

# **EXPLANATORY MEMORANDUM TO THE AGREEMENT ON THE STATUS AND FUNCTIONS OF THE INTERNATIONAL COMMISSION ON MISSING PERSONS**

## **TITLE OF THE AGREEMENT**

Agreement on the Status and Functions of the International Commission on Missing Persons

**COMMAND PAPER NUMBER:** 9010

## **SUBJECT MATTER**

The purpose of this agreement is to establish the International Commission on Missing Persons (ICMP) as an international organisation.

The ICMP is an independent, non-profit organisation which provides assistance to governments in locating and identifying persons missing from conflict, human rights abuses, disasters, organised crime and other causes. The UK Government strongly supports the ICMP's work; it complements our wider objectives on human rights and accountability.

At the current time, the ICMP does not have a clearly established status under domestic or international law (i.e. it is neither a corporation nor an international organisation). The ICMP is based in Sarajevo and has a Headquarters Agreement with the Bosnian Government that allows it to operate there. But the ICMP's lack of legal status has hampered its work elsewhere.

The UK has ensured that the Agreement will not dramatically change the way that the ICMP operates. Signing the Agreement will create a light touch structure for States Parties to oversee the work of the ICMP and make recommendations. The key changes are:

- i. The ICMP will be able to seek agreements with the Governments of States where its activities are required. These agreements will include provisions that will accord ICMP staff members privileges and immunities (P&I) that are necessary to perform effectively their duties in the country in question.
- ii. The ICMP's activity will be overseen by a small "Conference of States Parties" which will meet every three years.
- iii. The ICMP will continue to be funded by voluntary contributions and its finances will be overseen by a "Financial Committee" which will be made up of States Parties.

The UK signed the Agreement in the margins of the Foreign Affairs Council in Brussels on 15 December 2014 together with the Netherlands, Sweden, Belgium and Luxembourg. The Agreement opened for signature by all States after 16 December 2014.

## **MINISTERIAL RESPONSIBILITY**

The Secretary of State for Foreign and Commonwealth Affairs has overall responsibility for championing more effective conflict prevention, peace-building and international justice activity.

## **POLICY CONSIDERATIONS**

### **i) General**

The UK has been a consistent supporter of the ICMP since its creation and has provided over £3m in funding since 2000. The UK also plays an active role in championing more effective conflict prevention, peace-building and international justice activity. Establishing the ICMP as an international organisation will improve its ability to contribute to all of these objectives.

A lack of legal status has weakened the ICMP's ability to negotiate new programmes of activity outside of Bosnia and Herzegovina and the legal immunities required to support them. To date, the majority of the organisation's work has been in the Western Balkans region. This work has helped promote accountability and provide closure for families of missing persons. But this work is drawing to a close and the ICMP needs to be better able to respond to requests from other states for help in locating and identifying missing persons, normally after a major disaster or conflict. Changing the ICMP's legal status will allow the ICMP to do this and secure the organisation's future.

This will further underline the UK's role as a firm supporter of international justice and effective peace-building, and consolidate the significant political and financial investment in the ICMP it has made to date.

### **ii) Financial**

Becoming party to the Agreement will not place the UK under a legal obligation to finance the ICMP in the future as the Agreement does not alter the way that the ICMP is funded (i.e. by voluntary contributions). The Agreement is also clear that P&I will only be sought in the States in which the ICMP operates and it is not envisaged that ICMP will seek P&I in the UK.

### **iii) Reservations and Declarations**

N/a

## **IMPLEMENTATION**

No implementing legislation is required. The Agreement will enter into force thirty days after two States have expressed their consent to be bound by deposit of an Instrument of Ratification or Accession with the Netherlands Government who are depositary for the Agreement.

## **CONSULTATION**

The Agreement was drafted by a core group of States led by the Netherlands and the UK and it is hoped that the Agreement will attract States from all regions of the world.

*Anelay of St Johns*

**BARONESS ANELAY**

**MINISTER OF STATE FOR FOREIGN AND COMMONWEALTH AFFAIRS**