



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 Greece 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 examples of any jurisprudence in which the provisions of the Convention have been directly invoked by national courts or administrative authorities.
3. Please provide further information on the participation of civil society, in particular of organizations for the families of victims, human rights defenders working on the issue of enforced disappearance and non-governmental organizations, in the preparation of the State party's report (CED/C/GRC/1). Please report on any activities carried out by the National Commission for Human Rights in relation to the Convention and provide information on the budget allocated to it since 2017.

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

4. Please provide up-to-date statistical information, disaggregated by sex, age, ethnic origin and nationality, on the number of disappeared persons in the State party, including in the context of migration, specifying the date of their disappearance, the number of such persons who have been located and the number of cases in which there may have been some form of State participation within the meaning of article 2 of the Convention (arts. 1 and 24).
5. With regard to paragraph 16 of the State party's report, please indicate whether the State party plans to specifically prohibit in national legislation the invocation of exceptional circumstances as a justification for enforced disappearance. In that regard, please also provide information on the measures taken during the coronavirus disease (COVID-19) pandemic to ensure that the policies and actions of the State party are in conformity with its obligations under the Convention, in particular with regard to articles 1, 12 and 24 of the Convention (arts. 1, 12 and 24).
6. With reference to paragraphs 20, 22 and 43 of the State party's report, please clarify whether the phrase "which place such a person outside the protection of the law", contained in the definition of enforced disappearance set out in article 322A of the Criminal Code,

* Adopted by the Committee at its nineteenth session (7–25 September 2020).



should be understood as a necessary element of intent (*animus*) for an act to be considered criminal conduct or whether, on the contrary, it should be understood as a consequence thereof (arts. 2 and 4).

7. In connection with paragraphs 24, 47 and 70 of the State party's report, please provide additional information on how the acts defined in article 3 of the Convention are prohibited and prosecuted when they are committed by less than three persons. In that regard, please indicate whether any complaints have been filed for such conduct and, if so, please provide data, disaggregated by sex, age, ethnic origin and nationality of the perpetrator, on the investigations carried out and their results, including the proportion of proceedings launched that resulted in convictions, and on the sanctions imposed on the perpetrators (arts. 3 and 12).

8. With regard to paragraphs 28 and 29 of the State party's report, please clarify the definition of enforced disappearance as a crime against humanity, providing the wording of the relevant paragraphs in national legislation. Please also provide information about the penalties of the offence as a crime against humanity (arts. 2, 4, 5 and 7).

9. With regard to paragraphs 30, 38, 41 and 45 of the State party's report, please clarify the minimum and maximum penalties established for the offence of enforced disappearance as an autonomous crime, including after the application of aggravating and mitigating circumstances. Please explain how the penalties proposed for this crime take into account its extreme seriousness (arts. 2, 4 and 7).

10. With regard to paragraphs 33, 34, 36 and 130 of the State party's report, please explain how all persons specified in article 6 (1) (a) of the Convention, in particular any person who orders or solicits the commission of an enforced disappearance, are held criminally responsible under national legislation. Please clarify how article 322C of the Criminal Code prohibits invoking orders of a superior, including orders from military authorities, as a justification for enforced disappearance and indicate whether the notion of due obedience as a defence in criminal cases has any impact on the effective implementation of that prohibition. Please provide further information on the national legislation that ensures that persons who refuse to obey orders or instructions, including from military authorities, that prescribe, authorize or encourage enforced disappearance will not be punished and provide information on any remedies available to subordinates against any potential disciplinary measures resulting from their refusal to carry out a criminal act ordered by a superior (arts. 6 and 23).

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

11. With regard to paragraphs 49 to 52 of the State party's report, please indicate whether there are any plans to align national legislation with article 8 (1) (b) of the Convention, given that, in current legislation, the statute of limitations for the crime of enforced disappearance commences from the date on which the offence was committed. With regard to paragraph 69, please explain how the State party guarantees that no statute of limitations applies for criminal, civil or administrative actions brought by victims of enforced disappearance seeking the right to an effective remedy (art. 8).

12. With reference to paragraphs 58 to 61 of the State party's report, please clarify whether the State party has competence to exercise jurisdiction over the crime of enforced disappearance in the cases contemplated under article 9 (1) (b) and (c) of the Convention when the offence of enforced disappearance is not criminalized in the country where the crime has been committed (principle of double criminality). Please also clarify whether the State party has competence to prosecute an alleged offender who has perpetrated an enforced disappearance abroad, irrespective of the nationality of the victim and the offender and of the country where it was committed, when he or she is present in any territory under the State party's jurisdiction. Please provide examples of when the State party would exercise jurisdiction over the crime of enforced disappearance in cases in which there is no lawful State authority (art. 9).

13. Please indicate the procedures in place to ensure the presence of the alleged perpetrator of an enforced disappearance before the authorities. Please report on the existing legal, administrative or judicial measures to carry out a preliminary inquiry or investigation to establish the facts, should the State party undertake the measures referred to in article 10 (1) of the Convention (art. 10).

14. With regard to paragraph 68 of the State party's report, please indicate whether there are any plans to exclude the competence of military authorities to investigate and/or prosecute persons accused of enforced disappearance, even when the defendant is a member of the military. Please explain the composition of the mixed jury courts (art. 11).

15. Please indicate whether the authorities of the State party have received any allegations of enforced disappearance since the submission of the report to the Committee, including in the context of alleged collective expulsions. If such allegations have been received, please provide information on the investigations conducted into those allegations and the results. With regard to paragraphs 69 and 75 of the State party's report, please clarify how the State party ensures that any individual who alleges that a person has been subjected to an enforced disappearance can report the facts to the competent authorities, irrespective of that person's relationship with the disappeared person, and provide information on the remedies available to the complainant should the competent authorities refuse to investigate the case. Please also provide information on the mechanisms available to ensure protection from any ill-treatment, intimidation or sanction for the complainants, their representatives, witnesses and other persons participating in the investigation, prosecution and trial or who request information concerning a person deprived of liberty. In that regard, please clarify the measures taken with regard to recent cases of the alleged prosecution of and threats against civil society actors involved in search and rescue operations of migrants in Greek waters and explain their compatibility with articles 12 and 24 of the Convention (arts. 12, 18 and 24).

16. Please provide further information on the authorities responsible for investigating cases of alleged enforced disappearance, including the budget and the human resources at their disposal, and indicate: (a) what restrictions, if any, can be put on their access to places of deprivation of liberty, regardless of the nature of the place of deprivation of liberty, including to detention facilities in the "hotspots"; (b) what restrictions, if any, exist in terms of their access to the documentation and other information relevant to their investigations. Please indicate what mechanisms are in place to exclude a member of law enforcement or security forces or any other public official, whether civilian or military, from the investigation into an enforced disappearance when he or she is suspected of having been involved in the commission of the offence (arts. 12 and 17).

17. With reference to paragraphs 83 to 88 of the State party's report, please provide information on the legal framework applicable to the provision of mutual assistance with regard to victims. Please indicate whether there are any limitations or conditions that could be applied to requests for judicial assistance or cooperation in the terms established by articles 14 and 15 of the Convention and provide examples, if any, of cases involving the offence of enforced disappearance in which mutual assistance was requested by or from Greece, including the result of such requests (arts. 14–15).

18. Please provide information on the steps taken to investigate disappearances of migrants and indicate how relatives, next of kin and their representatives who live outside the State party are guaranteed access to information on the investigations. In that context, please also provide information on the steps taken to ensure the greatest measure of mutual assistance with other States in helping victims, searching for, locating and releasing disappeared persons and identifying and returning the remains in case of death (arts. 3, 12, 15 and 24).

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

19. With regard to the expulsion, return, surrender or extradition of a person, please:
- (a) Indicate whether there are any plans to explicitly include the crime of enforced disappearance as an extraditable offence in national legislation (art. 13);
 - (b) With reference to paragraph 81 of the State party's report, clarify whether the crime of enforced disappearance is an extraditable offence in all existing extradition treaties adopted by the State party, even if it is not explicitly mentioned in such treaties (art. 13);
 - (c) With reference to paragraphs 82 and 90 to 92 of the State party's report, provide further information about the authority that determines the expulsion, return, surrender or extradition of a person and indicate whether any decision on expulsion, refoulement, surrender or extradition, whether administrative or judicial, can be appealed, before which authorities such an appeal can be brought, what the applicable procedures are, whether an appeal has a suspensive effect and whether the decision regarding such an appeal is final; and describe any other measures in place to ensure strict compliance with the principle of non-refoulement under article 16 (1) of the Convention, including in the context of the agreement between the members of the European Council and Turkey aimed at stopping the flow of irregular migration via Turkey to Europe (European Union-Turkey statement) and during the COVID-19 pandemic (art. 16);
 - (d) Provide information about the mechanisms and criteria applied before carrying out any of those procedures to evaluate and verify the risk of a person being subjected to enforced disappearance or other forms of serious harm to life and personal integrity, including in the context of the European Union-Turkey statement; and in that regard, respond to allegations of "pushbacks" and collective expulsions to Turkey without undertaking the necessary individual assessment procedures (art. 16);
 - (e) Indicate whether the State party accepts diplomatic assurances when there is a reason to believe that there is a risk that the person may be subjected to enforced disappearance (arts. 13 and 16).
20. With regard to detention and access to places of deprivation of liberty:
- (a) In connection with paragraph 95 of the State party's report, please provide detailed information on the prohibition in national legislation of secret detention (art. 17);
 - (b) With regard to paragraphs 96, 98, 100, 101 and 108 of the State party's report, provide detailed information on the measures that guarantee, in law and in practice, that all persons deprived of liberty are afforded all fundamental legal safeguards from the outset of the deprivation of liberty, including the right to communicate with and be visited by their counsel, family or any other person of their choice, and that a foreigner can communicate with his or her consular authorities, regardless of the place of deprivation of liberty, including in establishments for juvenile offenders, psychiatric institutions and in the five "hotspots" for migrants, and please specify the measures taken in that regard in the context of the COVID-19 pandemic; please also indicate whether there have been any complaints or allegations made regarding failures to observe those rights and, if so, please provide information about the proceedings carried out and their outcomes, including the sanctions imposed (art. 17);
 - (c) With regard to paragraph 98 of the State party's report, provide further information on the applicable legislation to guarantee, in case of a suspected enforced disappearance, that any person with a legitimate interest, including those other than the person deprived of liberty, can bring proceedings before a court in order to decide on the lawfulness of a detention; please indicate the measures to prevent and impose sanctions for obstructing and delaying that remedy, including in the context of the COVID-19 pandemic; and please respond to reports of migrants being held without a detention order and incommunicado in immigration detention facilities without the possibility of challenging their detention (arts. 17 and 22);
 - (d) With regard to paragraphs 113 and 114 of the State party's report, provide information on the existence of any other official registers of persons deprived of liberty,

irrespective of the place of deprivation of liberty, including in the five “hotspots”; and indicate the measures adopted to ensure that they contain all the information listed in article 17 (3) of the Convention and that they are completed, updated immediately and monitored (art. 17);

(e) With regard to paragraphs 72 and 73 of the State party’s report, please provide information on any other independent bodies and administrative mechanisms that exist to inspect all places of deprivation of liberty, including those in the “hotspots”;

(f) Provide additional information on the legislation and practice for ensuring the verification of the release of persons deprived of liberty in all places of deprivation of liberty and information on the authorities in charge of monitoring their release (arts. 17 and 21);

(g) With regard to paragraphs 125, 126 and 128 of the State party’s report, provide detailed information on the measures in place to prevent and sanction the conduct described in article 22 (b) and (c) of the Convention, including by any agents of the State (art. 22).

21. With reference to paragraphs 110 to 112 and 122 of the State party’s report, please: (a) report on existing measures that guarantee that any person with a legitimate interest, including those other than family members and counsel, can gain access to all information listed in article 18 (1) of the Convention and clarify whether there are any provisions that could impose restrictions on access to that information; (b) provide details of the information that the persons mentioned in paragraphs 110 and 111 can gain access to and provide further information on the legislation mentioned in paragraph 111 regulating such access; and (c) clarify the means and procedures that ensure access to a swift and effective judicial remedy for obtaining without delay the information mentioned in paragraphs 111 and 112, including in the context of the COVID-19 pandemic (arts. 18, 20 and 22).

22. With regard to paragraph 129 of the State party’s report, please indicate whether the State party plans to provide specific training on the Convention to civil and military law enforcement personnel, medical personnel, public officials and other persons who may be involved in the custody or treatment of any person deprived of liberty, including judges 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 information on the definition of “victim” in national legislation and explain how it conforms to the definition contained in article 24 (1) of the Convention. Please indicate whether a victim of enforced disappearance is obliged to initiate criminal proceedings to be considered a victim (art. 24).

24. With regard to paragraphs 134 and 137 of the State party’s report, please provide further information on: (a) how the State guarantees the right of victims to know the truth; (b) the rules and procedures in place for victims of enforced disappearance to obtain reparation and compensation; and (c) the type of compensation and reparation provided to victims, including the relevant text of the legislation concerned. Please also indicate whether there are any time limits for victims to gain access to compensation and reparation (art. 24).

25. Please indicate whether there is a system in place for undertaking immediate and urgent searches when a disappearance is brought to the attention of the authorities and provide further information on the procedures undertaken by the Hellenic Police when a disappearance is reported, including any relevant time frames. Please inform the Committee of the existing mechanisms for ensuring effective and efficient coordination between the authorities in charge of the search for the disappeared person and those in charge of the investigation of the disappearance (art. 24).

26. Please provide information on the legal situation in national legislation 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. In that regard, please indicate whether a declaration of absence or a declaration of death of the disappeared person is granted in such cases and, if so, please provide information on how long after the disappearance they are issued and on the impact that they may have on the State party's obligation to continue the search and investigation into an enforced disappearance until the fate of the disappeared person has been clarified (art. 24).

27. With regard to the protection of children against enforced disappearance, please provide:

(a) Further information on the relevant provisions of the Criminal Code applicable to the acts mentioned in article 25 (1) of the Convention and specify the maximum and minimum penalties provided for such acts (art. 25);

(b) Further information on the procedures in place to review, and if necessary annul, the adoption or placement of children originating from an act of enforced disappearance and to guarantee the right of disappeared children to have their true identity re-established; and please clarify the procedure for the annulment of such an adoption or placement order and indicate whether there is any time limit for such a procedure (art. 25);

(c) Information on the specific measures taken to protect migrant children, in particular unaccompanied or separated migrant children from enforced disappearance, and specify the measures taken in that regard whenever it is suspected that such a child might have been a victim of trafficking (arts. 1 and 25);

(d) Information on the investigations into the disappearance of over 500 children from the State-run care home, Agia Varvara, between 1998 and 2002, and the results of those investigations (arts. 12 and 25);

(e) Information on the investigations into the disappearance of reportedly around 3,000 children illegally adopted in Greece between 1930 and 1970 and allegedly taken to the Netherlands and the United States of America, and the results of those investigations (arts. 12 and 25).
