A/71/56

United Nations

Report of the Committee on Enforced Disappearances

Ninth session
(7-18 September 2015)

Tenth session
(7-18 March 2016)

General Assembly
Official Records
Seventy-first session
Supplement No. 56 (A/71/56)

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Note

Symbols of United Nations documents are composed of letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

Contents

Chapter I
Organizational and other matters

A. States parties to the Convention

1. As at 18 March 2016, the closing date of the tenth session of the Committee on Enforced Disappearances, there were 51 States parties and 95 signatory States to the International Convention for the Protection of All Persons from Enforced Disappearance, which was adopted by the General Assembly in its resolution 61/177 of 20 December 2006 and opened for signature and ratification on 6 February 2007. In accordance with its article 39 (1), the Convention entered into force on 23 December 2010.

2. The updated list of States parties to the Convention, as well as information on declarations made under articles 31 and 32 and reservations, is available from https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-16&chapter=4&clang=_en.

B. Meetings and sessions

3. The Committee held its ninth session at the United Nations Office at Geneva from 7 to 18 September 2015. It held 18 plenary meetings. The provisional agenda (CED/C/9/1) was adopted by the Committee at its 139th meeting. The ninth session of the Committee was opened by the United Nations High Commissioner for Human Rights.

4. In his opening statement, the High Commissioner expressed his admiration and support for the work achieved by the Committee since its establishment four years earlier. He reiterated that the Convention was still of urgent relevance, in particular given the complex landscape of brutal internal conflicts, transnational organized crime and humanitarian crises. He made reference to enforced disappearances occurring in the context of internal conflict, such as in Iraq and the Syrian Arab Republic, and to counter terrorism through secret detentions and extraordinary rendition. He stressed that such practices contravened articles 1 and 17 of the Convention.

5. The High Commissioner noted that the above-mentioned phenomena gave rise to new patterns of enforced disappearance, new perpetrators and new types of victims. Among the new perpetrators were non-State actors, including paramilitary groups, militias and organized criminal gangs such as Islamic State in Iraq and the Levant (ISIL). The High Commissioner emphasized that, regardless of the connivance of the State, States parties were responsible for investigating acts that were tantamount to enforced disappearance (see article 3 of the Convention). The High Commissioner noted that among the new victims were civilians and migrants. In respect of migrants, he reiterated his concern and growing alarm at the international community's failure to protect their rights. He added that migrants endured unbelievable suffering and were highly susceptible to suffering severe human rights violations, including enforced disappearance. The High Commissioner urged members of the Committee to make active use of article 16 of the Convention, which prohibits the expulsion, refoulement, surrender or extradition of persons, including migrants, at risk of enforced disappearance.

6. In closing, the High Commissioner emphasized that the Convention provided a strong foundation for meeting new challenges, which was why it was vital to continue to work towards its implementation. He praised the urgent action procedure under article 30 as a reflection of how innovative the Committee was. In relation to victims, he referred to their

continued reliance on the Committee and its mechanisms to help find loved ones who had disappeared. He noted that 63 urgent actions had been registered and that five persons had been located since the beginning of 2015. Of those persons, two had been found dead and three had been found in detention, including one who was released following the Committee's intervention. Finally, he praised and stressed the importance of all treaty body members strictly adhering to the guidelines on the independence and impartiality of members of the human rights treaty bodies (the Addis Ababa guidelines) in order for them to meet the high standards of independence and impartiality.

7. The Committee held its tenth session at the United Nations Office at Geneva from 7 to 18 March 2016. It held 20 plenary meetings. The provisional agenda (CED/C/10/1) was adopted by the Committee at its 157th meeting. The tenth session of the Committee was opened by the Chief of the Civil, Political, Economic, and Cultural Rights Section, Human Rights Treaty Division.

8. In his opening address, the Chief of the Civil, Political, Economic, and Cultural Rights Section noted that 2016 marked the tenth anniversary of the adoption of the Convention and the fiftieth anniversary of the adoption of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. He recalled the innovative and contemporary nature of the Convention, which addresses new forms of enforced disappearance, new perpetrators and new victims. He welcomed the initiative of Argentina, France, Japan and Morocco to organize a round table on the contemporary challenges relating to the Convention. He mentioned the decision of the General Assembly to hold a high-level plenary meeting on the tenth anniversary during its seventy-first session (see Assembly resolution 70/160). He recalled the evaluation of the functioning of the Committee by the Conference of States Parties in accordance with article 27 of the Convention. Lastly, he announced the ratification of the Convention by Italy on 8 October 2015, which brought the number of States parties to 51.

9. In his opening statement, the Chair of the Committee, Emmanuel Decaux, thanked the Office of the United Nations High Commissioner for Human Rights (OHCHR) for supporting the Committee.

10. He then noted the inexcusable delay in the submission of State party reports and called upon States parties to fulfil their obligation under article 29 (1) of the Convention to meet their deadlines. In addition, he encouraged them to make the declaration under articles 31 and 32 of the Convention recognizing the competence of the Committee to hear individual and inter-State communications. He mentioned the importance of the urgent action procedure under article 30 and the possibility of the Committee carrying out visits when it receives information of serious violations in application of article 33 of the Convention.

11. The Chair reiterated that General Assembly resolution 68/268 would continue to be implemented in 2016 and that it would be the object of the report of the Secretary-General on the status of the human rights treaty body system. In that respect, he insisted on the importance of the Addis Ababa guidelines and the Guidelines against Intimidation or Reprisals (the San José Guidelines), both of which were being applied by the Committee. He mentioned that, in the framework of further harmonizing methods of work, the Chairs of the human rights treaty bodies had endorsed, during their twenty-seventh annual meeting, inter alia, a common methodology for consultations for the elaboration of general comments. He also expressed concern about the lack of means at the Committee's disposal and called upon the Secretary-General to fulfil the obligation under article 26 (7) of the Convention.

12. The Chair recalled the decision taken by the General Assembly, in its resolution 70/160, to hold, during its seventy-first session, a high-level plenary meeting to

commemorate the tenth anniversary of the adoption of the Convention. He noted that the continuing support by the Assembly for the universal ratification of the Convention was very encouraging. He also noted the exceptional meeting held during the Committee's tenth session to commemorate the tenth anniversary of the adoption of the Convention; among the participants in that meeting were the Chair of the Human Rights Committee, the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, the Ambassadors of Argentina, France, Japan and Morocco, academics and civil society representatives.

13. The Chair concluded by recalling that the five years that had passed since the establishment of the Committee and the 10 years that had passed since the adoption of the Convention were not much in the long tragic history of enforced disappearance and that, also for that reason, the Committee must redouble its efforts.

C. Membership and attendance

14. The Committee was established in accordance with article 26 (1) of the Convention. Its first 10 members were elected by the Conference of States Parties on 31 May 2011.

15. A list of the current members of the Committee, indicating the duration of their terms of office, is contained in annex I.

16. At its ninth session, the Committee elected Mr. Decaux as Chair of the Committee and Santiago Corcuera Cabezut, Kimio Yakushiji and Suela Janina as Vice-Chairs. Juan José López Ortega was elected Rapporteur.

17. All members attended the ninth and tenth sessions of the Committee. Committee member Luciano Hazan attended the tenth session starting on 8 March 2016.

D. Decisions of the Committee

18. At its ninth session, the Committee decided, inter alia:

(a) To adopt the San José Guidelines;

(b) To send a letter to the Netherlands reminding it to provide information in follow-up to the concluding observations of the Committee;

(c) To adopt the lists of issues on Burkina Faso, Kazakhstan and Tunisia;

(d) To adopt the concluding observations on the reports submitted by Iraq and Montenegro under article 29 (1) of the Convention;

(e) To appoint the co-rapporteurs for the next report on follow-up to concluding observations;

(f) To appoint the country rapporteurs who will draft the lists of issues related to the reports of Bosnia and Herzegovina, Colombia, Cuba, Ecuador, Gabon and Senegal and who will lead the constructive dialogues with the States parties concerned;

(g) To adopt the informal report on its ninth session;

(h) To adopt the provisional agenda of its tenth session.

19. At its tenth session, the Committee decided, inter alia:

(a) That any draft document relating to its activities under the Convention and requiring discussion and adoption by the Committee — including any document related to: reporting (such as draft concluding observations, draft lists of issues and draft reports on

follow-up to concluding observations), urgent actions, individual and inter-State communications, country visits, the mechanism for addressing widespread or systematic enforced disappearances, legal interpretations (such as draft general comments and draft formal statements) and working methods and other matters (such as draft annual reports, draft rules of procedure and draft guidelines) — must be translated into the working languages of the Committee;

(b) To adopt the common methodology for consultations for the elaboration of general comments, as outlined in the report of the Chairs of the human rights treaty bodies on their twenty-seventh meeting (see A/70/302, paras. 91-92);

(c) To establish a working group charged with revising the rules of procedure, the guidelines on reporting for States parties and the internal guidelines based on the evolution of the jurisprudence in concluding observations;

(d) To send reminders to States parties that have not submitted a report within two years of the entry into force of the Convention as required by article 29 of the Convention;

(e) To adopt the lists of issues on Bosnia and Herzegovina and Colombia;

(f) To adopt the concluding observations on the reports submitted by Burkina Faso, Kazakhstan and Tunisia under article 29 (1) of the Convention;

(g) To appoint the country rapporteurs who will draft the lists of issues related to the reports of Albania and Lithuania and who will lead the constructive dialogues with the States parties concerned;

(h) To adopt its annual report to the General Assembly at its seventy-first session;

(i) To adopt the informal report on its tenth session;

(j) To adopt the provisional agenda of its eleventh session.

20. All decisions adopted by the Committee at its ninth and tenth sessions are contained in annex II.

E. Adoption of the annual report

21. At the end of its tenth session, the Committee adopted, in compliance with article 36 (1) of the Convention, its fifth report to the General Assembly, on its ninth and tenth sessions.

F. Press releases

22. On 28 August 2015, the Committee issued a press release jointly with the Working Group on Enforced or Involuntary Disappearances. The two bodies urged Governments to establish and activate protocols for the immediate search of disappeared persons around the world and to guarantee full protection against all forms of reprisal. The Committee on

Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances encouraged the use of their respective urgent action procedures.[1]

23. On 21 March 2016, the Committee issued a press release to publicize its decision on the merits of the first individual communication received (No. 1/2013, *Yrusta v. Argentina*).[2]

[1] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16356&LangID=E.
[2] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=18494&LangID=E.

Chapter II
Methods of work

24. During its ninth and tenth sessions, the Committee used English, French and Spanish as working languages and Arabic when necessary.

25. During its ninth session, the Committee discussed the following issues:

(a) Methods of work related to articles 30-34 of the Convention;

(b) Interaction with stakeholders;

(c) Strategy for ratification and other matters.

26. During its tenth session, the Committee discussed the following issues:

(a) Methods of work related to articles 30-34 of the Convention;

(b) Interaction with stakeholders;

(c) Strategy to elicit the submission of overdue reports;

(d) Strategy for increasing the number of ratifications and other matters.

Chapter III
Commemoration of the tenth anniversary of the adoption of the Convention

27. On 11 March 2016, the Committee, together with Argentina, France, Japan and Morocco and in collaboration with OHCHR, organized an event entitled “Contemporary challenges” to commemorate the tenth anniversary of the adoption of the Convention.

28. The Committee expresses its gratitude to all participants: the Permanent Representative of Argentina, Alberto Pedro D’Alotto; the Permanent Representative of France, Elisabeth Laurin; the Permanent Representative of Japan, Junichi Ihara; the Permanent Representative of Morocco, Mohamed Auajjar; the Honorary Public Prosecutor at the Court of Cassation of France, Louis Joinet; the Director of the OHCHR Human Rights Treaty Division, Ibrahim Salama; the Chair of the Human Rights Committee, Fabian Omar Salvioli; the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, Houria es-Slami; Professor of Public International Law at the Graduate Institute of International and Development Studies Andrew Clapham; the Chair of the International Coalition against Enforced Disappearances, Mary Aileen Bacalso; the representative of the International Commission of Jurists, Federico Andreu; the representative of the International Federation for Human Rights to the United Nations Office at Geneva, Nicolas Agostini; and Amnesty International Legal Counsellor Solomon Sacco.

29. Participants paid tribute to all the families who had suffered unspeakable pain in the search for their loved ones and who had, in spite of that, managed to campaign for the hundreds of thousands disappeared persons by founding associations, internationally recognized organizations and movements. They all welcomed the participation of Louis Joinet because of the important role he had played for many years. They also remembered the Chair of the intersessional open-ended working group to elaborate a draft legally binding normative instrument for the protection of all persons from enforced disappearance, Bernard Kassedjian, for his resoluteness and diplomatic skills, which had made it possible to draft the Convention in less than four years.

30. The commemoration was organized around two panels, the first of which focused on the unique and innovative nature of the Convention and the second of which focused on the rights of victims and their status under the Convention.

31. During the first panel, speakers highlighted the innovations and specificities of the Convention. It was noted that cases of enforced disappearance raised specific challenges that must be properly addressed. Treaty bodies needed to take into account the continuous nature of the crime, which ended only when the disappeared persons or their remains were found. The panellists noted that, even after the offence had ceased, it should be investigated, prosecuted and punished. They highlighted that contemporary forms of enforced disappearance, such as secret detention, were already prohibited under the Convention. With regard to the offence itself, there was no temporal element required for its existence. Finally, when a case of enforced disappearance was brought before the treaty bodies, a comprehensive assessment of the matter should be carried out, whether or not the complainant mentioned the relevant provisions of the Convention; moreover, such an assessment must be carried out in conjunction with a flexible assessment of the evidence, including circumstantial and contextual evidence.

32. Participants in the second panel pointed out that the definition of the term “victims” in article 24 was one of the most innovative features of the Convention. In line with that provision, a victim is a “disappeared person and any individual who has suffered harm as the direct result of an enforced disappearance”. In the Convention, the rights of victims are

addressed in a holistic manner. Victims have the right to know the truth regarding the circumstances of the disappearance and the progress and results of the investigation; victims have the right to obtain reparation and prompt, fair and adequate compensation. Reparation must cover material and moral damages and include restitution, rehabilitation, satisfaction and a guarantee of non-repetition. States must protect all those affected by an enforced disappearance, take steps to define the legal situation of disappeared persons and their family and guarantee the right to form associations seeking to gain clarification in relation to cases of enforced disappearance. In that respect, it is essential that the Convention be disseminated among States and individuals in order to achieve its concrete application.

33. Universal ratification of the Convention and the timely submission of reports by States parties to the Committee were identified as the main challenges to be addressed in the years ahead. The event was an occasion to recall the contemporary value of the Convention in a world where, sadly, enforced disappearance remains a reality.

Chapter IV
Relations with stakeholders

A. Meeting with Member States

34. On 17 September 2015, the Committee held a public meeting with Member States that was attended by the representatives of 11 States: Argentina, Colombia, Ecuador, Guatemala, Iraq, Mexico, Peru, Saudi Arabia, Spain, Switzerland and Ukraine. The representatives of Argentina and Spain thanked the Committee for its work and underscored the usefulness of engaging in a dialogue with Member States outside the review of country reports. The synergy between the Committee and the Working Group on Enforced or Involuntary Disappearances was discussed, as well as how the Committee was addressing the issue of reprisals through the adoption of the San José Guidelines. The Committee thanked the Member States for their efforts but urged them to encourage other States to ratify the Convention and to recognize the Committee's competence to receive individual and inter-State communications pursuant to articles 31 and 32 of the Convention. The Chair reiterated that the effective functioning of the Committee depended on the timely submission of reports and urged States parties to accelerate the submission of reports to prevent a backlog. The Chair thanked the Member States for their participation and cooperation.

B. Meeting with the Working Group on Enforced or Involuntary Disappearances

35. On 15 September 2015, the Committee held its fourth annual meeting with the Working Group on Enforced or Involuntary Disappearances. During the meeting, the new members of the Working Group and the Committee were introduced. Information was exchanged on activities carried out since the previous meeting, including on visits carried out or being planned. In addition, consultations were held on possible general comments and a discussion took place on procedures for searching for disappeared persons and on common initiatives.

36. The Committee and the Working Group identified the following common areas of thematic interest: non-State actors and attacks and reprisals against human rights defenders, in compliance with the San José Guidelines. The Committee highlighted other key areas of thematic interest, including the contentiousness of imposing the death penalty for the crime of enforced disappearance. The Working Group highlighted the key issue of enforced disappearances in the context of migrations.

37. The Committee and the Working Group met with two experts from the Interdisciplinary Group of Independent Experts of the Inter-American Commission on Human Rights, which had written a report on the disappearance of 43 students in Ayotzinapa, Mexico, on 26 September 2014. The experts explained the methodology they used in preparing the report, emphasizing that much of their work depended on gaining the trust of victims. They stated that the continued support of the Committee had been vital and that the Convention was essential as the basis for any legislative reform concerning enforced disappearances in Mexico.

38. Finally, the Committee and the Working Group met with the President of the non-governmental organization (NGO) Abuelas de Plaza de Mayo, Estela de Carlotto, who spoke of the fight she had been engaged in since the 1980s to find the children who had been disappeared by the military dictatorship in Argentina. The Committee and the

Working Group expressed their profound admiration and gratitude for her ongoing fight and search for loved ones, which inspired them to continue their work.

C. Meeting with other United Nations human rights mechanisms and intergovernmental organizations

39. During the reporting period and in compliance with article 28 of the Convention, the Committee cooperated with relevant organs, funds of the United Nations, treaty bodies and special procedures of the Human Rights Council working towards the protection of all persons against enforced disappearances.

40. On 8 September 2015, the Committee met in a private session with the Committee on Migrant Workers. The Committees engaged in a thematic discussion, facilitated by the Geneva Academy on Human Rights and Humanitarian Law, on the topic of migration and enforced disappearances.

41. On 11 March 2016, the Chair of the Human Rights Committee and the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances participated in the panel entitled "Contemporary challenges" organized by the Committee on Enforced Disappearances, Argentina, France, Japan and Morocco to commemorate the tenth anniversary of the adoption of the Convention.

D. Meeting with national human rights institutions

42. On 17 September 2015, the Committee held a public meeting with representatives of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights and the National Human Rights Council of Morocco. The representative of the International Coordinating Committee underlined the importance of the close cooperation between the Committee and national human rights institutions. Referring to the document on the relationship of the Committee with national human rights institutions (CED/C/6), the representative of the International Coordinating Committee identified main areas of work to facilitate the broad ratification and implementation of the Convention. The activities of national human rights institutions, including from Afghanistan, Denmark, South Africa and Thailand, and their efforts to encourage the signature, adoption and ratification of the Convention, were noted. National human rights institutions made efforts to support the State in its reporting activities, and engaged increasingly with the Committee. Concerning strengthening the capacity of national human rights institutions, the Committee underscored the need for such institutions to demonstrate flexibility and move the focus beyond those with an A rating, as regional committees too could provide invaluable contributions. The Committee and national human rights institutions agreed that they would continue to support each other, in particular in relation to the follow-up reporting procedures.

43. On 11 March 2016, the representative of the International Coordinating Committee participated in the panel entitled "Contemporary challenges" organized to commemorate the tenth anniversary of the adoption of the Convention.

E. Meeting with non-governmental organizations and associations of victims

44. On 17 September 2015, the Committee held a public meeting with NGOs and civil society representatives, including the representative of the Committee of Relatives of Missing Migrants from Honduras, who delivered a presentation on behalf of NGOs in

Central America. In the presentation, the representative raised the issue of migrants subjected to enforced disappearance and spoke of a son who had disappeared while migrating from Honduras to the United States of America and whose body was found among the victims of a massacre that took place in Cadereyta, Mexico, in May 2012; the representative appealed to the Committee for support. In particular, NGOs sought clarification on how the Convention could be better applied to protect migrants and refugees, who constituted a particularly vulnerable group. The Committee reiterated the importance of receiving the information from national human rights institutions and NGOs and stated they would use that information in their work.

45. On 11 March 2016, representatives of the Asian Federation against Involuntary Disappearances, Amnesty International, the International Federation for Human Rights, the International Coalition against Enforced Disappearances and the International Commission of Jurists participated in the panel entitled “Contemporary challenges” organized to commemorate the tenth anniversary of the adoption of the Convention.

Chapter V
Consideration of reports submitted by States parties under article 29 of the Convention

46. At its ninth session, the Committee considered the reports of Iraq (CED/C/IRQ/1) and Montenegro (CED/C/MNE/1) and adopted concluding observations on those reports (see CED/C/IRQ/CO/1 and CED/C/MNE/CO/1).

47. At its tenth session, the Committee considered the reports of Burkina Faso (CED/C/BFA/1), Kazakhstan (CED/C/KAZ/1) and Tunisia (CED/C/TUN/1) and adopted concluding observations on those reports (see CED/C/BFA/CO/1, CED/C/KAZ/CO/1 and CED/C/TUN/CO/1).

Chapter VI
Adoption of the report on follow-up to concluding observations

48. At its ninth session, the Committee adopted its report on follow-up to concluding observations (CED/C/9/2), which reflected the information received by the Committee between its seventh and ninth sessions concerning the status of implementation of its concluding observations on Argentina (CED/C/ARG/CO/1/Add.1), Germany (CED/C/DEU/CO/1/Add.1) and Spain (CED/C/ESP/CO/1/Add.1), and the evaluations and decisions it adopted at its ninth session.

49. The Netherlands did not submit, by the deadline of 28 March 2015, information in response to the selected recommendations made by the Committee in its concluding observations (CED/C/NLD/CO/1). Consequently, the Committee decided to send a reminder to the State party. The information was received on 16 December 2015 and will therefore be included in the next report on follow-up to concluding observations.

Chapter VII
Adoption of lists of issues

50. At its ninth session, the Committee adopted the lists of issues on Burkina Faso (CED/C/BFA/Q/1), Kazakhstan (CED/C/KAZ/Q/1) and Tunisia (CED/C/TUN/Q/1).

51. At its tenth session, the Committee adopted the lists of issues on Bosnia and Herzegovina (CED/C/BIH/Q/1) and Colombia (CED/C/COL/Q/1).

Chapter VIII
Exchanges with States parties

52. At its tenth session, the Committee expressed its gratitude to the States parties that had submitted their reports within the specified time period. The Committee was deeply concerned, however, by the number of reports of States parties that were overdue, in other words that had not been submitted within two years of ratification, in accordance with article 29 of the Convention. The Committee expressed concern about the fact that the reports of Bolivia (Plurinational State of), Brazil, Chile, Japan, Mali and Nigeria had not yet been submitted, notwithstanding the fact that those States parties had been among the first to ratify the Convention. The Committee noted that the reports of Austria, Cambodia, Costa Rica, Mauritania, Morocco, Panama, Peru, Samoa and Zambia were significantly overdue. The Committee reiterated that the efficient functioning of the Committee depended on the timely submission of reports and urged States parties to respect their legal obligation to submit reports on time.

53. At its tenth session, the Committee decided to send a reminder to those States that had not presented their reports within two years of the entry into force of the Convention. A first reminder was sent to Cambodia and Morocco. A second reminder was sent to Austria, Mauritania, Peru and Samoa. A third reminder was sent to Costa Rica. A fourth reminder was sent to Bolivia (Plurinational State of), Brazil, Chile, Japan, Mali, Nigeria, Panama and Zambia.

Chapter IX
Reprisals

54. At its ninth session, the Committee adopted the San José Guidelines.

55. On 29 September 2015, the Rapporteur on reprisals addressed a letter to the Permanent Mission of Iraq to the United Nations Office and other international organizations in Geneva concerning allegations received regarding acts of intimidation against Salam al-Hashemi, who sought to provide information to the Committee during its review of the report of Iraq at its ninth session. On 7 September 2015, Mr. Al-Hashemi was prevented from passing through the checkpoint in Baghdad providing access to the roads that lead to the Green Zone, where staff of the United Nations Assistance Mission for Iraq were waiting for him with a view to enabling him to communicate by videolink with the Committee. On 10 September 2015, Mr. Al-Hashemi was allegedly subjected to acts of intimidation by two individuals who said they belonged to the Presidential Regiment.

56. On 28 January 2016, the Rapporteur on intimidation or reprisals addressed a letter to the Permanent Mission of Iraq concerning allegations that an arrest warrant had been issued against Mr. Al-Hashemi on 22 December 2015 by the director of the counter-terrorism forces. According to the allegations, the arrest warrant issued against Mr. Al-Hashemi, on charges of terrorism, may be related to his involvement in the search for disappeared persons and his requests for urgent action received by the Committee.

57. On 29 January 2016, the Permanent Mission of Iraq replied by note verbale, in which it referred to a previous note verbale, dated 22 December 2015, which conveyed the request by the competent authorities in Iraq for the Committee to provide the full name (fourth and tribe names included) and the mother's full name (fourth name included), as well as a clean copy of the identification documents of all individuals mentioned in the correspondence of the Committee, in order to complete the inquiries.

58. On 10 March 2016, the Committee forwarded to Iraq the information requested.

Chapter X
Urgent action procedure under article 30 of the Convention

A. Requests for urgent action received and registered since the establishment of the Committee

59. Since its establishment, the Committee has received 344 requests for urgent action, including 232 during the period covered by the present report (14 February 2015 to 18 March 2016). Of the 344 requests, 293 have been registered, including 1 related to events in Brazil, 1 to events in Cambodia, 6 to events in Colombia, 51 to events in Iraq and 234 to events in Mexico (the complete list of registered urgent actions is available from http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCED%2fJUR%2f10%2f25096&Lang=en).

60. Consequently, at the time of adoption of the report, the Committee had registered a total of 293 requests for urgent action. Their distribution, by year and by country, is shown in table 1.

Table 1
Urgent action requests registered, by year and by country, as at 18 March 2016

Year	*Brazil*	*Cambodia*	*Colombia*	*Iraq*	*Mexico*	***Total***
2012	-	-	-	-	5	**5**
2013	-	-	1	-	5	**6**
2014	1	1	1	5	43	**51**
2015	-	-	3	42	168	**213**
2016	-	-	1	4	13	**18**
Total	**1**	**1**	**6**	**51**	**234**	**293**

B. Procedure followed in accordance with article 30 of the Convention and rules 58 to 64 of the Committee's rules of procedure

61. The procedure for dealing with requests for urgent action submitted under article 30 of the Convention is as follows:

(a) Reception of the request by the secretariat of the Committee;

(b) Review of the request by the secretariat to ensure that it meets the basic requirements for registration. If it does not (if, for example, the person on whose behalf the request is submitted has reappeared), a letter is sent to the author explaining that the case falls outside the Committee's remit under article 30 of the Convention. If the request refers to events in a State that is not a party to the Convention, the author will be informed that he/she can submit the request to the Working Group on Enforced or Involuntary Disappearances and a copy of the request will be forwarded to the secretariat of the Working Group. If there is insufficient information in the request, a letter is sent to the author inviting them to provide the missing information;

(c) Transmission of the completed request for urgent action to the rapporteurs;

(d) Dispatch of the note verbale to the State party: the State party is usually asked to send its observations to the Committee within two weeks. If the State party does

not reply on time, a reminder is sent. After three reminders, the State party is invited to meet with the rapporteurs at the next session of the Committee, or else with the secretariat processing the request, with a view to reminding it of its obligations under article 30 of the Convention and analysing the problems encountered in respect of the request in question;

(e) Dispatch of a letter from the secretariat to the authors to inform them of the registration of the request and the Committee's recommendations to the State party;

(f) Reception of the State party's observations, which are forwarded to the authors for comment;

(g) Reception of the authors' comments on the State party's observations, analysis of the information collected and drafting of a new letter to the State party listing the Committee's concerns and recommendations, with a request for additional information on measures taken in response to these recommendations (and possibly a request for interim measures). In general, the State party is given three weeks to respond. If the State party's observations are not received within three weeks, a reminder is sent;

(h) Dispatch of a letter to the author informing them about the content of the letter sent to the State party;

(i) Reception of the State party's reply, which is forwarded to the author for comment. Upon receipt of the author's comments, a new note verbale is sent to the State party, highlighting the Committee's concerns and recommendations with regard to the search for the disappeared person;

(j) In accordance with article 30 (4) of the Convention, requests for urgent action remain open "for as long as the fate of the person sought remains unresolved".

C. Criteria for registration of requests for urgent action

62. General rule: requests for urgent action are systematically analysed in the light of article 30 (1) and (2) of the Convention. Each request is also immediately checked to ensure it contains the minimum information needed by the State party to identify the disappeared person. Authors are therefore required to include:

(a) Full name, date of birth and, if possible, a number that can be used to identify the disappeared person (e.g. identity card or driving licence number);

(b) Date of alleged disappearance;

(c) Place and circumstances of the alleged disappearance, including alleged perpetrators;

(d) Action taken to report the alleged disappearance to the authorities of the State in which the disappearance took place, or the reasons for not reporting it.

D. Requests submitted since the ninth session that failed to meet the registration criteria

63. Most of the requests for urgent action met the admissibility criteria when first submitted. However, 48 of the requests submitted were found not to meet these criteria and could not be registered for the reasons listed in table 2.

64. In every case that could not be registered, a letter was sent to the authors explaining what information was missing. This information was duly provided in 15 of the requests, which could then be registered. Those cases that fall within the remit of the Working Group

on Enforced or Involuntary Disappearances were duly transmitted to the secretariat of the Working Group.

Table 2
Urgent action requests that were not registered since the establishment of the Committee[a]

Reason for not registering request	*State party*	*Number of requests not registered for this reason*
Events took place before the Convention entered into force for the State party	Mexico	3
	Morocco	2
Insufficient information provided (e.g. date of disappearance not given, incomplete name of victim, lack of information on complaints submitted to national authorities)	Mexico	41[b]
	Cuba	1
Request inadmissible *ratione materiae* under article 30 of the Convention	Cuba	1[c]
Request already registered by the Working Group on Enforced or Involuntary Disappearances	Peru	1
	Plurinational State of Bolivia	1
Request clearly falls within remit of Working Group on Enforced or Involuntary Disappearances	Tunisia	2
	Egypt	1
	Greece	1
	Jordan	1
	Pakistan	2
	Rwanda	1
	Sri Lanka	2
	Syrian Arab Republic	1
	Ukraine	1
	United Arab Emirates	1
Total		**63**

[a] As at 18 March 2016.

[b] In 13 of these cases, the authors were able to supply the additional information requested and the requests for urgent action could be registered.

[c] The author claimed that he was “disappeared” for one day, but was “back again”.

E. Main challenges related to the criteria for registering urgent action requests since the ninth session

1. Urgent action requests registered on the basis of the contextual information supplied

65. On 9 September 2015, the Committee received 147 requests for urgent action related to disappearances that had occurred between 2009 and 2014 in six municipalities in the Mexican State of Guerrero. Those requests related to events that had taken place before the Convention entered into force for the State party were set aside. Given that there were no witnesses to most of the disappearances, the requests contained very little information on the facts in the cases submitted. However, the requests did contain very detailed information on the context in which the events took place, so that the State party was required to search for the disappeared persons in accordance with its obligations under the Convention. In view of this, 116 of the requests submitted were registered, classed by year of occurrence. The note verbale sent to the State party stressed that, taking into account the difficulty that families and relatives had in gaining access to detailed information on the circumstances of the disappearances as there were no witnesses to most of them, the events described were analysed in the light of the context in which they took place.

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

66. In some cases, the authors of the requests did not initially provide clear information on the steps taken to bring the case to the attention of the national authorities, as in the following cases:

(a) Example 1: the initial request did not include information on the steps taken to present the case to the competent bodies of the State party concerned, such as those authorized to undertake investigations, where such a possibility exists, in accordance with article 30 (2) of the Convention. Upon clarification of the steps taken, the request could be registered;

(b) Example 2: the authors said that the disappeared person's wife had reported her husband's disappearance but had taken no further action for fear of reprisals. The authors were asked to clarify the reasons for this fear. In the light of the information provided, the request was registered.

F. Interim measures granted

67. In most requests for urgent action, the authors ask for interim measures when they submit the initial request or in subsequent correspondence with the Committee. Three types of interim measure can be identified:

(a) Protection from threats for the authors of the request and for members of the disappeared person's family;

(b) Protection for the authors of the request or other individuals in the course of their search;

(c) Protection of mass graves and other evidence.

68. Since the establishment of the Committee, 83 interim measures have been granted in the context of the urgent action procedure to victims' families or representatives. The States parties concerned have also been asked to protect mass graves and evidence in connection with 11 registered requests for urgent action (see table 4).

G. The process after registration of urgent action requests: developments since the ninth session

1. Response from States parties

69. In the vast majority of registered cases, the States parties concerned have responded to the urgent action requests. In 15 cases, however, their replies did not contain relevant information and in 73 cases no reply had been received at the time of adoption of the report (see table 3).

Table 3
Response to urgent action requests since the establishment of the Committee

State party	*Requests registered*	*No response*	*Replies giving no information on the case*
Brazil	1	-	1
Cambodia	1	-	1
Colombia	6	-	-
Iraq	51	26	13
Mexico	234	47	0
Total	**293**	**73**	**15**

70. The Committee is concerned about two kinds of situation where the replies did not contain relevant information:

(a) Request by the State party for additional information that is difficult or impossible to get: the State party asked the Committee to provide the four names of the disappeared person, the mother's full name and a "good-quality" copy of the person's identity papers. The State party also asked the Committee to systematically send such information in any future requests for urgent action. After consultations with the authors of the urgent action requests in question on the possibility of obtaining this information, the State party's notes verbales were forwarded to the authors. In every case where the information was received, it was passed on to the State party, noting that the availability of the information requested could not be considered a prerequisite for registering the request for urgent action;

(b) Reply that does not provide the information: the State party replied: "there is no recent reference to the cases in question in the database of the Ministry". The Committee sent a note verbale to the State party expressing its deep concern that, according to the information provided, the search for the disappeared person had been limited to checking the database of one of the competent ministries. The Committee noted that such checking was necessary but could not be considered sufficient in the light of the State party's obligations under the Convention. In that connection, the Committee reminded the State party that, under article 12 of the Convention, each State party had to ensure that any individual who alleges that a person has been subjected to enforced disappearance has the right to report the facts to the competent authorities, which must examine the allegation promptly and impartially and, where necessary, undertake without delay a thorough and impartial investigation. Where there are reasonable grounds for believing that a person has been subjected to enforced disappearance, the authorities must undertake an investigation, even if there has been no formal complaint. The Committee also requested the State party to take all steps necessary to draw up and implement an investigation strategy to search for and locate the disappeared person.

2. Implementation of the Committee's recommendations

71. It is not possible to determine the precise extent to which the Committee's recommendations have been implemented. The secretariat's contacts in the States parties concerned have reported that registering urgent action requests has had a positive impact in the cases reported, as demonstrated by the practical action taken by the authorities of the State party in question.

72. However, the Committee considers that the impact of the requests for urgent action could be improved through the systematic transmittal of the information on the requests to the authorities in charge of the search and investigation. As per the established practice, exchanges with the State party pass through the permanent missions, which relay the requests and related correspondence to the ministries of the interior of the States parties. In almost every case of a registered urgent action request, the Committee has been informed by the authors of the request that the bodies in charge of the search for the disappeared person and the investigation into their disappearance have not been informed about the urgent action request filed in the case for which they were responsible. In the majority of those cases, the authors of the requests have forwarded the information in their possession to the relevant authorities, who found the Committee's recommendations very relevant to their own work:

(a) Action taken: the notes verbales sent to States parties include a request that the authorities involved in the investigations into the case in question be duly informed about the urgent action initiated by the Committee, as well as about the requests and recommendations transmitted to the State party, in accordance with article 30 (3) of the Convention;

(b) In view of the above, the Committee decided to propose the adoption of a mechanism of coordination, in parallel with diplomatic channels, through the identification of a point of contact in the capital and in general local authorities of interested States parties to have a more efficient channel of communication with the authorities in charge of the relevant cases.

3. Implementation of the interim measures granted

73. The implementation of interim measures has been variable, as reflected in table 4.

Table 4
Implementation of interim measures since the establishment of the Committee

Type of interim measure granted	*Country*	*Number of interim measures granted*	*Interim measures implemented*
Protection against threats for authors of urgent action requests and/or members of the disappeared person's family	Mexico	Two (mothers of two disappeared persons)	No
	Mexico	Two (members of the disappeared persons' families)	Yes
	Mexico	One (mother of the disappeared person)	Yes
	Colombia	Five (family members threatened)	Yes

Type of interim measure granted	*Country*	*Number of interim measures granted*	*Interim measures implemented*
	Mexico	Three (family members threatened)	No
	Mexico	Six (family members)	No
	Mexico	Nineteen (family members of the disappeared persons)	Under way
	Mexico	Four (family members of the disappeared person)	Under way
Protection of the authors of the urgent action request or other persons in the course of the search	Mexico	Two (mothers of two disappeared persons)	Under way
	Mexico	Thirty-nine (members of the disappeared persons' families taking part in the search)	Under way
Protection of mass graves and other evidence	Mexico	Places identified as possible locations of mass graves or human remains of relevance to the case in question	Under way
	Mexico	Three mass graves located in the area where the events took place	Protection measures adopted for grave where exhumation has already been carried out; repeated request for protection of the other two graves
		Bodies found in one of the graves	No

74. As regards the urgent action requests for which the interim measures granted have not been implemented, three situations can be distinguished:

(a) The authorities in charge of the case at the local level have not received the Committee's request for interim measures and are taking no action to protect the individuals in need of protection:

(i) Example: the authors of the requests say they have not received the protection of the State party's authorities and reiterate their request for interim measures;

(ii) In its subsequent note verbale to the State party, the Committee repeated its request for interim measures and requested the State party to ensure that the authorities involved in the investigations into the cases in question were duly informed about the urgent actions initiated, as well as about the requests and recommendations transmitted to the State party, in accordance with article 30 (3) of the Convention;

(b) The State party considers the protection measures and support requested to be inappropriate. A note verbale was sent to the State party reiterating the Committee's request for support for the victims;

(c) The State party tells the Committee or the victims that the interim measures granted by the Committee are not binding. A note verbale was sent to the State party recalling that, under the principles of international law, accession to the Convention requires the State party to cooperate in good faith with the Committee, with a view to taking all necessary measures, including interim measures, to locate and protect the disappeared person and to guarantee the protection of the informant, the witnesses, the relatives of the disappeared person and their counsel, as well as others involved in the investigation, against any ill-treatment or intimidation on account of the complaint submitted or any statement made (Convention, arts. 30 (3) and 12 (1) and (4)).

H. Interaction with the authors of urgent action requests

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

76. Several authors have highlighted the importance of having the support of the Committee, in which they have finally found a listener after having no success with the national authorities.

77. In these exchanges, the authors also reveal their despair at the lack of progress in the search for the disappeared persons and in the related investigations. In such cases, many ask for the Committee's help in their efforts to obtain institutional support in their day-to-day lives. The secretariat responds to all such requests, while clarifying the limits of the Committee's mandate. On two occasions, the authors of the requests were put in contact with the OHCHR offices on the ground and, after prior consultations, with an NGO supporting the victims of enforced disappearance.

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

I. States parties' understanding of their obligations under the Convention

1. Confusion between the search for the person and the investigation of the crime

79. In their replies, States parties often confuse the search for the person and the investigation of the crime. In such cases, the Committee has sent a note verbale recommending that the State party: (a) draw up and implement a plan and strategy for the search for the victims, taking account of the Committee's recommendations as set out in the note verbale; and (b) draw up an investigation scenario, being careful not to confuse efforts to determine the fate and whereabouts of the victims and the investigation into the crime.

2. Lack of due diligence in the investigation and ignorance of how to investigate an enforced disappearance

80. The vast majority of replies from States parties reveal worrying shortcomings in the way that investigations are carried out. The Committee has observed inadequate or incomplete search mechanisms, as well as shortcomings in the actual investigations.

81. In such cases, the Committee has sent a note verbale to the State party flagging the shortcomings in the search and investigation mechanisms and recommending that they be improved and that the available information be taken into account in a strategic effort to locate the disappeared person.

J. Suspended or closed urgent action requests

82. The Committee has not suspended or closed any of the urgent action requests registered since the ninth session. This means that, at the time of writing, the Committee has suspended, in accordance with its criteria, two urgent actions and closed one.

83. The applicable criteria (agreed by the Committee in a plenary meeting at its eighth session) are as follows:

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

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

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

Chapter XI
Communication procedure under article 31 of the Convention

85. On 20 September 2013, the Committee registered its first communication under article 31 of the Convention and initiated the corresponding procedure (see CED/C/10/D/1/2013). At the ninth session, the Special Rapporteur presented the status of the communications submitted to the Committee. At its tenth session, the Committee examined communication No. 1/2013 (*Yrusta v. Argentina*) on the merits. It concerned Roberto Yrusta, a prisoner in Argentina, whose family was denied any information about his whereabouts for a period of around seven days, during which he was moved from a prison in Cordoba to one in Santa Fe Province. The Committee found that Mr. Yrusta had indeed been subjected to enforced disappearance as he could not communicate with his family, nor consult a lawyer, and as the authorities concealed or refused to acknowledge whether he had been transferred despite repeated requests from his relatives. In its decision, the Committee reaffirmed that there was no temporal element for an enforced disappearance and that a secret detention could take place also in an official prison, for example when the authorities do not provide information about the detainee.

Chapter XII
Visits under article 33 of the Convention

86. On 17 March 2016, the Committee, recalling the previous exchange of correspondence with Mexico, which had started in May 2013, decided to reiterate the request it first made in 2014 to visit the State party in the framework of article 33 (1) of the Convention. The Committee proposed visiting Mexico in January, February or April 2017 and asked the State party to reply by 1 July 2016 in order to proceed with the administrative arrangements for the visit.

Annex I

Membership of the Committee on Enforced Disappearances and terms of office as at 18 March 2016

Name of member	*State party*	*Term of office expires*
Mohammed **al-Obaidi**	Iraq	30 June 2017
Santiago **Corcuera Cabezut**	Mexico	30 June 2017
Emmanuel **Decaux**	France	30 June 2019
Maria Clara **Galvis Patiño**	Colombia	30 June 2019
Daniel Figallo **Rivadeneyr**a	Peru	30 June 2019
Luciano **Hazan**	Argentina	30 June 2017
Rainer **Huhle**	Germany	30 June 2019
Suela **Janina**	Albania	30 June 2019
Juan José **López Ortega**	Spain	30 June 2017
Kimio **Yakushiji**	Japan	30 June 2017

Annex II

Decisions adopted by the Committee on Enforced Disappearances at its ninth and tenth sessions

A. Decisions adopted by the Committee during its ninth session

9/I. The Committee decides to adopt the Guidelines against Intimidation or Reprisals (the San José Guidelines).

9/II. The Committee decides to send a letter to the Netherlands reminding it to provide information in follow-up to the concluding observations of the Committee.

9/III. The Committee decides to adopt the lists of issues on Burkina Faso, Kazakhstan and Tunisia.

9/IV. The Committee decides to adopt the concluding observations on the reports submitted by Iraq and Montenegro under article 29 (1) of the Convention.

9/V. The Committee decides to appoint the co-rapporteurs for the next report on follow-up to concluding observations.

9/VI. The Committee decides to appoint the country rapporteurs who will draft the lists of issues related to the reports of Bosnia and Herzegovina, Colombia, Cuba, Ecuador, Gabon and Senegal and who will lead the constructive dialogues with the States parties concerned.

9/VII. The Committee decides to adopt the informal report on its ninth session.

9/VIII. The Committee decides to adopt the provisional agenda of its tenth session.

B. Decisions adopted by the Committee during its tenth session

10/I. The Committee decides that any draft document relating to its activities under the Convention and requiring discussion and adoption by the Committee — including any document related to: reporting (such as draft concluding observations, draft lists of issues and draft reports on follow-up to concluding observations), urgent actions, individual and inter-State communications, country visits, the mechanism to address widespread or systematic enforced disappearances, legal interpretations (such as draft general comments and draft formal statements) and working methods and other matters (such as draft annual reports, draft rules of procedure and draft guidelines) — must be translated into the working languages of the Committee.

10/II. The Committee decides to adopt the common methodology for consultations for the elaboration of general comments, as outlined in the report of the Chairs of the human rights treaty bodies on their twenty-seventh meeting (see A/70/302, paras. 91-92).

10/III. The Committee decides to establish a working group charged with revising the rules of procedure, the guidelines on reporting for States parties and the internal guidelines based on the evolution of the jurisprudence in concluding observations.

10/IV. The Committee decides to send reminders to States parties that have not submitted a report within two years of the entry into force of the Convention as required by article 29 of the Convention.

10/V. The Committee decides to adopt the lists of issues on Bosnia and Herzegovina and Colombia.

10/VI. The Committee decides to adopt the concluding observations on the reports submitted by Burkina Faso, Kazakhstan and Tunisia under article 29 (1) of the Convention.

10/VII. The Committee decides to appoint the country rapporteurs who will draft the lists of issues related to the reports of Albania and Lithuania and who will lead the constructive dialogues with the States parties concerned.

10/VIII. The Committee decides to adopt its annual report to the General Assembly at its seventy-first session.

10/IX. The Committee decides to adopt the informal report on its tenth session.

10/X. The Committee decides to adopt the provisional agenda of its eleventh session.

Annex III

List of documents before the Committee at its ninth and tenth sessions

CED/C/9/1	Annotated provisional agenda of the ninth session
CED/C/9/2	Report on follow-up to concluding observations of the Committee on Enforced Disappearances
CED/C/10/1	Annotated provisional agenda of the tenth session
CED/C/IRQ/1	Report submitted by Iraq
CED/C/IRQ/Q/1	List of issues in relation to the report submitted by Iraq
CED/C/IRQ/Q/1/Add.1	Replies to the list of issues on the report submitted by Iraq
CED/C/IRQ/CO/1	Concluding observations on the report submitted by Iraq
CED/C/MNE/1	Report submitted by Montenegro
CED/C/MNE/Q/1	List of issues in relation to the report submitted by Montenegro
CED/C/MNE/Q/1/Add.1	Replies to the list of issues on the report submitted by Montenegro
CED/C/MNE/CO/1	Concluding observations on the report submitted by Montenegro
CED/C/BFA/1	Report submitted by Burkina Faso
CED/C/BFA/Q/1	List of issues in relation to the report submitted by Burkina Faso
CED/C/BFA/Q/1/Add.1	Replies to the list of issues on the report submitted by Burkina Faso
CED/C/BFA/CO/1	Concluding observations on the report submitted by Burkina Faso
CED/C/KAZ/1	Report submitted by Kazakhstan
CED/C/KAZ/Q/1	List of issues in relation to the report submitted by Kazakhstan
CED/C/KAZ/Q/1/Add.1	Replies to the list of issues on the report submitted by Kazakhstan
CED/C/KAZ/CO/1	Concluding observations on the report submitted by Kazakhstan
CED/C/TUN/1	Report submitted by Tunisia
CED/C/TUN/Q/1	List of issues in relation to the report submitted by Tunisia
CED/C/TUN/Q/1/Add.1	Replies to the list of issues on the report submitted by Tunisia
CED/C/TUN/CO/1	Concluding observations on the report submitted by Tunisia
CED/C/1	Rules of procedure