



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 thirteenth session.

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

2. In its report on requests for urgent action adopted at its thirteenth session, the Committee set out the decisions taken on the 385 requests for urgent action registered up to 12 July 2017. From that date to 1 June 2018, the Committee has received 110 new requests for urgent action, of which 101 have been registered. The 101 registered requests relate to events that occurred in Colombia, Honduras, Iraq, Kazakhstan, Morocco and Mexico. The present report is accompanied by a list of urgent actions registered (see table).

3. Six requests were not registered for the following reasons: the alleged victim was located a few hours after the authors had issued the request for urgent action (Mexico); the author of the request did not respond to messages sent by the secretariat requesting additional information on the identity of the disappeared person (Mexico); the information provided was not sufficient to enable the request to be registered and the authors did not respond to the Committee's letter requesting additional information (two cases concerning Cuba); the authors did not specify the country in which the disappearance had occurred and did not respond to the secretariat's inquiry; or the events took place before the Convention entered into force (Colombia). In the latter case, the authors were advised to contact the Human Rights Committee.

4. At the time of writing, the Committee had therefore registered a total of 495 requests for urgent action, distributed by year and country as follows:

* Adopted by the Committee at its fourteenth session (22 May–1 June 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>Honduras</i>	<i>Iraq</i>	<i>Kazakhstan</i>	<i>Morocco</i>	<i>Mauritania</i>	<i>Mexico</i>	<i>Sri Lanka</i>	<i>Total</i>
2012	-	-	-	-	-	-	-	-	-	-	5	-	5
2013		-	-	-	1	-	-	-	-	-	6 ^a	-	7
2014		-	1	1	1	-	5	-	-	-	43	-	51
2015		-	-	-	3	-	43	-	-	-	165	-	211
2016	-	-	-	-	4	-	22	-	1	-	58	-	85
2017	2	1	-	-	3	-	43	2	2	1	31	1	86
2018 ^b	-	-	-	-	6	14	10	-	-	-	20	-	50
Total	2	1	1	1	18	14	123	2	3	1	328	1	495

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

^b As of 1 June 2018.

C. The process after registration of urgent action requests: developments observed since the twelfth session (up to 12 July 2017)

1. Interaction with States parties

5. The Committee maintains contact with States parties through their permanent missions. However, the Committee stresses that, in order to maximize the impact of its recommendations regarding requests for urgent action, it would be necessary to establish more direct contact with the authorities responsible for searching for disappeared persons and investigating their disappearance, so that the Committee's concerns and recommendations may be communicated to them more directly if necessary. It has not yet been possible to identify ways of facilitating this sort of contact; however, the Committee has expressed its concern and is holding consultations with States parties on the options that can be taken in that regard.

6. In accordance with the States parties' replies, a number of trends highlighted in the reports adopted at the Committee's eleventh, twelfth and thirteenth sessions were again in evidence (CED/C/11/3, CED/C/12/2 and CED/C/13/3). The majority of cases are still related to events in Mexico and Iraq. The Committee notes the following trends in the replies sent by these States parties.

7. With regard to Mexico, at the time of writing, the Committee has received no reply in 70 of the urgent actions registered and the State party has not responded to 20 of the follow-up notes. Reminders are being sent in these cases.

8. For urgent action cases in which Mexico has responded to the Committee's requests and recommendations, the following trends may be observed:

(a) In all the urgent action cases, the State party's observations and the authors' comments continue to reflect 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;

(b) According to the available information, investigations by the authorities are frequently not started unless relatives, close contacts or representatives of the disappeared persons take the initiative. If relatives, close contacts or representatives are unable to identify leads for the investigators or are unable to persuade the authorities to take action, the cases generally remain deadlocked;

(c) The searches are almost invariably begun by sending official requests for information to hospitals and detention centres. Most of these letters remain unanswered. The Committee has expressed concern that, in such cases, the Public Prosecutor's Office does not appear to make full use of its authority to employ enforcement measures in order to obtain the requisite information. The Committee has also been informed of cases in which enforcement measures were requested but no action was taken by the authorities in charge;

(d) In the vast majority of cases, on-site investigations are still carried out only very rarely. The authors frequently inform the Committee that the investigating authorities are afraid to go to the locations where they might be able to collect evidence;

(e) The authors often allege that the authorities in charge of the investigation are directly or indirectly involved in the events and that search and investigation processes remain deadlocked;

(f) Another trend noted has been the failure to execute orders to conduct investigations issued by the Public Prosecutor's Office. According to the information received, the authorities often fail to take action and it is alleged that they sometimes obstruct searches and investigations. In such cases, the Committee has requested the State party to implement clear and formal mechanisms that would require the teams responsible for searching for missing persons and investigating enforced disappearances to issue regular and transparent reports on the progress made and difficulties encountered. The State party has also been requested to take all necessary measures to investigate and punish any actions by the State party's authorities that may have hindered the effectiveness of the search and investigation processes under way;

(g) There is an ongoing trend towards the fragmentation of investigations among State institutions, and between State and federal institutions, and towards a lack of inter-agency coordination and pursuit of a joint strategy. Given these circumstances, great difficulties have reportedly been encountered in incorporating all the evidence into a single investigation. Fragmentation and lack of coordination tend to cause excessive delays in the investigation procedure.

9. With regard to the urgent action requests registered in connection with events in Iraq, the Committee notes that, as indicated in the report adopted at its twelfth and thirteenth sessions, a fourth reminder concerning 23 registered urgent action cases was sent. During the twelfth session, the Committee held a bilateral meeting with the Permanent Mission of Iraq to give the State party an opportunity to explain why it had not been in a position to respond to the Committee's letters. Once the Committee had clarified certain aspects of the urgent action procedure, the State party undertook to send information, in the weeks following the session, on the urgent actions in question, which it did. At the time of writing, however, no reply has been received in relation to 15 of the urgent action requests concerning Iraq, despite the fact that 4 reminders have been sent. The Committee furthermore expressed concern regarding the type of responses submitted by the State party to other urgent action requests. The State initially sent replies asking the Committee to provide information on the identity of the disappeared person, which the Committee had already provided in previous notes. It also asked the Committee to provide data on the authors of the urgent action requests or to invite the relatives of the disappeared persons reported to the Human Rights Department to visit an office of the Inspector General in the Ministry of the Interior to file a formal request for the search and to give a statement as a means of furthering the ongoing investigations. In response to those notes, the Committee stated that the requested information relating to the identity of the victims had already been provided and that the identities of the authors of the request were confidential. It also expressed concern at the way in which persons visiting the Human Rights Department had been treated (see CED/C/12/3 and CED/C/13/3).

10. Since the previous session, Iraq has sent batches of replies indicating that it does not have information on the persons on behalf of whom the urgent action requests were registered. Notes of this kind were sent on 15 December 2017, in respect of 33 urgent action requests; on 2 February 2018, in respect of 23 urgent action requests; on 7 February 2018, in respect of 31 urgent action requests; on 28 March 2018, in respect of 36 urgent

action requests; and on 17 April 2018, in respect of 22 urgent action requests (some of the urgent action requests were referred to in several notes). In response, the Committee sent notes to the State party indicating that replies of that kind were not in conformity with its treaty obligations. The Committee also drew the State party's attention to the requests and recommendations contained in the notes issued to register the urgent action requests, in which the competent authorities were asked to adopt search and investigation plans and take every necessary measure to search for all of the disappeared persons and investigate their disappearances. Lastly, the Committee reminded the State party of its obligation, under article 30, to provide information on the actions taken in that regard.

11. 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:

(a) Argentina:

(i) The urgent action request registered in the case of the child Ezequiel is ongoing (urgent action No. 358/2017). The State party continues to deny that the State authorities were involved in the events in question. A follow-up note was sent in which the Committee emphasized the State party's obligation to investigate every possible hypothesis in the case and any possible cover-ups that may have occurred in the search for the missing child and the investigation of his disappearance;

(ii) With regard to the urgent action registered in the case of Mr. Santiago Maldonado (urgent action No. 381/2017): in October 2017, the Committee was informed that, on 20 October 2017, a body found in the Chubut River had been identified as Mr. Maldonado by a team of forensic experts. The family also identified the body. In accordance with article 30 (4) of the Convention, the Committee considered that the purpose of the urgent action, which was to search for and locate the disappeared person, had been fulfilled. On 23 January 2018, the Committee sent a note to the State party to inform it that the request for urgent action had been closed. In this note, the Committee reminded the State party that the fact that Mr. Maldonado's body had been located did not relieve it of its other obligations under the Convention, including the obligation, enshrined in article 12, to conduct a thorough, impartial and independent investigation into the circumstances of his disappearance between 1 August 2017 and 20 October 2017; to ensure the full participation of the relatives of Mr. Maldonado and their representatives in the investigation process; to protect the relatives of the disappeared person and their defence counsel, witnesses and any person involved in the investigation from any form of pressure, intimidation or reprisal; and, in the event that Mr. Maldonado is found to have been the victim of an enforced disappearance, to ensure that the perpetrators are duly investigated and punished and to guarantee the victims' right to reparation. The Committee issued an explanatory note of its decision to close the urgent action, which was published on the Committee's web page and disseminated by the Regional Office of the Office of the United Nations High Commissioner for Human Rights in Chile;

(b) Armenia: in the case of Mr. Ara Khachatryan (urgent action No. 376/2017), the State party sent a response stating that a preliminary investigation had been under way 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 follow-up note highlighting the State party's obligations to take concrete actions to search for the disappeared person and ensure that family members, relatives and representatives are duly informed and able to participate in the search and investigation processes;

(c) Brazil: in the case of Mr. Davi Santos Fiuza (urgent action No. 61/2014), a follow-up note requesting additional information was sent to the State party 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 reply has been received. Reminders have been sent to the State party;

(d) Cambodia: the urgent action registered on behalf of Mr. Khem Sophath (urgent action No. 11/2014) is ongoing. In November 2017, the State party was sent a follow-up note requesting additional information and reminding it of its obligation to carry out search and investigation activities based on all existing scenarios in the case, including the possible involvement of State agents in the events in question. The Committee is deeply concerned by the lack of a reply from the State party and by its failure to cooperate, in spite of repeated reminders. The Committee stresses the importance for the State party to take urgent action to search for and locate the disappeared person and provide information in that regard to the Committee and the relatives, close contacts and representatives of the disappeared person, in accordance with its treaty obligations;

(e) Colombia: as stated in the note issued during the twelfth session, the information provided by the State party in the 12 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 notes have been followed by concrete actions, although such actions do not seem to form part of a clear-cut search and investigation strategy (CED/C/13/3);

(f) Honduras: a total of 14 urgent action requests have been registered since the thirteenth session. The allegations submitted relate to two types of circumstances: (i) the disappearance of Mr. Manuel de Jesús Bautista Salvador, aged 24 years, which occurred in the context of the curfew adopted by executive decree starting 1 December 2017; (ii) 13 cases of people who disappeared while on migration travel (see urgent actions No. 454/2018 to 466/2018). In none of these cases is it clear where the events took place. There are only theories regarding possible disappearances in Mexico, Guatemala or the United States of America. However, these theories have never been investigated and it is alleged that the persons could have disappeared at other points along their migration route. The Committee stated that, according to the information provided, these events could have taken place against a backdrop of violence and crime that directly affects migrants and includes frequent unlawful detentions, disappearances and murders, for which State actors might be responsible through their actions, consent or omission. In the light of this situation, the Committee requested that the State party adopt a comprehensive strategy for conducting thorough searches for missing persons and investigations into their disappearance, taking into account the State party's responsibility under article 9 of the Convention to take the necessary measures "to establish its competence to exercise jurisdiction over the offence of enforced disappearance [...] when the disappeared person is one of its nationals". In view of the circumstances in which the events occurred in each case, the Committee requested that the State party take all necessary measures to promote international legal assistance between it and Guatemala, Mexico and the United States in accordance with article 14 of the Convention with a view to establishing the migration route followed by the victims and the relevant facts. The State party has responded to all the requests and the Committee is awaiting the authors' submissions;

(g) Kazakhstan: in the two urgent action requests registered in 2017 on behalf of Mr. Zabit Kisi and Mr. Enver Kilic (urgent action Nos. 415/2018 and 416/2018), the State party reported that the persons concerned had been placed on board an aeroplane to be deported to Turkey and that the authorities had heard nothing about their fate or whereabouts since then. In a follow-up note sent to the State party, the Committee stated that, under the Convention, the State party was responsible for searching for and locating the disappeared persons as they had last been seen in the hands of its authorities. In that regard, the Committee evoked articles 14, 15 and 16 of the Convention. The Committee is awaiting a reply from the State party;

(h) Morocco: in the two urgent action requests registered in 2017, the State party informed the Committee of the alleged victim's place of detention. The information was shared with the authors, who confirmed that they had managed to contact the persons on behalf of whom the requests had been submitted. Following this confirmation, the urgent actions were discontinued;

(i) Mauritania: the State party informed the Committee of the place where the disappeared person was detained and stated that visits were authorized. This information was confirmed by the authors of the request for urgent action. In the light of the above, the

Committee discontinued the request for urgent action, reminding the State party of its obligations under article 17 of the Convention;

(j) Sri Lanka: the State party has not replied to the registered request for urgent action or to the reminders. The rapporteurs invited the State party to a meeting to discuss the procedure provided for under article 30 of the Convention. No one at the Permanent Mission was available during the session but a meeting will be held with the secretariat in the near future.

12. In all registered requests for urgent action, the Committee continues to emphasize that it is essential for States parties to carry out search actions 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 take into account that such investigations are necessary *inter alia* to ensure that the perpetrators are identified, which can be the key to locating disappeared persons.

2. Interaction with authors

13. The secretariat is in frequent contact with the authors of requests for urgent action, mainly by means of letters sent on behalf of the Committee, but also more directly by email and telephone. On the basis of the Committee's contact with authors, a few trends may be observed.

14. Authors continue to highlight the importance of the support provided by the Committee, which has proved to be a receptive contact point after several unsuccessful attempts at contacting the national authorities. They also point out that, when the Committee has sent notes, they have received replies to particular requests, mainly concerning the implementation of specific investigative actions recommended by the Committee.

15. In most cases, however, the authors regularly report that such actions are not followed up. As previous reports have highlighted (CED/C/13/3), very soon after requests for urgent action have been registered the authors frequently express frustration at the State's failure to fulfil its search and investigation duties. They note with concern the failure of the authorities to undertake basic investigative steps to search for and locate missing persons, even when reliable information is available that could be used to advance the search and investigation.

16. The authors of requests for urgent action reiterate that in older cases the national authorities are taking less and less action to search for and locate disappeared persons and that they limit themselves to undertaking formal actions or repeating previous investigations. In other cases, the authors have drawn attention to the national authorities' failure, for instance, to ensure that all witnesses are duly interviewed as soon as possible to facilitate the search for disappeared persons and the investigation into their disappearance, or their failure to conduct a relevant analysis of the available evidence (see those cases in which available telephone records have not been analysed until several months after they were submitted to the competent authorities).

17. One of the main trends observed in registered requests for urgent action is that the families and relatives of missing persons find it difficult to participate in search and investigation processes. These difficulties are mainly caused by the lack of information concerning the ongoing processes. The authors of requests state that, if they do not request information, the authorities do not provide them with the necessary details, even when activities are being planned in which families and relatives might have an interest in participating.

18. In some cases, it has also been noted that, on the few occasions on which the authorities have contacted family members and relatives in accordance with their responsibilities under the law and the Convention, they have done so in a manner that revictimizes them (for example, relatives have been sent text messages, without warning, that say things like: "there is still no information on your child"). In such cases, the Committee has reminded the State party that, under article 24 (2) of the Convention, "Each victim has the right to know the truth regarding the circumstances of the enforced

disappearance, the progress and results of the investigation and the fate of the disappeared person. Each State party shall take appropriate measures in this regard.” In this respect, the Committee has emphasized that States parties are responsible for establishing mechanisms for reporting information to the families and relatives of missing persons with the aim of ensuring that they and their representatives can participate actively, and in an informed manner, in all stages of the investigative process. States parties are also required to provide family members and relatives with adequate guidance on their rights and how to exercise them, and to give them regular information on the measures adopted to find the disappeared persons and investigate their disappearance.

19. In the case of Mexico, the authors frequently report that support for the families and relatives of disappeared persons is very limited and not adapted to their needs. In cases where such difficulties have been identified, the Committee has reminded States parties that protection and support measures must be established and implemented in consultation with beneficiaries in order to ensure that they meet their needs. The same concern was expressed by the Committee on Economic, Social and Cultural Rights in its concluding observations on Mexico (see E/C.12/MEX/CO/5-6, paras. 43 and 44).

20. The Committee remains concerned by allegations that authors of requests for urgent action have been subjected to threats, pressure and reprisals, particularly in connection with events occurring in Mexico and Colombia. In these urgent action cases, the authors asked the Committee to intervene and request that the State party adopt interim measures to protect those who are in danger either because of their links with the disappeared person or because of the actions that they have taken in order to find him or her. In such cases, the Committee emphasizes the importance of ensuring that interim protective measures are implemented by authorities against whom there are no allegations of possible involvement in the events in question. It also stresses that interim protective measures must be implemented in coordination with the beneficiaries and their representatives to ensure that they have full trust in the persons responsible for their protection and to ensure that the measures fully meet their needs in relation to the search for the missing persons and the investigation of their disappearance. To this end, the Committee requests the State party to convene regular coordination meetings between the authorities responsible for implementing the interim measures, the beneficiaries and their representatives.

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

21. 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. This is because the person in question is particularly vulnerable to being subjected to a further enforced disappearance and to being placed outside the protection of the law;

(b) An urgent action is closed when the missing 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 actions taken by the Committee are limited to following up on the interim measures.

22. As of the date of this report, the Committee has closed a total of 36 urgent action cases: in 15 of these cases the disappeared person was located and released alive and in 21 cases the disappeared persons were found dead.

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

24. In two urgent action cases, it has been determined that the disappeared person has been found dead but the urgent action remains open because the persons who were granted interim measures are still under threat.

E. Actions taken following the decisions adopted by the plenary at the thirteenth session and talking points for the plenary at its fourteenth session

25. At its thirteenth session, the Committee decided to take concrete action, with the support of the secretariat, to disseminate more specific information on the urgent action procedure, primarily to civil society organizations and State party officials. The rapporteurs and the secretariat have produced a simple information booklet that is available in English, French and Spanish on the Committee's website.¹

26. With the same end in view, the Committee would welcome an increase in opportunities for interacting with and training national authorities on the procedure and objectives of urgent actions, in collaboration with the field offices of the United Nations High Commissioner for Human Rights (OHCHR) and the treaty body capacity-building programme, in order to raise awareness of the scope and objectives of the urgent action procedure.

27. The Committee reiterates that the number of urgent actions registered continues to rise. In order to address this situation, there is an urgent need for the number of OHCHR secretariat staff who deal with urgent actions to be increased. Instead of increasing, however, that number has fallen since the last session after the closure of the project funded by Germany.

¹ http://www.ohchr.org/Documents/HRBodies/CED/CED_leaflet_A4_EN.pdf,
http://www.ohchr.org/Documents/HRBodies/CED/CED_leaflet_A4_SP.pdf,
http://www.ohchr.org/Documents/HRBodies/CED/CED_leaflet_A4_FR.pdf.