



International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances Seventh session

Summary record of the 118th meeting*

Held at the Palais des Nations, Geneva, on Friday, 26 September 2014, at 3 p.m.

Chairperson: Mr. Decaux

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* No summary record was prepared for the 108th to 117th meetings.

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The meeting was called to order at 3.05 p.m.

Other matters

Informal report on the seventh session

1. **Mr. Garcé García y Santos** (Rapporteur), introducing the informal report of the Committee on the work of its seventh session, said that the seventh session had been opened by Ms. Nathalie Prouvez, Chief, Rule of Law and Democracy Section, Rule of Law, Equality and Non-Discrimination Branch. She had explained how the Branch assisted the Committee in its work, and had provided an update on the status of ratification of the Convention and the progress made in strengthening the human rights treaty body system. The Chairperson had provided an overview of the Committee's activities since its previous session in March 2014, which had included issuing two joint press releases. The Chairperson had urged States to ratify the Convention and to recognize the competence of the Committee to receive and consider communications under articles 31 and 32. He had also reported on the requests received under the urgent action procedure provided for in article 30 of the Convention and had recalled that States were responsible for protecting all persons in their territory from enforced disappearance and similar acts perpetrated by non-State actors. Lastly, he had thanked the outgoing United Nations High Commissioner for Human Rights, Ms. Navanethem Pillay, for her strenuous efforts to protect human rights during her mandate and had welcomed her successor, Mr. Zeid Ra'ad Al Hussein. A minute of silence had been observed in remembrance of the victims of enforced disappearance. After adopting the agenda, the Committee had dealt with a number of organizational matters.

2. **Mr. Paulo David**, Chief, Harmonization and Capacity Building Section, Human Rights Treaties Division, had informed the Committee of the savings that would be made as a result of the treaty body strengthening process and the challenges still to be overcome in that area.

3. The second section of the report covered action taken with respect to working methods. The Committee had discussed its working methods in relation to articles 31, 32, 33 and 34 of the Convention; the way in which, it interacted with relevant stakeholders; and its ratification strategy. Since September 2013, 27 requests for urgent action had been submitted under article 30 of the Convention, 17 of which, relating to disappearances in Mexico, Iraq, Colombia and Cambodia, had been registered. In accordance with article 30 of the Convention and rule 62 of its rules of procedure, the Committee had requested the States parties concerned to take all the necessary measures to locate and protect the disappeared persons, and to inform the Committee of measures taken.

4. In terms of decisions, the Committee had adopted the document on the relationship of the Committee with national human rights institutions; the follow-up reports on France and Uruguay; the provisional agenda of its eighth session; the guidelines on constructive dialogue between treaty bodies and States parties and the common format for concluding observations laid down at the annual meeting of chairpersons of the human rights treaty bodies in June 2014. The Committee had also appointed country rapporteurs to draft the lists of issues on Kazakhstan and Iraq; a co-rapporteur on follow up to concluding observations; a rapporteur on reprisals; and a rapporteur to draft a statement on enforced disappearances and military courts with a view to its adoption at the Committee's eighth session. In addition, the Committee had requested the secretariat of the Office of the United Nations High Commissioner for Human Rights (OHCHR) to review the Committee's rules of procedure in the light of its first seven sessions with a view to adopting a decision on that subject at its ninth session. Furthermore, a reminder had been sent to the States parties that had not submitted their initial report in the two years following the entry into force of the Convention. The Committee had decided to use English, French and Spanish as its main

working languages and to use Arabic when necessary. That decision would be reviewed every two years to meet the needs of new Committee members. Lastly, it had been decided that the eighth session of the Committee would be held from 2 to 13 February 2015 in Geneva.

5. The Committee had considered the reports of Belgium and Paraguay. During the dialogue with Belgium, the Committee had raised a number of concerns, including: Belgium's lack of progress in ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the absence of a national human rights institution; the fact that enforced disappearance was not defined or criminalized as a separate offence in Belgian domestic law; the absence of specific rules governing the protection of the complainant, the relatives of the disappeared person, their defence counsel, and persons participating in the investigation; and the lack of specialized training on enforced disappearance for members of the armed forces, police officers and prison officers.

6. The dialogue with Paraguay had included discussion of the recognition of the Committee's competence to receive and consider communications under articles 31 and 32 of the Convention; the legal framework relating to states of emergency; the definition of enforced disappearance in Paraguayan domestic law; the investigation and punishment of acts committed by non-State actors; the criminal responsibility of superiors; the statute of limitations for the crime of enforced disappearance; the protection and assistance provided to witnesses and victims of enforced disappearance; international legal assistance and cooperation; the applicability of habeas corpus in cases of enforced disappearance; and the measures taken by the State party to search for, find and identify the persons who had disappeared during the 1954–1989 dictatorship.

7. The Committee had adopted concluding observations for both Belgium (CED/C/BEL/CO/1) and Paraguay (CED/C/PRY/CO/1), in addition to lists of issues for Armenia, Mexico and Serbia.

8. The Committee had held a public meeting with States Members of the United Nations, attended by representatives of four States parties. A meeting had also been held with the Working Group on Enforced or Involuntary Disappearances at which information had been exchanged on parallel procedures and on possible areas for cooperation. The Committee had also met with the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Mr. Pablo de Greiff; the Committee on the Rights of the Child with a view to coordinating efforts between the two bodies; and the secretariat of the United Nations Voluntary Fund for Victims of Torture. In addition, the Committee had met with Ms. Estela Barnes de Carlotto, founder of the non-governmental organization Abuelas de Plaza de Mayo, during its meeting with the Committee on the Rights of the Child.

Closure of the session

9. **The Chairperson** said that the recently adopted document on the relationship of the Committee with national human rights institutions represented the final stage in consultations with the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. The Committee had also expressed its desire to work openly with civil society organizations at a number of side events. The statement on enforced disappearances and military courts prepared by the Committee had been the subject of internal consultations and a public debate at the two previous sessions. The purpose of the statement was to clarify the Committee's interpretation of the Convention by underscoring the need for States parties to respect the primacy of international law by not allowing cases involving serious human rights violations, such as enforced disappearance, to be heard by military courts. The Committee had also set up an ad hoc working group to

deal with communications submitted under article 31 of the Convention. Moreover, the newly appointed rapporteur on reprisals would complement the work of the rapporteur on requests for urgent action and interim measures. The Committee had also met informally with a number of delegations to remind them of their obligation to comply with the Committee's requests for information under the urgent action procedure.

10. The Committee had also adopted a procedure for following up on concluding observations whereby, at its September session each year, a rapporteur, aided by a co-rapporteur if necessary, would submit a summary of the issues on which States parties had been requested to provide additional information within one year of the constructive dialogue. That procedure had been used for the first time in relation to France and Uruguay. It would be used in a year's time for Germany, Argentina, the Netherlands and Spain and in two years' time for Armenia, Belgium, Mexico, Paraguay and Serbia. The Committee had also tasked the Rapporteur with reviewing the Committee's reporting guidelines in the light of the rules for harmonizing reporting procedures laid down at the annual meeting of chairpersons of the human rights treaty bodies.

11. The Committee would meet with delegations from Armenia, Mexico and Serbia at its eighth session and hoped to make it possible for civil society organizations to participate in the dialogue by live webcast. The lists of issues for Iraq and Montenegro would also be adopted at the eighth session. The Committee intended to continue its discussions with the Working Group on Enforced or Involuntary Disappearances on the subject of non-State actors and on the possibility of adopting a protocol aimed at facilitating the identification of disappeared persons. The Committee's exchanges with the Working Group had proven fruitful and the Committee looked forward to continuing those exchanges in the future. The Committee's first joint meeting with the Committee on the Rights of the Child had given rise to a fruitful discussion on matters of shared concern, including street children and child soldiers. The Committee had also raised issues related to trafficking in persons, migratory phenomena and organized crime with other human rights treaty bodies.

12. Although enforced disappearances no longer occurred mainly in the context of military dictatorships, as had been the case 30 years earlier, it was important not to weaken the definition established in the Convention which placed a due diligence obligation on States parties to investigate when a person was reported missing and to do everything in their power to find them, regardless of whether a criminal offence had been committed. The Secretary-General of the United Nations, on the occasion of the International Day of the Victims of Enforced Disappearances, had referred to acts tantamount to enforced disappearance carried out by armed terrorist groups. In that connection, article 3 of the Convention allowed States parties to legislate with a view to investigating cases of enforced disappearance which were not directly or indirectly attributable to the State but to rebel groups or criminal entities. It was important for the Convention to remain victim-oriented.

13. After the customary exchange of courtesies, **the Chairperson** declared the seventh session of the Committee on Enforced Disappearances closed.

The meeting rose at 3.45 p.m.