



International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

Report on requests for urgent action submitted under article 30 of the Convention¹

A. Introduction

1. Pursuant to rules 58 and 59 of the Committee's rules of procedure (CED/C/1), the Secretary-General is to bring to the attention of the Committee any requests for urgent action submitted for its consideration under article 30 of the Convention. The full text of any such request may be made available in the language of submission to any member of the Committee upon request by that member. The present note summarizes the main issues addressed in relation to the requests for urgent action registered by the Committee under article 30 of the Convention and the decisions taken in that regard since the tenth session of the Committee.

B. Requests for urgent action received since the tenth session of the Committee

2. In its note on requests for urgent action issued for its tenth session, the Committee set out the decisions taken on the 276 requests for urgent action registered up to 30 January 2016. From that date to 6 October 2016, the Committee has received 73 new requests for urgent action, of which 65 have been registered. Of these 65, 4 relate to events that occurred in Colombia, 18 in Iraq, 42 in Mexico and 1 in Morocco. The present report is accompanied by a list of urgent actions registered (see annex, not translated).

3. As at the time of writing, the Committee had therefore registered a total of 342 requests for urgent action, distributed by year and country as follows:

Table 1

Urgent action registered, by year and by country

<i>Year</i>	<i>Brazil</i>	<i>Cambodia</i>	<i>Colombia</i>	<i>Iraq</i>	<i>Mexico</i>	<i>Morocco</i>	<i>Total</i>
2012	-	-	-	-	5	-	5
2013	-	-	1	-	5 ^a	-	6

¹ Adopted by the Committee at its eleventh session (3-14 October 2016).



<i>Year</i>	<i>Brazil</i>	<i>Cambodia</i>	<i>Colombia</i>	<i>Iraq</i>	<i>Mexico</i>	<i>Morocco</i>	<i>Total</i>
2014	1	1	1	5	43	-	51
2015	-	-	3	42	166	-	211
2016 ^b	-	-	4	21	42	1	68
Total	1	1	9	68	261	1	342

^a As of 6 October 2016.

^b Urgent action No. 9/2013 refers to two persons and is therefore counted as two urgent actions.

C. Requests that did not meet the registration criteria since the tenth session

4. Most of the requests for urgent action submitted since the tenth session met the admissibility criteria when first submitted. However, eight of the requests submitted were found not to meet these criteria and could not be registered for the following reasons:

Table 2

Petitions not registered

<i>Reason why the request for urgent action was not registered</i>	<i>State party</i>	<i>Number of petitions not registered for this reason</i>
Events took place before the Convention entered into force for the State party	Morocco	1
	France	1
Request relates to events that occurred in a State not party to the Convention	Egypt	1
	Pakistan	2
	Syrian Arab Republic	1
	Libya	1
The disappeared person was found dead before all the necessary information to be registered had been sent to the Committee	Mexico	1
Total		8

5. In each of these cases, a letter was sent to the authors explaining the reasons why it was not possible to register their request (in the case of Mexico, in which the disappeared person was found dead before the Committee could register the request, a letter was sent to the authors, expressing the condolences and support of the Committee). All cases related to events in a State not party to the Convention were forwarded to the secretariat of the Working Group on Enforced or Involuntary Disappearances, and the authors were duly informed.

D. Main challenges related to the criteria for registering requests for urgent action since the tenth session

1. Requests for urgent action without information regarding potential perpetrators or alleging the possible involvement of non-State actors

6. In most cases, the identity of the perpetrators of the disappearance referred to remains unknown. The authors put forward certain theories, mainly based on testimonies, or based on the context in which the disappearances occurred. In some cases, however, the requests make clear reference to the possible involvement of non-State actors.

(a) Examples:

(i) Mexico: the authors of one of the requests for urgent action indicated that they had no information regarding the perpetrators of the disappearance, and put forward a number of theories, including the involvement of State police officers or illegal armed groups;

(ii) Colombia: The authors of one of the requests for urgent action allege that the investigations have failed to identify the perpetrators, but they indicate that the FARC might be involved, even though there is no documentation or testimony in support of such an assumption;

(b) Action taken: in both cases, the request for urgent action was registered, and the State party was asked for information regarding the investigative actions taken to locate the victims, considering that the possible participation by action or omission on the part of State officials could not be confirmed until the investigation had been carried out.

2. Urgent actions registered following clarification of the steps taken to report the events to the competent national authorities

7. In accordance with article 30 (2) (c) of the Convention, the case should already have been “duly presented to the competent bodies of the State party concerned, such as those authorized to undertake investigations, where such a possibility exists”. In the great majority of cases, the authors of requests for urgent action provide information on the actions taken to bring the disappearance concerned to the notice of the competent national authorities. It is considered that as soon as a disappearance has been brought to the notice of one of the competent authorities, the urgent action may be registered.

8. In cases where the disappearance has not been brought to the notice of the competent authorities, the Rapporteurs consider whether the information provided suggests that such a possibility does not exist. For this purpose, the following criteria are taken into consideration: the existence of national institutions that have the necessary competence to investigate cases of enforced disappearance; and the existence of risk factors associated with the submission of a complaint to one of those institutions.

(a) Example: in one urgent action registered since the tenth session, the authors had not provided information on the steps taken to report the disappearance concerned to the national institutions;

(b) Action taken: the authors were requested to provide further information in that respect. The authors replied that they had not submitted the case to the competent national authorities “for fear of reprisals”. This information was confirmed on the basis of information provided by the Office of the High Commissioner for Human Rights (OHCHR). In the light of the foregoing, it was decided that there had been no possibility of submitting the case earlier to the competent bodies of the State party. In previous similar cases, it was considered that the alleged risk could be verified on the basis of the information provided

by the author or other sources (e.g. confirmation by the offices of United Nations in the field; similar facts in cases in the same place; information from other sources, such as reports from civil society organizations, etc.).

E. The process after registration of urgent action requests: developments observed since the tenth session (up to 12 July 2016)

Replies of the States parties

9. States parties continue to respond to the great majority of urgent actions registered. When they do not, they are sent reminder letters.

Table 3

Urgent actions in which the State party has not sent a reply

<i>State party</i>	<i>Urgent actions registered</i>	<i>Urgent actions without reply</i>
Brazil	1	..
Cambodia	1	..
Colombia	7	..
Iraq	55	21 (28 of the replies do not give any information)
Morocco	1	..
Mexico	261	30
Total	325	41

10. The main difficulties have arisen with the content of the replies. In this regard, the following developments have been observed:

(a) Colombia: in all recent cases, the State party has requested more time to submit its replies, saying that an inter-agency consultation process has been necessary and is still in course. Where reports are submitted, the information is succinct;

(b) Iraq: practically no background information has been obtained on registered cases. In 49 cases, the State has not responded to the requests for information. Rather, the State party continues almost systematically to request additional information from the Committee, asking it to provide the four names of the disappeared person, as well as the names of the father and mother, and a good copy of the identity document. Once this information has been provided, the State party replies that “the database of the Ministry of the Interior contains no information about the person X”. In such cases, a follow-up letter is sent to the State party, indicating that consultation of the existing databases is required, but that further investigative actions are needed immediately to seek and locate the disappeared person(s);

(c) Mexico: very general information on the case, often queried by the authors of the request for urgent action (see points referred to below). In some cases, the replies reflect some confusion regarding the objective and scope of the procedure.

11. Recommendation of the Rapporteurs: see what options are available for further training and sharing of additional information with the national authorities regarding the

urgent action procedure and objectives. Refer to the field offices of UNHCHR and the treaty body capacity-building programme.

F. Interaction with the authors of urgent action requests and level of response from the authors

12. The secretariat is in constant contact with the authors of urgent action requests, mainly by means of letters sent on behalf of the Committee, but also more directly, by e-mail and telephone. On the basis of these exchanges, the following trends may be observed.

13. Several authors have highlighted the importance of having the support of the Committee, in which they have finally found a receptive contact after several unsuccessful attempts with the national authorities. But the authors also express their concern at the extension of the time limits within which follow-up letters may be processed in view of the proliferation of urgent actions registered.

14. In these exchanges, the authors also reveal their dismay at the lack of progress in the search for the disappeared persons and in the related investigations. Moreover, many ask the Committee to help them obtain institutional support in their day-to-day lives. The secretariat responds to all such requests for help, while clarifying the limits of the Committee's mandate.

15. In the case of some of the urgent action requests registered, the authors have not sent their comments on the State party's observations. This has prevented the Committee from moving forward with the requests. However, in accordance with the principle set out in article 30 (4) of the Convention, these urgent actions remain open and reminders have been sent to the authors.

Table 4

Urgent actions without comments having been received

<i>State party</i>	<i>Urgent action requests with references</i>	<i>Period during which authors ceased to send comments</i>	<i>Number of reminders sent by the time of writing</i>	<i>Authors' explanation</i>
Brazil	1	Authors have never sent any comments on State party's observations	4	NGO presenting case having difficulty tracing members of victim's family
Cambodia	1	Since September 2015	3	Following the State party's failure to investigate and its denial of the facts, the authors have no additional information to provide for the time being
Colombia	2	Since November 2015	2	None
		Since November 2015	4	None
Iraq	9	Authors unable to obtain additional information required by the State party	From 1 to 4	Difficulty obtaining the information required by the State party
Mexico	46	Authors have never sent any comments on State party's observations	4	Difficulties with commenting on all the urgent action requests submitted

16. Decision by the Plenary: in such cases, the urgent action should be kept open, in accordance with article 30 (4) of the Convention, but only a little number of reminders should be sent (three times a year).

G. Degree of implementation of the Committee's recommendations

17. It is not possible to determine the precise extent to which the Committee's recommendations have been implemented. Generally speaking, the Committee's contacts in the States parties concerned by requests for urgent action say that registering such requests has a positive impact on the cases involved. In support of this view, they can point to practical actions taken by the authorities of the State party concerned.

18. However, the Rapporteurs reiterate the view expressed in their report of the tenth session that the impact of the requests for urgent action has not been as great as they would wish because the information on the urgent actions is not reaching the authorities in charge of the search and investigation.

(a) Action taken: the notes verbales sent to States parties almost systematically include a request that the competent authorities should duly notify the authorities involved in the investigations of the urgent actions initiated by the Committee, as well as of the requests and recommendations transmitted to the State party, in accordance with article 30 (3) of the Convention. In some cases, the field office of OHCHR has also facilitated the transmission of such information to the competent authorities, with very positive effect.

(b) Decision by the Plenary: contact the Permanent Missions of the State parties concerned to see whether there is a possibility of establishing a channel for direct contact with the competent authorities of the State party, parallel to diplomatic channels, to facilitate the transmission of the Committee's observations and recommendations.

H. Main developments identified and challenges encountered in the information provided since the tenth session

1. Brazil and Cambodia

19. There were no developments up to 2 July 2016 in the only urgent actions registered with regard to events in Brazil and Cambodia. The many reminders sent to the authors and the State party, however, have so far remained unanswered.

20. Decision by the Plenary: in such circumstances, the urgent action should be kept open, as stipulated in article 30 (4) of the Convention, but only a limited number of reminders should be sent (three times a year).

2. Colombia

21. In all urgent actions registered with regard to events in Colombia, the State party has provided very little information on the progress of investigations. On many occasions, they transmit the information to the Disappeared Persons Investigative Commission. In recent months, the State party has requested extensions for handing in their replies, invoking the need for inter-agency coordination to prepare the response. The extensions requested have been granted. Following those requests, no substantive changes have been observed in terms of the content of the State party's observations, which are very general.

22. The authors of the urgent actions always highlight the difficulties they experience accessing the results of the investigative actions carried out. They also mention the threats

they have received, mainly when investigations and cases are handled by the public prosecutors and local courts.

(a) Example: in one of the urgent actions registered, the authors asked the Committee to request that the case be reassigned to Bogotá, which had been rejected by the Supreme Court;

(b) Action taken: in accordance with the mandate of the Committee under article 30, the Rapporteurs considered that the Committee could not request such a reassignment of the case in the context of urgent actions. A follow-up letter was sent to the State party, including a number of recommendations related to the security situation of the relatives and the lawyer (reiterating the request for precautionary measures previously granted by the Committee).

3. Iraq

23. In every case where the required additional information on the identity of the authors was received, the Rapporteurs transmitted it to the State party, noting that the availability of the information requested could not be considered as a prerequisite for registering the request for urgent action (see Rapporteurs' report, tenth session). Once the additional information requested has been delivered, the State party's replies remain very limited and fail to provide any information on the steps taken to seek and locate the disappeared persons.

24. In one of the urgent actions registered, the Committee was informed by the authors that the person had been released from a secret detention centre in January 2016. In that case, the State party had not provided any information, despite having all the information requested.

25. In every case, the lack of information provided by the State party and the allegations of the authors of a number of the requests for urgent action appear to suggest the persistence of the practice of secret detentions.

4. Morocco

26. An urgent action was registered on 24 March 2016 concerning the disappearance of a student in December 2015. The authors alleged the possible involvement of State agents. On 7 April, the State party responded to the request for urgent action, rejecting the possibility that the alleged victim could have been forcibly disappeared and suggesting that he had probably fled after a quarrel with his girlfriend.

27. On 4 May 2016, the Committee was informed by the authors of the request for urgent action that the victim's body had been found in unused bathrooms of the University. In accordance with article 30 (4) of the Convention, the urgent action was closed.

5. Mexico

28. At 2 July 2016, the Committee had 261 urgent actions registered with regard to events in Mexico. Of these, 21 concern the disappearance of women and 10 that of boys or girls.

29. All the authors express their frustration and concern regarding the ineffectiveness of the steps implemented to search for the missing persons. In particular, they note the following:

(a) Widespread lack of trust in the authorities in charge of the investigation;

(b) Direct involvement of the police in several of the cases and impossibility of obtaining the cooperation of the institution for the development of the investigations;

(c) Lack of investigative strategy: in all the urgent actions, the State party's observations and the authors' comments reflect sporadic, isolated, largely formal actions, which did not appear to be part of or comply with any previously defined investigative strategy. For example, the Public Prosecutor's Office, in general, sends letters to hospitals and detention centres. When there is no reply, several cases show that the Public Prosecutor did not make full use of its powers, including measures of coercion, to request the authorities concerned to provide all the required information in the context of the investigation or proceedings aimed at the search for disappeared persons;

(d) Fragmentation of investigations among State institutions, but also among state and federal institutions, and lack of inter-agency coordination and joint strategy: in such circumstances, major difficulties have been reported with regard to gathering all the evidence within a single investigation. The fragmentation and lack of coordination tend to cause excessive delays with investigative procedures;

(e) Repeated difficulties in obtaining access to the files for the families, relatives and representatives of the disappeared persons;

(f) Manipulation of evidence: in 50 of the urgent actions registered, the authors alleged that the State authorities manipulated the evidence of the case;

(i) Examples:

a. The report of the Interdisciplinary Group of Independent Experts mentioned the manipulation of evidence in the investigation of the disappearance of the 43 students from Ayotzinapa;

b. The authors of four requests for urgent action allege that according to the State authorities the bodies of their disappeared children has been found. The relatives reject this claim on the grounds that the bodies shown bore no resemblance with the disappeared persons: the bodies were those of very tall individuals, with damaged, incomplete, neglected and dirty dentition, characteristics which did not match those of any of the disappeared persons;

(ii) Actions taken: the follow-up letters sent to the State party refer to those allegations, but so far the State party has not replied;

(g) Inaction by the competent authorities: in three of the registered urgent actions, the authors reported that on several occasions their requests to the competent authorities to take action had not had any effect, even with regard to requests that were clearly necessary in the context of the investigations concerned;

(h) Inaction by the State authorities in charge of the investigation of disappearances reported in the Committee's earliest urgent actions: the State party's reports reflect a standstill in the investigative activities conducted by the competent authorities. In several cases, even when the investigative actions have produced no result at all, the investigations are already at a standstill and the State party merely repeats the same information in all its observations;

(i) Increase in the number of initiatives by relatives of the disappeared persons:

(i) Example: in order to make up for the lack of results of the investigative activities carried out by the State party, in Guerrero, Iguala and Veracruz, the authors of requests for urgent action inform the Committee that the relatives of the disappeared persons undertake initiatives, mainly in an effort to seek out and locate mass graves in the vicinity. In all these cases, they have requested the Committee's support to request the State party to provide them with technical support and the necessary protection measures to continue their activities;

(ii) Actions taken: the follow-up letters sent to the State party insist on the need to provide the necessary support to the groups of relatives and to assist their activities;

(j) Threats against the authors of urgent action requests and repeated requests for precautionary measures in favour of the families of disappeared persons: the great majority of requests for urgent action have been accompanied by requests for interim measures of protection for the relatives of the disappeared persons. Information received also reflects an increase in the number of serious threats against the relatives of victims, including against members of the groups that were set up, leading to the death of one of them;

(i) Main challenges encountered:

a. On several occasions, requests for precautionary measures were submitted by families and relatives of missing persons;

b. The authors report that in most cases the precautionary measures granted are not implemented or only partially;

(ii) Actions taken:

a. A letter is sent to all persons to whom precautionary measures were granted, in order to inform them, but also to enable them to request the competent authorities to implement the measures;

b. A reminder of the precautionary measures is included in the follow-up letters sent to the State party, recalling its obligation under article 30 (3) of the Convention;

(k) Requests for precautionary measures for protection of sites and evidence: in 12 of the urgent actions registered, specific precautionary measures were requested for the protection of sites and evidence relevant for the cases concerned, and in eight urgent actions the State party was requested to adopt precautionary measures for the protection and adequate preservation of three clandestine graves which had been located (providing data on the exact location of the sites); and for the early identification of all remains found, by independent, specialized and competent forensic experts, in conformity with applicable international standards;

(l) Request for support for the recommendations of the Inter-American Commission on Human Rights with regard to the establishment of a mechanism for the follow-up of the recommendations of the Interdisciplinary Group of Independent Experts: following completion of the work of the Interdisciplinary Group of Independent Experts of Mexico, the State party accepted the request of the Inter-American Commission on Human Rights to create a mechanism for following up the group's recommendations. In order to ensure the effectiveness of such a mechanism, the Inter-American Commission on Human Rights issued a series of recommendations on the minimum conditions that it considered necessary for the follow-up to be effective. The Committee sent a letter referring to the urgent actions concerned, making the following points: (i) request for additional information in accordance with article 30 (3) of the Convention, concerning search actions undertaken and the implementation of precautionary measures; (ii) reminder of the Committee's previous recommendations; and (iii) expression of the Committee's support for the general minimum elements identified by the Inter-American Commission on Human Rights, emphasizing that they are necessary for the follow-up mechanism to enable the State party to comply with its international obligations, including those arising from the Convention;

(m) Visit requests submitted to the Committee: in a number of urgent actions related to disappearances that occurred in Mexico, the authors of petitions requested the

Committee urgently to undertake a visit to the State party, in application of article 33, or to activate the mechanism of article 34 of the Convention. A visit under article 33 of the Convention has been requested from the State party since 14 May 2013. In view of the lack of a firm response from the State party, the Committee reiterated its request for a visit on 6 January and 31 March 2014, and on 17 March 2016. At the date of this report, no reply has been received from the State party.

I. Urgent actions discontinued or closed

30. Since the tenth session, the Committee has closed three urgent actions in which the victims were found dead or alive: one related to events that occurred in Mexico, two in Iraq and one in Morocco. Another urgent action was discontinued following the identification of the place of detention of the disappeared person.

31. Those decisions were taken in accordance with the criteria adopted in plenary by the Committee at its eighth session:

(a) An urgent action is discontinued when the disappeared person has been located but is still detained;

(b) An urgent action is closed when the disappeared person has been located and released, or has been found dead;

(c) An urgent action is kept open when the disappeared person has been located but the persons for whom interim measures had been granted are still under threat.

32. Therefore, at the time of the present note, the Committee has discontinued two urgent actions related to disappeared persons who were located but remain in detention and has closed five urgent actions related to disappeared persons who were found alive and released (three cases), or were found dead (two cases).
