



International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

List of issues in relation to the report submitted by Norway under article 29 (1) of the Convention*

I. General information

1. Please indicate the status of the Convention in the domestic legal order and explain whether the provisions of the Convention may be directly invoked before and applied by courts or other relevant authorities. Please include examples of case law, if any, in which the provisions of the Convention have been invoked before or applied by courts or other relevant authorities.
2. In view of the information provided in paragraph 5 of the report of the State party,¹ please specify whether any consultations were held with civil society, the Norwegian National Human Rights Institution and other stakeholders during the report preparation process.
3. Please describe the steps taken or foreseen to enhance the effectiveness and independence of the Norwegian National Human Rights Institution, in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and the recommendations made by the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions at its October 2022 review. Please explain the mandates of and report on any activities carried out by the Norwegian National Human Rights Institution in relation to the Convention and please indicate whether they have received complaints concerning enforced disappearance since the entry into force of the Convention. If so, describe the actions taken in that regard and the results thereof.
4. Please indicate whether the State party intends to make the declarations provided for in articles 31 and 32 of the Convention, which relate to the Committee's competence to receive and consider individual and inter-State communications.

II. Definition and criminalization of enforced disappearance (arts. 1–7)

5. Please provide information about applicable law on the state of emergency, including the English translation of the relevant legislation. Please specify the rights that can be subject to derogation in times of emergency and explain how the prohibition of enforced disappearance is a non-derogable right at the domestic level (art. 1).
6. Please specify whether there is a unified and operational register of disappeared persons regardless of the circumstances and, if so, describe the kind of information that it contains and whether such information could enable the differentiation between cases of

* Adopted by the Committee at its twenty-fourth session (20–31 March 2023).

¹ CED/C/NOR/1.



enforced disappearance as defined under article 2 of the Convention and the other cases of disappearance that do not fall under that article. Please describe the measures taken to: (a) ensure that relevant information about all alleged cases of disappearance is promptly entered into the register and duly updated; (b) compare and consolidate the information contained in the register with the information on disappeared persons held by other State institutions, including those providing forensic services or administering DNA databases; (c) share, whenever necessary, the registered information with other States potentially related to cases of enforced disappearance (arts. 1–3, 12, 14, 15 and 24).

7. Please provide information regarding the definition of offences of disappearances that were carried out by persons or groups of persons acting without the authorization, support or acquiescence of the State, including the English translation of the relevant definitions. Please indicate whether any complaints have been lodged regarding such offences, including with regard to disappearances occurring in the context of migration and trafficking. If complaints have been lodged, please provide data on the investigations carried out and their results, including profiles of the alleged perpetrators, the proportion of proceedings launched that resulted in convictions and the sanctions imposed (arts. 3 and 12).

8. Please explain how section 102 of the Penal Code on “involuntary disappearance”, which, according to the State party, qualifies enforced disappearance as a crime against humanity, is consistent with the definition of enforced disappearance enshrined in the Convention. Please elaborate on the meaning of the intentional element, namely “the intention of depriving the person of legal protection for a prolonged period of time”, required under article 102 (i) (arts. 2 and 5).

9. Please explain the extent to which the wording “contributes to” used in section 175 a or other general provisions of the Penal Code address all acts specified in article 6 (1) (a) of the Convention, in particular the acts of ordering, soliciting, inducing, being an accomplice to or participating in an enforced disappearance, and provide examples of instances demonstrating that domestic courts applied these modes of criminal liability in line with the Convention in proceedings related to offences akin to enforced disappearance or in comparable offenses. Please indicate whether a superior who “exercised effective responsibility for and control over activities which were concerned with the crime of enforced disappearance”, as set out in article 6 (1) (b) (ii) of the Convention, could be held responsible under section 175 a or another provision in the Penal Code (art. 6 (1)).

10. Please specify whether national legislation explicitly prohibits invoking orders or instructions from any public authority, civilian, military or other, as a justification for enforced disappearance, and whether the notion of “due obedience” as a defence in criminal cases has any impact on the effective implementation of that prohibition. Please provide the English translations of the respective provisions, including section 24 of the Military Penal Code. Please indicate whether, in national legislation, it is guaranteed that persons who refuse to obey orders or instructions that prescribe, authorize or encourage enforced disappearance will not be punished and provide information on any remedies available to subordinates against any potential disciplinary measures resulting from their refusal to carry out a criminal act ordered by a superior (arts. 6 (2) and 23).

11. Please indicate the minimum sentence that could be imposed for the offence of enforced disappearance and provide information about the criteria to be considered in the determination of the sentence. Please provide information about the disciplinary sanctions established for those convicted of enforced disappearance. Please inform the Committee of the mitigating circumstances set out in section 78 of the Penal Code and indicate whether that section or any other provision specifically includes the mitigating circumstances as established in article 7 (2) (a) of the Convention and provide the texts of the respective provisions (art. 2, 4–5 and 7).

III. Judicial procedure and cooperation in criminal matters(arts. 8–15)

12. Please inform the Committee about the measures taken to guarantee the right of victims of enforced disappearance to an effective remedy for their civil or administrative

actions during the term of limitation for criminal proceedings and specify the duration of the statute of limitations for civil damages. Please provide information on the continuous nature of enforced disappearance under domestic legislation (art. 8).

13. With regard to paragraphs 55 to 58 of the report of the State party, please clarify whether national courts would have the competence to exercise jurisdiction over the crime of enforced disappearance in the cases contemplated under article 9 (1) (b) and (c) of the Convention if the offence is not punishable in the State where it was committed. Please also clarify whether, in line with article 9 (2) of the Convention, national courts would be competent under domestic law to exercise jurisdiction over the offence of enforced disappearance if the alleged offender, a foreign national present in the territory of the State party without permanent residence status, is not extradited and the country in which the enforced disappearance was allegedly perpetrated does not specifically criminalize enforced disappearance. Please specify if the crime of enforced disappearance would be considered among “certain serious crimes” and please provide information on the legal provisions, including of any treaties or agreements with foreign States, that may ensure jurisdiction for acts of enforced disappearance under section 6 of the Penal Code (art. 9).

14. Please indicate how the State party guarantees, in practice, the right of access to consular assistance of any person in custody, including a stateless person, pursuant to article 10 (3) of the Convention (art. 10).

15. Please indicate whether military authorities are competent under domestic law to investigate and/or prosecute military personnel accused of enforced disappearance against a civilian or another military officer and, if so, please provide information about the applicable legislation (arts. 11 and 12).

16. Please indicate whether there have been any allegations of enforced disappearance received by the State party since the submission of its report. If that is the case, please report on the investigations conducted and their results. Please provide information on the authorities responsible for investigating cases of alleged enforced disappearance, including the budget and the human resources at their disposal, and indicate what restrictions, if any:

(a) Can be put on their access to places of deprivation of liberty when there are grounds to believe that a disappeared person may be present;

(b) Exist on their access to the documentation and other information relevant to their investigations (arts. 1–2, 10, 12 and 17).

17. Please indicate whether there are any mechanisms in place to exclude a member of law enforcement or security forces or any other public official, whether civilian or military, from the investigation into an enforced disappearance when he or she is suspected of having been involved in the commission of the offence. Please also indicate if there are any mechanisms, including an explicit legislative provision in place, to ensure that officials belonging to the same law enforcement or security force do not participate in the investigation into a case of enforced disappearance when one or more officials of said law enforcement or security force are suspected of having been involved in the commission of the offence (arts. 1–2, 12 and 17).

18. Please specify whether any extradition agreement has been concluded with other States parties since the entry into force of the Convention and, if so, whether enforced disappearance has been included in such agreements. If so, please provide the list and texts of the extradition treaties into which the King in Council has entered with other States parties to the Convention that include enforced disappearance as an extraditable offence or demonstrate that enforced disappearance is not considered to be a political offence (art. 13).

19. Please indicate if there are any mechanisms to ensure mutual assistance to the authorities of requesting States, with a view to facilitating the sharing of information and evidence and searching for and identifying disappeared persons, in particular disappeared migrants, and to assist the victims. Please provide information on any new agreements that the State party may have entered into to provide mutual assistance to victims of enforced disappearance and to facilitate searches. Please inform the Committee of specific examples of mutual legal assistance or extradition requests concerning the crime of enforced disappearance since the submission of the report of the State party (arts. 14–15).

IV. Measures to prevent enforced disappearances (arts. 16–23)

20. Please indicate whether domestic law explicitly prohibits the expulsion, return, surrender or extradition of a person when there are substantial grounds for believing that the person would consequently be in danger of being subjected to enforced disappearance. In this regard, please:

(a) Provide information on the measures and procedures ensuring a consistent and thorough individual assessment to determine and verify a person's risk of being subjected to enforced disappearance in the country of destination, including in a country considered safe, and on whether there are specific criteria applied for such an evaluation and verification, as well as for the determination of the countries considered safe;

(b) Explain the procedures that are implemented for the return of asylum-seeking minors with time-limited residence permits to their home countries when they reach age 18 and the safeguards in place to ensure that their risk of being subjected to enforced disappearance in the country of destination are assessed before they are returned;

(c) Indicate whether it is possible to appeal a decision authorizing expulsion, return, surrender or extradition and, if possible, before which authority and under which procedure an appeal would be made, including whether such an appeal would have a suspensive effect;

(d) Indicate whether the State party accepts diplomatic assurances as sufficient grounds for a decision of expulsion, return, surrender or extradition when there is a reason to believe that a person is at risk of being subjected to enforced disappearance;

(e) Please provide statistical data, disaggregated by age, sex and nationality, on the number of persons who have sought asylum and the number of persons subjected to expulsion, return and extradition to their countries of origin since the signing of the Convention, including cases in which the measure has not been implemented because there were substantial grounds for believing that the persons in question would be in danger of being subjected to enforced disappearance (art. 16).

21. Please provide information on whether there is an explicit prohibition of secret detention in domestic law. Please explain how the fundamental rights of the persons deprived of liberty, enshrined under article 17 (2) of the Convention, are guaranteed during armed conflicts. Please indicate whether there have been complaints or allegations during any armed conflicts in which the Norwegian army may have been involved regarding failure to observe those rights and, if so, please provide information about the proceedings carried out, their outcome and the sanctions imposed (art.17).

22. Please provide information on whether the State party has reviewed or intends to review its declarations to articles 17 (2) and 20 (1) of the Convention, in conjunction with article 18 of the Convention. Please explain whether the State party considers those declarations to be compatible with the object and purpose of the Convention (arts. 17, 18 and 20).

23. Please provide information on the applicable legislation guaranteeing that any person with a legitimate interest can bring proceedings before a court in order to decide on the lawfulness of the deprivation of liberty. Please indicate the measures in place to prevent and impose sanctions for obstructing and delaying that remedy and for the failure to record deprivation of liberty or for entering inaccurate data in the registers reported by the State party. Please provide information as to how the State party guarantees that any person deprived of liberty as a disciplinary measure under military legislation is held solely in officially recognized and supervised places of deprivation of liberty (arts. 17 and 22).

24. With regard to paragraphs 234–236 of the report of the State party, please provide information on the legislation and practice to ensure that the registers of police custodies, the institutions in which children are placed and the centres where foreign nationals are held are provided, as a minimum, with all the information required under article 17 (3) of the Convention. Please inform the Committee of the existing legislation and practice to ensure

the reliable verification of the release of persons deprived of liberty and of the authorities in charge thereof (arts. 17 and 21).

25. Please indicate whether the State party leases prisons in neighbouring or other countries and, if so, how it ensures the full implementation of its obligations under the relevant articles of the Convention (arts. 17–22).

26. Please inform the Committee of the measures and procedures in place to guarantee that any person with a legitimate interest, including others than those who have a legal interest, can access all information listed in article 18 (1) of the Convention in the institutions where the children are placed under the Child Welfare Act and describe the restrictions on access to such information (art. 18).

27. Given that the access of any person with a legitimate interest to all information listed in article 18 (1) of the Convention is dependent on the consent of the person deprived of liberty, please inform the Committee of the measures and procedures in place to guarantee that all persons deprived of liberty are systematically informed, in a language they understand, of this right from the outset of their deprivation of liberty. With regard to paragraphs 194 and 195 of the report of the State party, please provide more information about the measures in place to ensure that foreign nationals deprived of their liberty under Immigration Act are informed of their right to specify that their households or other specified persons are notified of their arrest and explain the “special reasons” allowing for such notification to be dispensed with (arts. 18 and 20).

28. Please explain the means of appeal against the refusal to disclose information under article 18 of the Convention and indicate the measures in place to prevent and impose sanctions in case of delay or obstruction of such an appeal (arts. 18 and 22).

29. Please indicate whether the State party provides, or envisages providing, specific and regular training on the Convention, in the terms set forth in article 23 thereof, to civil and military law enforcement personnel, medical personnel, public officials, officers dealing with expulsion, return, surrender or extradition of foreigners and other persons who may be involved in the custody or treatment of any person deprived of liberty, including judges, prosecutors and other officials responsible for the administration of justice (art. 23).

V. Measures to protect and guarantee the rights of victims of enforced disappearance (art. 24)

30. Please provide the definition of victim in the Criminal Procedure Act or in other relevant acts and explain whether it covers all the persons referred to in article 24 (1) of the Convention.

31. With regard to paragraph 259 of the report of the State party, please provide detailed information on whether domestic law provides for a comprehensive system of compensation and reparation in compliance with articles 24 (4) and (5) of the Convention. In this regard, please specify:

(a) Whether a victim of enforced disappearance must initiate criminal proceedings to obtain reparation and compensation;

(b) The authority that is responsible for providing compensation and/or reparation under domestic law in the event of enforced disappearance;

(c) Whether access to compensation and/or reparation is contingent upon a criminal conviction, and whether there is a time limit for access by victims of enforced disappearance to compensation and/or reparation;

(d) The kinds of reparation that could be provided to victims;

(e) What measures have been taken by the State party in order to apply its obligation to the right to reparation vis-à-vis victims from the indigenous Sami people and Norway’s five national minorities in connection with practices, including for example the forced removal of children to institutions or foster homes and the forced resettlement of adults to labour colonies, inasmuch as such practices could be considered to constitute enforced

disappearances in line with the definition of enforced disappearance under the Convention (art. 24).

32. Please indicate whether domestic law includes an explicit provision for the right of victims of enforced disappearance to the truth. Please also advise what measures have been taken by the State party to fulfil its obligation to the right to truth of victims from the Sámi people and from the five national minorities of Norway. Please provide information on the conclusions of the recommendations of the Truth and Reconciliation Commission set up by the Norwegian Storting (Parliament) (art. 24).

33. Please provide more information regarding the legal situation of disappeared persons whose fate has not been clarified and that of their relatives in matters such as social welfare, financial matters, family law and property rights, without having to presume the disappeared person dead. Please specify whether there is a specific procedure in Norwegian legislation for obtaining a declaration of absence in cases of enforced disappearance. Please inform the Committee of the impact that the procedures of the declaration of the death or the presumed death of the disappeared person may have on the obligation of the State party to continue the search and investigation into an enforced disappearance until the fate of the disappeared person has been clarified (art. 24).

VI. Measures to protect children from enforced disappearance (art. 25)

34. Please provide the English translation of relevant provisions (criminal, civil and administrative), including sections 261 and 361–363 of the Penal Code, and explain how they specifically criminalize the conduct described in article 25 (1) of the Convention. Please indicate whether any complaints concerning the wrongful removal of children, in the terms described in article 25 (1) (a) of the Convention, have been made since the entry into force of the Convention for the State party and, if so, describe the measures taken and the results thereof to locate those children and prosecute and punish those responsible, as well as on the procedures to return them to their families of origin (art. 25).

35. Please also indicate the measures taken by the State party to protect children, particularly unaccompanied minors, from enforced disappearance, in particular in the context of migration and trafficking. Please describe the steps taken to prevent the disappearance from reception centres of children, including asylum-seeking minors reaching age 18, and to search for and identify those children who have already disappeared and may have been the victims of wrongful removal as described in article 25 (1) (a). Please describe the measures taken to ensure that information on unaccompanied minors is adequately recorded, including in the genetic and forensic databases, to facilitate the identification of disappeared children, in full respect of article 19 of the Convention. Please also describe the measures taken to address the allegations of inter-country adoptions originating from the enforced disappearance of children (arts. 19 and 25).
