Submission to the UN Working Group on Enforced or Involuntary Disappearances

Thematic Report on Enforced Disappearances and Memorialization

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MONTENEGRO
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INTRODUCTION

Distinguished members of the Working Group on Enforced or Involuntary Disappearances,

Human Rights Action (HRA), a non-governmental organization based in Podgorica, Montenegro, respectfully submits this contribution in response to the Working Group's call for inputs for the thematic report on enforced disappearances and memorialization, to be presented to the Human Rights Council in September 2026 and to the General Assembly in October 2026.

Founded in 2004, HRA is a non-profit organization dedicated to the protection and promotion of human rights and the rule of law in Montenegro. Through legal advocacy, trial monitoring, research and public engagement, HRA works to promote accountability for serious human rights violations and the consistent application of international human rights standards.

In its work, HRA has paid particular attention to issues related to war crimes, enforced disappearances and the rights of victims' families. We regularly monitor war crimes trials, report on institutional shortcomings in addressing past abuses and advocate for the right of families to know the fate of their missing relatives, as well as for adequate forms of acknowledgment and reparation.

This submission aims to contribute to the Working Group's study by highlighting selected challenges related to memorialization in Montenegro, particularly in the context of crimes committed during the 1990s armed conflicts. The submission focuses on the relationship between memorialization, the right to truth and the rights of families of the disappeared, as well as on the structural and political obstacles that continue to affect commemorative initiatives.

Thank you very much for your attention.

1. Legal obligations of States in the area of memorialization and enforced disappearances

Are there relevant provisions or judicial decisions – both at the international and domestic levels – establishing legal obligations for the State in the area memorialization in cases of enforced disappearance? If so, what is the content of such provisions and what are their temporal boundaries (for example: when do they arise and do they persist open-endedly)? With regard to judicial decisions, briefly summarise the contents and the relevance in the area of memorialization (both in the sense of promoting or hampering memorialization efforts in cases of enforced disappearance).

Montenegro does not have a specific legal framework regulating memorialization in cases of enforced disappearance, nor does domestic legislation explicitly recognise memorialization as a component of reparation.

However, binding international standards establish relevant obligations. Under the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), particularly Article 24, victims have the right to truth and reparation. In accordance with the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation (2005), reparation includes measures of satisfaction, such as public acknowledgment, commemorations, and preservation of memory.

In Montenegro, 50 persons connected to war crimes committed during the 1990s remain officially registered as missing. **This includes victims of the abduction in Štrpci, as well as Montenegrin citizens who disappeared in Bosnia and Herzegovina and in Kosovo during the armed conflicts.** The continued status of these individuals as missing reinforces the continuing nature of enforced disappearance and, consequently, the ongoing character of the State's obligations under international law. Under international human rights law, enforced disappearance constitutes a continuing violation that persists until the fate or whereabouts of the disappeared person is clarified.

Montenegro is also marked by the case of the deportation of Bosnian-Herzegovinian refugees in 1992. According to official documentation, in May and June 1992 the Montenegrin police unlawfully arrested at least 66 Bosniak civilians who had fled the armed conflict in Bosnia and Herzegovina and sought refuge in Montenegro. They were subsequently handed over to the Army of the Republika Srpska in Bosnia and Herzegovina. **The majority were killed, and in several cases, the remains have not been recovered, leaving families without knowledge of the fate and whereabouts of their relatives. In this context, the families of the victims and civil society organizations have for many years advocated for the establishment of a memorial at the site where the unlawful arrests were carried out. Since 2011, the Human Rights Action (HRA), the Centre for Civic Education (CGO) and ANIMA – Centre for Women's and Peace Education, together with Aleksandar Saša Zeković, then a member of the Council for Civilian Control of Police Work, have submitted several formal initiatives to state authorities.**

These initiatives called for:

1) the proclamation of a Day of Remembrance for the victims of the 1992 deportation of refugees;

2) the establishment of a memorial in front of the Police Directorate building in Herceg Novi, where the refugees were unlawfully detained before being handed over to the Army of Republika Srpska; and
3) an official apology by the Montenegrin police for the unlawful arrest and surrender of the refugees to a hostile military force.

As these initiatives remained unaddressed, civil society organizations reiterated the request **for the proclamation of a Day of Remembrance in May 2021 by formally addressing the then-President of the Parliament of Montenegro, Aleksa Bečić. He responded that such a step would require amendments to the Law on State and Other Holidays, but no initiative to amend the law was subsequently undertaken.**

The request for a memorial directly reflects the wishes of the victims' families, many of whom continue to search for the mortal remains of their relatives. **Despite repeated submissions of these initiatives and occasional public expressions of support by government representatives and local authorities, no memorial has been established to date.**

For the families of the victims, the absence of such a memorial represents not only a failure of remembrance but also a continuing lack of recognition. **More than three decades after the crime, their request remains modest but fundamental: that the place where their relatives were unlawfully deprived of liberty be publicly marked, so that the victims are not erased from public memory and such abuses are never repeated.**

Memorialization in Montenegro has so far been addressed primarily through parliamentary resolutions rather than through binding legislation. The Parliament declared 11 July as the Day of Remembrance of the Victims of the Genocide in Srebrenica. **However, unlike the resolution concerning the victims of the concentration camp at Jasenovac—which explicitly commits the Parliament to marking the day annually—the Srebrenica resolution does not contain an equivalent obligation of regular institutional commemoration.**

At the same time, political actors have demonstrated the capacity to introduce commemorative initiatives when there is sufficient political will. For example, the Parliament proclaimed a Day of Remembrance for the victims of the genocide in Jasenovac and committed to its annual commemoration. **This contrast highlights a paradox: while civil society initiatives calling for the establishment of a Day of Remembrance for the victims of the 1992 deportation were met with the explanation that amendments to the Law on State and Other Holidays would be required, other commemorative initiatives have been adopted when politically opportune.**

This disparity reflects a selective and politically conditioned approach to remembrance. Such resolutions remain symbolic political acts and do not establish an enforceable or comprehensive legal framework governing memorialization, particularly in relation to victims of war crimes and enforced disappearance.

- Do States bear a positive duty to enable, facilitate, or protect memorialization initiatives – particularly in contexts of ongoing impunity or contested narratives?

Montenegro does not have an explicit domestic legal provision establishing a positive duty to enable or protect memorialization initiatives in cases of enforced disappearance. Nevertheless, such obligations arise from binding international law. Article 24 of the

International Convention for the Protection of All Persons from Enforced Disappearance guarantees the right to truth and reparation, which—under the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation—includes measures of satisfaction such as public acknowledgment and remembrance.

Obligations under freedom of expression and peaceful assembly also require the State to ensure that commemorative initiatives can take place without intimidation or obstruction. **In a context where accountability for 1990s crimes remains incomplete, and some victims are still missing, failure to support and safeguard memorialization risks reinforcing institutional silence and undermining the effective realization of the right to truth.**

- Does international or domestic law define State obligations to support or protect civil society-led memorialization, and does it limit State interference in such initiatives?

Memorialization initiatives in Montenegro have primarily been initiated and sustained by victims' associations, families of victims and civil society organizations, including in relation to the deportation of Bosnian refugees in 1992 and the abduction in Štrpci. Commemorative gatherings have typically been organized by these actors, often in cooperation with human rights organizations, rather than as part of a structured State-led remembrance policy.

International human rights law limits State interference with such initiatives: any restriction must be lawful, necessary and proportionate. **However, while Montenegro does not formally prohibit commemorative activities, there is no legal framework ensuring State support, facilitation or protection of civil society- and victim-led memorialization as a component of reparation.**

In the case of the deportation of Bosnian refugees, families of victims and civil society organizations have formally requested the establishment of a memorial since 2011. Annual commemorations have been organized since 2009 in front of the Police Directorate building in Herceg Novi by victims' representatives and civil society actors. Until 2022, there was no official apology from the Director of Police. Despite more than a decade of sustained advocacy by those directly affected, a permanent memorial has not been established and no structured institutional policy of remembrance has been adopted.

This pattern reflects not merely a legislative omission, but a continued institutional reluctance to assume ownership of memorialization as part of reparation. The burden of preserving memory remains disproportionately on victims and civil society, which weakens the practical realization of the right to truth and diminishes guarantees of non-repetition.

2. Practical and inclusive approaches to memorialization by States, victims and civil society

- What good practices of memorialization by State authorities/victims/civil society can be identified in cases of enforced disappearance?

- What good practices can be identified with regard to the individual and collective dimensions of memorialization?

- Which mechanisms have been used to ensure inclusive participation in memorialization initiatives of families of disappeared persons, in particular regarding marginalized groups/Indigenous Peoples?
- What are the examples of successful collaboration between States, victims, and civil society in memorialization initiatives in cases of enforced disappearance, and what has been instrumental in securing this success?

The most notable example of good practice in Montenegro is the memorial for the victims of the Štrpci abduction (1993) in Bijelo Polje. The families of the victims submitted the initiative to establish the memorial, and their sustained advocacy was central to its realization. The memorial lists the names of all victims, including those still officially considered missing, thereby affirming individual dignity and reinforcing the right to truth.

In 2026, HRA, together with the association Štrpci Against Oblivion, submitted an initiative to name a street after the victims, to permanently integrate remembrance into public space. This step reflects an effort to move beyond one-time symbolic commemoration toward durable and institutionalized public acknowledgment.

Families of victims and civil society organizations have played a decisive role in initiating and sustaining these memorialization efforts. Cooperation with public authorities contributed to this outcome, particularly in a context where the relevant facts had been judicially established. However, such collaboration has not been grounded in a formal participatory framework, but rather in persistent advocacy by victims and civil society actors.

3. Challenges and legal protection for persons, civil society, memorials, and memorialization initiatives: addressing threats and safeguarding commemorative efforts

- Which forms of threat have been documented against families of disappeared persons, communities and civil society who engage in memorialization? Which forms of threats and attacks against memorials have been documented?
- What (legal) protection mechanisms exist to shield families of disappeared persons, communities and civil society from such backlash? What renders such mechanisms effective and what, on the contrary, has proved inefficient? What are other proposed ways for effective protection?
- How can UN and regional human rights mechanisms contribute to the safeguard of commemorative practices in cases of enforced disappearance?
- To what extent can forms of backlash against memorialization be seen as manifestations of State denial?

In Montenegro, families of victims, communities and civil society actors engaged in memorialization of 1990s crimes, including cases involving enforced disappearance, have primarily faced public delegitimization, political stigmatization and hate speech, particularly in online spaces. Although systematic physical attacks against families have not been documented in recent years, commemorative initiatives regularly encounter **societal polarization, relativization of crimes and narratives that challenge or undermine judicially established facts.**

In 2023, the monument to civilian victims of the wars at Pobrežje was desecrated. The memorial is directly relevant to enforced disappearance, as it commemorates civilian victims of the 1990s conflicts, including persons who were abducted and those who remain missing to this day. Such acts of vandalism undermine remembrance efforts and may contribute to an atmosphere of intimidation, particularly where perpetrators are not effectively prosecuted.

A structural challenge lies in the political conditionality of memorialization. State engagement tends to depend on political calculations rather than on a principled understanding of obligations arising from the right to truth and reparation. Where remembrance entails recognition of Montenegro's responsibility for wartime abuses, institutional responses have often been inadequate or altogether absent. Despite sustained advocacy by victims' families and civil society, a permanent memorial has not been established.

This structural challenge is exemplified by the 1992 deportation of Bosnian-Herzegovinian refugees. Since 2011, civil society organizations (HRA, CGO, ANIMA) together with Aleksandar Saša Zeković, then a member of the Council for Civilian Control of Police Work, have repeatedly submitted initiatives requesting a memorial at the Police Directorate building in Herceg Novi—the very site where refugees were unlawfully arrested before being handed over to the Army of Republika Srpska. **The initiative directly reflects the requests of the victims' families, many of whom continue to search for the mortal remains of their relatives. Meetings with authorities have taken place, but no concrete steps have been taken to establish the memorial.**

More than a decade after the initiative was first submitted, the absence of a memorial at the very site of the arrests sends a troubling message: **that recognition of the victims remains politically sensitive and indefinitely postponed**. For the families still searching for the remains of their loved ones, establishing a memorial is not merely symbolic—it is a fundamental act of acknowledgment and dignity.

In this context, the attention and support of the Working Group would be crucial. **Explicit recognition that memorialization in cases such as the deportation of Bosnian-Herzegovinian refugees forms part of the right to truth and reparation would greatly reinforce ongoing efforts by victims' families and civil society to secure a memorial at the site of the unlawful arrests in Herceg Novi.** Such international affirmation would represent a meaningful step toward justice and recognition for families still awaiting closure.

This pattern suggests that acknowledgment of wartime abuses is systematically deferred as a matter of political discretion rather than as a legal obligation arising from victims' rights, making the support of the Working Group even more critical.

Legal protection mechanisms formally exist through general criminal law provisions addressing property damage, threats, and hate speech, as well as through constitutional guarantees of freedom of expression and peaceful assembly. The Law on Memorials regulates maintenance responsibilities but does not establish specific preventive safeguards for memorials dedicated to victims of war crimes or enforced disappearance. Protection, therefore, remains reactive and case-specific. In the absence of a policy framework that recognizes memorialization as an integral component of reparation and transitional justice, institutional responses to attacks remain fragmented and insufficiently visible as matters affecting victims' rights.

More effective protection would require: (1) formal recognition of memorialization as part of reparation and transitional justice policy; (2) clearly defined institutional responsibilities for safeguarding commemorative sites; (3) consistent and unequivocal public condemnation of vandalism, denial and relativization by State authorities; and (4) structured participation of families of disappeared persons in the design and implementation of commemorative initiatives.

UN and regional human rights mechanisms can contribute by affirming that memorialization in cases of enforced disappearance forms part of the right to truth and reparation, by monitoring patterns of denial and obstruction, and by recommending participatory and protective frameworks grounded in international standards.

In contexts where enforced disappearances remain partially unresolved and some victims are still officially missing, backlash against memorialization—particularly when accompanied by institutional passivity or selective engagement—may constitute an indirect manifestation of State denial. Where authorities fail to ensure consistent protection, visibility and recognition of commemorative initiatives, such omission cannot be regarded as neutral. It may amount to a form of structural denial through omission, whereby the absence of proactive institutional acknowledgment weakens the right to truth and undermines guarantees of non-repetition.