

JOINT COMMISSION TO TRACE MISSING PERSONS

AND MORTAL REMAINS

RULES OF PROCEDURE AND PLAN OF OPERATION

BASIC RULES

Taking into consideration the "Memorandum of Understanding" adopted on 27th November 1991 and in particular the point 8 relative to the tracing of missing persons and mortal remains the parties decide to set up a Joint Commission which will work

- in conformity with the Geneva Conventions of 12 August 1949, and in particular
  - a) Articles 16 and 17 of the Geneva Convention for the amelioration of the condition of the wounded and sick in armed forces in the field of 12 August 1949 (hereinafter "the First Convention"),
  - b) Articles 19 and 20 of the Geneva convention for the amelioration of the condition of wounded, sick and shipwrecked members of armed forces at sea of 12 August 1949 (hereinafter "the Second Convention"),
  - c) Articles 118, 119, 120, 121, 122 and 123 of the Geneva Convention relative to the treatment of prisoners of war of 12 August 1949 (hereinafter "the Third Convention"),
  - d) Articles 26, 129, 130, 131, 132, 133, 134, 136, 137, 138, 139 and 140 of the Geneva Convention relative to the protection of civilian persons in time of war of 12 August 1949 (hereinafter "the Fourth Convention"),
- and in conformity with articles 32 to 34 of the Additional Protocol I,

the parties adopt the rules set below.

PART I

MEMBERS OF THE JOINT COMMISSION

RULE 1

(MEMBERSHIP)

1. The members of the Joint Commission shall be representatives of:
  - the Federal Executive Council of the Socialist Federative Republic of Yugoslavia
  - the Republic of Croatia
  - the Republic of Serbia
  - the Yugoslav People's Army
2. In addition to its chief representative, or his substitute, each member shall be allowed up to three other representatives at each meeting (i.e. technical advisers). All Red Cross organizations concerned, and in particular the Yugoslav Red Cross, the Croatian Red Cross and the Serbian Red Cross are designated as permanent advisers to the members of the Joint Commission.

RULE 2

(CHAIRMANSHIP)

1. The International Committee of the Red Cross (ICRC), acting as a neutral intermediary, shall put at the Joint Commission's disposal a delegation which will chair the meetings of the Joint Commission.
2. Following each meeting, the ICRC shall submit for the approval by the Joint Commission the minutes containing the decisions adopted during the meeting.

PART II

PROCEEDINGS OF THE JOINT COMMISSION: GENERAL RULES

RULE 3

(MANDATE)

The mandate of the Joint Commission shall be:

- I) the co-ordination of the activities of the Tracing Services,
- II) the intervention in some specific requests and more complex cases, and
- III) the discussion of every unclosed request.

RULE 4

(VENUE)

As a general rule, the Joint Commission shall meet in Pecs and in Geneva whenever necessary.

RULE 5

(LANGUAGE)

The official and working language of the Joint Commission shall be English.

RULE 6

(HOLDING OF MEETINGS)

1. The Joint Commission shall hold as many meetings as required for the exercise of its functions.
2. Meetings shall be convened on dates decided by the Joint Commission. At the end of each meeting, the place, time and date of the next meeting shall be agreed upon.
3. The Joint Commission may be convened in Geneva for extraordinary meetings, at the request of the ICRC, to deal with specific questions, such as those related to legal problems or matters handled by the Central Tracing Agency. In such cases the ICRC shall notify the other members of the Commission of the date and time of the meeting. Whenever possible such notification shall be given at least ten days in advance.

RULE 7

(AGENDA)

1. Each member shall circulate to the other members and to the ICRC any proposed agenda items or a draft agenda of matters to be discussed at the next meeting. Notification of such items shall be given at least 48 hours before the next meeting.
2. At the beginning of each meeting the ICRC shall propose a comprehensive agenda.
3. The agenda shall be adopted by the Joint Commission at the beginning of each meeting.

RULE 8

(DOCUMENTATION)

At least one copy of all working documents relating to the various items on the agenda shall be provided to each member of the Joint Commission and to the ICRC.

RULE 9

(QUORUM)

For its proceedings to be valid, the Joint Commission shall require a quorum of at least one representative of each member.

RULE 10

(PRIVACY AND CONFIDENTIALITY)

1. The Joint Commission shall meet in camera. Its deliberations shall remain confidential unless it decides otherwise, with the consent of ICRC.
2. Apart from the representatives of Joint Commission members, Red Cross members and of the ICRC, no other person may be present at its meetings, unless the Joint Commission and the ICRC decide otherwise.

RULE 11

(HEARINGS)

The Joint Commission may hear any person whom it considers to be in a position to assist it in the performance of its functions with regard to the Geneva Conventions.

RULE 12

(PROPOSALS)

Any proposal must be submitted in writing if a member of the Joint Commission so requests. In such a case, the proposal shall not be discussed until it has been circulated.

RULE 13

(ADOPTION OF DECISIONS)

1. The decisions of the Joint Commission shall be adopted by consensus.
2. The decisions of the Joint Commission shall be implemented immediately.
3. Parts of a proposal or amendment may be adopted separately.

RULE 14

(RECONSIDERATION OF DECISIONS)

1. Any member of the Commission may suggest the reconsideration of a decision already adopted.
2. Once a decision has been adopted, it may be re-examined only if the Joint Commission accedes to such a request.

RULE 15

(WORKING GROUPS)

The Joint Commission may set up ad hoc working groups comprising a limited number of representatives of its various members. The terms of reference of such working groups shall be defined by the Joint Commission.

RULE 16

(EXPENSES)

✓ The costs related to travel, board and lodging of the members of the Commission and their technical advisers shall be borne by each delegation. The ICRC shall take charge of all administrative costs related to the organization of the meetings.

PART III  
PARTICIPATION BY THE ICRC

RULE 17

1. The ICRC shall participate in the work of the Joint Commission in conformity with its role as defined by its mandate and by international humanitarian law.
2. The ICRC shall act as chairman of the Joint Commission without prejudice to its humanitarian activities relating to the conflict.

RULE 18  
(COMMUNICATIONS, PROPOSALS AND  
INFORMATION SUBMITTED BY THE ICRC FOR  
CONSIDERATION BY THE JOINT COMMISSION)

1. The ICRC shall bring to the Joint Commission's attention, on its own initiative, any communication, proposal, plan of work or information which might contribute to the efficiency of the Joint Commission's work. Any such contribution by the ICRC shall be dealt with as a matter of priority in the agenda of each meeting, if the Commission so decides.
2. The Joint Commission may request the ICRC at any time to submit opinions on points of law, to make practical proposals or to intervene as a consulting body to the Joint Commission.

PART IV  
RULE 19  
(AMENDMENTS TO THE RULES)

These rules of procedure may be amended by a decision of the Joint Commission.

RULE 20

(TERMINATION OF THE COMMISSION)

The work of the Commission shall end upon completion of its tasks or following a decision taken by the signatories of the Memorandum of Understanding agreed in Geneva on 27 November 1991.

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3 Annex entitled "Plan of Operation Designed to Ascertain the Whereabouts or Fate of the Military and Civilian Missing" enclosed.

For the Federal Executive Council of the Socialist Federative Republic of Yugoslavia:

Dr. Dragoljub Nikolic

For the Republic of Croatia:

Dr. Vladimir Jonke

For the Republic of Serbia:

Dr. Krsman Paunovic

For the Yugoslav People's Army:

Colonel Dr. Miodrag Starcevic

For the International Committee of the Red Cross:

Mr. Francis Amar

Pearl, 16 December 1991

ANNEX

PLAN OF OPERATION DESIGNED TO ASCERTAIN  
THE WHEREABOUTS OR FATE OF THE MILITARY  
AND CIVILIAN MISSING

1. INFORMATION ON THE DECEASED

1.1 The parties to the conflict shall provide to the adverse party/parties, through the intermediary of the ICRC and National Information Bureaux and, as rapidly as possible, all available information regarding:

- the identification of deceased persons
  - the gravesites of deceased persons
- belonging to the adverse party/parties.

1.2 At the request of the party on which the deceased depend, the parties to the conflict shall organize the handover of the mortal remains and/or allow the identification of the deceased by the adverse party.

1.3 PROPOSAL

By mutual agreement, the parties may decide on the participation of foreign medical experts in identifying the deceased.

2. MISSING PERSONS

2.1. COLLECTION OF INFORMATION ON MISSING PERSONS

2.1.1 Each party is responsible for compiling a list of its reported missing, taking into account:

- captured persons - who have been returned;
- deaths recorded among members of its armed forces;
- notifications of deaths and information relative to deceased persons received from the adverse party/parties through the intermediary of the ICRC and National Information Bureaux.

2.1.2 As regards its missing person, each party is responsible for compiling a file with as many details as possible, on the basis of page 1 of the form headed "official request for missing person".

As a rule, there should be one file for each missing person.

## 2.2. PROCESSING MISSING PERSON FILES

2.2.1 Each opened file shall be sent on the attached form in duplicate to the ICRC which shall arrange for it to be forwarded to the party concerned.

The reference number of each file is the preprinted number of the form.

2.2.2 On the basis of the contents of each file, the adverse party/parties shall take all possible measures (administrative steps and appeals to the public) to obtain information on the person reported missing.

Details of the various measures taken and the results obtained shall be recorded on page 2 of the form headed "official request for missing person", duly dated and authenticated by the party concerned. All documents relative to the measures taken and the results obtained shall be included in the file. Any first-hand accounts shall be dated and shall contain the name(s) and address(es) of the witness(es).

2.2.3 Once the enquiry has been completed, page 2 of the form "official request for missing person" with the accompanying documents shall be returned in duplicate to the ICRC, which shall forward them to the party on which the missing person depends.

Once the case has been resolved, the family shall be informed accordingly by the party on which the missing person depends and the file shall be closed.