



International Convention for the Protection of All Persons from Enforced Disappearance

Distr.: General
21 May 2019
English
Original: Spanish

Committee on Enforced Disappearances

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

A. Introduction

1. Pursuant to rules 57 and 58 of the Committee's rules of procedure, any requests for urgent action that are submitted for consideration by the Committee under article 30 of the Convention are to 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 upon request by that member. The present report summarizes the main issues in relation to the requests for urgent action received by the Committee under article 30 of the Convention and the decisions taken in that regard since the fifteenth session.

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

2. In the note on requests for urgent action that was adopted at its fifteenth session, the Committee sets out the decisions taken on the 541 requests for urgent action registered up to 14 September 2018. Between that date and 4 April 2019, the Committee received 29 new requests for urgent action, 28 of which have been registered. These 28 new requests relate to events that occurred in Cambodia, Colombia, Cuba, Iraq, Lithuania, Mexico and Togo. The present report includes a list of the requests for urgent action that have been registered (see table).

3. As of the date of the present report, the Committee had registered a total of 570 requests for urgent action, distributed by year and country as follows:

Registered requests for urgent action, by year and 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>Lithuania</i>	<i>Morocco</i>	<i>Mauritania</i>	<i>Mexico</i>	<i>Sri Lanka</i>	<i>Togo</i>	<i>Total</i>
2012	—	—	—	—	—	—	—	—	—	—	—	—	5	—	—	5
2013	—	—	—	—	1	—	—	—	—	—	—	—	6 ^a	—	—	7
2014	—	—	1	1	1	—	—	5	—	—	—	—	43	—	—	51
2015	—	—	—	—	3	—	—	42	—	—	—	—	165	—	—	210

* Adopted by the Committee at its sixteenth session (8–18 April 2019).



<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>Lithuania</i>	<i>Morocco</i>	<i>Mauritania</i>	<i>Mexico</i>	<i>Sri Lanka</i>	<i>Togo</i>	<i>Total</i>
2016	—	—	—	—	4	—	—	22	—	—	1	—	58	—	—	85
2017	2	1	—	—	3	—	—	43	2	—	2	1	31	1	—	86
2018	—	—	—	—	9	1	14	50	—	—	—	—	42	—	2	118
2019 ^b	—	—	—	1	—	—	—	—	—	1	—	—	6	—	—	8
Total	2	1	1	2	21	1	14	162	2	1	3	1	356	1	2	570

^a Urgent action request No. 9/2013 refers to two persons and is therefore counted as two requests.

^b As at 4 April 2019.

C. The process after registration of urgent action requests: developments observed since the fifteenth session (up to 4 April 2019)

4. The Committee maintains contact with States parties through their permanent missions and with the authors of urgent action requests through notes and letters addressed to them by the Committee, but also through meetings and telephone calls.

5. The information provided in the context of the urgent action procedure continues to reflect a number of the trends described in the reports adopted at the eleventh to fifteenth sessions (CED/C/11/3, CED/C/12/2, CED/C/13/3, CED/C/14/2 and CED/C/15/3). As in the past, most of the cases in which requests for urgent action have been registered relate to events that occurred in Mexico and Iraq. For the period covered by the present report, the Committee wishes to highlight the following trends in relation to the States parties concerned.

1. Trends in relation to Mexico and Iraq

(a) Mexico

6. The State party has replied to the vast majority of communications regarding recently registered cases. However, the response times are much longer in relation to follow-up notes: less and less information is provided as time goes on, and the replies received show that the search and investigation processes in relation to the missing persons concerned have come to a standstill.

7. In the urgent action cases in which Mexico has replied to the Committee's requests and recommendations, the information received continues 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 a predefined search and investigation strategy. The progress of search and investigation efforts continues to be highly dependent on whether relatives, close contacts or representatives of the missing persons take the initiative.

8. In the vast majority of cases, the authors express frustration at the inertia of search and investigation processes. They bemoan the failure to conduct investigations in situ and the lack of action to ensure that all available evidence is fully examined.

9. Another continuing trend is that authors frequently allege that the authorities in charge of searches and investigations are directly or indirectly involved in the events surrounding the disappearance and that search and investigation efforts have stalled. In such cases, the Committee has stressed the importance of establishing mechanisms for ensuring that State agents in charge of search and investigation efforts are held accountable, and has requested the State party to investigate allegations that State agents have taken actions intended to slow down the proceedings.

10. The Committee expresses its concern about reports that relatives of missing persons have been targeted by threats and intimidation when they have pressed for the investigation of the facts surrounding the enforced disappearance of their loved ones, especially in cases where military forces are alleged to have been involved in enforced disappearances.

11. During the reporting period, representatives of the Permanent Mission of Mexico met with members of the Committee secretariat and expressed concern at the registration of cases involving acts that are considered not to have been committed by persons or groups of persons acting with the authorization, support or acquiescence of the State, and are thus not cases of enforced disappearance within the meaning of article 2 of the Convention, but rather abductions at the hands of organized criminal groups. In accordance with the Committee's jurisprudence in connection with requests for urgent action, the possible involvement of non-State actors – acting without the support or acquiescence of State officials – is merely a hypothesis that, in order to be confirmed or ruled out, requires the competent authorities to carry out a thorough investigation. Requests are also registered in cases where there was conflict, tension or some other relationship between the missing person and State agents that was of such a nature as to raise the possibility of enforced disappearance, in view of the circumstances of the case.

(b) Iraq

12. Despite the reminders sent by the Committee, the State party has not provided replies in relation to most of the registered requests for urgent action involving events that took place in Iraq. In 15 of the cases registered, four reminders have been sent to the State party but have gone unanswered. In cases where replies have been received, the State party has provided no information whatsoever on any action taken to search for the missing persons or to investigate their alleged enforced disappearance. In one case, the State party provided information indicating that the person had been located. However, the person's relatives, close contacts and representatives informed the Committee that the person had never appeared. Consequently, the Committee asked the State party to verify the information provided and to offer evidence showing that the person who had been located was the person on whose behalf the request for urgent action had been registered. In other cases, the State party has provided information that does not relate to the facts referred to in the request for urgent action. In these cases, the State party has been asked to verify the information provided. On other occasions, the State party has merely declared that the missing person is on a list of persons who are wanted because of their ties to Islamic State in Iraq and the Levant.

13. The State party also indicated that several of the cases concern missing persons who are alleged to be terrorists and that it thus does not regard these as cases of enforced disappearance. In response, the Committee pointed out that cases in which a person is held incommunicado and there is no information on his or her whereabouts are still considered to be cases of disappearance. It also called on the State party to provide any information that could help to clarify the fate and the whereabouts of persons on whose behalf the Committee has been asked to register a request for urgent action.

14. With respect to Haidar Diab Ahmed Jassim Al Massoudi (urgent action request No. 560/2018), the State party replied that the case did not involve enforced disappearance, given that there was no evidence that the person had been detained by a State authority. In the light of available information on the possible involvement of State authorities in similar cases, the Committee reiterated that the national authorities in charge of search and investigation efforts are under an obligation not to rule out any hypothesis, including the possibility that the case may concern enforced disappearance.

2. Requests for urgent action related to other States parties

15. With regard to requests for urgent action related to other States parties, the Committee is of the view that the number of registered requests is too small to enable it to reach any conclusions concerning the existence of recurrent trends. However, the following information may be noted with regard to such requests.

(a) Armenia

16. As noted in the report adopted at the Committee's fifteenth session, in the case of Ara Khachatryan (urgent action request No. 376/2017), the State party sent a reply indicating that a preliminary investigation has been under way since 2011. This reply was shared with the authors of the request, who were invited to submit comments. In view of the information received, the Committee sent a note reiterating its concern at the fact that, more than seven years after Mr. Khachatryan's disappearance, his fate and whereabouts are still unknown; the information provided by the State party does not show that the authorities in charge of the case have followed any type of investigation strategy or plan; the chief investigator in the case has been changed seven times, undermining the thoroughness and continuity of the investigation into Mr. Khachatryan's disappearance; Mr. Khachatryan's family and representatives have not been notified of the measures taken by the authorities in charge of the search and investigation; and several authorities of the State party are alleged to have treated Mr. Khachatryan's relatives in a hostile manner. In view of the information received, the Committee sent another follow-up note reiterating its previous recommendations to the State party, including a recommendation that it establish and implement a search and investigation strategy.

(b) Brazil

17. In the case of Davi Santos Fiuza (urgent action request No. 61/2014), the State party replied that the results of a four-year police search and investigation into Mr. Santos Fiuza's disappearance have been sent to the Office of the Attorney-General of the State of Bahia. According to police authorities, 17 members of the Bahia State Police (military police) may have been involved. The Attorney-General is currently reviewing the case file to determine the individual responsibility of each of the 17 members of the State Police, with a view to bringing those responsible to justice. The author was notified of the State party's reply on 16 November 2018; to date she has not submitted any comments in that connection. A reminder was sent to the author on 13 February 2019.

(c) Cambodia

18. The urgent action undertaken in response to the request registered on behalf of Khem Sophath (urgent action request No. 11/2014) is still ongoing. An additional follow-up note was sent to the State party in April 2019, stressing the Committee's previous requests for further information from the State party and reminding it of its obligation to conduct search and investigation activities based on all existing hypotheses in the case, including the possible participation of State agents in the events in question.

19. During the reporting period, a request for urgent action was registered on behalf of Mouen Sum (urgent action request No. 568/2019), a farmer who was allegedly detained, along with 14 other individuals, by officials of the Preah Vihear Department of the Environment. While charges of illegal logging were laid against the 14 other detainees, the author was never brought before a judge. The State party replied promptly, informing the Committee that the author had been found on 31 March 2019 and was currently with his family. This information was confirmed by Mr. Sum's relatives. The urgent action has been closed.

(d) Colombia

20. As reported at the Committee's thirteenth and fifteenth sessions, the information provided by the State party with respect to the 21 registered requests for urgent action indicates that, in many cases, investigations and searches have come to a standstill a few months after they have begun.

(e) Cuba

21. During the reporting period, the Committee registered a request for urgent action on behalf of César Iván Mendoza Regal (urgent action request No. 542/2018), a lawyer and human rights defender who was allegedly detained by the Department of State Security. The place where he is being held and the offence of which he stands accused are as yet

unknown. The State party sent a reply stating that Mr. Mendoza Regal had been placed in pretrial detention for the offence of unlawful association and that he had been released pending the completion of the criminal investigation into his case. The representatives claim, however, that the State party has provided no evidence to back up these allegations, and call for the State party to provide evidence of Mr. Mendoza Regal's physical integrity and safety by allowing him to appear publicly in the media. A follow-up note will be sent to the State party.

(f) Honduras

22. As reported at the Committee's fourteenth and fifteenth sessions, comments from the State party were received in relation to the 14 registered requests for urgent action. With regard to the 13 requests for urgent action relating to the disappearance of migrants, the comments received are very general and do not provide information on individual cases. Moreover, the comments reflect the fact that the authorities in charge of search and investigation procedures have not taken the necessary measures to arrange for international legal assistance, in line with article 14 of the Convention, with a view to tracing the routes travelled by the victims and clarifying the facts. In all these cases, the Committee is still waiting for comments from the authors, to whom several reminders have been sent.

(g) Lithuania

23. During the reporting period, a request for urgent action was registered on behalf of Deimantė Stankūnaitė (urgent action request No. 569/2019), a victim of sexual exploitation allegedly committed with the mother's acquiescence and the involvement of State authorities, who disappeared at the age of 8. In its reply, the State party informed the Committee that Deimantė had been found and was currently under the protection of the law. Nevertheless, the representative requested the State party to confirm Deimantė's exact whereabouts and allow contact with her. A follow-up note will be sent to the State party.

(h) Togo

24. With respect to the case of Atsou Adzi and Messan Koku Adzi (urgent action requests Nos. 543/2018 and 544/2018), on 27 November 2018 the State party sent a reply in which it casts doubt on the claim that these two individuals were detained by the police on the day of their alleged disappearance, and states that there is no entry in the official register of the National Information and Investigation Service. However, the authors claim that the State party has not shown that it has carried out a thorough investigation of the movements of the police car in which, according to witnesses, the victims were taken away to an unknown destination, nor has it extended the investigation to other possible places of detention apart from the National Information and Investigation Service. Consequently, on 13 February 2019 the Committee sent a follow-up note expressing concern about the fact that, a year and a half after the disappearance of these two individuals, no progress has been made in searching for them or in the investigation and, in particular, no investigation has been conducted on the police car identified as the vehicle in which they are alleged to have disappeared.

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

25. 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 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 for whom interim measures have been taken are still under threat. In such cases, the intervention of the Committee is limited to following up on the interim measures.

26. As of the date of the present report, the Committee has closed a total of 51 urgent action cases: in 29 of these cases, the disappeared persons were located and released alive; in the other 22 cases, the disappeared persons were found dead.

27. In addition, the Committee has discontinued 13 urgent action cases because the disappeared persons have been located but remain in detention.

28. In two urgent action cases, the disappeared persons have been found dead, but the urgent action remains open because the persons for whom interim measures were taken are still under threat.

E. Findings and decisions

29. The Committee reiterates that the number of registered urgent action requests continues to rise. Consequently, 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 such requests.

30. The Committee has considered the submissions of various States parties with regard to urgent actions concerning acts that are not clearly attributable to persons acting with the authorization, support or acquiescence of the State. In this respect, the Committee reiterates its position that States parties must conduct a thorough investigation into reported cases without discarding any hypotheses, including that of enforced disappearance.

31. The Committee is of the view that it has the authority to initiate urgent actions in cases where the Inter-American Commission on Human Rights has granted precautionary measures and has requested that the disappeared person be sought and located, given that urgent measures are broader in scope than the Inter-American Commission's precautionary measures and that there is not, therefore, concurrency of legal action within the meaning of article 30 (2) (e) of the Convention. When such cases have arisen, the Committee has coordinated with the Inter-American Commission with a view to avoiding the duplication of identical actions.

32. With regard to allegations of disappearances of individuals who have been returned by one State party to another State that is not a party to the Convention, the Committee is of the view that it has the authority to initiate urgent actions in relation to these disappearances pursuant to States parties' obligation to cooperate (arts. 14 and 15 of the Convention) and their obligation of non-refoulement (art. 16).
