



# “HELLO, SON. I’M HOME.”

NEEDS ASSESSMENT OF THE FAMILIES  
OF MISSING PERSONS IN RELATION  
TO THE CONFLICT IN EASTERN UKRAINE

Cover photo: Brendan Hoffman/ICRC

For confidentiality reasons, photos used in this report not obligatory represent the families who participated in the Family Needs Assessment and cross-checking exercise. Photos are only used with illustrative purpose.

Oksana<sup>1</sup> lost contact with her only son four years ago. Oksana received financial compensation befitting the family of a deceased soldier, but says that money means little to her: the only dream she has is for her son to be alive and to return home. Oksana's pain does not decrease with time. To survive, she needs to have several jobs. She comes home so late and so tired that she can fall asleep without thinking obsessively about her son. Oksana has hung pictures of her son on the walls in each room of her apartment. When she comes home from work, Oksana says:

*"Hello, son. I'm home."<sup>2</sup>*

*"I know one mother, whose son is missing too. Neither of us have bodies, nor remains. If our sons were burnt to ashes – I want those ashes. I'm ready to share some with her, so we can grieve together," says Oksana.*

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<sup>1</sup> All names mentioned in the report have been changed for confidentiality reasons.

<sup>2</sup> The name of this report pays tribute to families of missing persons who are desperately looking for their loved ones. Families of missing persons are not passively waiting for their loved ones to come back. They knock on every possible door to clarify the fate and whereabouts of their missing relatives. They struggle to survive while living with the burden of uncertainty. During a discussion with the International Committee of the Red Cross (ICRC), Oksana said that despite her advanced age, she has three different jobs and every time she comes back home she expects her son to be there waiting for her.

## ACKNOWLEDGEMENTS

We extend our deepest gratitude to the families of missing persons who were interviewed by the International Committee of the Red Cross (ICRC) and shared their life stories with us. The time spent and discussions held with these mothers, fathers, wives and children about their loved ones were extremely enriching and touching. We strongly hope that the actions taken by the concerned authorities will positively influence their lives.

The ICRC hopes that the report will be useful for the authorities to design their response to the families' manifold needs, while further engaging in the process of clarifying the fate and whereabouts of missing persons in relation to the conflict in Eastern Ukraine.

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*"Nothing in this world can heal the pain. I tremble waiting for the call from the investigator, and when she says that there is no news, I breathe out and feel devastation overwhelming me. I do not know what more to do." – Mother of a missing person*

*"Our city lives its own life. There is no war. People celebrate births, marriages, birthdays, visit exhibitions and football games. And no one bothers about us. But I will never stop searching. I see the face of my son in every young man passing by me in the street and I feel that he is alive." – Mother of a missing person*

## ABBREVIATIONS AND ACRONYMS

<b>AP</b>	1977 Additional Protocols I and II to the Geneva Conventions
<b>FNA</b>	Family Needs Assessment
<b>GCA</b>	Government Controlled Areas
<b>GC</b>	The four 1949 Geneva Conventions on the Protection of Victims of Armed Conflicts
<b>ICPPED</b>	International Convention for the Protection of All Persons from Enforced Disappearance
<b>ICRC</b>	International Committee of the Red Cross
<b>IDP</b>	Internally Displaced Person
<b>IHL</b>	International Humanitarian Law
<b>IHRL</b>	International Human Rights Law
<b>MIA</b>	Missing in Action
<b>MoIA</b>	Ministry of Internal Affairs
<b>MoD</b>	Ministry of Defense
<b>NGCA</b>	Non-Government Controlled Areas
<b>NGO</b>	Non-Governmental Organization
<b>SBU</b>	Security Service of Ukraine
<b>URCS</b>	Ukrainian Red Cross Society

# TABLE OF CONTENTS

1.	Introduction	6
2.	Missing persons in relation to the conflict in Eastern Ukraine	10
3.	Methodology of the Family Needs Assessment conducted in 2016	14
4.	Findings of the Family Needs Assessment and recommendations	18
4.1.	Priority needs of the families	21
4.2.	The need to know: search and attitude towards the fate of the missing person	22
4.3.	Financial needs	28
4.4.	Psychosocial and psychological needs	31
4.5.	Legal and administrative needs	34
4.6.	The need for justice and recognition	36
5.	Cross-checking exercise conducted in 2018	38
6.	The Law On the Legal Status of Missing Persons of Ukraine	46
7.	Conclusions	50





# 1. INTRODUCTION

Disappearance, dreadful enough for the individuals concerned, means anguish for the families, left in limbo over their loved one's fate. Not knowing if their relative is dead or alive, families search and wait, often for many years, hoping against hope, unable to find the closure of mourning. The emotional and psychological suffering is severe. As if their pain was not enough, family members of the missing are often plunged into economic and social hardship because of the loss of the breadwinner or the costs that the search entails. The ICRC strives to raise awareness among both authorities and society about the deep suffering and humanitarian consequences of the disappearance of a loved one, as well as promoting the "Right to Know" of each family. In this regard, the ICRC strives to identify and understand the needs of the families of missing persons and to present recommendations to the authorities dealing with this issue, which will enable them to respond better to those multifaceted needs.

#### THE INTERNATIONAL RED CROSS AND RED CRESCENT MOVEMENT

The International Red Cross and Red Crescent Movement consists of the ICRC, the International Federation of Red Cross and Red Crescent Societies and the 191 National Red Cross and Red Crescent Societies.

The ICRC has been permanently present in Ukraine since the beginning of the crisis in spring 2014 and, according to its mandate, immediately started registering cases of persons unaccounted for. The ICRC places relatives of missing persons at the centre of its actions and assumes they are in the best position to express their needs, daily struggles and expectations. That is why in 2016 the ICRC conducted a needs assessment of families of persons missing in relation to the conflict in Eastern Ukraine (hereafter: Family Needs Assessment – FNA). In 2018, the ICRC conducted a cross-checking exercise with the aim of understanding how the needs recorded two years earlier had been evolving over time and if the conclusions of the FNA were still valid.

In this context, this document reflects the point of view of 73 relatives of missing persons interviewed between April and June 2016 and 13 relatives of missing persons who participated in four in-depth focus group discussions between July and August 2018. Despite the relatively limited scope of these assessments in view of the much larger number of persons believed to be missing in relation to the conflict in Eastern Ukraine, its conclusions can be taken as illustrative of the situation of any family. Any action undertaken by the concerned authorities based on its lessons and recommendations will help to alleviate the suffering of other relatives of missing persons. The ICRC acknowledges the initiatives taken by the authorities and demonstrates that there is still room and need for additional measures that could better support the families of missing persons in relation to the conflict in Eastern Ukraine.

This report initially presents an overview of the problem of missing persons in relation to the conflict in Eastern Ukraine. It then clarifies the methodology used to conduct the FNA and the subsequent cross-checking exercise and discusses the impact and the humanitarian needs that having a missing loved one entails. Each identified need is accompanied by specific recommendations to the authorities, formulated with the knowledge acquired by the ICRC in carrying out technical advisory activities in Ukraine. Recommendations based on the experience of the ICRC's work on missing persons in other countries were also included. Finally, conclusions are drawn based on the results of the assessment.

## DEFINITION OF MISSING PERSONS

The ICRC defines "missing persons" as individuals of whom their families have no news and/or who, on the basis of reliable information, have been reported missing as a result of armed conflict, whether international or non-international, internal violence, natural disaster or other humanitarian crises.

In fact, this definition goes beyond the concept of "enforced disappearance", as adopted by the International Convention for the Protection of All Persons from Enforced Disappearance (2006) and the Rome Statute (1998). Whereas those instruments limit the definition to people who have gone missing following an arrest or detention by the State or State agents, the ICRC advocates a broader interpretation: the families of all missing persons suffer, no matter the reasons or circumstances of the disappearance. Thus, the families of the missing have a right to know the fate and whereabouts of their loved ones – a right recognized both by international humanitarian law and human rights law.

Missing in Action (MIA) are soldiers in the official armed forces and fighters from armed opposition groups, of whom their families have no news.

Adapted text from the publication *Living with Absence: Helping the Families of the Missing*, ICRC, 2014.





## **2. MISSING PERSONS IN RELATION TO THE CONFLICT IN EASTERN UKRAINE**

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*"I do not even accept the thought that my son might be dead. We believe that he is detained." – Mother of a missing person*

Determining the exact number of missing persons in relation to the conflict in Eastern Ukraine is difficult, as the conflict is ongoing, information has not yet been consolidated and many bodies are still unidentified. Nonetheless, it is estimated that at least 1,500 persons remain unaccounted for as a result of the conflict.

Since the beginning of the conflict, over 1,500 persons have been registered missing with the ICRC and the Ukrainian Red Cross (URCS). In 2018, over 690 cases of missing persons registered with the ICRC remain unsolved. The interviews for the FNA showed that the vast majority of them are men, 96%, and their average age is 40 years old. Also, 80.2% of the missing persons used to be em-

ployed and the majority of them were breadwinners of their families. And around half of the overall ICRC caseload concerns civilians who have gone missing.

Taking into account the families interviewed in 2016, 91.8% of the interviewees were women and their average age is 50 years old. Additionally, the majority of participants to the interviews were first-degree relatives: 49% – parents and 28% – wife or husband.

The ICRC is still collecting requests from families wishing to trace their missing relatives. In 2017, 209 such requests were registered from families who search for family members with whom they lost contact as a result of the conflict.

#### FAMILY OF MISSING PERSONS

Unless otherwise specified, the term "relative" shall include, at a minimum, the following persons:

- children born in and out of wedlock, adopted children or step-children;
- lawfully wedded partner or unwedded partner;
- parents (including step-mother, step-father, adopter);
- full or half or adopted sisters and brothers.

Nevertheless, in many socio-cultural contexts, the family goes much beyond what is mentioned above and includes members who either live under the same roof or keep close relationships between themselves.

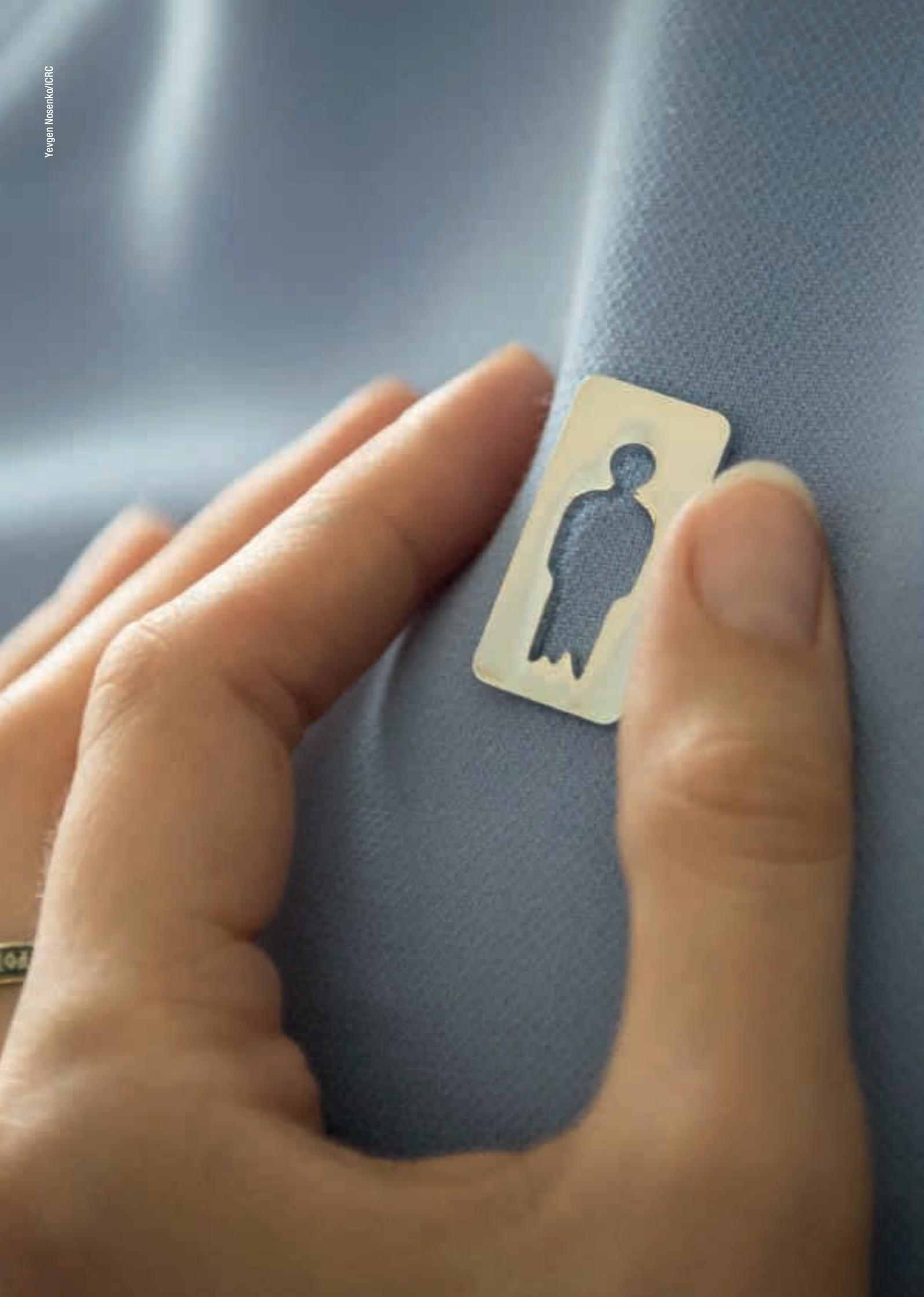
Adapted text from the publication *"Principles for Legislating the Situation of Persons Missing as a Result of Armed Conflict or Internal Violence: Measures to prevent persons from going missing and to protect the rights and interests of the missing and their families"*, ICRC, 2009.







### **3. METHODOLOGY OF THE FAMILY NEEDS ASSESSMENT CONDUCTED IN 2016**



The FNA objective was to learn the specific difficulties, expectations, needs, resources and coping mechanisms of the relatives of missing persons and to support the concerned authorities in addressing the multifaceted identified needs.

In order to document the various consequences of the disappearance on the daily life of the families of the missing persons in relation to the conflict in Eastern Ukraine, semi-structured interviews were conducted with 73 family members of the missing. The sample, which represented 19% of the total ICRC caseload at the time of the assessment, was randomly selected among the registered cases. The interviews lasted between three and four hours and were conducted from April to June 2016 by trained ICRC and URCS staff.

The questionnaire, with 115 open and closed questions, asked the families about the disappearance of their missing relatives and its consequences in terms of psychological, psychosocial, economic, administrative or legal, and health needs. Questions about the search for their relatives and the interaction of the families with the authorities in charge of the file were also included.





## **4. FINDINGS OF THE FAMILY NEEDS ASSESSMENT AND RECOM- MENDATIONS**

A person who goes unaccounted for without trace is the first victim, but this tragedy also affects many others. Relatives of a missing person usually go through a great deal of suffering until they learn what happened to their loved one. Sometimes they will not even know. Usually, their grief over loss is compounded by other difficulties, such as financial insecurity and bureaucratic procedures.

The families of missing persons have specific needs recognized by the International Confer-

ence of Governmental and Non-Governmental Experts on the Disappeared in 2003 and adopted by the 28th International Conference of the Red Cross and Red Crescent at the end of that year. They include, among others, the need to know, to perform rituals of remembrance, justice, to have their suffering recognized and to receive economic, psychological and psychosocial support. So long as these needs are not met, families have difficulty rebuilding their lives.

#### THE 28TH INTERNATIONAL CONFERENCE OF THE RED CROSS AND RED CRESCENT

The 28th International Conference of the Red Cross and Red Crescent directly addressed the issue of the missing and the plight of their families. It resolved not only to review and strengthen the prevention of disappearances, but also to develop concrete measures to ascertain the fate and whereabouts of the missing and to help their families. The conference participants accepted a practice-oriented Agenda for Humanitarian Action and committed themselves to engage non-governmental organizations (NGOs), State authorities and the United Nations in the matter.

Three years after this milestone conference, in 2006, the United Nations General Assembly adopted the International Convention for the Protection of All Persons from Enforced Disappearance. Among many protective measures, it accords families everywhere the legal right to know the fate of their missing relatives. Building on its pioneering role in the shaping and application of international humanitarian law, the ICRC continues to share advice, expertise and hands-on work across the world to bring relief to the families of missing persons, and promote their right to know.

Text from the publication *Living with Absence: Helping the Families of the Missing*, ICRC, 2014.

#### 4.1. PRIORITY NEEDS OF THE FAMILIES

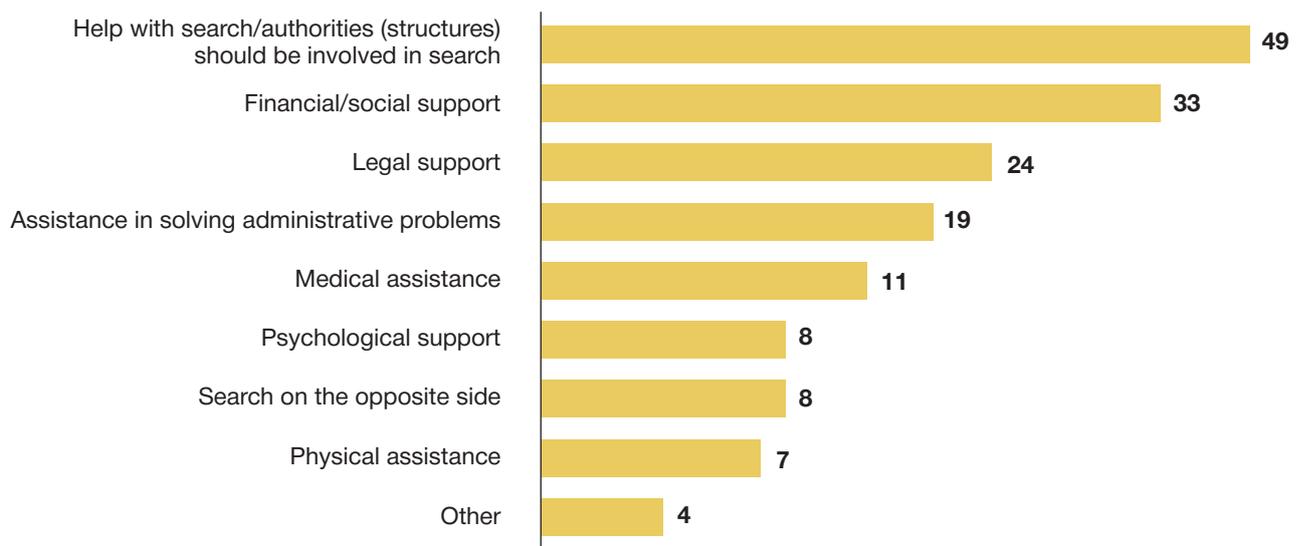
The priority needs expressed by the families during the interviews were:

- the need to know the fate and whereabouts of their missing relative;
- financial needs;
- psychological and psychosocial needs;
- legal and administrative needs;
- need for justice and recognition.

To the question regarding the main problems faced by the families, financial problems come first with 40% of the answers. They are followed closely by the perceived lack of action of the authorities in charge of the search of the missing (36%). Significantly, 33% of the families interviewed answered that they have been facing psychological and other health problems since the disappearance of their loved ones.<sup>1</sup>

Families expect the concerned authorities to take the following actions (in priority order): a more active search for their missing relative (49%), to be supported financially (33%), and to be supported for legal issues (24%). Families also expressed their desire to be assisted with their administrative problems (19%).

### WHAT ACTION WOULD THE FAMILY LIKE TO SEE TAKEN? WHAT DO YOU THINK CAN STILL BE DONE? (%)<sup>2</sup>



It is remarkable that among the families of the missing, the issues to which they give more importance are very similar, despite the differences in social status, economic condition or geographical location.

1, 2 The percentages surpass 100% because each family member could provide multiple answers to the same question.

## 4.2. THE NEED TO KNOW: SEARCH AND ATTITUDE TOWARDS THE FATE OF THE MISSING PERSON

*"The most difficult thing is the uncertainty when the loved one is missing." – Granddaughter of a missing person*

Not knowing the fate of their loved ones represents the most enduring pain for the families of the missing. The uncertainty regarding the fate of their loved one creates anguish, desperation and isolation.

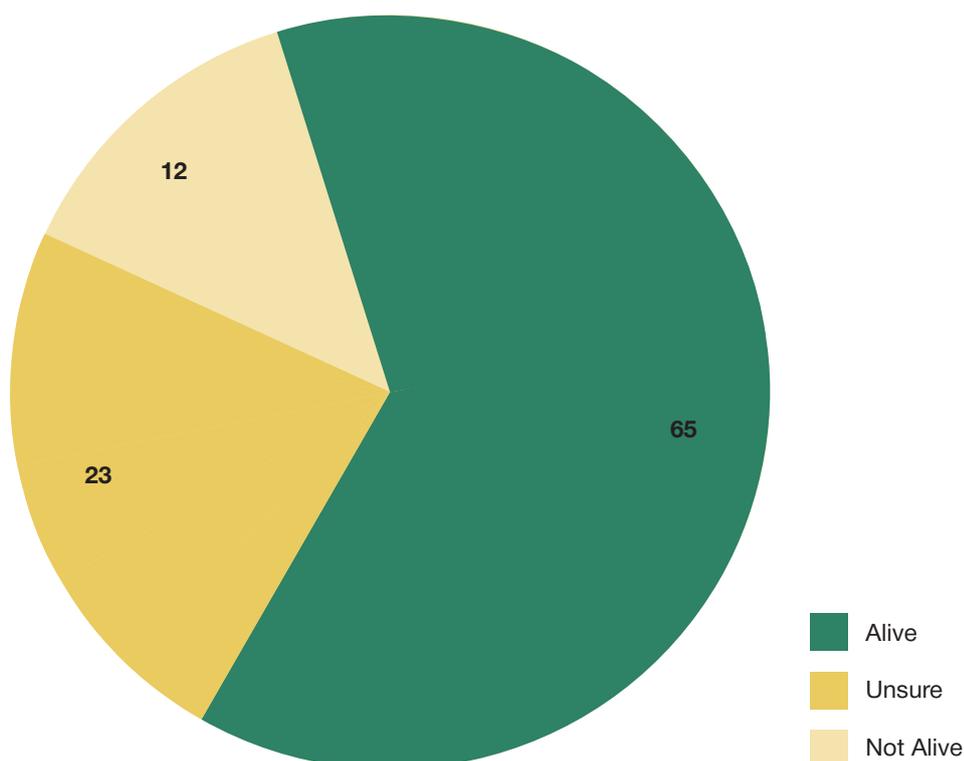
In the assessment, the families were asked to express their beliefs regarding the fate of their loved ones. The majority of the interviewed families believe that their missing relative is alive (65%), in comparison to the 12% of families who think that their loved one

is dead, or the 23% of interviewed families who said they do not know.

The fact that the disappearances happened relatively recently could explain this situation. However, it is common for all families of missing persons to keep hoping for the survival of their missing loved one. This strong belief can explain the extreme sensitivity of the families of the missing towards the identification process of human remains.

*"If my loved one really died, there must be a body. The testimonies of the witnesses are unclear, there is no body. This leads me to the conclusion that he might be alive." – Mother of a missing person*

### WHAT DO YOU THINK HAS HAPPENED TO YOUR RELATIVE (SINCE THE LAST NEWS)? (%)



## THE SEARCH

*"After publishing an announcement on social networks about the search for my missing son, the family started to receive calls from fraudsters who demanded we pay a ransom." – Mother of a missing person*

### STORY OF NATALIA

Natalia's son went unaccounted for in 2014 when he was 25 years old. Since that time, she has approached all the authorities involved in the search, volunteers, journalists, ICRC, URCS, and other organizations, but she still does not have an answer.

Natalia says that after four years of search, she sees no improvement in either the coordination between different branches of the authorities, nor in the attitude of authorities towards the families of missing. She repeats that for them, families are just numbers who need to be provided with bodies. *"All the authorities have different information about the status of my son. Some assured me that my son was detained. Others informed me that there is a DNA match with a leg and a hand, found on the battlefield. But the others insist that my son is still detained. I cried my eyes out. For his country, he is alive and dead at the same time. How is it possible?" – Mother of a missing person.*

All the stories mentioned in this report were collected from the families by the ICRC during the cross-checking exercise conducted in 2018 and are presented here for the sole purpose of illustrating their demands and their agony through their own words.

After the disappearance of their loved one, 100% of the families that the ICRC interviewed have searched for them, and more than 88% continued to do so more than two years after the beginning of the conflict, when the overwhelming majority of the disappearances occurred. The absence of the missing, who can be simultaneously a father, a brother, a son and a husband, represents unbearable suffering for the families waiting for them. Only clear answers to their questions regarding the fate of their loved one can alleviate this suffering.

Families reported searching tirelessly for their missing loved ones in places such as hospitals, military bases and morgues, among others. This search is complex and expensive. Families mostly remain in contact (following the registration of tracing requests) with the main institutions working on the issue, firstly with the Ministry of Internal Affairs (MoIA) (72%) and the Security Service of Ukraine (SBU) (68%). A high number present their requests to other organizations as well (please see a chart on p. 24).

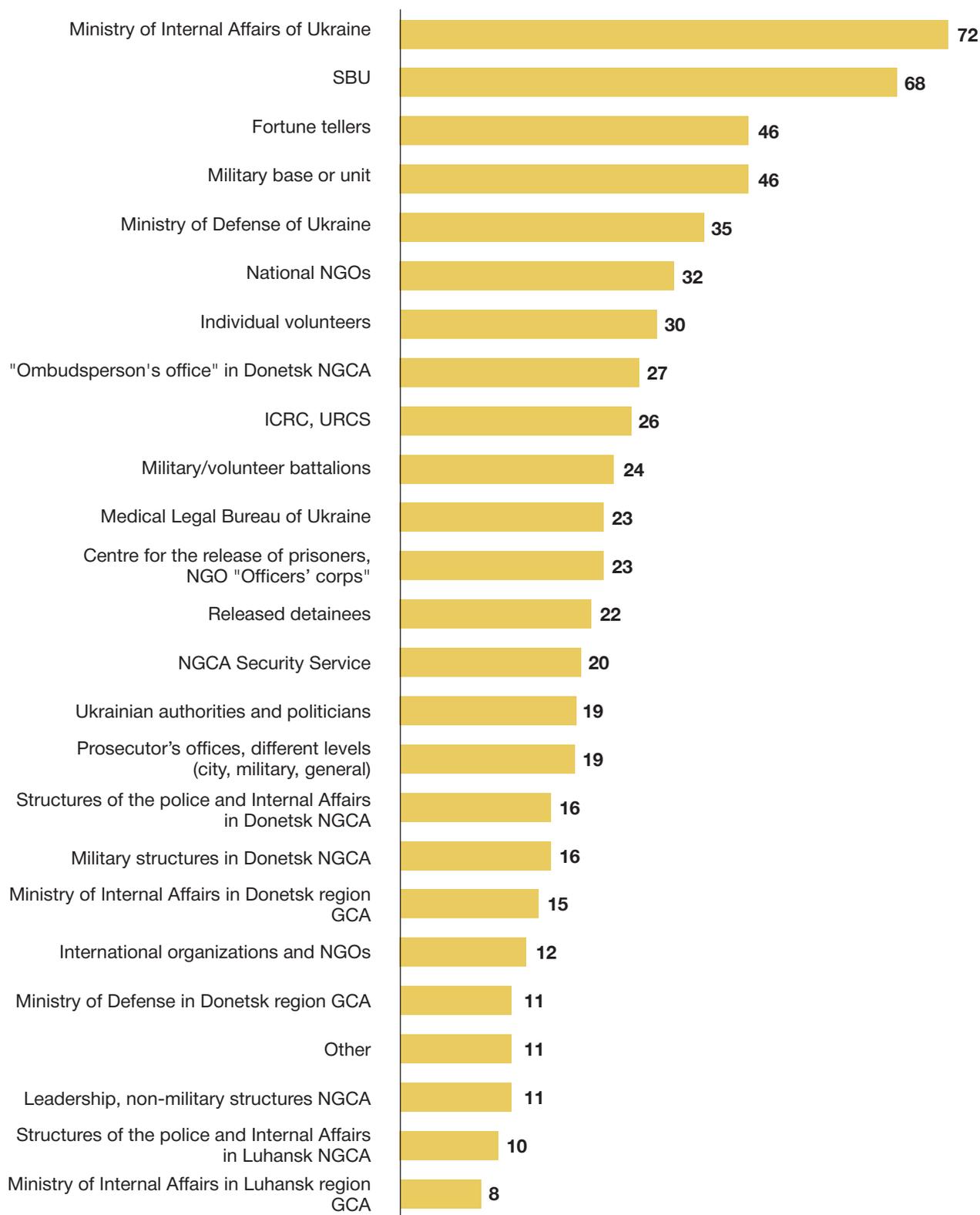
According to the families interviewed, 44% did not receive any information at all on their cases from concerned authorities or from other organizations to which they addressed their tracing requests. Among those who received some kind of feedback, 58% considered the information provided as not helpful (please see a chart on the top of p. 25), while 26% learned that their loved ones were in captivity.

It is also striking (but highly understandable) that almost half of the families (46%) contacted a fortune teller in their search. In times of great anxiety and uncertainty, families are willing to try all possible ways to get any information on the fate of their relatives. Families stated that they received contradictory information on the fate of their loved ones from different authorities and/or other organizations.

Regarding the sources of information for the families, the SBU and the MoIA are the most common, with respectively 36% and 34%. Fortune tellers are the third most popular source of information, with a 16% preponderance, according to the families.

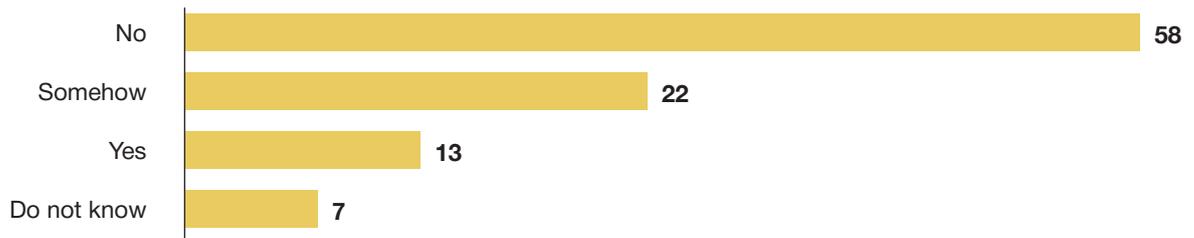
*"I was moving in a circle and there was nobody there to explain anything." – Daughter of a missing person*

## DID THE FAMILY HAVE ANY CONTACT WITH THE AUTHORITIES, ORGANIZATIONS OR OTHER SOURCES? FIRST 25 RESPONSES (%)<sup>1</sup>



<sup>1</sup> The percentages surpass 100% because each family member could provide multiple answers to the same question.

## WAS THE INFORMATION HELPFUL? (%)



### DIFFICULTIES DURING THE SEARCH

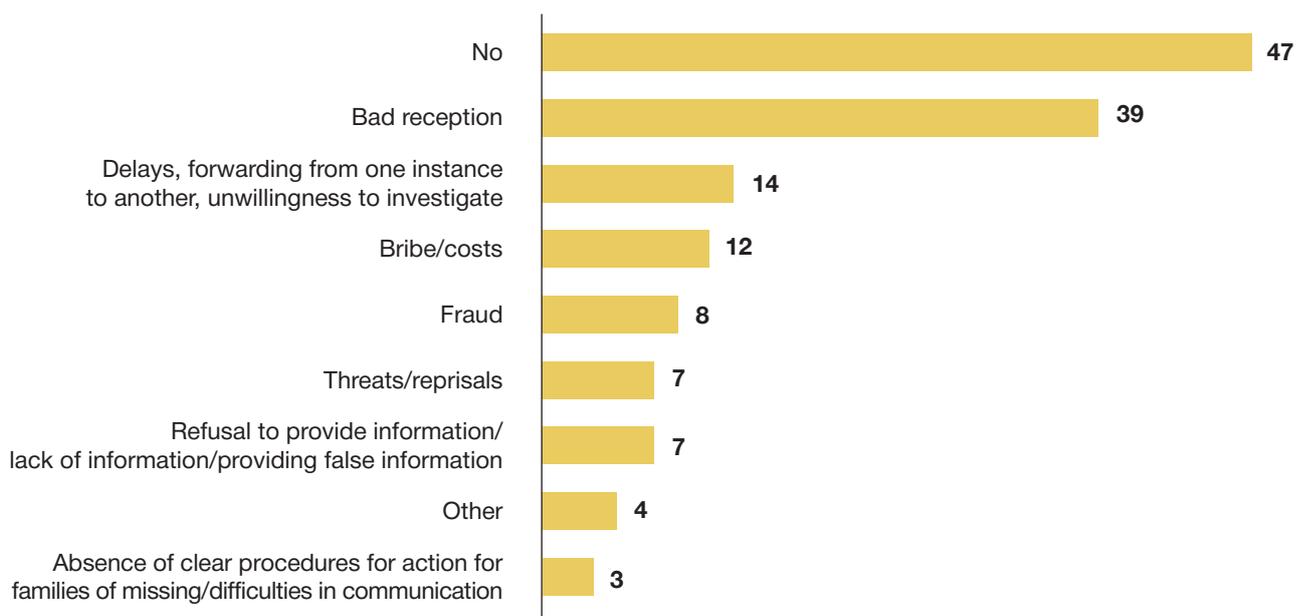
To the question regarding the specific difficulties faced by the families during the search for their loved ones, around 47% of them said that they did not face any difficulties, while 53% answered that they did face some.

The most common difficulty faced by the families (39%) was the poor treatment they claimed to have received from official institutions during their search. It is important to remember that the families are vulnerable and in a desperate situation. They are therefore particularly sensitive to an impolite or uncaring civil servant or to any behaviour perceived as unwelcoming. It is of concern to notice that

a small but significant percentage of families (7%) claimed that they faced threats and reprisals during their search.

Contrary to many other countries in a similar situation, Ukraine had a system in place to clarify the fate of the missing prior to the current conflict. However, as this system was not designed to deal with a large number of persons missing in relation to a conflict or mass casualties, it has difficulties coping with the search and identification process; as a consequence, there were difficulties in offering adequate answers to the needs of the families of the missing.

## DID THE FAMILY FACE SPECIFIC DIFFICULTIES? (%)<sup>1</sup>



<sup>1</sup> The percentages surpass 100% because each family member could provide multiple answers to the same question.

## THE RIGHT TO KNOW

Under both International Humanitarian Law (IHL) and International Human Rights Law (IHRL), the obligation to clarify the fate and whereabouts of missing persons also implies respect for the families' right to know the fate of relatives reported missing, their whereabouts or the circumstances and cause of their death (AP I,<sup>1</sup> AP II,<sup>2</sup> customary IHL<sup>3</sup> and International Convention for the Protection of All Persons from Enforced Disappearance, Art. 24). These rights should be explicitly recognized for individual family members. In addressing this right, States shall take appropriate measures to investigate cases of disappearance and to inform families about the state of progress of such procedures.

Additionally, regardless of the applicable legal framework, activities such as the search for burial sites and the exhumation of human remains are an essential part of clarifying the fate and whereabouts of missing persons. In particular, recovering and identifying the bodies of missing persons would allow the families to hold a proper funeral, conduct religious and culturally appropriate ceremonies and overcome the past.

Adapted text from the publication *"Missing persons and their families – Factsheet"*, ICRC, 2015.

## RECOMMENDATIONS:<sup>4</sup>

### A) ESTABLISH A MECHANISM TO CLARIFY THE FATE AND WHEREABOUTS OF MISSING PERSONS

**The ICRC considers that the establishment of a mechanism in charge of coordinating the efforts of all agencies and ministries searching for the missing and dealing with all issues related to them is a necessary step.<sup>5</sup> This body should be impartial, independent, and humanitarian in spirit. It should be established by specific legislation and integrate the following elements:**

- ▶ The Mechanism should encompass a broad definition of the term *"missing persons"* to ensure that the need to know of all families is addressed. While this broad definition includes enforced disappearances, it also covers those *"missing in action"* (MIA) from all sides, as well as anyone else who is reported to have disappeared in direct connection with a situation of conflict or violence.

- 1 Protocol Additional (I) to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, 1125 UNTS 3, 8 June 1977 (entered into force 7 December 1978), Arts 32, 33 (1).
- 2 Protocol Additional (II) to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts, 2236 UNTS 609, 8 June 1977 (entered into force 7 December 1978), Art. 8.
- 3 Henckaerts, Jean-Marie, and Doswald-Beck, Louise (eds), *Customary International Humanitarian Law*, Vol. 1: Rules, Cambridge University Press, Cambridge, 2005 (ICRC Customary Law Study), Rules 112, 114, 116 and 117. These rules oblige each party to an international or non-international armed conflict to take all possible measures to account for persons reported missing and to search for, collect, identify and evacuate the dead. They also foresee the obligation to inform the relatives of the missing persons about the fate or whereabouts of their loved ones and to return their remains.
- 4 The Law n° 2502, *On the Legal Status of Missing Persons of Ukraine* (Law on the Missing) was adopted by the Ukrainian Parliament on 12 July 2018, and came into force on 2 August 2018. Its implementation requires the adoption of governmental regulations and institutional measures. The ICRC welcomes the adoption of the Law on the Missing and is pleased to have been consulted in the drafting process, and that a number of ICRC recommendations have been taken on board. All the recommendations in this report reaffirm some recommendations that were already shared with the concerned authorities. The ICRC also stands ready to support the concerned authorities in the swift and full implementation of the Law on the Missing. For details and explanations on the law, see p. 48 and forward.
- 5 The July 2018 Law on the Missing establishes such a Commission and enumerates its members. The exact responsibility, functioning, structure and procedures of the Commission have to be established by regulations adopted by the Cabinet of Ministers and concerned ministries.

- ▶ The Mechanism should have a *clear mandate and be focused on the humanitarian objective* of providing answers to all the families of missing persons regarding the fate and whereabouts of their missing relatives.
- ▶ The Mechanism should establish a *centralized and comprehensive list of all missing persons and unidentified bodies* as a result of armed conflicts – international and non-international – or other situations of violence – based on different sources such as official information, families and family associations or non-governmental organisations.
- ▶ The information the Mechanism gathers should remain *confidential* and be used exclusively for the purpose for which it was obtained, i.e. to clarify the fate and whereabouts of missing persons. Personal data collected should be handled and processed in a manner consistent with internationally agreed principles on data protection and national legislation, as relevant.
- ▶ The Mechanism should be granted the necessary *resources and powers*. It should be able to coordinate the actions of the concerned authorities in charge of the process of tracing missing persons and caring for the bereaved families.
- ▶ The Mechanism should ensure that the existing *process of recovery, examination, identification and disposition/burial* of human remains and their release to the families is in line with scientific best practices, through the establishment of a forensic working group.
- ▶ The Mechanism should ensure an effective process of identification of unidentified bodies and search of missing persons, which implies: centralization of the management of data pertaining to all unidentified bodies and missing persons in relation to the conflict in Eastern Ukraine; promotion of an integrated multidisciplinary approach towards the identification, in accordance with international best standards.
- ▶ The Mechanism should ensure regular *dialogue* with the families of the missing persons and proactive *communication* on its objectives, actions, procedures and results.
- ▶ While waiting for the Mechanism to be created, all institutions involved in the issue of missing persons should dedicate special infrastructure/offices to improve the attention given to the families in terms of support and information, among other services.

#### **B) ESTABLISH A MULTILATERAL COORDINATION MECHANISM TO CLARIFY THE FATE AND THE WHEREABOUTS OF THE MISSING**

**In parallel to the creation of the Mechanism, the ICRC considers the establishment of a Multilateral Coordination Mechanism between the parties to the conflict in Eastern Ukraine to be crucial. The objectives of the Multilateral Mechanism would be to coordinate activities and exchange information among the parties, to establish clear procedures for the recovery, identification and transfer of human remains, and the return of identified remains to the concerned families. It should integrate the following elements:**

- ▶ The Multilateral Coordination Mechanism should have a *clear mandate focused on the humanitarian objective* of giving answers to all families of missing persons regarding the fate and whereabouts of their missing relatives in both GCA and NGCA.
- ▶ The Multilateral Coordination Mechanism should establish a *centralized and comprehensive list* based on different sources such as official information, families or non-governmental organizations, of all missing persons as a result of the armed conflict in Eastern Ukraine.
- ▶ The Multilateral Coordination Mechanism should adopt and promote unified working methods and procedures with regard to the collection and exchange of data, the methods and

means of identification of human remains, as well as various other technical issues, based on international standards and best practices.

- ▶ Clear rules of confidentiality and protection of personal data should govern transmission of information to the competent authorities and stakeholders for appropriate measures to be taken, including follow up and clarification.
- ▶ Priority put on settlement of unresolved cases related to missing persons by providing information on their fate and, if found dead, the location of their human remains.
- ▶ Objective to foster the competent authorities and stakeholders' commitment and capacities to take all feasible measures to account for the missing persons and, if dead, to identify their remains, as well as to inform and support their families.
- ▶ Effort to assist the competent authorities and stakeholders in putting in place a process of recovery, dignified management, identification and return of human remains.
- ▶ Concern to ensure that the families are informed all along the process and supported according to their needs.
- ▶ As a coordination mechanism, it must be exclusively humanitarian in nature and independent, and will not address accountability. It is not linked to any political or judicial proceedings – present or future – dealing with cases related to disappearances, and does not attempt either to attribute responsibility for the death of any missing person or make findings as to the cause of such death.

### 4.3. FINANCIAL NEEDS

*"We have a lot of financial difficulties because my son was the breadwinner in the family."* – Mother of a missing person

As the missing person was often the breadwinner of the family, his/her disappearance has dramatic consequences for the standard of living of his/her relatives. In this concern, it is very encouraging that in GCA, the MoD ensures the payment of the salaries of persons who have gone missing in action (MIA) to their families.

#### FINANCIAL DIFFICULTIES RELATED TO THE DISAPPEARANCE OF RELATIVES

The families of missing persons have economic and financial problems that are directly related to the disappearance of their loved one. Because their income does not cover their basic needs, many families have to economize on clothes, health care, food, and education for their children. There are various reasons for their financial difficulties, such as:

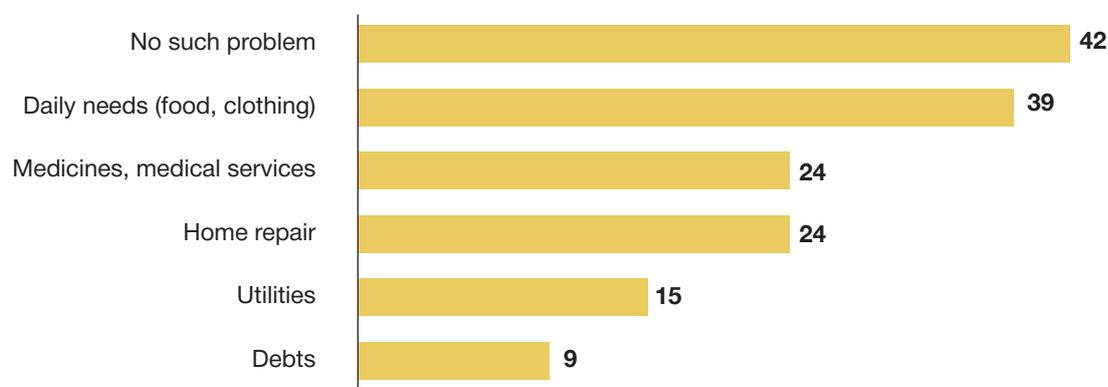
- reduced, or non-existent, income because of the loss of the (main) breadwinner;
- absence of legal status for the missing;
- difficulty of gaining access to support, whether from the authorities or from humanitarian agencies;
- scarcity of assistance;
- financial burden of the search.

Text from the publication *Accompanying the Families of Missing Persons: A Practical Handbook*, ICRC, 2013.

However, as during the time of the assessment, no financial supporting structure existed for the families of the civilians who went missing as a result of the conflict, or for the families of members of volunteer battalions. Therefore, it is not surprising that 68% of the families answered that they lost a source of income when their loved one went missing. Indeed, 39% of the respondents affirmed that they cannot even cover daily needs such as food or clothing anymore, clearly showing the economic effect of the disappearance on the family.

The search for the missing relative in itself can cause significant spending at a time when the families' income is already deeply reduced by the disappearance of their relative. Moreover, some families are victims of fraudsters who promise information, or even the release of the missing relatives, in exchange for significant amounts of money. To cover these additional expenditures during complicated financial times, families reported having no other choice but to borrow money from friends, other family members, or unofficial financial institutions, which makes their financial situation even more precarious in the long term.

## WERE THERE ANY ESSENTIAL NEEDS THAT THE HOUSEHOLD WAS UNABLE TO COVER SINCE THE DISAPPEARANCE OF YOUR RELATIVE? (%)<sup>1</sup>



*"Since his disappearance, the family buys only second-hand clothes and we have reduced gas expenses."*  
– Wife of a missing person

### STORY OF OLENA

Olena's husband went to the shop in 2014. Neither Olena nor their two children ever saw him again. Her husband was the family's breadwinner. After his disappearance, Olena felt broken, both financially and psychologically.

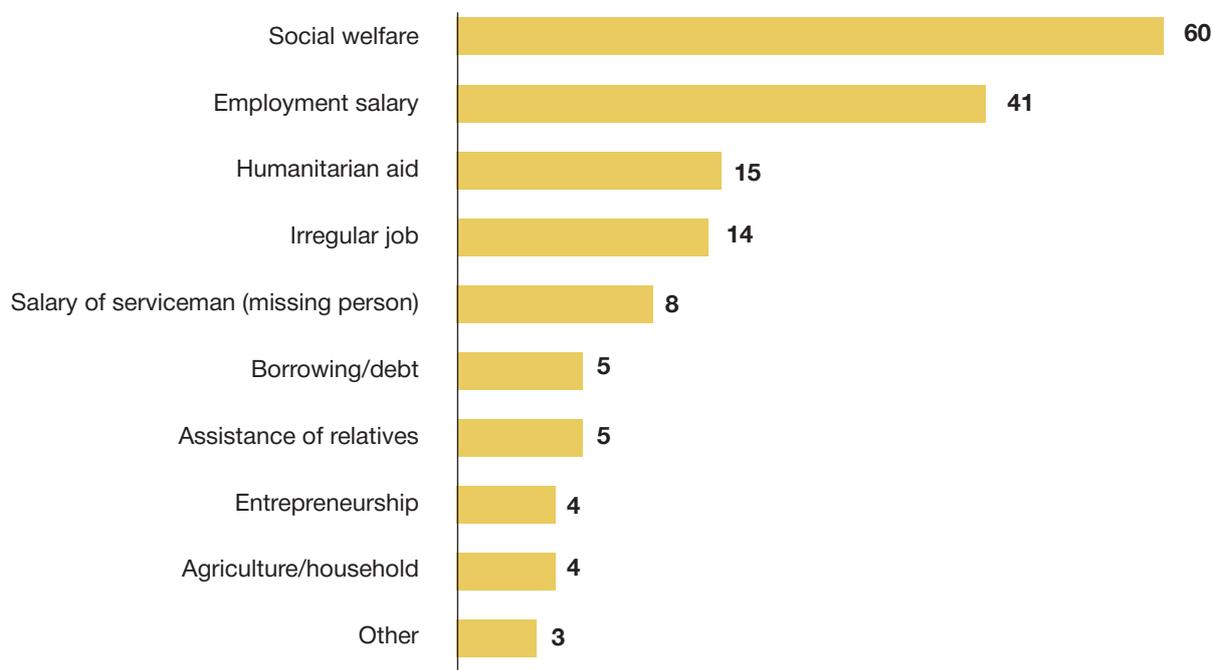
She moved to another city as an internally displaced person (IDP). Finding where to live was a problem, finding a job with small children was nearly impossible. Only in 2018 she did manage to find a job, when her children were finally old enough to go to school and kindergarten. But the income of the household is still very low, not enough to cover the basic needs of the family. The only home she can afford is in a hostel for men. Being the only woman in a male hostel is a serious challenge. She fears for her safety and that of her children.

Olena does not want her children to forget the image of their father, so she struggles to maintain the memory of their missing father alive: *"The older son remembers his father. He constantly asks the question, 'Where did he go?' It seems he is looking for his father in every adult man he meets. The younger does not remember him. It is so painful."*

<sup>1</sup> The percentages surpass 100% because each family member could provide multiple answers to the same question.

The primary source of income for the majority of families (60%) is social welfare, and only 41% depend on employment-based salary.

## WHAT ARE, PRESENTLY, THE HOUSEHOLD PRIMARY SOURCES OF INCOME? (%)<sup>1</sup>



### THE FINANCIAL BURDEN OF THE SEARCH

Families continue to spend money on searching for their missing relatives, primarily for transportation and for communication with government authorities. Some families spend a great deal of money on the search and are forced to sell their assets (cars, houses, etc.). When they need to, they borrow money. This is a coping strategy that leads to high levels of indebtedness.

Text from the publication *Accompanying the Families of Missing Persons: A Practical Handbook*, ICRC, 2013.

Already psychologically deeply affected by the trauma of having a missing relative, families must also deal with grave economic problems adding to their plight.

## RECOMMENDATIONS:

### ADDRESSING THE FINANCIAL NEEDS

The ICRC recommends to the authorities:

- ▶ To recognize all the families of missing persons as victims of the conflict and be consistent in making services and benefits available to them.
- ▶ To make available materials summarizing and describing the social assistance schemes available for the families of missing persons and relevant procedures to access them.

<sup>1</sup> The percentages surpass 100% because each family member could provide multiple answers to the same question.

#### 4.4. PSYCHOSOCIAL AND PSYCHOLOGICAL NEEDS

*"The kids cry, the adults are depressed, and our mother is in a very difficult psychological situation."*

– Brother of a missing person

Not knowing the fate and whereabouts of their missing relatives leaves the families in a perpetual limbo, balancing between hope and despair. It is a particularly complex situation, since the unknown fate of the missing person and the uncertainty that surrounds the loss result in the missing person being physically absent, but psychologically present.<sup>1</sup> This psychological state does not heal with time, but only with the end of the uncertainty.

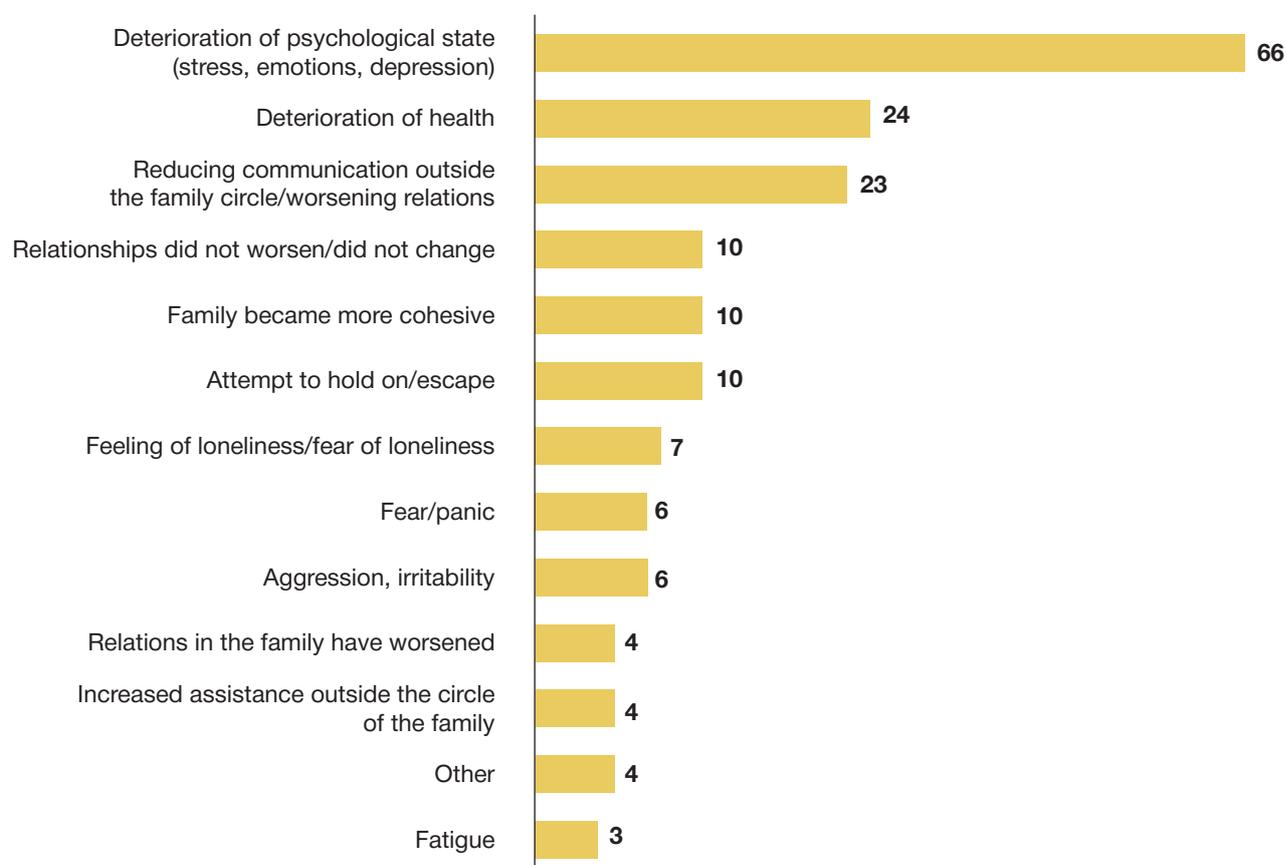
Regarding the question on the psychological impact of the disappearance, 66% of the families said that their psychological state has been deeply affected. They said they experienced more stress, depression, and in-

tense emotions. Almost one quarter (24%) of them considered that their health had worsened after the disappearance.

Almost one quarter of the families (23%) affirmed the disappearance of their relative negatively affected their relationships outside the family circle. As an almost inevitable consequence of the disappearance of their relative, the families isolate themselves from their social environment. The families explain this tendency by saying that people outside the family circle cannot understand what they endure.

Families interviewed (14%) referred to the change in family relations specifically:

#### HOW HAS THE DISAPPEARANCE OF YOUR FAMILY MEMBER AFFECTED YOU AND YOUR FAMILY? WHAT ARE THE MAIN DIFFICULTIES YOU HAVE FACED? (%)<sup>2</sup>



1 Pauline E. Boss, "Ambiguous Loss Theory: Challenges for Scholars and Practitioners", *Family Relations*, No. 56 (2), April 2007, pp. 105-111.

2 The percentages surpass 100% because each family member could provide multiple answers to the same question.

4% of the families answered that the relations within the family worsened after the disappearance, while, on the contrary, 10% said that they had experienced a reinforcement of the solidarity inside the family circle after the event of the disappearance.

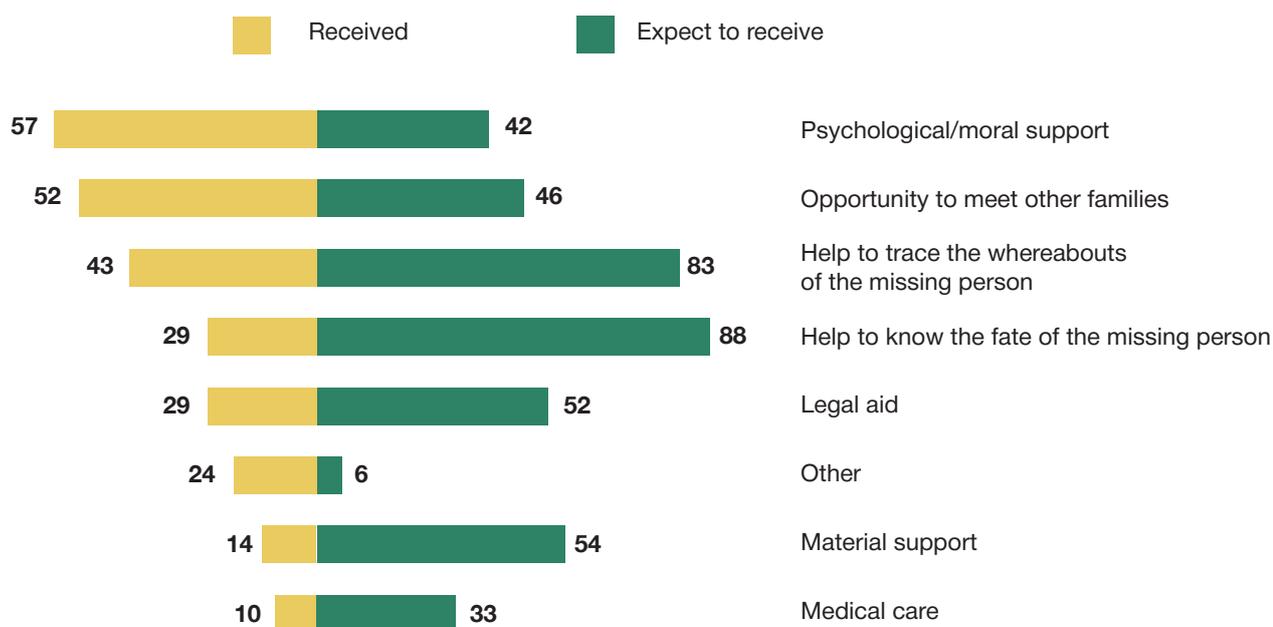
The ICRC asked the families during the interviews to give examples of their psychological and/or health problems, and to rate them from 1 (never faced) to 5 (always faced). The most common examples mentioned by the families, marked with 4 or above, in decreasing order, were the following:

- constantly thinking of the missing relative;
- being always vigilant and in a state of alert;
- being nervous;
- feeling sad.

A minority of families (21%) said that they contacted associations of families and/or other families of the missing for support. Such a small number is certainly due to the fact that no association of families of the missing bringing together families from GCA and NGCA has yet really emerged. In the cases in which they did contact associations, the families explained that they received mainly psychosocial support from them and that it represented an opportunity to meet other families going through the same ordeal. Among the families who have not yet entered in contact with such associations or NGOs, 65% affirmed they believed that it could be helpful for their cases. The main expectation from the families towards those associations and NGOs (88%) would be to receive assistance to unveil the fate of their loved ones.

*"It is very difficult to answer the questions of a four-year-old daughter asking, 'Where is daddy? When will he come back?'" – Wife of a missing person*

## WHAT KIND OF SUPPORT DID YOU GET THERE? WHAT KIND OF SUPPORT WOULD YOU EXPECT FROM THE ORGANIZATION? (%)<sup>1</sup>



<sup>1</sup> The percentages surpass 100% because each family member could provide multiple answers to the same question.

## STORY OF IRYNA

"I used to think that I would die before my husband. But when our son went missing, he had a nervous breakdown and got cancer. He died within 6 months. I feel hopelessness, fear, and tiredness. I'm very tired. I don't want to live," said Iryna, the mother of a missing person.

Iryna represents one of the families who do not have any information about their loved one. The longing and uncertainty has had a harsh impact on Iryna's life: she cannot start mourning for her son, nor can she be sure that he will return home one day. She has been living with uncertainty for four years, and still visits the fortune tellers, who, in return for money, assure Iryna that her son will be back. But Iryna desperately needs that money to survive and cover her basic needs after the loss of her husband, who was the breadwinner of the family.

*"It is impossible to get rid of negative thoughts and feelings. They are constantly with me."* – Mother of a missing person

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## PSYCHOLOGICAL AND PSYCHOSOCIAL IMPACT OF DISAPPEARANCE



Adapted from the publication *Accompanying the Families of Missing Persons: A Practical Handbook*, ICRC, 2013.

## RECOMMENDATIONS:

### TO ENSURE THE PROVISION OF PSYCHOLOGICAL AND PSYCHOSOCIAL SUPPORT

The ICRC recommends and encourages the authorities:

- ▶ To recognize the importance of facilitating access of family members to psychological and psychosocial support services; to ensure that families are informed and aware of these services that could be provided to them by specialized state institutions and/or other service providers.
- ▶ To ensure that the relatives who wish to make use of them have proper and easy access to the aforementioned services.
- ▶ To develop an efficient and well trained psychosocial support network that can be organized and carried out by local government structures, family associations, non-government organizations or other actors.
- ▶ To ensure the availability of specific psychological support for those family members in need. The psychological support, which can be individual, family or group therapeutic support, should be based on the understanding of the families' "uncertainty" about the fate of their missing relatives, in order to help them live with it in a functional way.

## 4.5. LEGAL AND ADMINISTRATIVE NEEDS

*"My husband disappeared two years ago, I have two small children. I know that if I declare him dead, I will receive the pension for loss of breadwinner that I really need because I have only my salary now to cover all the costs for the house. I feel very uncomfortable declaring my husband dead, because maybe he's still alive." – Wife of a missing person*

The disappearance of a loved one always has severe legal and administrative consequences for the families of the missing. They are left to face them on their own at a moment of great psychological vulnerability. Alleviating the impact of those legal and administrative consequences as soon as possible is crucial for the families in order to partially limit the terrible impact of the disappearance of their loved ones on their lives.

During the search process, families (91%) registered the disappearance of their relatives with the concerned authorities, some on both sides of the contact line. However, only

77% of them received a document to prove the registration, leaving a significant number of families without proper documentation, which is useful for overcoming other legal and administrative hurdles.

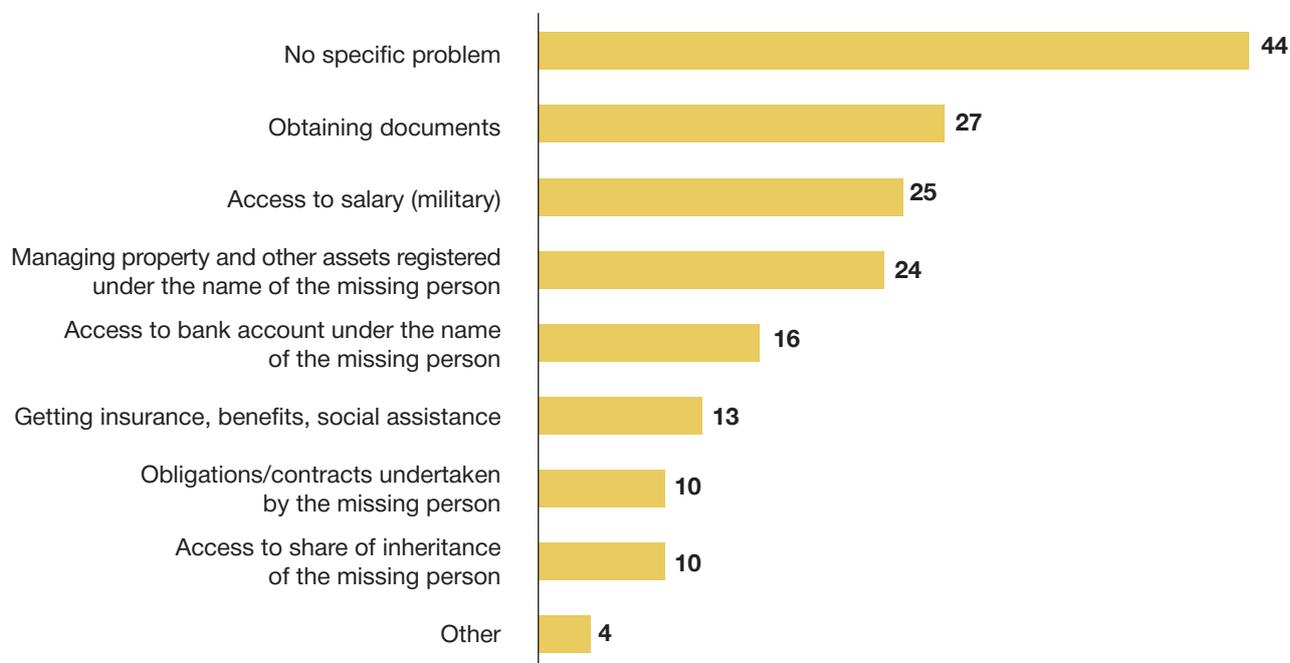
It is regrettable that years after the beginning of the conflict, a majority of families (53%) still lack institutional information about which documents and procedures are necessary to determine the status of the missing person. However, a slight majority (52%) do know that they are entitled to specific rights and/or benefits because their loved one is missing.

*"The authorities must understand that a missing person is a human being, not only a name on official documents. They must take into account the human factor." – Mother of a missing person*

Among the 56% of families who are confronted with legal/administrative issues (the remaining 44% responded negatively) because of the absence of a clear status for their missing relative, four main difficulties can be clearly identified through the answers collected: 1) Obtaining docu-

ments (27%); 2) Getting access to the salary (for families of military, MIA) (25%); 3) Managing the property registered under the name of the missing person (24%); and/or 4) Having access to the bank account of the missing person (16%).

## WHAT ARE THE DIFFICULTIES THAT YOU ARE FACING BECAUSE OF THE ABSENCE OF A CLEAR STATUS FOR YOUR MISSING RELATIVE? (%)<sup>1</sup>



### PROTECTION OF MISSING PERSONS AND THEIR FAMILIES

Both IHL – in particular the four 1949 Geneva Conventions, their 1977 Additional Protocols (AP I and II) and customary IHL – and IHRL seek to ensure that people do not go missing.

These bodies of law give rise to two general obligations which States and respectively parties to an armed conflict have to fulfil: the obligation to clarify the fate and whereabouts of missing persons and the obligation to prevent people from going missing. The first also implies respect for the families' right to know the fate and whereabouts of their relatives. In addition, States need to ensure the adoption of domestic measures to protect personal data, respond to the needs of the families of missing persons and identify and manage human remains.

Adapted text from the publication *"Missing persons and their families – Factsheet"*, ICRC, 2015.

During the time of the FNA, in Ukraine, a certificate of absence was available, and a certificate of death could be obtained from a local court only one year after the date of disappearance. However, the legal use of the certificate of absence was more restricted than that of the death certificate. A certificate of absence, for example, did not allow the relatives of the missing to sell his/her assets.

<sup>1</sup> The percentages surpass 100% because each family member could provide multiple answers to the same question.

For families, requesting a death certificate is a difficult psychological step that many refuse to take, even if that means that they will not benefit from some social programs or be able to use the assets of the missing person. Many families also mentioned difficulties with their banks such as having access to the bank account of the missing and difficulties in reimbursing the loans contracted by the missing person.

## RECOMMENDATIONS:

### TAKE THE NECESSARY MEASURES TO ADDRESS ADMINISTRATIVE AND LEGAL CONCERNS

The ICRC recommends to the authorities:

- ▶ That the existing certificate of absence, which documents the status of the missing persons, be granted the same legal power as the existing death certificate. It should be obtained by the families who wish to do so in a simple and free-of-charge procedure (including any required approval by the judiciary, investigation or publication in newspapers) and could be linked to a periodic (yearly or every second year) confirmation of absence.
- ▶ That the certificate of absence establishes a clear and recognized status for missing persons that would allow the families to address any issue arising from the absence of their loved ones, including access to social benefits and any other rights such as property rights, inheritance, marital status, health, education, among others.
- ▶ That through local authorities, the families be able to obtain all information and support necessary to receive such a certificate of absence. The authorities should ensure that all local civil authorities are well aware of the procedures.
- ▶ To adopt legal regulations instructing banks to take into account the new financial situation of families with a missing relative, in order to ease the reimbursement of loans.

## 4.6. THE NEED FOR JUSTICE AND RECOGNITION

*"The most important thing for me is to find my son. The punishment for the perpetrators does not matter." – Mother of a missing person*

The majority of families (92%) consider that their plight has been insufficiently recognized by the authorities. When asked what the authorities should do to recognize their situation, the families mainly request an increase in the efforts to trace their loved one. They also ask the authorities to improve communication with them. Many also said that they would like to receive financial compensation (for civilians and volunteer battalions members) in order to support them with their financial difficulties.

To the specific and emotionally charged question of what would be "justice" for them in relation to their missing relative, the majority (74%) of families explained that, for them, justice means that the authorities are committed to clarifying the fate of their missing relatives. Families asking for prosecution of the perpetrators of the disappearance represent 38% of the respondents, which is almost equal to the percentage that wished for compensation and the legal recognition of the status of the missing.

## THE STRUGGLE AGAINST FORGETTING

The disappearance of their relative presents families with another important challenge: not to let him or her disappear completely in silence and uncertainty. That is why many families maintain the struggle to keep the memory of their relative alive and to preserve his or her place in the community.

Adapted from the publication *Accompanying the Families of Missing Persons: A Practical Handbook*, ICRC, 2013.

## THE IMPORTANCE OF RITUALS FOR THE FAMILIES OF THE MISSING

Rituals for coping with uncertainty are important for the following reasons:

- Communal rituals enable the families to give meaning to their experience. They make it possible for families to reaffirm the existence of their missing relatives and to restore them to their place in their community. By honouring them through rituals, the community reaffirms their social identity (someone's son, daughter, parent, etc.). Rituals also reassure the families that what has happened to them is within the realm of human experience, and that situations like theirs have been foreseen.
- Rituals can take the edge off the suffering of the families because they offer reassurance that, despite the fruitlessness of their search, the families have not abandoned their loved one. This may lessen their feelings of guilt and perhaps free them from the obligation of declaring the missing person dead in order to be able to perform a ceremony in his or her honour.
- Rituals make it possible to pay tribute to the memory of the missing person.
- Rituals provide an opportunity to receive support and to share the suffering that can go unnoticed because the families often do not have opportunities to express it.

Text from the publication *Accompanying the Families of Missing Persons: A Practical Handbook*, ICRC, 2013.

## RECOMMENDATIONS:

### EXPRESS ACKNOWLEDGEMENT OF THE SITUATION OF THE FAMILIES OF THE MISSING PERSONS

The ICRC recommends to the authorities:

- ▶ To express official acknowledgement, in the form of official statements recognizing the suffering of the families, their predicament, the right of the families to be assisted and receive news, and the commitment of the authorities to work on these matters.
- ▶ To establish official national commemoration, in order to pay respect to the persons who have gone missing and to their families.





## **5. CROSS- CHECKING EXERCISE CONDUCTED IN 2018**

Two years after the FNA, the ICRC decided to conduct focus group discussions with the families of missing persons to learn what had changed in their lives since the interview for the FNA. A sample was selected from the 73 families who participated in the assessment in 2016. Nine out of the 73 family members interviewed in 2016 had already clarified the fate of their missing loved ones. A large number of families did not agree to participate in the focus group discussions as they do not

believe in the effectiveness of sharing information about their needs with the authorities. Answering a question about the effectiveness of the search conducted by the authorities, the sister of a missing person said: *"The question is incorrect – no search is ongoing."* The mother of a missing person asked: *"Do you believe that any requests or appeals will help?"* In total, 13 family members agreed to participate in the ICRC focus group discussions, which on average lasted for 5 hours.

## CROSS-CHECKING EXERCISE FINDINGS

During the focus group discussions, families also answered a multiple choice questionnaire. As the needs are multifaceted and interconnected, the assessment was multidisciplinary and collected information pertaining to the different areas affecting the lives of the families.

### THE NEED TO KNOW: SEARCH AND ATTITUDE TOWARDS THE FATE OF THE MISSING PERSON

*"We did the work for the authorities. We found the witnesses, collected evidence, but our search results are not accepted. Every time I find information about his whereabouts and try to check it, I obtain new and totally different information from another source. I have the impression that the closer I am to him, the farther he is from me." – Mother of a missing person*

Four years after the disappearance of their loved ones, families still contact different authorities and organizations hoping to find information about their loved ones. However, they have become more disappointed with the results of the search process. Families shared the general impression that authorities were more sympathetic and committed to clarifying the fate and whereabouts of the missing persons in 2014. As a result, families have the feeling that they can rely only on their own search results.

However, the families' perception of the authorities' responsiveness has generally im-

proved. Regarding the quality of information provided by the authorities, 42% of families affirmed that the information obtained from the authorities was partially useful, while during the original FNA in 2016, only 22% of interviewees had mentioned they have received partially useful information from the authorities. Some families complained about the absence of a reply from the authorities (14%), whereas in the FNA conducted in 2016, 44% of the families mentioned they hadn't received any information from the authorities.

*"We do not even want to address them (authorities) now. What is the point? In 2014, the authorities were sympathetic to us and now they are bored. Those old ones rotated and the new ones either start asking all the details about the disappearance anew or do not care. They say they do not know. They do not want to raise expectations and do not share any data." – Mother of a missing person*

Most families mentioned insufficient coordination between different authorities. On different occasions, they received controversial information about the fate and whereabouts of their loved ones from different institutions. As a result, respondents cling to the idea that their missing relatives are alive and detained. They base their beliefs on information from witnesses, volunteers, fortune tellers and occasional videos and photos in

the mass media, in which they recognize the missing loved one.

In general, the proportion of families that believe their loved ones are still alive has remained almost constant: 65% in 2016 and 62% in 2018. Conversely, the number of families that feel unsure about the fate of the missing relative has grown from 23% of the interviewees in 2016 to 38% in 2018.

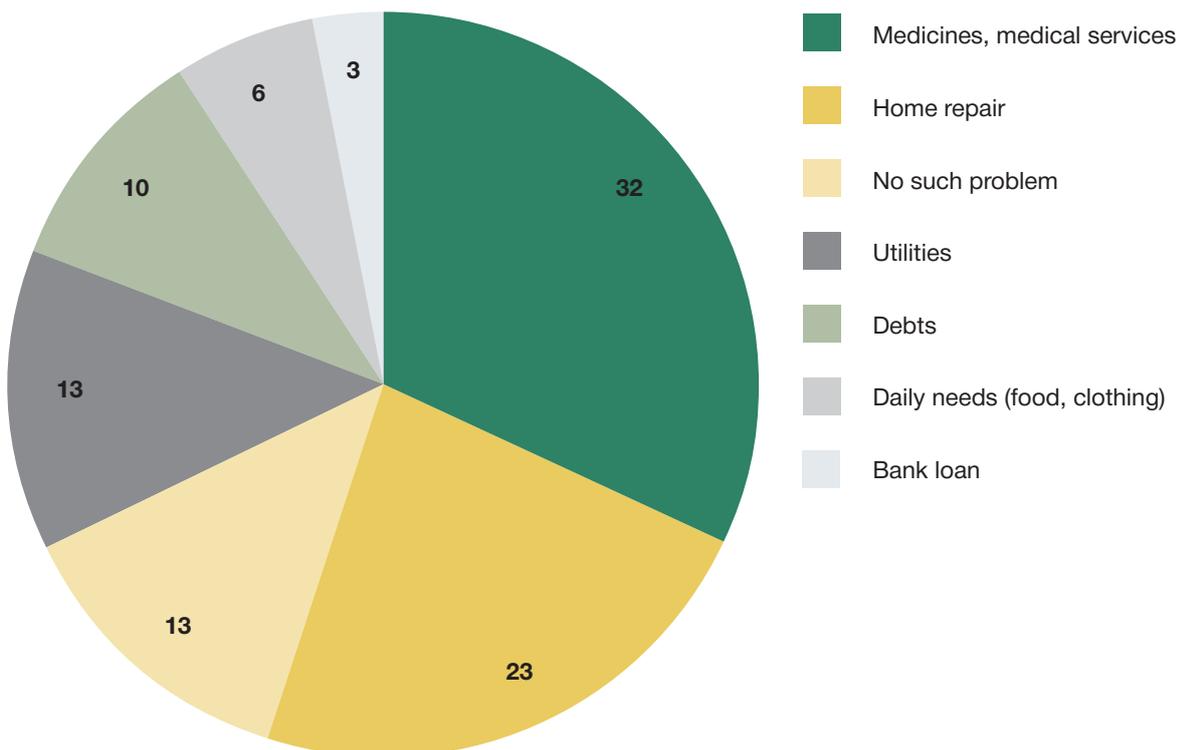
*"Every time I receive very different information – my son was detained, got burnt, shelled, he might have been arrested or his body might have been taken somewhere in a box. How many deaths for one person? But there is the truth – and it is definitely not so multifaceted." – Mother of a missing person*

### FINANCIAL AND ECONOMIC NEEDS

Families of missing persons still have economic and financial problems that are directly related to the disappearance of their loved ones. As in 2016, concerned authorities support the families of missing in action, but do not provide any compensation for the families of missing civilians.

Most families are able to cover their basic needs. However, they lack money for medical services (32%), home repair (23%) and 6% mentioned problems covering daily needs such as food or clothing. In the assessment conducted in 2016, 24% of the interviewees mentioned they could not cover medical expenses, 24% were unable to cover costs related to home reparation and 39% were unable to cover their daily needs. It is interesting to note that almost all families said their expenses for medical treatment constantly grow. According to the families, the pain and suffering caused by the disappearance slowly turn into physical diseases.

## WERE THERE ANY ESSENTIAL NEEDS THAT THE HOUSEHOLD WAS UNABLE TO COVER SINCE THE DISAPPEARANCE OF YOUR RELATIVE? (%)



*"I received assistance from the authorities only once. But I and my husband believe that there are people who need money more. We believe that as long as our hearts beat, we do not need this money. I am able to earn money myself. All I want from the State is to find and return my son." – Mother of a missing person*

Families of missing soldiers who participated in the focus group discussions still receive the salary of the missing person. However, families of missing civilians still have to struggle on their own to survive. This is especially burdensome for the IDPs, who moved to new cities and had to start their lives anew. The wife of a missing person and currently an IDP said: *"My husband did not want me to work – he created all the conditions for my comfortable life, self-realization and hobbies. One day he disappeared. I moved to Kyiv*

*with my son and was not able to find a job. I left my flat, cars and personal belongings in Donetsk and I am not sure that I will ever be able to retrieve them."*

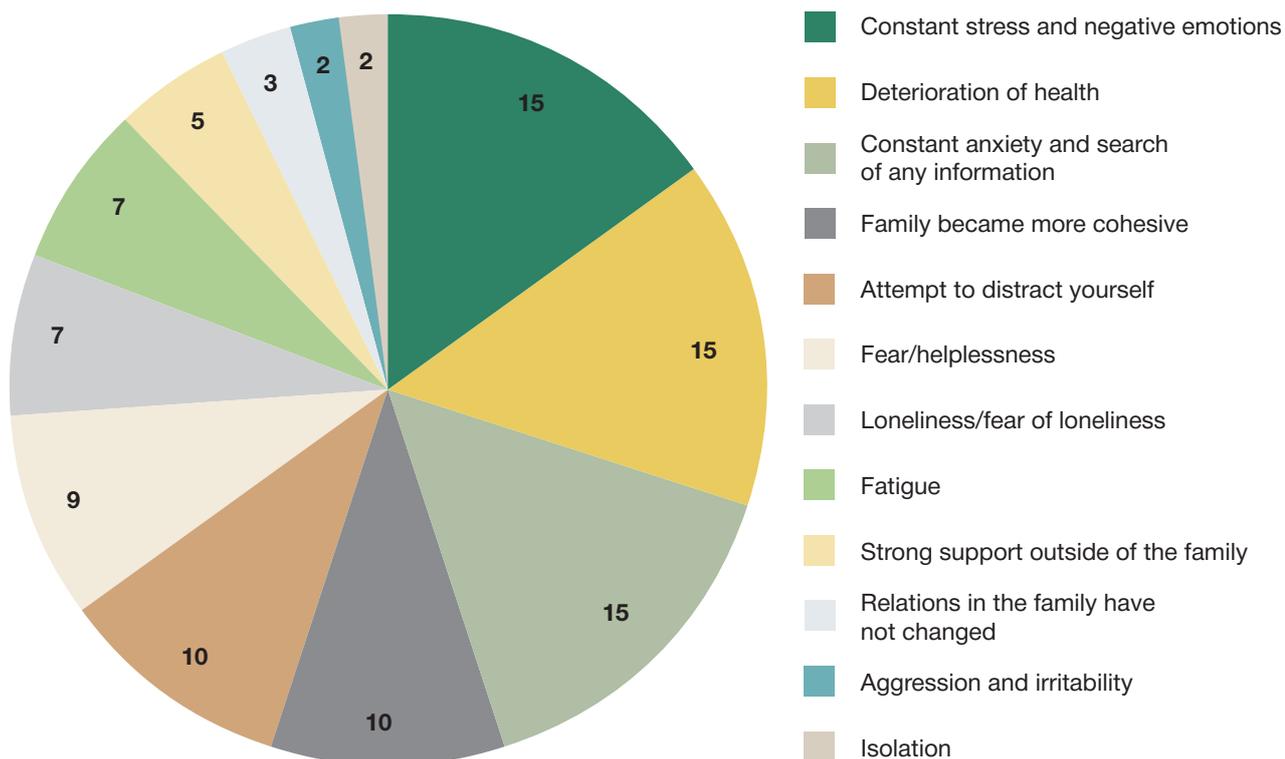
Families still incur additional expenses connected to the search process: for example, families travel to meetings with the authorities at their own expense. By comparison to the situation in 2016, in 2018, interviewed families have stopped paying fraudsters and rely less on the support of fortune tellers.

### PSYCHOLOGICAL AND PSYCHOSOCIAL NEEDS

Families strongly affirmed that time does not heal the pain. These mothers and wives see their sons and husbands in every young man who passes by in the streets or leave the door of their houses open in the evening and expect to see their loved ones coming home.

Families said that they experience strong feelings of hope, disappointment and despair, and sometimes aggression and helplessness. According to the families, only clarifying the fate

## HOW HAS THE DISAPPEARANCE OF YOUR FAMILY MEMBER AFFECTED YOU AND YOUR FAMILY? WHAT ARE THE MAIN DIFFICULTIES YOU HAVE FACED? (%)



and whereabouts of their missing loved one would help them to move on.

Continuous psychological suffering leads to deterioration in the health conditions of family members. All the families reported different health problems. In one case, the mother of a missing person reported the death of her husband of a heart attack, which she considers to be directly connected with worries about the fate of their son.

Families mentioned that even though they are surrounded by sympathetic people, sympathy is not enough to clearly understand the plight of the families of missing persons. That is why families try to keep them at distance. A mother of a missing person

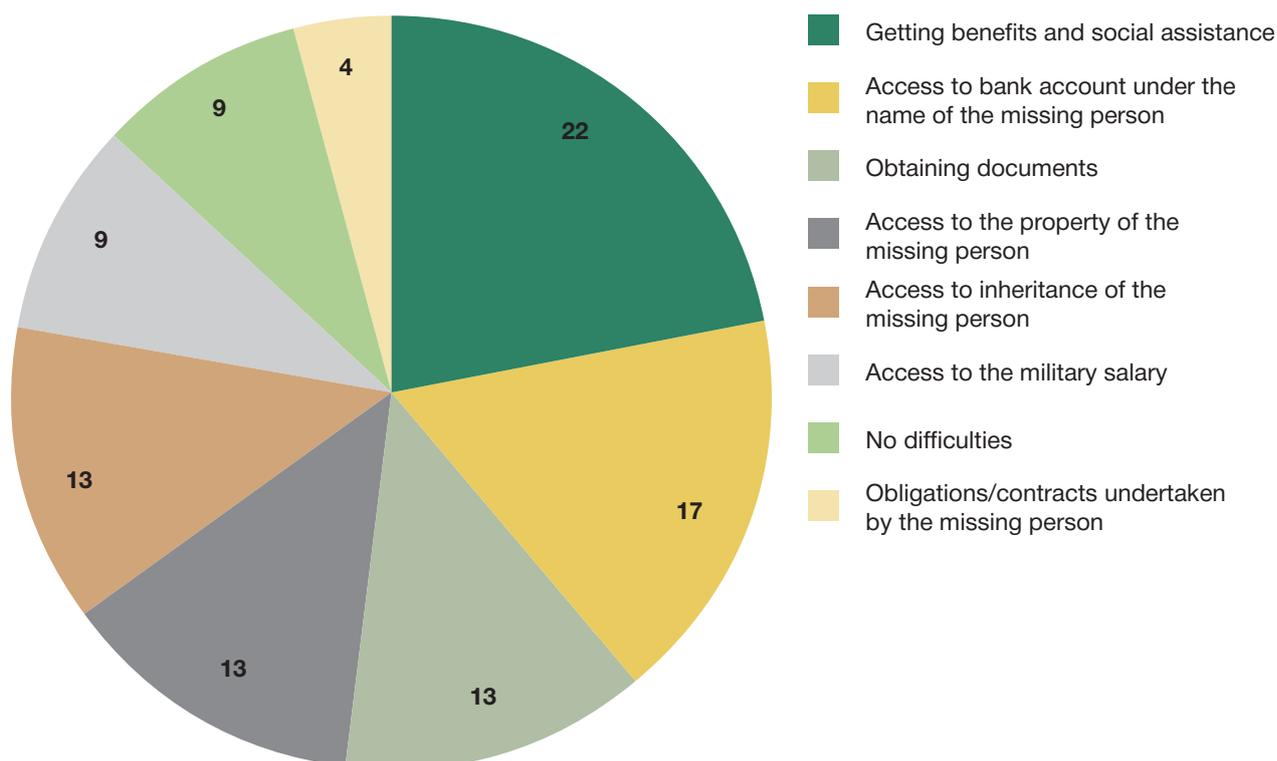
said: *"We changed our friends. No quarrels, no conflicts, we just try to keep them at a distance."*

Families mentioned that they do not feel understood, even by professional psychologists. One mother tried to visit a professional psychologist, but she felt like she *"was surrounding herself with a wall, being unable to open up."* Families try to organize themselves in groups, actively communicate with other families of missing persons and centre their life on the main goal – to clarify the fate and whereabouts of their loved ones. A mother of a missing person mentioned: *"We licked our wounds and we formulated the main aim of our life – to succeed in the search, and we are totally focused on achieving this aim."*

### LEGAL AND ADMINISTRATIVE NEEDS

Families are concerned about the lack of a clear status for their missing relatives – some of them are considered as detainees without established whereabouts. Families mentioned that they still face various difficulties in relation to the lack of clear status: access to social benefits (22%), access to the bank account of their missing relative (17%) and obtaining documents (13%), for example.

## WHAT ARE THE DIFFICULTIES THAT YOU ARE FACING BECAUSE OF THE ABSENCE OF A CLEAR STATUS FOR YOUR MISSING RELATIVE? (%)



*"Before enlisting in the army, my brother bought a new car. We are not able to sell it because now it looks almost dilapidated." – Sister of a missing person*

In general, families are unaware whether they are entitled to specific rights or benefits because their loved one went unaccounted for. In 2016, almost half of the families were unaware of their rights as well. The husband of a missing wife said: *"Since the disappearance of my wife, I do not have access to her pension and do not know how to solve this issue."*

## NEED FOR RECOGNITION AND JUSTICE

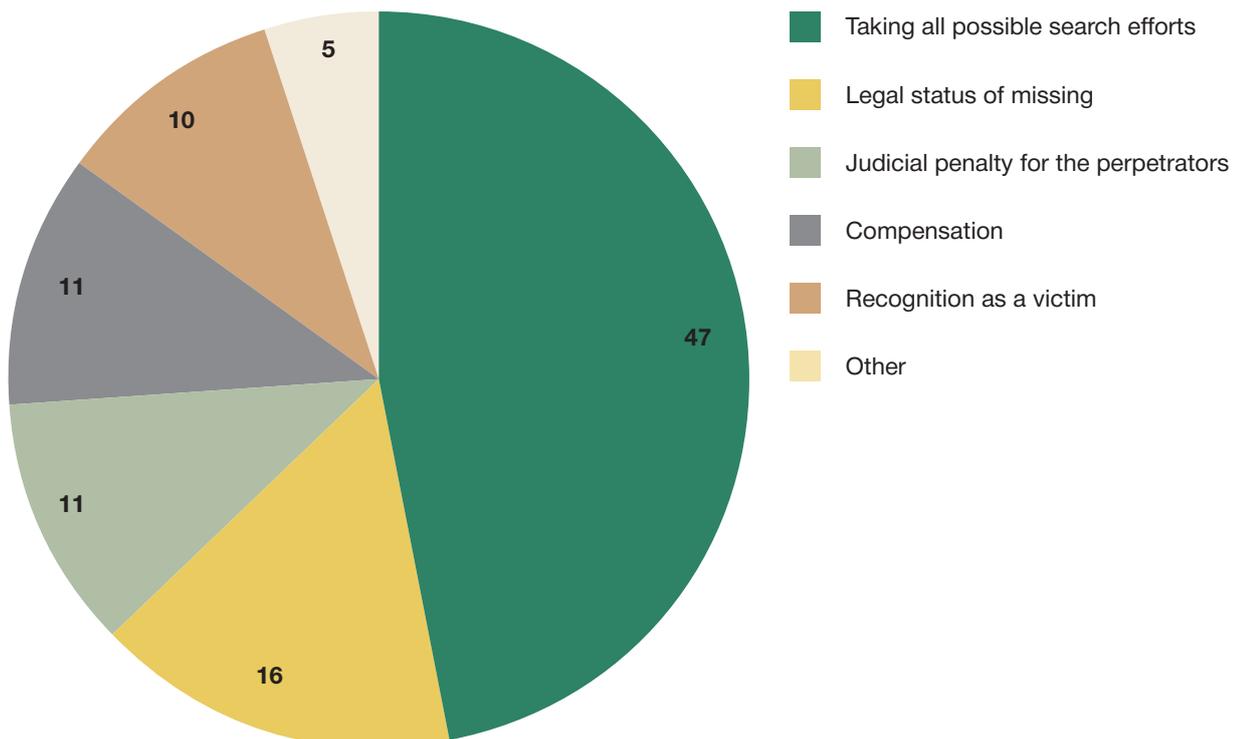
*"The photo of my son was on the monument commemorating the dead, but I did not bury him. My first thought was, 'Who was that fool displaying the pictures of living people on the memorial?'" – Mother of a missing person*

As in 2016, families still think that authorities show insufficient recognition of their plight. According to the families, authorities should increase their efforts to clarify the fate and whereabouts of their missing loved ones. The mother of a missing person said: *"Diplomatic efforts of the authorities to end the conflict are welcomed, but real actions are needed. Time passes. The life of my son is at stake. All I need is to find him and I will not stop knocking on every door."*

As in 2016, for the families "justice" means, first, taking all necessary actions to clarify the fate and whereabouts of the missing (47%).

Fewer respondents believe it means legal status for their missing relatives (16%) and punishment for the perpetrators (11%).

## THE MEANING OF "JUSTICE" (%)



Families are especially frustrated when the photos of their sons and husbands are sometimes displayed on the monuments together with the photos of the dead. For them, the whereabouts of their missing relatives are not established and in their souls they cherish the hope that they are still alive.

Living with the uncertainty, the families are in need of support from both the concerned authorities and the community. Although denying their interest in participating in commemorative activities, families actively share

information about commemorative activities organized by other families or, in some cases, by other organizations or authorities.

Another illustration of the families' consuming uncertainty is the dilemma they are confronted with when praying for their loved ones: in the Orthodox Church one can light candles either for the living or for the dead. The families of the missing often light a candle at both places, avoiding the agonizing choice between hope and despair. Families say regretfully that instead of finding some comfort and relief in the church, they are facing ambiguity.





## **6. THE LAW ON THE LEGAL STATUS OF MISSING PERSONS OF UKRAINE**

In July 2018, Ukrainian authorities adopted Law n° 2505 *On the Legal Status of Missing Persons of Ukraine of 12.07.2018*<sup>1</sup> (hereinafter, Law on the Missing or the Law). The Law introduces the status of missing person *per se* for the first time into Ukrainian legislation. It also separates the procedures applicable to persons who go missing in non-emergency circumstances (still under the responsibility of the National Police) from the procedures applicable to persons who go missing in special circumstances of emergency (i.e., conflict or natural disasters, now co-ordinated by the National Commission on the Missing created by the Law).

At the same time, obtaining the status of missing would not prevent relatives from applying to court to obtain a declaration of absence, as foreseen so far, or to request the recognition of death under the Civil Procedure.

## 1. LEGAL CONSEQUENCES FOR THE MISSING PERSON

The Law declares the right of the missing person to have the circumstances of their disappearance investigated, as well as their whereabouts identified. Other rights of the missing person including property rights have to be protected until the moment of declaration of the person as dead or until the search stops.

## 2. LEGAL CONSEQUENCES FOR THE FAMILY OF THE MISSING PERSON

### a) Right to know

The Law explicitly mentions the right to know about the fate of their relatives and loved ones, identification of their whereabouts, circumstances of the death, burial place, and the right to obtain the remains of their loved ones.

### b) Financial support

The Law introduces the right of families of missing persons to apply for social security in case of loss of breadwinner.<sup>2</sup> The pension should be provided to the relatives for the duration of the disappearance.

### c) Property of the missing person

For the relatives of a missing person, once they are appointed as guardians of the property, they can manage it for the benefit of the missing and cover expenses and pending obligations of the missing persons with it, since the status of missing person does not exempt such persons from obligations acquired before the disappearance occurred. Only if a missing person is declared dead by the court under the Civil Procedure can his/her property be inherited.

### d) Participation in the search

The Law foresees that relatives must be informed about the search through the procedure. It also provides relatives with an opportunity to be more actively involved in the search of their loved ones. However, the implementation of the Law will determine how this will work in practice, as well as how effective it will be.

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1 The Law came into force on 2 August 2018, after its signature by the President of Ukraine and publication.

2 As established in the *Law On Compulsory State Pension Insurance*, it may apply for: (i) any adult who was dependent on the missing breadwinner that is unemployable (because of physical disability, for example); (ii) minor children of the missing breadwinner; and (iii) parents and spouse of the missing breadwinner if they lost their source of income.

**e) Family legal issues**

The status of the missing does not automatically change the marital status of them or their spouse. The marital status can be changed by the State registration authorities upon request by the spouse only after the issuance of the declaration of absence by a court, according to the regular Civil Procedure.

### **3. CREATION OF THE COMMISSION ON MISSING PERSONS AND THE UNIFIED REGISTER (MISSING IN SPECIAL CIRCUMSTANCES)**

The Law creates the Commission on Missing Persons in Special Circumstances which has the purpose of coordinating the work of the authorities responsible for the search of the missing as a result of an exhaustive list of circumstances, with the objective of clarifying the fate and whereabouts of a missing person. The law also creates the Unified Register on Missing Persons which will store and centralize all information for the search of missing persons in special circumstances.

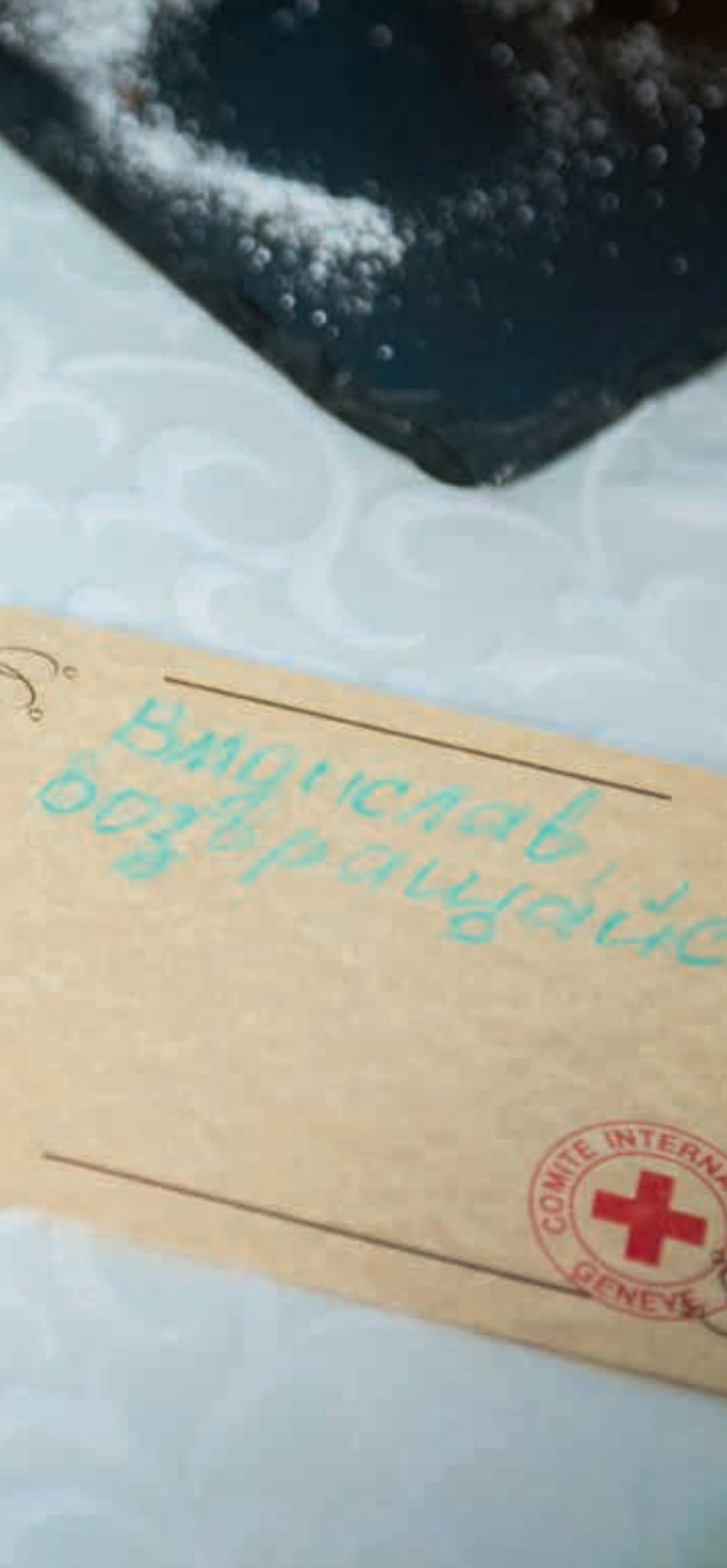
### **4. FAMILIES OF MISSING PERSONS' INFORMATION ABOUT THE LAW ON THE MISSING**

During the focus group discussions, families were not aware about the main provisions of the Law on the Missing. In general, they only heard about the Law, welcomed the adoption, although felt quite skeptical about its implementation. Families believed the Law does not contain any provisions for the protection of the families of missing. In their opinion, the Law also risks "legalizing" misidentifications.

It is encouraging that the adopted Law includes provisions of financial support for families of missing who have lost their breadwinners. The ICRC hopes that, as soon as the Law is successfully implemented, some of the legal and administrative problems of the families will be solved. The ICRC would also like to stress that the authorities should adopt a holistic response towards the multifaceted needs of families of missing persons, which include legal, administrative, financial and psychosocial aspects. State authorities should also keep families of missing persons informed about the identification process, their rights and social benefits available.

The ICRC stands ready to continue providing support to the authorities in addressing the needs of the families and in the full implementation of the law.





## 7. CONCLUSIONS

Two years after the ICRC's assessment of the needs of families of missing persons and four years into the conflict, the ICRC can confirm that families are still deeply affected by the disappearance of their loved ones and face serious consequences in several spheres of their lives.

The search for the missing relative has not ceased: families are trapped in an emotionally consuming and economically costly struggle to find any information that could fill the void of uncertainty. Their most pressing need remains the need to know what happened to their loved ones. But as time passes by and the search fails to bring tangible results, families start distrusting the authorities and organizations that they had turned to for help.

The need to know is compounded by a number of other needs that arise from the fact of the disappearance of their dear one, spanning across day-to-day practicalities – socio-economic and administrative needs – as well as the emotional and psychological functioning of the person within the family and of the family within the society.

The findings of the ICRC's FNA of 2016 were confirmed in 2018 and highlight the endurance of the families' daily struggles. Whereas their resilience has helped them survive, they need and expect more support from the authorities, who are ultimately the only ones capable of bringing them the answers on which they depend.

The ICRC hopes that the recommendations presented in this report will contribute to a holistic approach to addressing the many grave consequences caused by the disappearance of a family member.

With the strictly humanitarian objective of contributing to the recognition of, and response to, the specific needs of families of missing persons, the ICRC remains committed to continuing to support all efforts related to these objectives and relaying the voice of the families of missing persons where it needs to be heard.

The ICRC helps people around the world affected by armed conflict and other violence, doing everything it can to protect their dignity and relieve their suffering, often with its Red Cross and Red Crescent partners.



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