



# International Convention for the Protection of All Persons from Enforced Disappearance

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## Committee on Enforced Disappearances

### Third session

#### Summary record of the 29th meeting\*

Held at the Palais des Nations, Geneva, on Monday, 5 November 2012, at 10 a.m.

*Chairperson:* Mr. Decaux

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\* No summary record was prepared for the 28th meeting.

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*The meeting was called to order at 10 a.m.*

### **Meeting with United Nations Member States**

1. **The Chairperson** welcomed participants. He said that ratification of the Convention was progressing steadily, albeit slowly, as the text had to be transposed into various areas of both criminal and civil domestic legislation. He recalled the importance of the mechanisms provided for under articles 31 and 32 and invited signatory States to make the declarations referred to in those articles. The Committee was pursuing its work in an effective collegial spirit, following the guidelines on independence and impartiality of treaty body members. With a view to ensuring the consistency required under article 28, it had established sound cooperation with its partners, particularly the Human Rights Committee, whose extensive case law it would find very useful. A methodology had been developed with the Working Group on Enforced or Involuntary Disappearances to develop synergies, complementarity and transparency.
2. **Mr. Otani** (Japan) asked whether a simplified reporting procedure was under consideration.
3. **The Chairperson** said that, in order to avoid the delays experienced by other treaty bodies when considering periodic reports, it had been decided to ask States parties for a single report, which should be submitted two years after ratification. That was an essential legal requirement. The report would be considered within the framework of a constructive dialogue. Follow-up would be appropriate and fair, and States would be invited to provide supplementary information. Clear reporting guidelines had been drafted for government departments, which were not always familiar with United Nations practices. Consideration of reports would commence at the forthcoming session, in April 2013. It was hoped that the Secretary-General would provide the Committee with the necessary means, in accordance with article 26 of the Convention.
4. **Mr. Jordan** (Argentina) welcomed that approach, since if a periodic report was considered too long after it had been prepared, it was no longer up to date. Even when they were submitted on time, however, reports were subject to serious translation delays.
5. **Mr. Trapp** (France) and **Mr. Ould Zahaf** (Mauritania) pledged their countries' support for the Committee.
6. **Ms. Pi Cedres** (Uruguay) urged States parties to recognize the competence of the Committee to consider communications, as the mechanism effectively complemented the protection offered by the Convention. It was primarily a preventive tool. It was essential for the Committee and the Working Group on Enforced or Involuntary Disappearances to work together, within the scope of their mandates. It would be interesting to know how the Committee intended to capitalize on the treaty body reform process currently under way to develop its working methods.
7. **The Chairperson** said that the drafters of the Convention had been inspired by the experience of other treaty bodies to create an innovative mechanism. Translation delays were beyond the Committee's control, but it would post reports from States online as soon as they were received, so that they were immediately available to civil society. All relevant information for submitting communications was published on the website of the Office of the High Commissioner. It was worth noting that the mechanism was not limited to cases of enforced disappearance; the Committee would have to interpret all the obligations of States parties, which would produce original and particularly useful case law, since the International Court of Justice had recommended greater consistency in human rights protection. Regarding collaboration with other bodies, there was a natural convergence between the Committee and the Working Group on Enforced or Involuntary Disappearances, as both had common objectives, but their competences and tools were

different. There were two bodies because they each had different responsibilities. It should be remembered that the Convention applied to States only once it had entered into force for them. Cooperation arrangements had already been agreed. For example, the Working Group would inform the Committee about countries whose reports were under consideration. Country visits should also be coordinated, as those provided for under article 33 of the Convention were different from those undertaken by the Working Group. A visit by one might well be followed by a visit by the other. The key was to bridge any gaps together, while avoiding overlaps. It was also important for the Committee and the Working Group to speak with one voice; their recommendations should always be mutually reinforcing, and never contradictory. Likewise, unnecessary blockages should not be created by having to wait for the opinion of the other before taking action.

8. **Mr. Baldow** (Germany) asked whether a deadline would be set for requests for urgent action submitted under article 31.

9. **Mr. Praditsarn** (Thailand) suggested that the Committee and the Working Group should jointly develop guidelines for deciding whether cases were dealt with under the Convention, or under the Declaration. That would be useful for both States and victims.

10. **The Chairperson** said that the definitions of each instrument served as the reference point. Urgent actions were fairly similar to the urgent appeals of the Working Group and it was therefore necessary, once again, to ensure that those early warning mechanisms did not overlap. There should be an exchange of information, subject to the obligation of confidentiality. The Working Group had set a deadline of three months for its urgent appeals, but the Committee had not yet established deadlines for its own procedure, as it wanted to try it out in practice first. The interim measures provided for in articles 30 and 31 could be taken as soon as necessary. The Rapporteur responsible for requests for urgent action would be assisted by a deputy rapporteur so as to be able to respond quickly at all times. Appropriate adjustments would be made along the way, be that to working methods or to cooperation with other bodies.

#### **Meeting with the United Nations agencies and mechanisms, intergovernmental organizations and national human rights institutions**

11. **Mr. Srinivasa** (International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC)) said that the treaty bodies were of vital importance to the national human rights protection system and national human rights institutions could, in turn, be key partners of the treaty body system. As independent entities responsible for protecting or promoting human rights, those institutions bridged the gap between national and international human rights protection systems, with a view to strengthening human rights on the ground. They were a trusted source of independent and authoritative information on national situations. In addition, they followed up on treaty body recommendations, by disseminating them, advising the State and acting as observers. The ICC warmly welcomed the Committee's willingness — which was even expressed in its rules of procedure — to cooperate with national human rights institutions. It recommended that the Committee should take into account when developing the paper on cooperation with national human rights institutions the distinct role that they played, as underlined by the Paris Principles; aim to ensure that those institutions participated as effectively as possible at all stages of the Committee's work; and note that the ICC would support all efforts by treaty bodies to increase accessibility of the system to national-level actors. The ICC would continue to encourage national human rights institutions to cooperate with the treaty bodies.

12. **The Chairperson** noted that national human rights institutions played an important informative role with regard to ratifications and thematic discussions. Consultation with those institutions, which were best placed to make recommendations, was a prerequisite in

efforts to develop good cooperation practices with them within committees. The Committee relied on national institutions, which played a pivotal role between civil society and government, to ensure the proper implementation of its concluding observations, and encouraged them to forward information to it. National human rights institutions could also have a role to play in interim measures for the protection of persons, witnesses and sources.

13. **Mr. Garcé García y Santos** said that national human rights institutions would also have a role to play in monitoring the development of States parties' legislation, particularly with the aim of criminalizing enforced disappearance.

14. **The Chairperson** said that the International Committee of the Red Cross (ICRC) had been unable to be represented at the meeting, but had sent a statement, which the Secretary of the Committee would read out.

15. **Ms. Bianchi** (Secretary of the Committee) read out the statement of the International Committee of the Red Cross.

16. The ICRC had actively participated in the drafting and subsequent adoption of the International Convention for the Protection of All Persons from Enforced Disappearance, which had filled an important gap in the law. Today, both international human rights law and international humanitarian law provided for protection mechanisms against enforced disappearance, including the Convention. The ICRC seized every possible opportunity to encourage States to ratify the Convention and to recognize the competence of the Committee under articles 31 and 32. In 2007, the ICRC had proposed a set of guiding principles and a model law on missing persons, aiming to assist States in completing their domestic legislation in the area. It would be happy to discuss the matter with the Committee.

17. **The Chairperson** said that the Committee, which needed the experience of the ICRC, greatly appreciated the support that it had provided from the outset. It welcomed the proposal of the ICRC to work on guidelines, within the dual legal framework of international humanitarian law and international human rights law.

18. **Mr. Dumitriu** (Council of Europe) said that the Council of Europe was willing to work with the Committee on implementing the Convention. Cooperation with the Committee on Enforced Disappearances, which would be made easier by the fairly recent presence in Geneva of a permanent delegation of the Council of Europe, could take the form of meetings between their members, participation in discussions on periodic reports submitted by member States of the Council of Europe as well as thematic discussions, and joint efforts to develop best practice. The Council of Europe comprised a diverse range of legal systems, while it included a Commissioner for Human Rights, a Parliamentary Assembly and a body authorized to deal with individual complaints, the European Court of Human Rights. In other words, cooperation with the Committee could be fruitful.

19. **The Chairperson** underlined the importance for the Committee of the activities of the Council of Europe, particularly judgements of the European Court of Human Rights and action taken by the Commissioner for Human Rights, which had led to missing persons in self-proclaimed entities being found during armed conflicts. The Committee appreciated the support provided by the Council of Europe to the ratification campaign and stood ready to go to Strasbourg to conduct an awareness-raising and training exercise, possibly organizing regional or subregional workshops. Lastly, the Parliamentary Assembly of the Council of Europe had carried out a critical analysis of the Convention even before the system had come into operation. It would have been useful to consult Committee members, who could have explained the preparatory work undertaken and the reasons behind what the Parliamentary Assembly considered as shortcomings.

20. **Ms. Janina** noted that only 11 member States of the Council of Europe had ratified the Convention, or acceded to it, and asked it to campaign actively for ratification.

*The meeting was suspended at noon and resumed at 12.10 p.m.*

#### **Meeting with non-governmental organizations and other stakeholders**

21. **The Chairperson** said that it was important for the Committee to maintain ongoing contacts with non-governmental organizations, including family associations. They should formally send the Committee any information on cases of enforced disappearance, or serious violations of the Convention, to enable it to initiate proceedings under articles 30 (urgent action) or 31 (consideration of communications from individuals), or undertake a country visit to the country concerned under article 33.

22. **Mr. Zoller** (Geneva for Human Rights) said that significant efforts were needed to raise awareness of the Convention and the Committee among civil society. Information workshops held should create a genuine dynamic and include modules devoted to humanitarian law, since the Convention covered human rights, humanitarian law and criminal law. The Office of the High Commissioner should update the Fact Sheet on Enforced or Involuntary Disappearances (Fact Sheet No. 6/Rev.3), give higher priority to the Committee, recognize the importance of its work and provide the necessary resources to enable it to fulfil its mandate effectively, as specified in article 26, paragraph 7, of the Convention.

23. **The Chairperson** said that the Office of the High Commissioner for Human Rights had begun the fourth revision of Fact Sheet No. 6 and that the Committee, in turn, endeavoured to keep its website up to date. As part of their joint meeting, the Working Group on Enforced or Involuntary Disappearances and the Committee had developed a comparative table of their different procedures for instructive purposes. Once the Committee began consideration of State party reports, its public meetings would be webcast live. Regarding resources available to the Committee, two sessions of 10 working days were scheduled for 2013, but the Committee might need to request an additional session, or sessions, if it had to consider a great number of reports. The two-year budget cycle lacked flexibility, but reserve funds could be released quickly should an urgent country visit be required under article 33 of the Convention, or should the Committee need to hold an extraordinary session to initiate proceedings under article 34. Administrative obstacles might hamper the Committee's work, but its secretariat would do its best to overcome them.

24. **Ms. Crottaz** (Alkarama) asked what steps were being taken to promote ratification of the Convention in Arab countries and whether consideration of initial reports would begin in 2013 as scheduled.

25. **The Chairperson** replied that efforts were being made on the ground, especially in Iraq, to encourage ratification in Arab countries and noted that Tunisia had recently ratified the Convention. Awareness-raising and information seminars needed to be organized at regional or subregional levels. The 21 States that had ratified the Convention in 2010 had to submit their initial report in December 2012. A delay of a few months was acceptable in certain circumstances, but if States parties failed to meet their obligations, the Committee would not hesitate to react, including by applying article 33 of the Convention.

26. **Mr. Hazan** recalled that article 50 of the Committee's provisional rules of procedure set forth the steps to be followed in the event of non-submission of the reports that States parties were required to submit under article 29 of the Convention.

27. **Mr. Al-Obaidi** noted that most of the Arab countries that had ratified the Convention, including Iraq, Mauritania and Tunisia, had entered a period of transition.

Other countries denied the very existence of the crime of enforced disappearance. In the case of Iraq, a large part of the population did not understand the concept of enforced disappearance, which it equated with a violation of the right to life. He was at the Committee's disposal to organize awareness-raising campaigns in the Arab world.

28. **Mr. Huhle** said that Committee members should encourage the holding of regional conferences to promote ratification of the Convention, but that neither their mandate, nor the resources available to them, would allow them to organize such events themselves.

29. **Mr. Yakushiji** drew the attention of Committee members to the fact that Japan had to devote considerable resources and time to the translation of documents required for the preparation of its report to the Committee.

30. **Mr. Zoller** (Geneva for Human Rights) asked whether the families of victims of enforced disappearance could participate in the Committee's meetings.

31. **The Chairperson** said that participation of victims' families was essential. The Committee would announce as soon as possible on its website the date on which each country report would be considered. Non-governmental organizations and associations of victims' families could also contribute to the work of the Committee through written documents. Participation could be financed through a fund for the victims of enforced disappearance.

32. **Mr. Agbetse** (International Catholic Child Bureau) asked whether a fixed schedule could be established to prevent delays in the submission of reports by States parties and whether the Committee planned to collaborate with the special procedures dealing with human trafficking, particularly children.

33. **The Chairperson** said that the Committee would consider the reports of States parties in their order of arrival, beginning with the first four at its forthcoming session. With regard to the links between enforced disappearance and child trafficking, the Committee intended to continue addressing that complex issue, while taking care not to dilute the definition of enforced disappearances. Every State must ensure the safety of its nationals, starting with vulnerable groups. Obligations to investigate and protect could therefore be activated as soon as a person was reported missing. In the case of children without identity papers such investigations were particularly problematic.

*The meeting rose at 1 p.m.*