

Agreement

between

The International Committee of the Red Cross (ICRC)

and

The Republic of Lebanon

**on the Collection and Storage of Biological Reference Samples
from Family members of Persons Missing in relation to the armed
conflicts in Lebanon since 1975.**

Introduction

This agreement is intended to provide a framework for the collection and storage of biological reference samples from families of persons missing in relation to the armed conflicts in Lebanon since 1975.

Since the beginning of the armed conflicts in Lebanon in 1975, thousands of families have been waiting for answers about the fate of missing loved ones.

The families of missing people suffer from uncertainty about what has happened to their loved ones. People who are unable to restore contact or discover the fate of missing relatives live in an emotional limbo, unsure whether a parent or a sibling or a child is dead or alive. Even if they suspect the passing of a family member, the uncertainty often prevents them from mourning or fully resuming their own lives.

The families of missing persons in Lebanon have since years been requesting that their DNA be collected (as part of the collection of Ante-Mortem Data of their missing relatives), allowing that this crucial information that eventually should allow identification would not get lost forever when they die.

The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organisation whose exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance. The ICRC also endeavours to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles.

The ICRC has been present in Lebanon since 1967, addressing the humanitarian consequences of conflict and other situations of violence. In 1978, the ICRC signed a headquarters agreement with the Lebanese government, providing the ICRC with a privileged status in the country.

Over the past 44 years, the ICRC has assisted families separated by conflict and other situations of violence, persons deprived of liberty, displaced populations, acted as neutral intermediary in the transfer and repatriation of detainees and human remains and reminded parties to the conflict to respect the International Humanitarian Law.

As part of its humanitarian mandate, the ICRC has been working with the families of missing persons for years and remains committed to have their needs and rights acknowledged and addressed.

The authorities of the Republic of Lebanon asserted their commitment to fulfil their responsibilities and obligations to address the needs and the rights of the families of missing persons, in particular the right to know the fate of their missing relatives.

His Excellency, the President of the Republic, mentioned in his inaugural speech in May 2008:

"In this context we should dedicate ourselves wholeheartedly to the mission of freeing the prisoners and the detainees as well as revealing the destiny of the missing persons in addition to recovering our sons who sought refuge in Israel, for the homeland embraces all of its sons."

His Excellency, the Prime Minister, stated in the Ministerial statement of July 2011:

"6. The government commits to following up on the issue of missing Lebanese nationals and detainees in Syria, and is determined to do everything required in order to resolve this issue and end the suffering of their families. (...)

8. The government will also pursue Lebanon's adoption of the United Nations Convention on the Protection of All Persons from Forced Disappearance. The government will therefore establish a national committee that will follow up on all issues regarding this matter."

Considering the above,

Considering the provisions of the Lebanese legislation,

and in order to answer to the humanitarian needs of the families of missing persons,

the ICRC and the authorities of the Republic of Lebanon will endeavour in a project for collection and storage of biological reference samples from relatives of missing persons, for use in a process of identification of human remains and for the exclusively humanitarian purpose of giving answers to the families of missing persons about the fate and whereabouts of their loved ones and in compliance with the best interest of the families.

1. Purpose of the Agreement

The purpose of this Agreement is:

- to provide a framework for the cooperation between the ICRC and the authorities of the Republic of Lebanon (hereafter referred to as the parties) in relation to the collection and long-term storage of biological reference samples of families of missing persons;
- to assign the Internal Security Forces (ISF) as the government agency in charge of the collection and long-term storage of biological reference samples from families of missing persons;
- to specify that the ICRC will be the custodian of back-up biological reference samples from families of missing persons, which will also be collected by the ISF and thereafter stored by the ICRC in case they may be required in the future for processing (DNA profiling) in replacement of the samples stored by the ISF;
- to stipulate that the collection, storage and future use of the biological samples and DNA profiles are subject to the rules relative to the informed consent and the protection of personal data;
- to stipulate that the samples collected will only be used and processed (DNA profiling) for use in a process of identification of human remains and for the exclusively humanitarian purpose of giving answers to the families of missing persons about the fate and whereabouts of their loved ones and in compliance with the best interest of the families;
- to define the legal framework for the project.

2. Project description

With the technical and logistical support of the ICRC, families of missing persons will be able to give biological reference samples to the ISF with the certainty that the use of these samples will be restricted to the humanitarian purpose of identifying their missing relatives, in strict compliance with the rules relative to the informed consent and the protection of personal data.

The project comprises different phases:

- A framework agreement on the technical aspects of the project is established between the ISF and the ICRC.
- The ICRC visits the families of missing persons, provides detailed information on the project, identifies the family members most suitable as donors of biological reference samples, and prepares all administrative formalities.

- Those family members identified as donors, and following their informed consent, are put in contact with the ISF to proceed to the collection of the biological reference samples.
- The ISF collects a double set of biological reference samples from each donor.
- For each missing person, one set of samples is kept in custody by the ISF in the headquarter of the ISF Judiciary Police and one set is handed over to the ICRC and thereafter kept as back-up samples by the ICRC.
- The samples are correctly managed (chain of custody, quality assurance and control, physical protection of the samples, etc.) and are stored, respectively by the ISF and the ICRC, until they will be used for the identification of missing persons.

3. Commitment of the authorities of the Republic of Lebanon

The authorities of the Republic of Lebanon, committed to this project and its objectives, will ensure the appropriate legal framework for the project.

The authorities will assign the ISF as the government agency in charge of the collection and long-term storage of biological reference samples from families of missing persons.

The authorities guarantee the proper use of the biological reference samples of families of missing persons and of all personal data collected in the project (including DNA profiles) by ensuring the adequate physical protection of the biological samples collected and by ensuring respect for the rules relative to the informed consent and the protection of personal data.

The authorities ensure that the data collected in the framework of this project (personal data as well as biological reference samples and DNA profiles) will only be used in a process of identification of human remains and for the exclusively humanitarian purpose of giving answers to the families of missing persons about the fate and whereabouts of their loved ones and in compliance with the best interest of the families.

The authorities ensure that the data collected and produced in the framework of this project will not be used in any political or judicial proceedings – present or future.

The authorities will provide the necessary support and facilitate the work of the ISF to carry out this project.

4. Commitment of the ICRC

The ICRC works with the ISF according to the framework agreement on the collection and storage of biological reference samples from families of missing persons.

The ICRC will contact the families of missing persons and keep them informed about the project and its objective. In particular, the ICRC gives a comprehensive explanation on the technical aspects, modalities and related procedures (informed consent forms, identification of the donors of samples, vouchers for the ISF, etc.).

The ICRC informs the ISF of the families who have given their consent and who will contact them to proceed to the collection of the biological samples.

Following the collection of the samples by the ISF, the ICRC regularly receives the back-up samples.

The ICRC stores the back-up samples in its headquarter in Geneva, locked in an adequate and safe place, ensuring the adequate physical protection of the samples collected. The samples remain without being analysed.

The ICRC stores the back-up samples until a process to clarify the fate and whereabouts of missing persons, in compliance with all humanitarian requirements, is established and needs the back-up

The parties to this agreement ensure that the personal data and biological samples of missing persons and their family members are handled and processed in a manner consistent with the internationally agreed principles on data protection as outlined at the International Conference of Governmental and Non-Governmental Experts, held in Geneva in February 2003, in accordance with the relevant provisions of the national legislation as well as:

- the United Nations Guidelines concerning Computerized personal data files (1990);
- the Organization for Economic Co-operation and Development (OECD) Guidelines governing the Protection of Privacy and Trans-border Flows of Personal Data (1980);
- the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (1981).

See annex 1 for an overview of the guiding principles on personal data protection. The parties ensure that the data will not be used for other purposes.

The parties ensure that the data collected and transferred will only be used for the purpose for which they were collected, namely storage until a process of clarification of the fate and whereabouts of missing persons can be carried out in the best interest of missing persons and their families. Detailed Standard Operating Procedures regulating the chain of custody and proper storage will be produced to this end.

This Agreement is signed in [place] on [date] in English. The Arabic translation of the present Agreement is attached. In case of a discrepancy, the English version (original) prevails.

Mr. Najib Miqati
Prime Minister

Mr. Jürg Montani
Head of delegation in Beirut

Annex 1: Guiding principles on personal data protection

The guiding principles comprise the following:

- "Personal data" means any information relating to an identified or identifiable individual, including documents collected or copied in view of contributing to the process of identification.
- "Sensitive data" means data likely to give rise to unlawful or arbitrary discrimination based on racial or ethnic origin, nationality, religious or other beliefs, sexual behaviour, criminal prosecutions and convictions, medical data or health information, including AMD, PMD or DNA profiles.
- Personal and sensitive data shall be collected and processed fairly and lawfully, with appropriate safeguards.
- The consent of the individual is required for the collection and use of the personal and sensitive data.
- The collection and processing of personal and sensitive data shall be limited to that which is necessary for the purpose identified at the time of collection, or beforehand.
- Personal data should be accurate, complete and updated as is necessary for the purpose for which they are used.
- Personal and sensitive data may not be used, disclosed or transferred for purposes other than those for which they were collected without the consent of the person concerned, except if required by a substantial public interest or for the protection of the vital interests of the person concerned or of others.
- Personal and sensitive data may only be transferred to third parties respecting personal data protection principles.
- Personal and sensitive data should be deleted as soon as the purpose of their collection has been fulfilled, or when no longer necessary. They may, however, be retained for a definite period if required for the benefit of the individual to whom they relate or if essential for the performance of the humanitarian tasks of the organization which collected the data.
- Access to personal and sensitive data should be granted to the individual to whom the data relate. Provision should also be made for the right to challenge the accuracy and completeness of the data and to have them amended as appropriate.