno-Karabakh.

The families of 46 missing persons have even applied to the Russian peacekeeping forces in Artsakh/Nagorno-Karabakh for information on a missing relative. In 76% of cases they did not say anything or did not respond in any way. 7% were verbally informed that Azerbaijan denies the fact of having a captive with the data of the person. 1 person (2%) mentioned that Muradov, the commander of the Russian peacekeeping troops located in Artsakh/Nagorno Karabakh, told them that he does not accept people from Armenia, they work only with the people of Karabakh.

After contacting the relatives of the missing persons, the Human Rights Defender also did not provide any further information.

Thus, as we have already mentioned, there are several government agencies dealing with the problems of missing persons and their families, collecting and exchanging information, but none of them were able to provide access to information on missing persons' families, as well as solutions to the problems. For this reason, the families applied to all possible agencies, hoping that their problems would be solved, but as it is presented above, the problems of the families were not solved, the families' trust in state and other bodies did not increase

CONCLUSIONS

Having studied the problems of the missing persons and their families during the 44-day war and in the post-war period, the situation of fulfillment of the state's obligations towards them, we come to the following conclusion:

1. The right of families of missing persons to receive information about the whereabouts and fate of their relatives has not been effectively assured by the state, in particular:
 - Families were not provided with information on the circumstances of the disappearance, the whereabouts and the fate of the missing persons;
 - Families were not provided with adequate information on the significance of the identification, the identification terms and their results.
2. The Ministry of Defense of the Republic of Armenia refused to provide information on the number of missing persons as a result of the 44-day hostilities, substantiating the refusal by the requirements of the RA Law "On Personal Data" and Article 8, Part 1, Point 2 of the RA Law "On Freedom of Information":
 - The request for information on the number of missing persons due to the 44-day hostilities was submitted to the RA Prime Minister, but the request for information was redirected to the RA Ministry of Defence, which again refused to provide information based on Article 1, part 1, point 1 of the RA Law "On Freedom of Information" as well as the RA Law "On Personal Data" and the Point 55 of Appendix to decree N 9 of the RA Ministry of Defense dated the 9th of July 2015. **In other words, the provision of information to the public is denied without stating a legal basis, without providing sufficiently solid information on the ban of publishing information, and without presenting clear reasons for the refusal. The provision of information directly related to human rights, which is in the overriding public interest, has been denied.** Besides, this confidential information has been regularly posted on official websites and in response to media questions.
3. There is no unified database on missing persons, where complete data on missing persons would be collected.
4. Different state agencies exercised the same powers and functions during the war and in the post-war period.
5. The families of missing persons do not know which agency they can turn to, to obtain information on various issues due to the absence of a unified agency involved in collecting and exchanging information on missing persons and information on the rights and problems of missing persons and their families due to multiple agencies performing the same functions, as a result of which the guarantee and effective realization of the rights of families of missing persons to receive information about the fate and whereabouts of their relatives and other rights was not assured.

6. The agencies responsible for working with the families of missing persons do not have the appropriate knowledge and skills, trained staff, to ensure effective solution of the families' problems.
7. Information on the results confirming or denying the identification is received in an unreasonable time, families receive information about the results from different agencies, which indicates the absence of a unified approach by the state to ensure the right of families to receive information, which in turn causes unpredictability and distrust of the process. At the same time, it is not clear to families which institution they can turn to for information. It was mainly the Scientific-Practical Center of Forensic Medicine that provided the information both for the first and the second identification, but there were cases when families applied and only after applying they found out that the samples matched.
8. The structural differences between the missing person and the body or remains handed over to the families also caused distrust.
9. The families of missing persons, who were directly affected by the war, have many needs, in particular: social, legal, financial, and psychological support.
10. According to the legislation of the Republic of Armenia, the absence of legal status of a missing person makes their relatives go to court to declare their relative missing or dead to solve some social assistance issues, but even these statutes do not fully protect the rights and interests of missing persons and their families.
11. Partial legislative solutions with a non-systemic and situational approach demonstrate a discretionary approach to providing social assistance, which cannot be systemic unless the state's obligation to provide social assistance to the family of a missing person is defined by law:
 - In particular, the missing person, in accordance with domestic law, in order to receive social assistance provided by the state, must be declared absentee or dead by court at the request of relatives. Even if a person is declared missing by a court, families face a number of social problems, for example, they can not take legal action against the property belonging to a missing person. In addition, the status of an absentee by court does not create any obligation for the state, it is just a status through which family members can benefit from social assistance programs provided by the state to the families of servicemen.¹²
12. The circumstance of transferring servicemen to another place of service due to the service need in the manner as prescribed by the decree of the Minister of Defense of the Republic of Armenia is not clear, as well as it is not clear what specific circumstances is the service need conditioned by, which contradicts the principle of legal certainty.
13. 13. Some employees of state agencies show disrespectful and inhuman treatment to the family members of missing persons.

¹² RA law "On Military Service and the Status of a Serviceman"

RECOMMENDATIONS

Based on the conclusions made on the study of the problems of the missing persons and their families, we are putting forward a set of recommendations.

To the RA National Assembly and Government

- Adopt the RA Law "On Missing Persons" and to define by law the legal regulations on the status of the "missing person".
- Provide in the legal regulations of the RA Law "On Missing Persons" the obligation of the state to search for, find, identify, and return to relatives a missing person and present a clear, predictable legal procedures for this implementation.
- Establish a separate specialized state agency (for example, the Missing Persons Information Bureau or Commission), thereby excluding the existence of several agencies performing the same functions at the same time, which will be responsible for guaranteeing and resolving the rights of missing persons and their families, in particular by collecting and exchanging information, ensuring the right of the families of missing persons to receive that information.
- Provide the agency responsible for the work with missing persons and their families with the appropriate knowledge and skills, and the necessary human, technical and financial resources.
- Provide the necessary information to the families of the missing persons on the whereabouts and fate of the missing persons during the hostilities and in the post-war period, in accordance with the legal regulations of the RA Law "On Missing Persons".
- Guarantee in the legal regulations of the RA Law "On Missing Persons" the social guarantees of the family members of the missing persons, the provision of healthcare, legal, and educational assistance.

To the RA Ministry of Defense

- Ensure the publication of statistics on missing persons, refrain from refusing to provide information that is not considered confidential, in case of refusal to provide information, clearly state the legal basis for it, provide sufficient, solid information on the ban of publishing information, clearly state the reasons for refusal. Consider the public interest when denying or providing information.

To the General Staff

- In case of transfer of servicemen to another place of service due to service need/ necessity in the manner prescribed by the decree of the Minister of Defence of the

Republic of Armenia, clarify the circumstances substantiating the service necessity, thus ensuring the principle of legal certainty.

To the Scientific-Practical Center of Forensic Medicine

- Provide the families of the missing persons with adequate information on the significance of identification.
- Provide the families of the missing persons with information on the results confirming or denying the identification within a reasonable period of time, display a common approach in providing the families with information about the results, which can reduce unpredictability and distrust for the process.

To International Organizations

Parliamentary Assembly of the Council of Europe (PACE)

- At the PACE session, in the context of the 44-day war, discuss the Resolution 1553 (2007) on Missing persons in Armenia, Azerbaijan and Georgia from the conflicts over the Nagorno-Karabakh, Abkhazia and South Ossetia regions, adopted by the Parliamentary Assembly of the Council of Europe (PACE) in 2007, and the implementation of Recommendation 1797 (2007) on Missing persons in Armenia, Azerbaijan and Georgia from the conflicts over the Nagorno-Karabakh, Abkhazia and South Ossetia regions.

Council of Europe Commissioner for Human Rights

- Refer with a special report to the issue of the right of the families to receive information on the fate and whereabouts of their missing relatives, the fulfillment of the obligations of the Council of Europe member states - Armenia and Azerbaijan.

UN High Commissioner for Human Rights

- Consider the rights of missing persons during 44-day war in the UN Human Rights Council

