



International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances Twenty-fourth session

Summary record of the 426th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 22 March 2023, at 10 a.m.

Chair: Ms. Villa Quintana

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

Consideration of reports of States parties to the Convention *(continued)*

Additional information submitted by Germany under article 29 (4) of the Convention
([CED/C/DEU/AI/1](#))

1. *At the invitation of the Chair, the delegation of Germany joined the meeting.*
2. **Ms. Stasch** (Germany) said that, although enforced disappearance was fortunately no longer State practice in Germany, it was still a reality in many parts of the world. Continuous efforts to preserve the rule of law were necessary and Germany strove to prosecute cases of enforced disappearances abroad, such as in Ukraine and Syria.
3. **Ms. Jacoby** (Germany) said that the Committee's previous concluding observations ([CED/C/DEU/CO/1](#)) and civil society observations had paid great attention to whether German criminal law adequately covered the offences included in the Convention. The German Criminal Code had sufficient provisions to hold perpetrators of the acts referred to in articles 6 to 8 of the Convention responsible, without needing to include enforced disappearance as a separate offence in the Code. Doubts had been raised by civil society regarding possible scenarios in which persons might be convicted as accomplices to the offence of enforced disappearance, rather than as perpetrators; however, even in those cases, criminal responsibility would still be established in line with article 6 of the Convention and penalties that had been handed down to accomplices in cases of enforced disappearance in the past had been severe. Nevertheless, her delegation understood that the Committee attached great importance to the introduction of an autonomous offence of enforced disappearance into the Criminal Code; the Federal Government would therefore continue to evaluate the possibility of reform and civil society would be invited to evaluate cases of enforced disappearance that were prosecuted in the country. The German Code of Crimes against International Law incorporated the offence of enforced disappearance as defined by the Rome Statute of the International Criminal Court. While her Government was aware of the slightly different definitions of enforced disappearance under the Convention and the Statute, it considered following the definition set forth in the Statute to be the best solution for the time being.
4. Acting under the principle of universal jurisdiction, Germany was actively prosecuting perpetrators of crimes against humanity, including enforced disappearance. Such investigations had included the collection of evidence from the war in Ukraine with a view to eventual prosecution. Her Government had provided the Committee with information on the procedure for bringing constitutional complaints before the Federal Constitutional Court in the context of extradition, including an example of a successful complaint against extradition. An expert from the Federal Ministry of the Interior was present to answer questions concerning enforced disappearance in the context of migration, including allegations that migrant workers travelling from Germany had been subjected to enforced disappearance.
5. The Convention was included in the general training and education on the international human rights obligations of Germany were provided for law enforcement, military and judicial personnel.
6. **Ms. Janina** (Country Rapporteur) said that the inclusion of enforced disappearance as an independent offence in national legislation was key to the full implementation of the Convention. The Committee noted that the State party considered that the offences defined in domestic criminal law, combined with the provisions of other acts, were sufficient to adequately investigate and punish cases of enforced disappearance, but the process of examining the extent to which the domestic criminal law might be improved remained incomplete. She would therefore appreciate learning more about the steps that the Federal Government intended to take to improve its criminal law in line with the Committee's recommendations. She would also appreciate specific information about the examination process, including the current stage of discussions, and the level at which administrative or legislative authority discussions were being held. She wondered whether the examination process was looking into domestic criminal law in general or was specifically targeting the offence of enforced disappearance. She wished to know whether civil society had been

consulted on the Federal Government's position with regard to the criminalization of enforced disappearances, whether it had presented any recommendations on the issue and, if so, whether those recommendations had been considered by State authorities. Lastly, she would be interested to know how the recommendation contained in paragraph 9 of the Committee's previous concluding observations, regarding penalties and mitigating and aggravating circumstances for the autonomous offence of enforced disappearance, had been taken into account in discussions on possible improvements to the State party's criminal law.

7. **Mr. de Frouville** (Country Rapporteur) said that it was difficult to understand the Federal Government's claim that the Convention could not be interpreted as giving rise to the obligation for States parties to create a separate criminal offence of enforced disappearance. Article 4 of the Convention had been specifically phrased to emphasize the importance of establishing enforced disappearance as a separate crime and Germany had not previously expressed any reservation regarding that obligation.

8. In January 2023, a person had been convicted of being an accomplice to the abduction of a Vietnamese national in German territory and had received a sentence of 5 years' imprisonment. According to the German Institute for Human Rights, if enforced disappearance had been incorporated into domestic law as a separate offence, the person could have been convicted of being a perpetrator of enforced disappearance and given a heavier sentence. He invited the delegation to comment on the matter and to provide information on the implementation of the judgment delivered by the court in the case.

9. The Committee had received information from the European Centre for Constitutional Human Rights that a request by the joint plaintiffs in the so-called Al-Khatib trial before the Koblenz Higher Regional Court to add the offence of enforced disappearance to the other criminal charges against two former officials of the Syrian intelligence service, namely murder, torture and deprivation of liberty, had been rejected by the Court. According to the report of the German Institute for Human Rights, however, for an offence to be considered enforced disappearance under the Code of Crimes against International Law, there must be severe deprivation of liberty and an inquiry into the whereabouts of the disappeared person; such conditions were required by neither the Convention nor the Rome Statute and were hard to meet.

10. In its written replies, the State party had referred to the offences contained in its Criminal Code that corresponded to the measures set out in article 25 (1) of the Convention. He wished to know what limitation period applied to those offences and whether that period could be suspended, in view of the fact that they were continuous offences. He wondered whether the Criminal Code had sufficient provisions to address the illegal adoption of children, including those who had been victims of enforced disappearance, especially given that such offences often came to light long after the child had been disappeared. Lastly, further details of the State party's different forms of anti-terrorist cooperation and information on the measures taken to ensure that persons were not at risk of being subjected to enforced disappearance would be welcome.

11. **Ms. Janina** said that she wished to know whether the State party had taken any measures to address the recommendation, contained in paragraph 15 of the Committee's previous concluding observations, to incorporate into its domestic legislation a prohibition on carrying out expulsions, returns, surrenders or extraditions where there were substantial grounds for believing that the person would be in danger of being subjected to enforced disappearance. She would be grateful if the delegation could provide data on the number of diplomatic assurances requested, given and rejected by the State party, including the reason for refusal if the risk of being subjected to enforced disappearance was one of them. She understood that no cases of enforced disappearances had been brought before the Federal Constitutional Court and wondered if there were any legal or practical obstacles to such a case being brought before the Court.

12. She would appreciate information on any discussions held within the State party to implement the Committee's recommendation to withdraw the State party's declaration on article 16 of the Convention. Although the State party considered that such withdrawal would have no practical effects, the declaration risked raising the threshold for demonstrating the probability of a person being subjected to enforced disappearance. According to the State

party's declaration, the prohibition of non-refoulement applied only if an individual faced a "real risk" of being subjected to enforced disappearance. That contrasted with the language used in article 16 of the Convention, which provided that no State party could return a person to another State where there were substantial grounds for believing that he or she would be in danger of being subjected to enforced disappearance. Lastly, additional information on the disappearance of migrants, refugees and asylum-seekers in the State party's territory, including the causes of disappearance and the criteria used to classify those persons as missing, would be helpful.

13. **Mr. de Frouville** said that it appeared that insufficient attention was devoted to the Convention and enforced disappearances in training courses for persons who played a role in the deprivation of liberty. As the State party had access to many highly competent experts in that regard, the Committee would like to hear about their participation in the different training courses.

14. The Committee against Torture had recommended in its concluding observations of 2019 (CAT/C/DEU/CO/5) that the State party should provide the National Agency for the Prevention of Torture with sufficient human, financial, technical and logistical resources to enable it to discharge its duties effectively. He wished to know whether the decision taken by the competent authorities in November 2019 to increase the Agency's annual funding by €100,000 had constituted a response to that recommendation. As the Agency had nonetheless complained in its annual report for 2021 that it continued to lack adequate resources, he wished to know whether the authorities had fulfilled their commitment.

15. **Ms. Kolaković-Bojović** said that she wished to highlight the role of civil society organizations in promoting the dissemination and implementation of treaty body recommendations and the State party's commendable track record in that regard. The Committee would therefore be interested in hearing about the practical implementation and monitoring of its recommendations.

The meeting was suspended at 10.45 a.m. and resumed at 11.05 a.m.

16. **Ms. Jacoby** (Germany) said that more than 2 million people had been admitted to Germany since 2015 from countries in which enforced disappearances had occurred and had been granted German citizenship. Many of them were unaware of the fate of their relatives and friends and found it difficult to integrate into the country and to start a new life.

17. **A representative of Germany** said that the Federal Government believed that States parties were not required under the Convention to create an autonomous offence of enforced disappearance. Various forms of enforced disappearance could be prosecuted under the existing criminal legislation. However, given the importance of the issue, the authorities had discussed the possibility of creating an autonomous offence but had failed to reach any agreement to date. The Committee's recommendations would have a major impact on the legal system, primarily in terms of prescribed sentences and statutes of limitations.

18. During the period from 2014 to 2016, the Federal Government had engaged in intensive oral and written exchanges on enforced disappearances with civil society, Amnesty International and the European Center for Constitutional and Human Rights. There had also been discussions and exchanges of documents in the Bundestag, the parliament of Germany, involving, for example, the Parliamentary State Secretary of the Federal Ministry of Justice and the Chair of the Bundestag Human Rights Committee. Ms. Lochbihler had also communicated in 2020 with the Minister of Justice. An internal assessment had been undertaken in recent years in the Criminal Law Department of the Ministry, and discussions had been held among diverse departments of the Ministry in February 2020 to assess the positions of civil society on the issue.

19. The criminal proceedings in Koblenz Higher Regional Court against two members of the Syrian intelligence service and the proceedings concerning the abduction of a Vietnamese citizen from Berlin had drawn the attention of the entire country to the crime of enforced disappearances.

20. **A representative of Germany** said that the interpretation and assessment of the provisions of the Convention regarding the status of enforced disappearance as a separate or autonomous offence should be left to legal scholars. It was clearly an extremely complex

offence involving more than mere deprivation of liberty and the falsification or destruction of documents. It should be borne in mind, however, that section 46 of the German Criminal Code concerning penalties provided for the imposition of harsh penalties for diverse serious offences, and the section was invoked by the courts in practice.

21. **A representative of Germany** said that a Vietnamese citizen had been abducted in Berlin on 23 July 2017. A term of imprisonment of five years had been imposed on 30 January 2023 for an accessory role in his abduction and for unlawful imprisonment of more than one week. The perpetrator had been arrested in Prague airport on 15 April 2022 pursuant to a European arrest warrant and had been extradited to Germany. A Vietnamese citizen who had driven the vehicle used for the abduction was still being held on remand, pursuant to section 239 (3) (1) of the Criminal Code concerning unlawful imprisonment, which prescribed a penalty of between 1 and 10 years' imprisonment for subjection of a victim to deprivation of liberty for more than one week. The duration of deprivation of liberty and the fact that the victim remained under arrest in Viet Nam had been taken into account as well as the burden imposed on the victim's family and the violation of German sovereignty. The subordinate role of the driver would be a mitigating circumstance under section 27 of the Criminal Code. All such circumstances would also be taken into account if there was an autonomous offence of enforced disappearance. The sentence of 5 years' imprisonment imposed on the perpetrator was quite harsh but seemed appropriate in light of the degree of wrongdoing.

22. **A representative of Germany** said that the Code of Crimes against International Law had entered into force on 30 June 2002 in implementation of the Rome Statute, and a special division composed of 16 prosecutors had been established in the Office of the Federal Public Prosecutor General to prosecute such crimes.

23. Investigations had been launched in September 2011 against unknown members of the Syrian regime pursuant to section 7 (1) (7) of the Code of Crimes against International Law, which referred to enforced disappearance. However, section 7 (1) (7) had not been mentioned in the indictment or judgment because an objective component of the crime concerning the need for an inquiry had not been fulfilled. Article 2 of the Convention required a refusal by a State authority to acknowledge the deprivation of liberty or its concealment of the fate or whereabouts of the disappeared person. Neither of those requirements had been met in the case before the Koblenz Higher Regional Court, since most of the persons concerned were victims who had been arrested during public demonstrations or when they were at home with their families. A number of victims who had testified were deeply traumatized and steps had been taken to prevent increased traumatization during the trial. Many witnesses had been permitted to testify anonymously, since they were concerned about the well-being of their families in the Syrian Arab Republic. The Federal Criminal Police Office had provided many victims with safe accommodation, and their representatives in the legal proceedings had been funded by the German State.

24. The Office of the Federal Prosecutor General was currently investigating a number of cases concerning offences committed in Ukraine by all parties to the conflict. They included structural investigations concerning unknown persons. With a view to compiling information and obtaining testimonies, the Office had sought to contact refugees from Ukraine. A questionnaire for refugees had been developed by the Federal Ministry of the Interior and Community in cooperation with the European Union Agency for Criminal Justice Cooperation (Eurojust). Many refugees had completed the questionnaire, which was available in all police stations. It contained a question as to whether the refugees had witnessed abductions, a term that was defined broadly to include all kinds of enforced disappearances and deprivation of liberty. Their responses were transmitted to the Federal Criminal Police Office and, where necessary, forwarded to competent prosecution authorities or the International Criminal Court.

25. **Ms. Jacoby** (Germany), referring to article 25 of the Convention, said that the question of criminal liability for forced adoption would be addressed by the delegation and the question of civil liability under family law would be addressed in due course. She was currently unaware of any such cases in Germany but the issue would be investigated.

26. **A representative of Germany** said that section 78 of the Criminal Code contained provisions governing the statute of limitations for diverse offences. The duration depended on the seriousness of the offence. Where the penalty prescribed by section 235 concerning child theft and the abduction of minors was a prison term of 5 years, the statute of limitations was also 5 years. If offenders placed victims at risk of death or serious damage to their health or if they acted with the intent of enrichment, the statute of limitations was 10 years. If death occurred as a result of abduction, the statute of limitations was 20 years. Section 236 dealt with cases of child trafficking and the statute of limitations depended on the severity of the offence. The statute of limitations would be 10 years if offences were committed for commercial purposes or by members of a gang or if such acts inflicted considerable physical or mental damage on the child. The statute of limitations under section 169 concerning the falsification of civil status was basically 3 years and was increased to 10 years in the event of aggravating circumstances such as commercial interests or the involvement of gang members. The statute of limitations under section 271 concerning the falsification of public records was 3 to 5 years or 4 to 5 years in the event of aggravating circumstances.

27. Section 78 (c) listed a number of circumstances that could lead to an interruption in the statute of limitations. After each interruption, the statute of limitations started afresh. If an interruption occurred, for example, towards the end of a 10-year period, the statute of limitations could be extended to a maximum of 20 years.

28. **Ms. Jacoby** (Germany), responding to the concern that any information that Germany might give to other States as part of counter-terrorism measures could be used for the forced disappearance of the persons concerned, said that, as article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms had been incorporated into German law, it was binding on all State bodies. Germany could not offer any support to a State where there was a danger that the human rights of the person concerned might be violated.

29. **A representative of Germany** said that, in order to ensure that the exchange of information by the armed forces could not lead to a violation of the human rights of a person whom they had arrested, as part of their general training, military personnel were instructed in the need to protect human rights and, as part of their preparation for deployment in specific areas, they were instructed in the provisions of human rights instruments, including those concerning enforced disappearance. As far as structural precautions were concerned, the legal advisers who accompanied all military operations abroad must be consulted whenever the situation indicated that human rights might be in jeopardy. There was a strict duty to report any such situation to the Federal Ministry of Defence. If, in the field, there was a genuine suspicion that the exchange of information or the handing over of individuals might lead to the violation of their human rights, the Ministry must be informed immediately and it would order the appropriate measures, including a refusal to impart information or to hand over a person and, in the case of multilateral operations, it would inform the organizations in charge of them of that situation.

30. **A representative of Germany** said that German law prohibited the mutual legal assistance of States where the person concerned could be disappeared or subjected to other human rights violations. There were no specific provisions on the matter, but that prohibition stemmed from the interplay of various provisions of German law.

31. **A representative of Germany** said that, since the entry into force of the Federal Office of Criminal Investigation Act on 25 May 2018, the Office had kept up-to-date information on States' compliance with the rule of law, human rights standards and data protection that took account of the special requirements in regard to the exchange of information by the police. Information sheets covered 181 third States or autonomous overseas areas. They were based on annual or six-monthly human rights reports from the political correspondents of the Ministry of Foreign Affairs. Before they exchanged any information, the staff of the Federal Office of Criminal Investigation were obliged to consult the relevant information sheet and, if there was any danger that the exchange of information might result in a breach of the human rights of the person concerned during investigative proceedings, the case would be referred to the Ministry of Justice.

32. **A representative of Germany** said that that, with reference to the German declaration on article 16, where there were substantial grounds for fearing harm to the person concerned

there would always be a real risk of that person being subjected to enforced disappearance. In other words, the slightest suspicion that there was a risk of enforced disappearance constituted an obstacle to return or extradition. However, there was always a theoretical risk of such an occurrence. His Government did not consider that the declaration constituted a bad example. Work was being done on improving the national preventive mechanism, inter alia by the creation of an additional post in the Federal Ministry of Justice. Special training modules on enforced disappearance existed. A former Committee member, Mr. Huhle, ran regular courses on the subject for prison staff in Thuringia. In Brandenburg there were special courses for the staff of psychiatric hospitals and the Rhineland-Palatinate had its own training module. It was more than likely that such training would be developed elsewhere.

33. **A representative of Germany** said that unaccompanied foreign minors were taken into the care of youth welfare offices. In April 2021 the law had been amended to permit the recording of the full personal details, including the fingerprinting, of children as from the age of six to prevent their being registered several times. There might still be some cases where children had apparently disappeared because they had been registered under the wrong name at the beginning of the massive influx of refugees in 2015.

34. **Ms. Jacoby** (Germany) said that in 2015 many Arabic names had been transliterated in different ways by various bodies. Those persons had not necessarily disappeared; they had merely been registered twice and one of those identities was no longer in use. The authorities were dealing with that matter.

35. **Ms. Janina** said that the criminalization of enforced disappearance as a separate crime in domestic law was of importance for the implementation of the Convention and for the protection against and prevention of that crime. She therefore called on the State party to review its position on that issue. Since articles 4 and 5 of the Convention imposed obligations on States parties, she wished to know what substantive steps would be taken to comply with those articles in the near future. States parties had a responsibility to set a good example.

36. She would also like to know whether the State party was considering a general reform of criminal law. In the case of serious continuous crimes, such as enforced disappearance, the statute of limitations should be very long or non-existent. Who could order the suspension of the statute of limitations in the State party? The Committee would be grateful for information on any steps to investigate and prosecute cases of enforced disappearances that had occurred in Ukraine and on how the State party was handling any data that it had received from refugees. Had any ex officio investigations been initiated by the German authorities? She was curious to find out what mutual legal assistance existed between the German and the Ukrainian authorities to exchange information and find disappeared persons. The Committee was anxious to learn how the personal details of unaccompanied minors were protected and whether that information was exchanged with other States parties. Lastly the Committee was concerned by the fact that any request for protection from non-refoulement was individually assessed and would therefore like to receive an explanation of how the assessment procedure safeguarded the principle of non-refoulement.

37. **Mr. de Frouville** said that, as the criminalization of enforced disappearance had been discussed in the State party since 2014, it was high time that action were taken on that issue. He therefore asked whether the delegation could provide precise information, including an exact timeline, on the nationwide consultation of civil society about a review of the Criminal Code. He had noted that the complex crime of enforced disappearance was subsumed in other crimes in German domestic law. He therefore wished to know how the State party would attribute individual responsibility in the following case. The police of a given country arrested someone, then handed him or her over to an investigation service that incarcerated that person in a cell on its premises where the inmates were unofficially deprived of their liberty and where he or she was tortured. The victim's family contacted the police and the head of the police service denied that it had arrested that person. An independent commission inspected the police station and the premises of the investigation service. The members of the commission were shown around by an officer of that service, who was obeying orders not to take them to the cells in the basement and so the commission members failed to find the disappeared person. The victim of torture died and was buried anonymously with the complicity of the director of the cemetery. In Germany, since each of those acts would be

subject to a statute of limitation of different lengths, it might prove difficult to convict each of the perpetrators of or accessories to the crime.

38. He realized that the complexity of the case against the Syrian doctor Alaa M. made it hard to secure his conviction of a crime against humanity. However, one of the witnesses had made it plain that fear of enforced disappearance was a crucial element of the systematic policy of the regime to silence them. Perhaps the State party's legal rigour resulted in an overcautious approach that, in some respects, was counterproductive when it came to combating enforced disappearance. Quibbling over the definitions contained in international instruments could have unexpected and very serious repercussions for fighting impunity for that crime.

39. Notwithstanding the undoubted sophistication of the State party's legal system in respect of the application of the statute of limitations, he continued to believe that it did not make adequate provision for cases of enforced disappearance. He wondered how it would cope, for example, with the hypothetical case of a child abducted and illegally adopted in 1985, who, 32 years later, realized that the relevant papers had been falsified and that he or she had been the victim of enforced disappearance.

40. **Ms. Jacoby** (Germany) said that intensive investigations were ongoing in Ukraine that would give rise to criminal proceedings should perpetrators of criminal offences be identified. The two Governments had numerous channels for the exchange of communications and joint investigations but in a war situation it was extremely difficult to obtain information, assemble it and determine whether specific offences had been committed.

41. With regard to refugee determination, the State was legally obliged to respond to every asylum application and Germany recognized nearly 100 per cent of the applications received, assessing each case individually. Applicants had a constitutional right of recourse to the courts and ultimately to the Federal Constitutional Court.

42. There were no statistics on diplomatic assurances in relation to extradition. However, the German State took a cautious approach. If another State appeared to be failing to comply with its assurances, as in the case of Viet Nam involving the alleged abduction of a Vietnamese business executive, which had also effectively violated German sovereignty, then procedures such as mutual legal assistance and extradition were suspended, since it was clearly no longer possible to have confidence in that State's undertakings. German diplomatic missions abroad did everything possible to verify compliance with diplomatic assurances.

43. **A representative of Germany** said that, with regard to offences committed in Ukraine, the State's sole purpose in investigating was to bring the perpetrators to justice, whether in Germany or the place where an offence had been committed or a third country, and Germany worked with its European partners, with Ukraine and with the International Criminal Court to achieve that goal. He was unable to provide further details on the investigations under way or on specific offences or massacres, since to do so could put lives in danger.

44. As to the Syrian Arab Republic, Germany had been investigating enforced disappearances there since 2011. It was vital for victims and family members that those offences should be properly defined but, as with any other human rights violation, it was also essential to gather sufficient evidence to prove an individual perpetrator's guilt; a person could not be convicted simply for being part of a country's secret service or other State apparatus. The challenge was enormous since the offences had been deliberately committed in clandestine situations, but the obligation remained to provide proof of individual guilt as the basis for prosecuting.

45. **A representative of Germany** said that a mutual legal assistance framework was currently being set up with Ukraine in order to facilitate the exchange of evidence and ultimately the prosecution of offences. However, even if a perpetrator of an offence in Ukraine were to be identified in Germany, extradition would not be possible as the courts would find that there was a risk of human rights violations given that Ukraine was currently a war zone.

46. With regard to the evaluation of the reliability of diplomatic assurances, he wished to add that civil society reports were also taken into account. In respect of the Vietnamese

abduction case, it was important to note that, before the abduction, Viet Nam had requested extradition but Germany had denied the request on the grounds that the diplomatic assurances from that State could not be deemed credible and the person would not have had a fair trial there.

47. While extradition was not permitted where the individual was clearly at risk of certain human rights violations in the receiving State, as yet there was no clear rule or explicit ban on deportation or extradition if the person concerned specifically risked enforced disappearance.

48. **A representative of Germany** said that his Government gave very serious and detailed consideration to the arguments presented in the reports and statements of civil society organizations, as indeed it had in preparing for the current meeting with the Committee. It was, however, sometimes easier to take arguments on board in oral dialogue rather than in an exchange of written documents, an approach that also made it possible to clear up misunderstandings, clarify intentions and discuss individual cases and situations.

49. The Federal Government was planning an overhaul of the Criminal Code. However, it was not clear that that would be a good time to create an autonomous offence of enforced disappearance. The overall approach was one of decriminalization, making criminal prosecution a last resort; the creation of a new offence would be somewhat at odds with that intent. He did not rule out the possibility of creating an autonomous offence of enforced disappearance as a separate project.

50. With regard to the apportionment of criminal liability in a case of disappearance, it was always difficult to evaluate hypothetical cases such as the one postulated by the Country Rapporteur, concerning a person who had been detained and tortured and had ultimately died, and whose body had been disposed of with the help of a cemetery employee, but existing German law provided several options. The notion of complicity would apply to anyone involved in a plan to commit such a crime, while a participant in the actual disappearance would also be criminally liable, a provision that reflected the contents of article 6 of the Convention. The Criminal Code also penalized incitement of a subordinate to commit a crime.

51. A person who died in custody as a result of torture, for example, would in German law no longer be covered by the Convention definition of enforced disappearance, to the extent that that definition referred to removal from the protection of the law. However, other criminal charges could apply, such as perversion of the course of justice.

52. As to the second hypothetical case, in which 32 years had passed since the offence of illegal adoption, it was true that in such circumstances the statute of limitations would apply to many of the relevant offences under German law. However, the Convention did not require an unlimited period of limitation, but rather a sufficiently long period of limitation. German law thus complied with the Convention since it provided various options for interrupting the period of limitation.

53. **A representative of Germany** said that information on unaccompanied minor refugees was exchanged among the various German authorities but was also covered by Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (Dublin III Regulation). The exchange of information facilitated reunification of unaccompanied minors with relatives in another member State. In that context, she also wished to point out that Ukraine sent out lists of names of missing women and children, to be compared with lists of persons arriving in Germany.

54. **Ms. Jacoby** (Germany), referring to the question of disappeared unaccompanied minor refugees, explained that the issue dated back to the huge influx of refugees from the Middle East in 2015 and 2016, which had entailed major problems of identification. Germany had not had the capacity for registration or sufficient language experts to assist with identification, which had led to people being registered under several names or the same name being transcribed into German in different ways. In addition, many people had subsequently moved on to other countries where they had family or other ties.

55. As a result of the lessons learned at that time, the influx of refugees from Ukraine had been handled much better. Among other things, fingerprints were taken from children over the age of 6, which facilitated identification if they moved to other countries.

56. **A representative of Germany** said that intensive talks with the National Agency for the Prevention of Torture to determine its resource needs were under way, and an analysis of the current financial situation was awaited that would take account of the recent increases in inflation. Meanwhile, staff were to be transferred to the Agency from the Federal Ministry of Justice in order to maintain its operational capacities and operability.

57. **Ms. Jacoby** (Germany) said that the continued prosecution of enforced disappearance in all its forms was extremely important for Germany; 16 prosecutors in 3 divisions were working on the issue, which demonstrated her country's interest in ensuring the application of the law for victims, survivors and family members.

The meeting rose at 12.50 p.m.