



International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

Report on requests for urgent action submitted under article 30 of the Convention*

A. Introduction

1. Rules 57 and 58 of the Committee's rules of procedure (CED/C/1) establish that all requests for urgent action submitted for its consideration under article 30 of the Convention should be brought to the attention of the Committee. The full text of any such request may be made available in the language of submission to any member of the Committee at the request of that member. The present report summarizes the main issues relating to urgent action requests received by the Committee under article 30 of the Convention and the decisions taken in that regard since its fourteenth session.

B. Requests for urgent action received since the fourteenth session of the Committee

2. In its report on requests for urgent action adopted at its fourteenth session, the Committee set out the decisions taken on the 495 requests for urgent action registered up to 1 June 2018. From that date to 8 November 2018, the Committee received 56 new requests for urgent action, of which 53 have been registered. The 53 registered requests relate to events that occurred in Colombia, Cuba, Iraq, Mexico and Togo. The present report includes a list of the urgent actions registered (see table).

3. Three requests were not registered, for the following reasons: the information provided was not sufficient to enable the request to be registered and the authors did not reply to the Committee's letter requesting additional information (two cases concerning Cuba); or the events occurred in a State not party to the Convention (Egypt).

4. At the time of writing, the Committee had thus registered a total of 547 requests for urgent action, broken down by year and country as follows:

* Adopted by the Committee at its fifteenth session (5–16 November 2018).



Table
Urgent actions registered, by year and by country

<i>Year</i>	<i>Argentina</i>	<i>Armenia</i>	<i>Brazil</i>	<i>Cambodia</i>	<i>Colombia</i>	<i>Cuba</i>	<i>Honduras</i>	<i>Iraq</i>	<i>Kazakhstan</i>	<i>Mauritania</i>	<i>Mexico</i>	<i>Morocco</i>	<i>Sri Lanka</i>	<i>Togo</i>	<i>Total</i>
2012	-	-	-	-	-	-	-	-	-	-	5	-	-	-	5
2013	-	-	-	-	1	-	-	-	-	-	5 ^a	-	-	-	6
2014	-	-	1	1	1	-	-	5	-	-	43	-	-	-	51
2015	-	-	-	-	3	-	-	41	-	-	166	-	-	-	210
2016	-	-	-	-	4	-	-	22	-	-	58	1	-	-	85
2017	2	1	-	-	3	-	-	43	2	1	31	2	1	-	86
2018 ^b	-	-	-	-	8	1	14	40	-	-	39	-	-	2	104
Total	2	1	1	1	20	1	14	151	2	1	347	3	1	2	547

^a Urgent action No. 9/2013 refers to two persons. It is therefore counted as two urgent actions.

^b As at 8 November 2018.

C. The process after registration of urgent action requests: developments observed since the fourteenth session (up to 14 September 2018)

5. The Committee maintains constant contact with States parties through their permanent missions and with the authors of urgent action requests by means of letters and notes sent on behalf of the Committee but also by means of meetings or telephone calls.

6. The information provided in the context of the urgent action procedure confirms a number of the trends observed in the reports adopted at the eleventh, twelfth, thirteenth and fourteenth sessions (CED/C/11/3, CED/C/12/2, CED/C/13/2 and CED/C/14/2). Most of the cases with regard to which urgent action requests have been registered relate to events that occurred in Mexico and Iraq. For the period covered by this report, the Committee wishes to highlight the following trends relating to the States parties concerned.

1. Developments relating to Mexico and Iraq

(a) Mexico

7. The State party has responded to the vast majority of recently registered cases. However, the response times for follow-up letters have become much longer. With the passage of time, the information provided has become increasingly scanty and the responses received reflect the fact that search and investigation procedures have stalled.

8. For urgent action cases in which Mexico has responded to the Committee's requests and recommendations, the information received continues to suggest sporadic, isolated actions, which, for the most part, are more a matter of form than of substance and do not seem to be part of, or be directed by, a previously defined search and investigation strategy. Initiatives on the part of relatives, close friends or representatives of disappeared persons remain key to ensuring that search and investigation procedures make progress.

9. In most cases, authors express their despair at the fact that search and investigation procedures have stalled. They thus deplore the lack of on-site investigations and of action to ensure the full and comprehensive examination of the available evidence.

10. Authors frequently allege that the authorities responsible for search and investigation are themselves involved, directly or indirectly, in the events in question and that investigations are blocked. In such cases, the Committee has emphasized the

importance of establishing accountability mechanisms for State officials in charge of search and investigation and has requested the State party to investigate allegations that such officials have hindered proceedings.

11. Authors still frequently point out that support for the relatives and close friends of disappeared persons is extremely limited and not adapted to their needs. In cases where such difficulties have been reported, the Committee has reminded the State party of the importance of ensuring that support and protection measures are decided upon and implemented in consultation with the beneficiaries, in order to ensure that those measures meet their needs. The cases also reveal the disproportionate impact of enforced disappearances on women, who are often left to be the sole providers for their families.

12. At the time of writing, the Committee has received a total of nine requests relating to the alleged enforced disappearance of migrants. These cases reveal the serious difficulties encountered by relatives seeking to obtain access to information or to participate in some way in the search and investigation procedures carried out. They face major obstacles, owing to the distances involved and the excessively formal nature of international assistance mechanisms. Thus, although agreements on international cooperation in criminal matters do exist, their results have been unsatisfactory. In such cases, the Committee emphasizes the need to facilitate the participation of relatives by such means of communication as videoconferences.

13. The Committee also wishes to draw attention to the hopes expressed by a number of relatives and close friends of persons who disappeared after the elections. The information received by the Committee also points to positive initiatives relating to the way in which cases are being investigated.

(b) Iraq

14. With regard to urgent actions registered regarding events that occurred in Iraq, no response has been received from the State party concerning 15 of the urgent actions, despite the fact that four reminders have been sent. As for the cases in which responses have been received, the State party continues to maintain that the authorities have no information on the disappeared persons concerned. No information whatsoever has been provided on action taken to search for the persons concerned or investigate their alleged enforced disappearance. In some cases, the State party continues to request families to appear before the authorities and to provide information on the disappeared person. In these cases, the Committee continues to express its concern at the way in which relatives have been treated by the authorities, including when they go to the authorities with the Committee's letter. In other cases, the State party simply asserts that the disappeared person is on a list of persons sought owing to their links with Islamic State in Iraq and the Levant.

15. During the period covered by the present report, the Permanent Mission of Iraq requested a meeting with the secretariat in order to explain its position regarding the cases registered by the Committee. The Mission drew attention to the difficulty of obtaining information on the cases. It also pointed out that a number of the cases related to the alleged disappearance of terrorists, which the Mission does not consider to be cases of enforced disappearance. The secretariat stressed, however, that, if a person was held in incommunicado detention and there was no information as to his or her whereabouts, it was important that he or she should continue to be considered to be a disappeared person. The secretariat also invited the State party to provide any information that might throw light on the fate and whereabouts of the person on whose behalf registration of an urgent action had been requested.

16. The Committee had a number of exchanges with the authors of urgent action requests submitted concerning events that occurred in Iraq, requesting that they provide further information on the presentation of the facts to the national authorities, in keeping with article 30 (3) (a) of the Convention. The Committee is of the view that the purpose of this provision is to facilitate communication with a State party regarding disappearances. In this context, the Committee reiterates that it is acting in accordance with the requirements under article 30 (2) (c), which states that an alleged disappearance has to have "already been duly presented to the competent bodies of the State Party concerned, such as those

authorized to undertake investigations, where such a possibility exists”. Authors of urgent action requests are required to provide as much information as possible on the steps taken to submit a case to the competent national authorities or to explain in detail the reasons why they are precluded from doing so. The Committee urges the authors of the urgent action requests to provide a copy of the complaints that they have submitted to the national authorities as a key element to help identify their case. However, providing the copies is not a precondition for the registration of an urgent action request.

(c) Other States parties

17. With regard to requests for urgent action addressed to other States parties, the Committee considers that too few such requests have been registered to enable any trends to be identified. However, attention may be drawn to the following observations on registered requests for urgent action.

(i) Armenia

18. In the case of Ara Khachatryan (urgent action No. 376/2017), the State party sent a response stating that a preliminary investigation had been ongoing since 2011. This response was shared with the authors of the request for their comments. In the light of the information received, the Committee sent a letter expressing its concern at the fact that, more than seven years after Mr. Khachatryan’s disappearance, his fate and whereabouts were still unknown; that nowhere in the information provided by the State party was there any indication that the authorities in charge of the case had drawn up an investigation strategy or plan; that the main investigator in charge of the case had been changed seven times, which had hindered an exhaustive and consistent investigation of Mr. Khachatryan’s disappearance; that Mr. Khachatryan’s relatives and representatives had not been informed of the measures taken by the authorities in charge of the search and investigation procedure; and that Mr. Khachatryan’s relatives had allegedly received hostile treatment at the hands of a number of State party authorities. The State party requested an extension of the deadline by which it was required to reply to the Committee’s recommendations, which was extended to 17 September. The State party’s response dated 18 September 2018 was transmitted to the authors, who repeated their comments regarding the shortcomings of the search and investigation procedures.

(ii) Brazil

19. In the case of Davi Santos Fiuza (urgent action No. 61/2014), a follow-up letter requesting the State party to provide additional information was sent on 21 November 2017. The State party requested an extension of the deadline by which it was required to reply, which was extended to 15 December 2017. No response has been received, despite a number of reminders being sent to the State party.

(iii) Cambodia

20. The urgent action registered on behalf of Khem Sophath (urgent action No. 11/2014) is ongoing. A follow-up note was sent to the State party in November 2017, requesting additional information and reminding the State party of its obligation to carry out search and investigation operations based on all the potential scenarios in the case, including the possible involvement of State officials in the events in question. The State party has not sent any response since then, which has meant that any progress in the proceedings has been blocked. Given the absence of a response from the State party, the Committee will send a follow-up note.

(iv) Colombia

21. As stated in the report on the thirteenth session, the information provided by the State party on the 19 registered requests for urgent action indicates that investigations and searches often come to a standstill a few months after they begin. In a number of cases, the authors report that the Committee’s letters have been followed by concrete action, although such action does not seem to form part of a clear-cut search and investigation strategy (CED/C/13/3).

22. A number of the urgent actions registered during the period covered by the present report refer to the disappearance of young people in and around Bogotá. Despite evidence of the possible involvement of law enforcement officials in the events, the information provided demonstrates that the possibility of such involvement is almost routinely rejected. In those cases, the authorities in charge of the search and investigation procedure have a tendency to lay the blame on the disappeared persons themselves or to stigmatize them, alleging that they are involved in drug-trafficking networks, putting forward theories suggesting, for example, that “the person concerned had drunk heavily before being disappeared” or calling into question the mental state of the disappeared person at the time of the event. Such comments, which are not based on any evidence, have been identified as a recurring factor in the re-victimization of the relatives and close friends of disappeared persons.

23. The information received by the Committee also highlights the confusion created by the lack of clarity regarding the mandate and resources of the Disappeared Persons Search Unit, a part of the comprehensive transitional justice system set up in the wake of the peace agreement. Although the vast majority of urgent actions registered by the Committee are not related to events that occurred in the context of, or because of, the Colombian conflict, a number of cases have raised doubts about the competent authorities, mainly as regards the division of labour between the Disappeared Persons Search Unit and the Urgent Search Mechanism of the Disappeared Persons Investigative Commission. The Unit is still not fully operational and the process of approving the decrees and budgets required for setting up the internal structure and appointing the 522 staff required to enable the body to carry out its task is not yet complete. The Committee has, therefore, requested the State party on a number of occasions to clarify the functions of the Unit and the Mechanism of the Commission but has not received any reply in this regard.

(v) *Cuba*

24. In October 2018, the Committee received its first urgent action request regarding events in Cuba. The State party replied on 12 November 2018 and its response was transmitted to the authors for comment.

(vi) *Honduras*

25. As stated in the report on its fourteenth session, the Committee received the State party’s observations on the 14 urgent actions registered. With regard to the 13 urgent actions relating to the disappearance of migrants, the observations received are very general in nature and do not provide information on individual cases. Moreover, the observations reflect the fact that the authorities in charge of search and investigation procedures have not adopted the necessary measures to make arrangements for international legal assistance, in line with article 14 of the Convention, with a view to tracing the routes travelled by the victims and elucidating the facts. In all these cases, the Committee is still waiting for the authors’ comments.

(vii) *Kazakhstan*

26. In the two urgent actions registered in 2017 on behalf of Zabit Kisi and Enver Kilic (urgent actions Nos. 415/2018 and 416/2018), the State party reported that the disappeared persons had been put on a flight for expulsion to Turkey and that the authorities had no information as to their subsequent fate and whereabouts. The Committee sent a follow-up note to the State party, stating that the disappeared persons had last been seen in the hands of the State party’s authorities, which meant that, under the Convention, the State party was responsible for searching for and locating them. In this connection, the Committee referred to articles 14 to 16 of the Convention. In its reply, the State party set out the stages of the procedure that had led to the deportation to Turkey of the disappeared persons. In June 2018, the Committee was informed that Zabit Kisi had “reappeared on 23 January 2018”, that he was being held in detention in Turkey at a prison in Kocaeli and that he had the right to visits only once every 15 days. The Committee was also informed that Enver Kilic “had reappeared on 11 April 2018” but that he had been tortured for 73 days and was not in good health. A letter was sent to the authorities asking them to say if they knew the exact

whereabouts of Zabit Kisi and Enver Kilic and whether those individuals had been able to receive visits from their relatives and representatives. Enver Kilic and Zabit Kisi are currently being held in a prison in Kocaeli, Turkey. In light of this information, the Committee decided to close these urgent actions.

(viii) *Sri Lanka*

27. The State party sent a reply stating that the person on whose behalf the urgent action request had been registered was living in the United Kingdom and had not disappeared. The State party's reply was sent to the authors of the urgent action request for their comments. They have not replied. After sending a number of reminders, the Committee decided to close the urgent action.

(ix) *Togo*

28. In October 2018, the Committee received its first two urgent action requests regarding events in Togo. The State party replied on 27 November 2018 and its response was transmitted to the authors for comment.

2. General trends

29. In all registered urgent actions, the Committee continues to emphasize that it is essential for States parties to carry out search operations as soon as possible after the disappearance of the person concerned; to develop strategies for searching for disappeared persons and investigating their disappearance; and to bear in mind that one reason for the necessity of such investigations is to ensure that perpetrators are identified, which can be crucial to locating the disappeared person concerned.

D. Urgent actions discontinued, closed or kept open for the protection of persons to whom interim measures have been granted

30. In accordance with the criteria adopted in plenary by the Committee at its eighth session:

(a) An urgent action is discontinued when the disappeared person has been located but is still detained, since that person is at particularly high risk of being disappeared and placed outside the protection of the law once again;

(b) An urgent action is closed when the disappeared person has been found at liberty or located and released, or has been found dead, provided that the relatives and/or authors do not contest these facts;

(c) An urgent action is kept open when the disappeared person has been located but the persons to whom interim measures have been granted in the context of the urgent action are still under threat. In such cases, the intervention of the Committee is limited to following up on the interim measures.

31. As of the date of this report, the Committee has closed a total of 46 urgent action cases: in 17 of these cases, the disappeared person was located and released alive and in 21 cases the disappeared persons were found dead.

32. In addition, the Committee has discontinued eight requests for urgent action because the disappeared person was located but remained in detention.

33. In two urgent action cases, the disappeared person was found dead, but the urgent action remains open because the persons who were granted interim measures are still under threat.

E. Findings and decisions

34. The Committee reiterates that the number of urgent actions registered continues to rise. In order to address this situation, there is a pressing need for an increase in the number

of staff of the Office of the United Nations High Commissioner for Human Rights engaged in processing urgent actions.

35. The Committee decided that its next report to the General Assembly would highlight the lack of collaboration on the part of States parties which fail to reply to urgent action requests or whose replies are pro forma and do not provide any substantive information.
