



International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

Concluding observations on the report submitted by Ukraine under article 29 (1) of the Convention*

1. The Committee on Enforced Disappearances considered the report submitted by Ukraine under article 29 (1) of the Convention¹ at its 493rd and 494th meetings,² held on 23 and 24 September 2024. At its 508th meeting, held on 3 October 2024, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the report submitted by Ukraine in 2021 under article 29 (1) of the Convention, and thanks the State party for its written replies,³ submitted in 2024, to the list of issues prepared by the Committee.⁴

3. The Committee appreciates the constructive dialogue with the high-level delegation of the State party on the measures taken to implement the Convention and welcomes the openness with which the delegation responded to the questions posed. It thanks the State party for its active engagement in the dialogue.

B. Positive aspects

4. The Committee welcomes the State party's ratification of or accession to eight out of the nine United Nations human rights treaties.⁵ The Committee also welcomes the standing invitation extended by the State party to all special procedures of the Human Rights Council to visit the country, and the fact that the State party has recognized the Committee's competence to receive and consider individual and inter-State communications, under articles 31 and 32 of the Convention respectively.

5. The Committee welcomes the progress made by the State party in areas relevant to the Convention, including:

(a) Law No. 2505-VIII on the legal status of persons missing under special circumstances, amended in April 2022;

(b) Law No. 2391-IX on State registration of human genomic information, adopted in July 2022;

* Adopted by the Committee at its twenty-seventh session (23 September–4 October 2024).

¹ [CED/C/UKR/1](#).

² See [CED/C/SR.493](#) and [CED/C/SR.494](#).

³ [CED/C/UKR/RQ/1](#).

⁴ [CED/C/UKR/Q/1](#).

⁵ Ukraine is not a State party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.



(c) The centre for the coordination of support for victims and witnesses, established in the Prosecutor General's Office in April 2023;

(d) The Unified Register of Persons, including Children, Deported or Forcibly Displaced in Connection with the Armed Aggression of the Russian Federation, established in April 2023;

(e) The "Bring Kids Back UA" action plan for the return of Ukrainian children who have been deported and forcibly displaced, created in May 2023;

(f) Law No. 3623-IX on amendments to the Criminal Procedure Code on strengthening the effectiveness of the functioning of the institute of officials responsible for detainees' stay and for ensuring that the rights of detainees are respected, adopted in March 2024;

(g) The State party's cooperation with the Independent International Commission of Inquiry on Ukraine and the human rights monitoring mission in Ukraine to document human rights violations, including enforced disappearance.⁶

C. Principal subjects of concern and recommendations

6. The Committee is fully aware of the numerous and serious challenges that the State party has faced since the beginning of the armed conflict in April 2014, exacerbated by the full-scale military aggression by the Russian Federation, which began on 24 February 2022. In this context, the Committee commends the State party for its engagement in promoting the implementation of the Convention, and conveys its concerns and recommendations in a constructive and cooperative spirit to ensure that the legislation and practice in force in the State party fully comply with the Convention.

1. General information

Urgent action cases

7. The Committee recalls that, as at the date of adoption of the present concluding observations, it has registered four requests for urgent action related to disappearance allegedly committed by State agents in Ukraine.⁷ In that connection, it regrets that the State party does not have any specific mechanism for dealing with requests for urgent action transmitted by the Committee and for implementing related recommendations and requests for interim and protection measures (art. 30).

8. The Committee recommends that the State party design and implement a specific mechanism to handle requests for urgent action transmitted by the Committee under article 30 of the Convention and to facilitate follow-up thereto.

Stakeholders' involvement in the preparation of the report

9. The Committee notes that the State party's report was prepared by the National Police, in consultation with other executive bodies, and that the drafting of the report was coordinated by the Ministry of Internal Affairs. The Committee nevertheless regrets that the information provided does not reflect any consultation process with civil society organizations in the preparation of the report (art. 24).

10. The Committee recommends that the State party ensure the participation of civil society organizations, in particular those working in the area of enforced disappearance and human rights protection, in the whole cycle of reporting to the Committee and are regularly consulted and informed about all matters relating to the implementation of the Convention.

⁶ See <https://www.ohchr.org/en/hr-bodies/hrc/iicihr-ukraine/index> and <https://ukraine.ohchr.org/en>.

⁷ Two active cases (No. 1488/2022 UKR(1) and No. 1636/2023 UKR(4)) and two suspended cases (No. 1489/2022 UKR(2) and No. 1492/2022 UKR(3)).

Applicability of the Convention

11. The Committee notes that, under article 9 of the Constitution, the Convention is part of the national legislation of Ukraine. It regrets, however, the lack of information on the number of cases in which national courts or other competent authorities have applied the Convention (arts. 1, 4 and 12).

12. The Committee calls upon the State party to ensure that the provisions of the Convention are directly invoked before, and applied by, national courts or other competent authorities.

National human rights institution

13. The Committee notes with satisfaction that the Global Alliance of National Human Rights Institutions reaccredited the Ukrainian Parliament Commissioner for Human Rights with A status in 2019. It also notes the role of the national human rights institution in the search for disappeared persons. Nevertheless, the Committee regrets that it has not received information about consideration of the recommendations made by the Subcommittee on Accreditation of the Global Alliance, in particular those concerning the institution's appointment procedure, resources, term of office and interaction with civil society organizations. The Committee further regrets the absence of information on the number of complaints of alleged enforced disappearance received by the institution.

14. The Committee recommends that the State party strengthen the Ukrainian Parliament Commissioner for Human Rights, ensuring that it has the financial, technical and human resources necessary to carry out its mandate effectively and independently in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). It also recommends that the State party amend Law No. 776/97-BP to formalize a clear, transparent and participatory process of selection and appointment for membership of the institution's decision-making body, limit the term of office of the Commissioner and enhance the institution's cooperation with civil society organizations.

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

Law No. 2505-VIII on the legal status of persons missing under special circumstances

15. The Committee welcomes Law No. 2505-VIII on the legal status of persons missing under special circumstances, which was amended in 2022, as an effort to identify and search for disappeared persons. Nonetheless, the Committee is concerned that this Law is applicable only to cases of disappearance connected with armed conflicts, hostilities, temporary occupation of part of the territory of Ukraine and emergency situations of a natural or human-made nature. Moreover, the Committee is concerned about allegations indicating that this Law may not cover cases of enforced disappearance committed by State agents of Ukraine (arts. 1, 4 and 24).

16. The Committee recommends the State party to amend Law No. 2505-VIII on the legal status of persons missing under special circumstances by extending the scope of its application to all cases of disappearance, including enforced disappearance, regardless of the time, place and circumstances in which they occurred.

Statistical information and the Unified Register of Persons Missing under Special Circumstances

17. The Committee welcomes the establishment of the Unified Register of Persons Missing under Special Circumstances, which has been in use since May 2023 and whose holder is the Ministry of Internal Affairs. According to the information provided by the delegation, the Unified Register contains 59,490 entries, of which 48,138 are related to persons who disappeared under special circumstances. In this regard, the Committee is concerned at:

(a) The limited scope of the Register, which only covers cases of disappearance that occurred under the special circumstances provided for in Law No. 2505-VIII on the legal status of persons missing under special circumstances;

(b) The lack of information on the number of cases of alleged enforced disappearance collected by the National Police that are not connected with “special circumstances”;

(c) The absence of the category “victim of enforced disappearance” in the Register, despite the reporting of such cases;

(d) The only partially disaggregated statistical data on the number of disappeared persons in the State party and difficulties in differentiating between cases of enforced disappearance and cases of disappearance in which not all the elements of article 2 of the Convention are present (arts. 1–3, 12 and 24).

18. The Committee recommends that the State party:

(a) **Extend the scope of the Unified Register of Persons Missing under Special Circumstances to cover all cases of enforced disappearance and consider introducing the category “victim of enforced disappearance”;**

(b) **Guarantee the inclusion in the Unified Register of the date, context and circumstances of the disappearance, the number of disappeared persons who have been located, whether alive or deceased, and the number of cases in which there may have been some form of State involvement in the disappearance within the meaning of article 2 of the Convention, including cases of disappearance in the context of migration, trafficking in persons and forced displacement;**

(c) **Ensure that the institutions authorized to enter information in the Register do so promptly in order to generate accurate and up-to-date statistical information on all disappeared persons in Ukraine, disaggregated by sex, age, gender identity, sexual orientation, nationality and racial or ethnic origin; ensure that the information is accessible to any person with a legitimate interest; and, in the event of irregularities, guarantee that the officers responsible are adequately sanctioned.**

Non-derogability of the prohibition of enforced disappearance

19. The Committee notes the reduction in derogation permitted by law from provisions of the International Covenant on Civil and Political Rights, as notified in March 2024, in connection with Decrees of the President of Ukraine No. 64/2022, on the introduction of martial law in Ukraine, and No. 63/2022, on the introduction of a state of emergency in certain regions of Ukraine. However, it regrets the lack of a legal provision that explicitly recalls that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance (art. 1).

20. The Committee recommends that the State party expressly incorporate the absolute prohibition of enforced disappearance into national law, in accordance with article 1 (2) of the Convention, and ensure that no exceptional circumstances may be invoked in practice to justify enforced disappearance. The State party should also ensure that measures taken in the context of martial law and the state of emergency do not hinder the effective implementation of the Convention.

Offence of enforced disappearance

21. The Committee welcomes the introduction in 2018 of an autonomous crime of enforced disappearance, under article 146-1 of the Criminal Code. It notes the information provided during the dialogue that the Verkhovna Rada, the parliament of Ukraine, recently adopted a draft law to implement the Rome Statute of the International Criminal Court, which would include enforced disappearance as a crime against humanity, in compliance with article 5 of the Convention. The Committee also notes that articles 66 and 67 of the Criminal Code refer to a general regime of mitigating and aggravating circumstances. Nevertheless, the Committee is concerned that:

(a) The penalties for enforced disappearance under article 146-1 of the Criminal Code do not reflect the extreme seriousness of the crime;

(b) The mitigating and aggravating circumstances provided for in articles 66 and 67 of the Criminal Code do not comply with article 7 (2) of the Convention (arts. 2, 4, 5 and 7).

22. The Committee urges the State party:

(a) **To ensure that the offence of enforced disappearance is punishable by appropriate penalties that take into account its extreme seriousness;**

(b) **To include in national legislation all the mitigating and aggravating circumstances provided for in article 7 (2) of the Convention;**

(c) **To ensure without delay that its national legislation explicitly recognizes the widespread or systematic practice of enforced disappearance as a crime against humanity.**

Criminal responsibility of superiors and due obedience

23. The Committee notes that the general part of the Criminal Code does not enshrine the principle of command responsibility and that article 146-1 (2) of the Code addresses some forms of indirect responsibility. It also notes that, according to the information provided by the delegation, the recently adopted draft law to implement the Rome Statute would include the criminal responsibility of superiors. Nonetheless, the Committee is concerned that the current criminal legislation does not provide for the responsibility of superiors under the conditions set out in the Convention. It notes with concern that the rules of complicity and joint commission of a crime are applied under articles 27 and 28 of the Code respectively, replacing the principle of command responsibility. In addition, the Committee regrets that the Code does not expressly provide that due obedience may not be invoked to justify enforced disappearance (art. 6).

24. The Committee recommends that the State party incorporate into national legislation the criminal responsibility of superiors, and ensure that no order or instruction from any public authority – civilian, military or other – may be invoked to justify an offence of enforced disappearance and that subordinates who refuse to obey an order to commit enforced disappearance will not be punished, in accordance with article 6 (1) (b) and (2) of the Convention.

3. Judicial procedure and cooperation in relation to enforced disappearance (arts. 8–15)

Statute of limitations

25. While noting that article 49 of the Criminal Code regulates the statute of limitations, the Committee regrets that it does not recognize enforced disappearance as a continuous crime for the purposes of the application of the statute of limitations. It also notes with concern that the five-year statutory limitation that is applicable to enforced disappearance under article 146-1 (1) of the Code and the 10-year statutory limitation applicable to acts under article 146-1 (2) do not reflect the extreme gravity of the offence. The Committee is further concerned that the current legislation does not provide for the specific right of victims of enforced disappearance to an effective remedy during the term of limitation (art. 8).

26. The Committee recommends that the State party expressly establish in its criminal legislation that, given the continuous nature of the crime of enforced disappearance, if a statute of limitations is applied concerning criminal proceedings or for victims to seek an effective remedy, it should be of long duration and should commence from the moment when the offence of enforced disappearance ceases.

Extraterritorial jurisdiction over enforced disappearance

27. The Committee regrets the absence of a legal provision establishing the State party's jurisdiction when an alleged perpetrator of enforced disappearance committed abroad is present in its territory, when the alleged perpetrator is not extradited or surrendered to another

State or to an international criminal tribunal, and when neither the alleged perpetrator nor the victims are Ukrainian nationals (arts. 9 and 11).

28. The Committee recommends that the State party establish the competence of the national courts to exercise jurisdiction over cases of enforced disappearance in accordance with the obligations arising from articles 9 and 11 of the Convention.

Prevention of acts that may hinder the progress of investigations

29. While noting the Law on the judiciary and the status of judges, the Committee is concerned about allegations of lack of transparency in the procedure for the appointment and dismissal of prosecutors and the criteria used in selecting judges. The Committee further notes with concern allegations questioning the independence of some judges and prosecutors and reports of corruption in the context of the procedure for evaluating judges (arts. 11 and 12).

30. The Committee, in accordance with previous recommendations of the Human Rights Committee,⁸ recommends that the State party guarantee the full independence and impartiality of judges and the independence and autonomy of prosecutors by, inter alia, ensuring that procedures for the selection, appointment, promotion, suspension, removal and transfer of judges and prosecutors are compliant with international standards. In addition, the State party should intensify efforts to prevent and eradicate corruption, ensuring thorough investigations and adequate sanctions for those found responsible.

Suspension from duties

31. The Committee notes that, under article 154 of the Criminal Procedure Code, a person who is suspected of or charged with committing a crime may be suspended from office, and that under article 155-1, a judge may be temporarily suspended in connection with criminal liability. It also notes that decisions on such action are to be taken by the investigating judge during the pretrial investigation or by the court in the course of judicial proceedings and for a period not exceeding two months. However, the Committee regrets that the State party did not provide specific information on the measures taken to ensure that persons suspected of involvement in the commission of enforced disappearance cannot participate in the investigation thereof (art. 12).

32. The Committee recommends that the State party guarantee that those suspected of having committed or taken part in the commission of enforced disappearance are not in a position to influence the progress of an investigation. In this regard, the State party should ensure that State officials suspected of involvement in the commission of enforced disappearance are suspended from their duties from the outset and for the duration of the investigation without prejudice to the presumption of innocence.

Search and investigation

33. The Committee notes that the mandate of the Commissioner for Persons Missing under Special Circumstances, established in the framework of Law No. 2505-VIII on the legal status of persons missing under special circumstances, includes interaction with several bodies concerning the search, facilitating the return of remains and communicating with relatives on the status of the search. In this connection, the Committee notes the establishment in 2023 of the Commissioner helpline to communicate with relatives of disappeared persons. It also notes that the Commissioner has a secretariat and 15 regional representative offices. Nevertheless, the Committee regrets:

(a) That the scope of the Commissioner's mandate is limited to enforced disappearance that have occurred under "special circumstances" within the meaning of the law;

⁸ CCPR/C/UKR/CO/8, para. 44.

(b) The inconsistency between certain competences attributed to the Commissioner under Law No. 2505-VIII and its regulations, as amended by Resolution No. 975 of the Cabinet of Ministers in 2023, including the formation of search groups;

(c) The lack of reference to the term of office of the Commissioner in Law No. 2505-VIII (arts. 12 and 24).

34. The Committee recommends that the State party:

(a) **Consider extending the scope of the mandate of the Commissioner for Persons Missing under Special Circumstances to deal with all cases of disappearance of persons, regardless of the circumstances;**

(b) **Harmonize Law No. 2505-VIII on the legal status of persons missing under special circumstances and its regulations, as amended by Resolution No. 975 of the Cabinet of Ministers, to clarify the Commissioner's competence, including the formation and coordination of search groups;**

(c) **Ensure that the Commissioner's term of office is explicitly specified in Law No. 2505-VIII.**

35. The Committee is concerned that allegations of enforced disappearance are not investigated as such, but under other qualifications that do not cover all the elements of enforced disappearance, including murder, violation of the territorial integrity of Ukraine and violation of the rules and customs of war, under articles 115, 110 and 438 of the Criminal Code respectively (arts. 12 and 24).

36. The Committee recommends that the State party ensure that alleged enforced disappearance is investigated as an autonomous offence in accordance with the definition contained in article 2 of the Convention and that investigations continue until the fate and whereabouts of the disappeared person have been clarified.

37. The Committee notes that according to the information provided by the delegation, law enforcement agencies have registered more than 5,000 criminal offences under articles 146-1 (enforced disappearance) and 438 (violation of the laws and customs of war) of the Criminal Code since September 2015. Nonetheless, the Committee is concerned about:

(a) The lack of clarity as to whether the search is initiated immediately in cases where there is reason to believe that the disappeared person may be alive, or whether the case must be entered in the Unified Register of Persons Missing under Special Circumstances as a condition for initiating the search;

(b) The insufficient information concerning the search for persons whose disappearance is not classed as having occurred under "special circumstances", which, according to the delegation, the National Police is responsible for collecting;

(c) The lack of diligent efforts to make progress in investigation and prosecution with regard to allegations of enforced disappearance, including those perpetrated in the context of the armed conflict and martial law;

(d) Allegations that the relatives of disappeared persons have not been regularly informed of the progress and results of the search and investigation processes, or of criminal proceedings related to their disappeared loved ones;

(e) The inconsistency in information provided by the State party: on the one hand, that the Security Service has not identified the involvement of Ukrainian military and law enforcement personnel in enforced disappearance in the context of the armed conflict; and on the other hand, that the Unified State Register of Court Decisions includes a case in 2021 in which two police officers in Kyiv were convicted of enforced disappearance, and that 72 cases of enforced disappearance were registered by the Prosecutor General's Office in 2023;

(f) The insufficient coordination between the different entities involved in the search for disappeared persons and the investigation of their alleged enforced disappearance (arts. 12 and 24).

38. The Committee, in accordance with its Guiding Principles for the Search for Disappeared Persons,⁹ recommends that the State party:

- (a) Guarantee that when a person's disappearance is reported, the search is initiated automatically and without delay;
- (b) Develop comprehensive search strategies, ensuring that all persons who have disappeared and whose fate is not yet known are searched for and located;
- (c) Ensure that all allegations of enforced disappearance, including when committed in the context of armed conflict, are investigated promptly, thoroughly, effectively and impartially, even in the absence of a formal complaint, exercising due diligence at all stages of the process;
- (d) Ensure that the alleged perpetrators, irrespective of their nationality, are prosecuted and, if found guilty, punished in accordance with the seriousness of the offence, and that victims are provided with full reparation and appropriate protection and assistance;
- (e) Ensure that the relatives and representatives of disappeared persons are regularly informed of the progress and results of the search and investigation and can participate at all stages of the proceedings whenever they wish; and, in the event that such participation is impossible for reasons beyond the control of the State party, explain to the relatives in advance the reasons for this situation and inform them of the results of the action taken;
- (f) Guarantee effective intra- and inter-institutional coordination and cross-checking of data between the entities responsible for the search for disappeared persons and investigation of their disappearance – including the Commissioner for Persons Missing under Special Circumstances, the National Police, the Security Service, the Prosecutor General's Office and the judiciary, the Ukrainian Parliament Commissioner for Human Rights, the State Bureau of Investigation and the Central Department of Civil-Military Cooperation of the General Staff of the Armed Forces – ensuring that they have the human, technical and financial resources necessary to carry out their duties effectively.

Identification and dignified return of remains

39. The Committee notes the information provided by the delegation that, according to the Unified Register of Persons Missing under Special Circumstances, 2,552 bodies remain unidentified and 4,014 have been identified. It also notes the information provided during the dialogue concerning the ongoing process to establish coordination between the Unified Register of Persons Missing under Special Circumstances and the Electronic Register of Human Genomic Information. The Committee further notes the identification by the State party of mass graves in formerly occupied territory and the measures taken for the identification of remains, in addition to the use of DNA. Nevertheless, the Committee is concerned about:

- (a) The lack of information on protocols to register and preserve burial sites, transfer and safely keep located bodies and return them to their families, given that there are numerous mass graves in the national territory and unidentified graves on both sides of the contact line;
- (b) The absence of a database of ante- and post-mortem information relating to all disappeared persons;
- (c) The lack of clarification on the relationship between the registration of unidentified bodies in the Unified Register of Pretrial Investigations and the Unified Register of Persons Missing under Special Circumstances (arts. 12, 19 and 24).

⁹ CED/C/7.

40. **The Committee encourages the State party to ensure the interoperability of the Unified Register of Persons Missing under Special Circumstances and the Electronic Registry of Genomic Information, and urges the State party:**

(a) **To expand the authorities' capacity for the identification, safekeeping and dignified return of human remains of disappeared persons to their families by adopting comprehensive protocols;**

(b) **To establish a database of ante- and post-mortem information relating to all disappeared persons;**

(c) **To ensure the effective coordination and cross-checking of data between the entities responsible for the identification of the remains of disappeared persons in the event of death and those in charge of the search and investigation, including the Ministry of Health, the Ministry of Internal Affairs, including the secretariat of the Commissioner for Persons Missing under Special Circumstances and the State Research Expert Forensic Centre, the Security Service and the Prosecutor General's Office.**

Application of the Convention in the temporarily controlled or occupied territories of Ukraine

41. Bearing in mind General Assembly resolutions 68/262, ES-11/1, ES-11/2 and ES-11/4, on the territorial integrity of and aggression against Ukraine, the Committee acknowledges the particular challenges faced by the State party in guaranteeing the application of the Convention in areas not under its control, including the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, temporarily occupied by the Russian Federation since 2014, and other territories temporarily occupied in the context of the full-scale military aggression launched in February 2022, including certain areas of Donetsk, Kharkiv, Kherson, Luhansk and Zaporizhzhia regions, where most allegations of enforced disappearance have been reported. The Committee notes that, according to information provided by the delegation, 150 illegal places of detention have been identified by the State party and 7,166 captured Ukrainian defenders and illegally detained civilians have been released. Nevertheless, the Committee is concerned that:

(a) The authorities have limited capacity and practical ability to investigate the numerous allegations of enforced disappearance of Ukrainian civilians and prisoners of war, and impunity prevails;

(b) The authorities face challenges in systematically providing information to the relatives of disappeared persons in the occupied territories about the progress made and the difficulties faced in the process of search and investigation (arts. 1–3, 12 and 24).

42. **The Committee recommends that the State party:**

(a) **Strengthen the capacity of the authorities to ensure that all allegations of enforced disappearance of Ukrainian civilians and prisoners of war in the occupied territories are promptly, thoroughly and impartially documented and investigated and that alleged perpetrators are brought to justice and, if found guilty, appropriately punished;**

(b) **Ensure that the authorities establish official mechanisms to promptly and periodically inform the families of disappeared persons in Ukraine and in the occupied territories about the progress, challenges and results of ongoing processes of search and investigation.**

Protection of persons who report or who participate in the investigation of enforced disappearance

43. While noting the Law on the security of persons participating in criminal proceedings and articles 56 (1) (5) and 66 (1) (8) of the Criminal Procedure Code, the Committee is concerned that it has not received specific information on existing mechanisms to protect complainants, witnesses, relatives of disappeared persons and their defence counsel, and others participating in the investigation of enforced disappearance. It also notes with concern

allegations of intimidation and reprisal, including reports of lawyers being threatened for having defended individuals in cases related to the armed conflict (arts. 12, 14, 15 and 24).¹⁰

44. **The Committee recommends that the State party establish mechanisms to ensure that all the persons referred to in article 12 (1) of the Convention are effectively protected against all ill-treatment or intimidation that may hinder their participation in the search for disappeared persons and the investigation of enforced disappearance, including through the establishment of specific agreements with other countries.**

Mutual legal assistance

45. The Committee notes the information provided during the dialogue that Ukraine has ratified five bilateral international treaties on mutual legal assistance and extradition. However, it regrets that, according to the delegation, there is no reference to enforced disappearance in these treaties (arts. 14 and 15).

46. **The Committee recommends that the State party implement effective mechanisms for cooperation and mutual legal assistance with other States parties, in compliance with articles 14 and 15 of the Convention, to facilitate the sharing of information and evidence to support the search for and identification of disappeared persons, the investigation and prosecution of their disappearance, and the provision of support to victims. In this context, the State party should consider establishing mechanisms whereby it can request the authorities of neighbouring countries that receive former prisoners of war to systematically ask them for information about other detainees, and to transmit such information to the Ukrainian authorities in charge of the search for disappeared persons.**

4. Measures to prevent enforced disappearance (arts. 16–23)

Non-refoulement

47. The Committee notes that under article 25 of the Constitution, a citizen of Ukraine cannot be expelled or extradited to another State, and that under article 589 of the Criminal Procedure Code, a refugee cannot be extradited to any State where the refugee's health, life or freedom would be under threat. Moreover, the Committee notes that under article 591 of the Criminal Procedure Code, a decision of extradition may be appealed by the person concerned or the lawyer or legal representative, and that under article 606 of the Criminal Procedure Code, before any transfer abroad, the country of destination must provide guarantees that the requested person will not be subjected to torture. Nonetheless, the Committee is concerned about:

(a) The absence of a legal provision that includes the risk of enforced disappearance as a basis for prohibiting the expulsion, return, surrender or extradition of a person to another State;

(b) The lack of specific information as to the criteria and procedures applied to assess a person's risk of being subjected to enforced disappearance in the country of destination before their expulsion, return, surrender or extradition takes place;

(c) The absence of clear information as to whether an appeal may be lodged against a decision authorizing expulsion, return, surrender or extradition, and whether such an appeal has suspensive effect (art. 16).

48. **The Committee recommends that the State party ensure systematic and strict respect for the principle of non-refoulement. In that regard, the State party should:**

(a) **Consider explicitly prohibiting, in its domestic legislation, any expulsion, return, surrender or extradition when there are substantial grounds for believing that the person concerned may be in danger of being subjected to enforced disappearance, adopt clear criteria and procedures for assessing and verifying this risk and, where**

¹⁰ [A/HRC/55/52/Add.1](#), paras. 75 and 109 (e).

there is such a risk, ensure that the person concerned is not expelled, returned, surrendered or extradited;

(b) Guarantee that any decision authorizing expulsion, return, surrender or extradition may be appealed and that such an appeal has suspensive effect.

Enforced disappearance in the context of trafficking in persons, migration and forced displacement

49. The Committee is aware that the armed conflict has led to mass forced displacement, internally and internationally, including of women and children, leading to heightened risk of becoming victims of trafficking. In that connection, the Committee notes the affirmation of the State party that it is not aware of any cases of trafficking that have resulted in enforced disappearance, including during the armed conflict. It also notes the special joint operation task force created with international partners to combat and prevent trafficking in persons and illegal migration. Nonetheless, the Committee is concerned about allegations of disappearance, including enforced disappearance, linked to the trafficking of migrants or forcibly displaced Ukrainian nationals, and about the absence of information on the measures taken to search for them, investigate their alleged disappearance and provide them and their families with support services (arts. 1–3, 12, 16 and 24).

50. Recalling its general comment No. 1 (2023) on enforced disappearance in the context of migration, the Committee recommends that the State party:

(a) Ensure that all allegations of disappearance in the context of trafficking in persons, migration, mass displacement or forced relocation are thoroughly investigated, taking into account that the alleged acts may constitute enforced disappearance;

(b) Guarantee that those responsible are prosecuted and, if found guilty, are sentenced appropriately, and that victims are provided with full reparation and appropriate protection and assistance;

(c) Strengthen mutual legal assistance to prevent the disappearance of persons in the context of trafficking in persons, migration and mass displacement, facilitate the exchange of information and evidence for the search and investigation and provide support services to such disappeared persons and their relatives.

Secret detention and fundamental legal safeguards

51. The Committee welcomes the fact that anyone with a legitimate interest is entitled to take proceedings before a court, so that the court may decide without delay on the lawfulness of a person's deprivation of liberty and order the person's release if such deprivation of liberty is not lawful. In addition, the Committee notes that the Constitution (art. 29) and the Criminal Procedure Code (art. 208) enshrine fundamental legal safeguards. Nonetheless, the Committee is concerned about:

(a) Reports of the deprivation of liberty of civilian detainees for crimes connected to the armed conflict, including those suspected of "collaboration activities", and of prisoners of war from the Russian Federation, since February 2022, by Ukrainian security and armed forces in unofficial places of detention, including the basement of the office of the Main Directorate of Intelligence of the Ministry of Defence, in Kyiv;

(b) Allegations of arbitrary and incommunicado detention for crimes connected to the armed conflict in unofficial places of detention, since February 2022, some of which may amount to enforced disappearance;

(c) Reports of arbitrary detention during "filtration processes" after the de-occupation of Kharkiv and Kherson regions, in September and November 2022 respectively, in which individuals are alleged to have been detained in unofficial places of detention for several days following suspicions of collaboration with the occupation authorities, in some cases without being able to contact their relatives and lawyers;

(d) Allegations of arbitrary detention of conscripts, including conscientious objectors, in military commissariats, sometimes incommunicado, with a view to ensuring their conscription;¹¹

(e) While noting the information that article 615 of the Criminal Procedure Code will be repealed following a decision by the Constitutional Court declaring part of it unconstitutional, the Committee remains concerned about its application given the risk of prolonged detention, uncontrolled arrests and lack of judicial surveillance in pretrial investigations (arts. 17 and 18).

52. The Committee recommends that the State party:

(a) **Ensure that persons deprived of their liberty are held solely in officially recognized and supervised places of deprivation of liberty at all stages of the proceedings;**

(b) **Guarantee that no one is held in secret detention, including by ensuring that all persons deprived of liberty, regardless of the place of deprivation of liberty and of the crime of which they are accused, are afforded all the fundamental legal safeguards provided for under article 17 of the Convention;**

(c) **Guarantee that all persons, from the outset of the deprivation of liberty and regardless of the offence with which they are charged, have effective access to a lawyer and can communicate without delay with their relatives or any other person of their choice and, in the case of foreign nationals, with their consular authorities, regardless of whether they are held in a location officially registered as a place of detention in the State party;**

(d) **Ensure that cases of arbitrary detention of conscripts¹² and during “filtration processes” are promptly, thoroughly and independently investigated, that alleged perpetrators are prosecuted and, if found responsible, appropriately punished, and that victims are provided with effective remedies;**

(e) **Ensure that article 615 of the Criminal Procedure Code is repealed.**

Registers of persons deprived of liberty

53. The Committee notes the information provided by the State party regarding the Unified Register of Convicts and Persons Taken into Custody, created in 2018, and the custody records information subsystem, used by 109 local units of the National Police. It also notes that the Ukrainian Parliament Commissioner for Human Rights, as the national preventive mechanism, is competent to conduct visits to places where persons are deprived of liberty. Nevertheless, the Committee is concerned about:

(a) The lack of information on the interoperability of registers of deprivation of liberty, and on registration procedures in other places of deprivation of liberty, such as military and immigration detention facilities and mental health institutions;

(b) The insufficient measures taken to ensure that registers are completed as soon as a person is deprived of liberty and are updated as necessary, in particular in facilities under the authority of the Security Service;

(c) Failures in registering the frequent transfers of detainees from one detention facility to another (arts. 17–20 and 22).

54. The Committee recommends that the State party:

(a) **Ensure the interoperability of existing and future registers of deprivation of liberty, guaranteeing that they all contain, as a minimum, the information required under article 17 (3) of the Convention and that all persons deprived of liberty are registered without exception and from the outset;**

¹¹ CCPR/C/UKR/CO/8, paras. 29 and 30.

¹² Ibid., para. 30.

(b) **Ensure that any person with a legitimate interest, such as a relative or a representative or counsel of a person deprived of liberty, has prompt access to all the information listed in article 18 (1) of the Convention;**

(c) **Guarantee that information in the register is filled out and updated promptly and accurately, including with regard to transfers, and is subject to periodic checks, and that, in the event of irregularities, the officers responsible are duly sanctioned.**

Training on the Convention

55. The Committee notes the information provided by the State party regarding training on international humanitarian law held between 2022 and 2024. It is concerned, however, that the State party did not specify the content of this training or the public agents for which it was intended. The Committee also regrets the absence of specific training on the Convention and on the offence of enforced disappearance, in accordance with article 23 of the Convention (art. 23).

56. **The Committee recommends that the State party ensure that all law enforcement and security personnel, civil or military, medical personnel, public officials 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, receive specific and regular training on the Convention and on the offence of enforced disappearance, with periodic evaluation of the impact of this training, in accordance with article 23 of the Convention.**

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

Definition of victim and rights to the truth and to receive reparation and prompt, fair and adequate compensation

57. The Committee notes the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine, established within the framework of the Council of Europe in 2023. It also notes the draft laws on compensation for victims of violent criminal offences and on amendments to the Code of Administrative Offences and the Criminal Procedure Code to ensure the mechanism for compensation for damages. Nonetheless, it is concerned that the definition of “victim” in national legislation, including in article 55 of the Criminal Procedure Code, is not in accordance with article 24 of the Convention, and that the right of all victims to have access to the truth is not specifically recognized in national legislation. The Committee also regrets:

(a) The absence of a comprehensive system of compensation and reparation under the responsibility of the State for all persons who have suffered direct harm as a result of enforced disappearance;

(b) The fact that, according to the information provided by the delegation, criminal proceedings are a more expeditious process for victims than a civil claim in order to have access to compensation;

(c) The lack of information about the number of victims of enforced disappearance who have received reparation,¹³ and as to whether there is a time limit for access for victims to compensation and/or reparation (art. 24).

58. **The Committee recommends that the State party:**

(a) **Adopt a definition of “victim” that is in accordance with the definition in article 24 (1) of the Convention;**

(b) **Recognize in national legislation the right of victims of enforced disappearance to know the truth, in accordance with article 24 (2) of the Convention;**

¹³ [A/HRC/42/40/Add.2](#), para. 56.

(c) **Ensure that any individual who has suffered harm as a direct result of enforced disappearance has access to a system of full and adequate reparation that complies with article 24 (4) and (5) of the Convention and other relevant international standards, that is applicable even if no criminal proceedings have been initiated and that is based on a differentiated approach, taking into account the gender perspective and the specific requirements of the victims.**

59. The Committee is concerned about the lack of clarity regarding the applicability of reconciliation agreements between the victim and the accused, pursuant to article 468 of the Criminal Procedure Code, to enforced disappearance, as such an agreement may result in impunity for the crime (art. 24).

60. **The Committee recommends that the State party review and remove any provision that, by exempting perpetrators of acts of enforced disappearance from prosecution or criminal penalties, may result in impunity for the crime.**

Legal situation of disappeared persons whose fate has not been clarified and that of their relatives

61. The Committee notes Law No. 2505-VIII on the legal status of persons missing under special circumstances and Law No. 2010-IX on social and legal protection of persons in respect of whom the fact of deprivation of personal freedom as a result of armed aggression against Ukraine has been established and their family members. However, the Committee is concerned about:

(a) The limited scope of protection under Law No. 2505-VIII, which applies to disappeared persons under “special circumstances” only, and under Law No. 2010-IX, which applies to “political prisoners” and civilian hostages only;

(b) The disconnection between the database of the Pension Fund and the Unified Register of Persons Missing under Special Circumstances, from which information is required for families to have access to the Pension Fund;

(c) Difficulties in access to the commission responsible for establishing the fact of deprivation of liberty under Law No. 2010-IX, including lack of transparency in the procedure, lack of justification in written refusals, insufficient allocation of aid and the fact that applicants cannot be heard;

(d) The lack of support for medical, psychological and rehabilitation assistance (art. 24).

62. **The Committee recommends that the State party ensure that the legal situation of disappeared persons whose fate or whereabouts has not been clarified and that of their relatives is regularized in accordance with article 24 (6) of the Convention, in fields such as social welfare, financial matters, family law and property rights. The Committee also encourages the State party:**

(a) **To consider extending the scope of protection under Law No. 2505-VIII on the legal status of persons missing under special circumstances and Law No. 2010-IX on social and legal protection of persons in respect of whom the fact of deprivation of personal freedom as a result of armed aggression against Ukraine has been established and their family members;**

(b) **To speed up the process of establishing an interconnection between the Pension Fund and the Unified Register of Persons Missing under Special Circumstances;**

(c) **To amend Law No. 2010-IX to require the commission responsible for establishing the fact of deprivation of liberty thereunder to justify its decisions, ensuring that applicants who so wish may be heard by the commission and considering increasing the aid allocated in line with inflation;**

(d) **To develop a programme for all victims of enforced disappearance, covering medical, psychological and rehabilitation assistance, in addition to financial support.**

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

Wrongful removal of children

63. The Committee is deeply concerned about allegations of the deportation or forcible transfer of children to the Russian Federation or temporarily occupied territories. According to the Children of War platform, 19,546 children have been illegally transferred or deported, including 1,940 disappeared children. In this connection, the Committee notes the measures taken by the State party to locate these children and to prosecute and punish those responsible, including criminal investigations. Nevertheless, it is concerned that domestic legislation does not include specific provisions penalizing the wrongful removal of children, as provided for in article 25 (1) of the Convention (art. 25).

64. **The Committee recommends that the State party incorporate all the acts described in article 25 (1) of the Convention into legislation as specific offences, establishing appropriate penalties that take account of the extreme seriousness of the offences. Furthermore, the Committee, in accordance with previous recommendations of the Committee on the Rights of the Child,¹⁴ calls upon the State party to strengthen its efforts, in cooperation with the international community, to search for and identify children who may have been victims of wrongful removal within the meaning of article 25 (1) (a) of the Convention and establish specific procedures for those children to be returned to their families of origin.**

Illegal intercountry adoption

65. The Committee is concerned by allegations of illegal intercountry adoption of children since 2014. While noting that the Family Code prescribes a judicial procedure for the annulment of adoption (art. 236) and for the revocation of adoption under specific conditions (art. 238), the Committee is concerned about the lack of a specific legal procedure for reviewing and, where appropriate, annulling any adoption, placement or guardianship of children that originated in enforced disappearance and for restoring a child's identity in this context (art. 25).

66. **Recalling the joint statement on illegal intercountry adoptions,¹⁵ the Committee recommends that the State party harmonize its Criminal Code with article 25 (4) of the Convention and establish specific procedures for reviewing and, where appropriate, annulling any adoption, placement or guardianship that originated in enforced disappearance and for restoring the true identity of the child concerned, taking into account the best interests of the child. Moreover, the Committee stresses that the State party should investigate and prosecute those involved in illegal adoption of children that may amount to enforced disappearance.**

D. Fulfilment of the rights and obligations under the Convention, dissemination and follow-up

67. The Committee wishes to recall the obligations undertaken by States when becoming parties to the Convention and, in this connection, urges the State party to ensure that all the measures that it adopts, irrespective of their nature or the authority from which they emanate, are in full accordance with the Convention and other relevant international instruments.

68. The Committee also wishes to emphasize the particularly cruel effect of enforced disappearance on women and children. Women who are subjected to enforced disappearance are particularly vulnerable to sexual and other forms of gender-based violence. Women who are relatives of a disappeared person are particularly likely to suffer serious social and economic disadvantages and to be subjected to violence, persecution and reprisal as a result of their efforts to locate their loved ones. Children who are victims of enforced disappearance, either because they themselves were

¹⁴ [CRC/C/UKR/CO/5-6](#), para. 27 (f).

¹⁵ [CED/C/9](#).

subjected to disappearance or because they suffer the consequences of the disappearance of their relatives, are especially vulnerable to numerous human rights violations, including identity substitution. In this context, the Committee places special emphasis on the need for the State party to ensure that gender issues and the specific requirements of women and children are systematically taken into account in implementing the recommendations contained in the present concluding observations and all the rights and obligations set out in the Convention.

69. The State party is encouraged to widely disseminate the Convention, its report submitted under article 29 (1) of the Convention, the written replies to the list of issues drawn up by the Committee and the present concluding observations, in order to raise awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the State party and the general public. The Committee also encourages the State party to promote the participation of civil society, in particular organizations of victims, in the process of implementing the recommendations contained in the present concluding observations.

70. Under article 29 (3) of the Convention, the Committee requests the State party to submit, by no later than 4 October 2028, specific and updated information on the implementation of all its recommendations and any other new information on the fulfilment of the obligations contained in the Convention. The Committee encourages the State party to consult civil society, in particular organizations of victims, when preparing this information. On the basis of this information, the Committee will determine whether to request additional information under article 29 (4) of the Convention.
