



International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

Twenty-eighth session

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Consideration of reports of States parties under article 29 (1) and additional information under article 29 (4) of the Convention

List of priority themes in relation to the additional information submitted by Serbia under article 29 (4) of the Convention

Note by the Committee

1. Having considered the additional information submitted by Serbia under article 29 (4) of the Convention on 18 June 2021,¹ the Committee decided to focus its next dialogue with the State party on the list of priority themes and related issues set out below. The list is not exhaustive and other issues may be raised during the dialogue. The list of priority themes is public. All interested persons and organizations can provide information on the issues raised, through written contributions and/or in confidential oral briefings with the Committee.
2. The Committee recalls that the examination of additional information submitted under article 29 (3) and (4) of the Convention covers a maximum of four priority themes identified by the Committee, and that the procedure comprises four phases:
 - (a) Identification, by the country rapporteurs, of priority themes related to the implementation of previous concluding observations and/or to the evolution of the situation of enforced disappearance in the State party concerned and adoption of the list of priority themes by the Committee plenary;
 - (b) Transmission of the list of priority themes to the State party; no written response is expected from the State party at this stage of the procedure;
 - (c) Public dialogue between the Committee and a delegation of the State party, with active participation by the competent authorities of the State party; for Serbia, the constructive dialogue will take place during one three-hour meeting at the twenty-eighth session of the Committee;
 - (d) Adoption by the Committee of concluding observations, in which the Committee highlights its concerns and recommendations and indicates the next steps in the procedure, as determined in the light of the measures needed to implement the recommendations and of the developments in the situation of enforced disappearances in the State party.

¹ [CED/C/SRB/AI/1](#).



I. Legislative harmonization and institutional framework

3. The Committee notes that article 371 of the Criminal Code was amended in 2016 and includes enforced disappearance as a separate offence among offences considered crimes against humanity. In that connection, the Committee requests the State party to provide, in the interactive dialogue, information on the following points:

(a) The measures envisaged to also incorporate a definition of enforced disappearance that does not constitute a crime against humanity, in full compliance with article 2 of the Convention, and to ensure that it constitutes an autonomous crime;

(b) The penalties, as well as the aggravating and mitigating circumstances, envisaged for this offence;

(c) Legal measures that have been taken or are planned to ensure that, given the continuous nature of the offence of enforced disappearance, any statute of limitations applicable to enforced disappearances should commence from the moment the offence ceases, and that existing remedies for victims are subject to appropriate statutes of limitations;

(d) The measures that have been taken to align the definition of “victim” with article 24 (1) of the Convention and to guarantee victims the right to truth, justice and reparation, applying a differential approach;

(e) The current status of the initiative, launched in 2019, to adopt the law for missing persons (arts. 2, 4, 7, 8 and 24).

4. Please describe the steps taken by the State party related to the proposal submitted by the Witness Protection Unit that included an initiative to amend the Law on the Protection Programme for Participants in Criminal Proceedings, and the potential impact of that proposal on the management of cases of alleged enforced disappearance (art. 24).

5. Please provide information about the assistance programmes that are currently available to witnesses and victims of enforced disappearances, including information on the following points:

(a) The mechanisms for the protection of persons participating in an investigation;

(b) Measures taken to ensure the highest standard of protection, and their effectiveness with regard to investigating allegations of threats against or intimidation of witnesses;

(c) The methods and factors taken into account by the competent authorities to assess risks;

(d) The way a differential approach is guaranteed by the Witness Protection Unit in the fulfilment of its mandate (arts. 12, 18 and 24 (7)).

6. Please provide updated information on the action plan for the implementation of the National Strategy on the Rights of Victims and Witnesses of Crime (2020–2025), in particular with regard to measures to enhance the status of victims and witnesses of crime in the criminal justice system, in line with the standards set out in Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012, and on the application of such measures to victims and witnesses related to cases of alleged enforced disappearance (arts. 12, 18 and 24).

7. Please inform the Committee about mechanisms that have been established by the State party to ensure the participation of civil society organizations, academics and members of interested sectors in legislative reform processes, particularly those concerning the laws mentioned above and the Penal Code (art. 24).

8. Please describe the measures taken to protect the rights of the families of disappeared persons through legislation and to remedy the shortcomings in the 2020 Law on the rights of veterans, disabled veterans, civilian disabled war victims and their family members (arts. 12, 18 and 24).

II. Prosecution, investigation and cooperation

9. The Committee takes note of the information received on the national strategy for war crimes prosecution for the period 2016–2020, and the national strategy for war crimes prosecution for the period 2021–2026. In that connection:

(a) In view of paragraphs 7 to 9 of the additional information, please specify the number of cases sent to the War Crimes Investigation Service of the Criminal Police Directorate in the Ministry of the Interior and to the Office of the War Crimes Prosecutor, the number of cases investigated, the number of cases that led to convictions, and the number of cases in which the fate of the disappeared person has been clarified;

(b) In view of the reference by the State party to the “large number” of war criminals prosecuted for abduction and disappearance,² please clarify the number of cases in which perpetrators were prosecuted for abduction, for disappearances and for enforced disappearances; the number of cases in which remains were found; and the penalties imposed for each such crime when perpetrators were convicted (arts. 9, 11 and 24).

10. Please report on the follow-up given to the documentation prepared by the group of experts set up to collect and process data on enforced disappearance and sent by the Commission on Missing Persons to stakeholders (arts. 9, 10, 11, 12 and 24).

11. As regards the more than 1,700 cases of war crimes pending preliminary investigation, including cases of alleged enforced disappearance, please provide information on the current status of these cases, the ranks of police and military personnel under investigation and the reasons why the perpetrators in these cases have not yet been prosecuted and, if convicted, punished (arts. 6, 8, 9, 12 and 24).

12. Please provide information on the application, in the context of removal of judicial functions, of the legal provisions set out in articles 167 and 179 of the Employment Act; the application of articles 12 and 15 of the Law on Judges; and the application of articles 64 to 67 of the Law on Public Prosecution, in particular with regard to suspension from work (art. 11).

13. According to information submitted to the Committee, the State party has refused to extradite Serbian citizens upon request by the judicial authorities of Kosovo.³ Please provide information on whether investigations of the alleged perpetrators of such crimes have been opened, and on the status of these investigations. Please also describe the measures taken by the War Crimes Investigation Service to improve the efficiency of related investigations (arts. 9 and 11).

14. Please describe mechanisms that have been established, and guidance that has been issued, to promote regional judicial cooperation with Bosnia and Herzegovina, Croatia and Montenegro, the progress that has been made to date and the related obstacles and challenges that have been faced in that regard (arts. 11, 14 and 15).

15. Please describe the measures taken to facilitate access to the archives of the Ministry of the Interior and the Serbian Armed Forces to promote the resolution of cases under investigation, and to foster an enabling environment for civil society organizations working on transitional justice in the State party and in the region (art. 12).

III. Search and identification

16. Regarding the work of the Commission on Missing Persons, please provide the following information:

(a) The number of registered disappeared persons;

² CED/C/SRB/AI/1, para. 13.

³ References to Kosovo shall be understood to be in the context of Security Council resolution 1244 (1999).

(b) The number of exhumations carried out;

(c) The number of persons whose remains have been found, and the proportion of remains that have been identified and returned to the person's relatives (arts. 2, 3, 12 and 24).

17. Please describe the mechanisms that have been established to promote cooperation between the respective government commissions of Serbia and Croatia on missing persons, and please specify the number of disappeared persons who have been located and the number of those who have been identified (arts. 2, 3, 12, 14 and 15).

18. Please provide an update regarding the implementation of the Framework Plan to Address the Issue of Persons Missing from Conflicts on the Territory of the Former Yugoslavia and the establishment of the Missing Persons Group, including information on action taken regarding the 4,000 cases of unidentified remains that have been located throughout the former Yugoslavia. In that context, please specify the difficulties encountered in the identification process, referred to in paragraph 64 of the State party's additional information (arts. 11, 12, 14 and 15).

19. In the light of paragraphs 66, 67 and 72 of the State party's additional information, please provide updated information on the progress made to locate graves and disappeared persons through the implementation of the Working Group on Missing Persons framework established in 2004 by authorities in Belgrade and Priština. Please also describe the activities undertaken by the related Joint Commission since September 2020, and the status and results of the activities at the Kiževak mine that had been planned for 2021 (arts. 12, 14, 15 and 24).

20. Please describe the measures taken by State authorities to promote the participation of victims' families, the handover of remains and memorialization (arts. 15 and 24).
