



International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

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

I. General information

1. Please indicate whether the State party intends to make the declarations provided for in articles 31 and 32 of the Convention, which relate to the Committee's competence to receive and consider individual and inter-State communications (arts. 31–32).
2. Please provide detailed information, including specific examples, regarding the powers of the Ombudsman's Office with respect to cases of enforced disappearance and the activities of the Office as they relate to the Convention. Please also indicate whether the Office has received any complaints concerning rights and obligations under the Convention; if it has, please describe the action taken and the results thereof. With reference to paragraph 4 of the State party's report (CED/C/PAN/1), please provide additional information on the preparation of the report, in particular with regard to the consultations held with civil society representatives who deal with the issue of enforced disappearance.
3. With reference to paragraphs 15 to 17 of the State party's report, please indicate whether the courts must also review the compliance of domestic legislation with the Convention. If available, please provide examples of case law in which provisions of the Convention have been invoked and/or applied.

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

4. Please provide up-to-date statistical information, disaggregated by sex, age and nationality, on the number of disappeared persons in the State party, specifying the date of their disappearance and the number of persons who have been located, and on the number of cases in which there may have been some form of State involvement as defined in article 2 of the Convention (arts. 1 and 12).
5. With reference to paragraphs 13, 14, 22 and 131 to 136 of the State party's report, please: (a) comment on the compatibility of article 55 of the Constitution, to the extent that it provides for the possibility of suspending the guarantees set out in articles 21 and 22 of the Constitution, with the Convention; (b) indicate whether steps have been taken to amend the Constitution so that habeas corpus cannot be suspended when a state of emergency is in effect; and (c) provide information on the measures taken during the COVID-19 pandemic to ensure that the State party's policies and actions are in conformity with its obligations under the Convention, in particular with regard to articles 1, 12, 17, 18 and 24 (arts. 1, 12, 17–18 and 24).

* Adopted by the Committee at its eighteenth session (4 May–7 September 2020).



6. Please clarify whether, in the definition of enforced disappearance set out in article 152 of the Criminal Code, the phrase “thereby impeding recourse to the applicable legal remedies and procedural guarantees” should be understood as requiring that a certain intention (*animus*) be present in order for an act to constitute criminal conduct or as referring to a consequence of the act (arts. 2 and 4).

7. Please provide information on how the acts defined in article 2 of the Convention are prohibited and prosecuted when they are committed by persons or groups of persons acting without the authorization, support or acquiescence of the State (art. 3).

8. With reference to paragraphs 35 and 36 of the State party’s report, please indicate whether article 220 of the Code of Criminal Procedure (which allows for plea bargaining) could be applied in a case of enforced disappearance, potentially resulting in a situation where no charges would be brought against the suspect and the case would be closed (arts. 6–7).

9. In light of paragraphs 42, 47 and 48 of the State party’s report, please explain: (a) how domestic law holds criminally responsible any person who orders the commission of an enforced disappearance; and (b) whether the State party intends to specifically address the criminal responsibility of superiors in its domestic legislation, as contemplated in article 6 (1) (b) of the Convention (art. 6).

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

10. Please provide information on any measures taken to establish the State party’s competence to exercise jurisdiction over the offence of enforced disappearance in the cases contemplated in articles 9 (1) and (2) of the Convention (art. 9).

11. With respect to paragraphs 27 and 28 of the State party’s report, please indicate: (a) whether, given the continuous nature of the offence, it would be possible to apply the definition of enforced disappearance set forth in article 152 of the Criminal Code to enforced disappearances that began prior to the criminalization of the offence but that did not come to an end thereafter; and (b) whether investigations other than those relating to the cases mentioned in the report, have been conducted in connection with cases of enforced disappearance allegedly carried out during the military dictatorship (1964–1989), as well as since the entry into force of the Convention. Please provide detailed additional information on the steps taken to investigate all cases of enforced disappearance that may have been carried out during the military dictatorship; ensure that the alleged perpetrators are brought to trial and, if found guilty, receive punishment commensurate with the gravity of their actions; and provide victims with full reparation. Please also report on the progress made in each of those areas and include statistical data (arts. 12 and 24).

12. Please provide information on: (a) how it is ensured that a search is immediately initiated when an enforced disappearance comes to light; and (b) the protocols and/or procedures that have been developed for searching for, locating and releasing persons subjected to enforced disappearance, both during and after the military dictatorship and, in the event of death, for identifying and returning their remains. With reference to paragraphs 142 and 146 of the State party’s report, please provide updated information on the progress made in searching for, locating and releasing persons who were disappeared during the military dictatorship and, in the event of death, in identifying, respecting and returning their remains. Please specify how many persons have been located and identified and how many have not yet been identified (arts. 12 and 24).

13. In relation to paragraphs 78 and 82 of the State party’s report, please describe the procedures for gaining access to protection measures, indicate whether they can extend to relatives of the disappeared person when they are not involved in the criminal proceedings and indicate whether any persons linked to cases of enforced disappearance currently benefit from such measures (art. 12).

14. With reference to paragraphs 93 and 94 of the State party’s report, please indicate whether the suspension from duty of a State official suspected of involvement in the commission of an enforced disappearance goes into force immediately at the outset of the investigation and remains in place for the duration of the investigation. Please also indicate

whether there are any mechanisms in place to exclude a law enforcement or security force from the investigation into an enforced disappearance when one or more of its members are accused of committing the offence or of having been involved in the commission of the offence (art. 12).

15. Please provide information on the extradition rules that apply to cases of enforced disappearance. Please specify whether there are provisions under domestic law that ensure that, for the purposes of extradition, the offence of enforced disappearance is not regarded as a political offence, an offence connected with a political offence or an offence inspired by political motives. Please also indicate whether any extradition agreements with other States parties have been concluded since the entry into force of the Convention and, if so, indicate whether the offence of enforced disappearance has been included in such agreements, in accordance with article 13 (3) of the Convention (art. 13).

16. Please provide information on the domestic legal rules applicable to requests for legal assistance or cooperation made under articles 14, 15 or 25 (3) of the Convention. Please indicate whether, under domestic law, any limitations or conditions may be placed on such requests for legal assistance or cooperation. Please also specify whether the State party has made or received any requests for international cooperation in respect of cases of enforced disappearance since the entry into force of the Convention (arts. 14–15 and 25).

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

17. Please provide detailed information on measures taken to ensure strict compliance, in law and in practice, with the principle of non-refoulement under article 16 (1) of the Convention. In particular, please:

(a) Provide information on any legislation prohibiting the expulsion, return, surrender or extradition of a person when there are substantial grounds for believing that that person could be subjected to enforced disappearance; and on the mechanisms and criteria used in determining whether such a risk exists and in assessing it;

(b) Indicate whether it is possible to appeal a decision authorizing an expulsion, return, surrender or extradition and, if so, who is authorized to file the appeal, before which authority, under which procedure, and whether the appeal has suspensive effect;

(c) Provide information on mechanisms to ensure that each case is assessed individually before an extradition, surrender, return or expulsion is carried out;

(d) Indicate whether the State party accepts diplomatic assurances where there are substantial grounds for believing that a person would be in danger of being subjected to enforced disappearance (art. 16).

18. Please indicate whether the right of persons deprived of liberty to communicate immediately with counsel, their family or any other person of their choice is subject to any exceptions. Please provide information on the measures taken to guarantee that, in practice, as soon as they are detained or transferred from one place of detention to another, all persons deprived of liberty immediately have access to a lawyer, can inform their family or any other person of their choice of their deprivation of liberty, and, in the case of foreign nationals, can communicate with their consular authorities. Please also indicate whether there have been complaints or reports concerning failures to give effect to these guarantees and, if so, please provide information about the proceedings launched and their outcomes, including any sanctions imposed (art. 17).

19. With reference to paragraph 116 of the State party's report, please specify whether the registers required under article 51 of Act No. 55 are kept in all places where there may be persons deprived of liberty, regardless of their nature, including centres for minors in conflict with the law, police stations, migrant holding centres, mental health institutions and the National Air and Naval Service base on the island of Punta Coco. Please also provide detailed information on measures, including any monitoring measures, taken to ensure that, in practice, all records of persons deprived of liberty contain all the information listed in article 17 (3) of the Convention and are updated immediately. Please also describe any existing measures to ensure that persons deprived of liberty are released in a manner permitting reliable verification that they have actually been released and to assure their

physical integrity and their ability to exercise fully their rights at the time of release (arts. 17 and 21–22).

20. With regard to the national preventive mechanism, please: (a) indicate whether the mechanism is authorized to visit all places where there may be persons deprived of liberty, regardless of their nature, including migrant holding centres, mental health institutions and the National Air and Naval Service base on the island of Punta Coco; (b) provide information on the guarantees in place to ensure that the mechanism has immediate and unrestricted access to all places of deprivation of liberty and that it may carry out unannounced visits; and (c) describe the measures taken to ensure that it has the necessary resources to carry out its mandate effectively and independently (art. 17).

21. Please provide information on the measures taken to prevent and impose sanctions for the conduct described in article 22 of the Convention (art. 22).

22. Please specify whether the State party provides or plans to provide specific training on the Convention, in the terms set out in article 23 thereof, to all law enforcement 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 (art. 23).

V. Measures to provide reparation and to protect children against enforced disappearance (arts. 24–25)

23. Please provide detailed information on the measures taken to ensure that, under the State party's legal system, any person who has suffered harm as the direct result of an enforced disappearance, regardless of the date on which it was committed, has the right to obtain prompt, fair and adequate compensation, which covers all the forms of reparation enumerated in article 24 (5) of the Convention. Please also specify (a) who would be responsible for providing compensation and/or reparation under domestic law in the event of an enforced disappearance; (b) whether access to compensation and/or reparation is contingent on a criminal conviction; and (c) whether there is a time limit for victims of enforced disappearance to claim and/or receive compensation and/or reparation (art. 24).

24. In light of the information contained in paragraph 142 of the State party's report on the procedures for the declaration of presumed death, please: (a) clarify whether the declaration of presumed death has any impact on the State party's obligation to continue investigating until the fate of the disappeared person has been clarified; (b) provide detailed information on the process of declaring a presumed death and the effects of such a declaration; and (c) indicate whether the State party intends to adopt legislative measures to resolve the legal situation of disappeared persons whose fate has not been clarified and that of their relatives, in fields such as social welfare, financial matters, family law and property rights, without the issuance of a declaration of presumed death (for example, through a procedure to obtain a declaration of absence by reason of enforced disappearance) (art. 24).

25. With reference to paragraph 143 of the State party's report, please provide detailed information on the laws applicable to the conduct described in article 25 (1) of the Convention. Please also indicate whether there are plans to create specific offences in the Criminal Code for the conduct described in that article (art. 25).

26. Please explain whether the State party has any legal procedures in place to review and, where appropriate, to annul any adoption or placement of children that originated in an enforced disappearance. If no such procedures have been established yet, please indicate whether any action has been taken to bring the national legislation into conformity with article 25 (4) of the Convention (art. 25).
