



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 Slovakia under article 29 (1) of the Convention*

I. General information

1. With reference to paragraph 4 of the State party's report (CED/C/SVK/1), please provide information on the participation of civil society organizations and the Slovak National Centre for Human Rights in the preparation of the State party's report and on any activities carried out by the National Centre in relation to the implementation of the Convention. Please describe any additional measures taken by the State party to ensure that the National Centre is in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), including with regard to financial, human and technical resources.

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

2. With reference to paragraphs 46 and 47 of the State party's report, please describe in detail the restrictions to human rights and freedoms that can be applied during a time of war, a state of war, an exceptional state or a state of emergency, and indicate under which circumstances, according to which legal provisions, to what extent and for how long it is permissible to apply such restrictions (art. 1).

3. Please clarify whether the State party's interpretation of section 420a (1) of the Criminal Code is that placing a person outside the protection of the law is a consequence of the offence of enforced disappearance, and not a constituent element of the offence. Please also clarify whether the phrase "tacit agreement" in section 420a of the Code covers the notion of "acquiescence" in the Convention, and whether "the whereabouts" in the provision covers the notion of "the fate or whereabouts" in the Convention (arts. 2 and 4).

4. Please provide information on national legal provisions that in all instances ensure the prohibition of invoking superior orders, including orders from military authorities, as a justification of enforced disappearance. Additionally, please describe the legal remedies available to subordinates against any potential disciplinary measures resulting from their refusal to carry out an order by a superior that would constitute criminal conduct (arts. 6 and 23).

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



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

5. With reference to paragraphs 104, 105 and 165 of the State party's report, please indicate the measures taken to ensure that persons deprived of liberty, particularly children and persons belonging to other vulnerable groups, are afforded fundamental safeguards in practice from the outset of their detention, including the right to access counsel and to contact their families or any person of their choice, which may include consular representatives in cases where the detainee is a foreign national (arts. 10 and 17).

6. Please indicate whether military authorities are competent under domestic law to investigate and prosecute persons accused of enforced disappearance and, if so, please provide information about the applicable legislation (art. 11).

7. In relation to paragraphs 124 to 126 of the State party's report, please provide information on measures adopted to ensure that proper, prompt and impartial investigations are, in practice, conducted into allegations of enforced disappearance (art. 12).

8. Please indicate:

(a) Whether domestic law provides for immediate suspension from duties during an investigation into a reported enforced disappearance in cases where the alleged offender is a State agent;

(b) Whether there are any procedural mechanisms to exclude any civil or military law enforcement or security force from the investigation of an allegation of enforced disappearance in the event that one or more of its members are suspected of having committed the crime. If so, please include information on the implementation of the relevant provisions (art. 12).

9. Please indicate whether the nature of the facts in cases of the crime of enforced disappearance would, in principle, lead to international cooperation, even in the absence of a bilateral agreement or reciprocal cooperation agreement. Please indicate whether any limitations or conditions set out in domestic laws could be applied in relation to requests for judicial assistance or cooperation in the terms set out in articles 14 and 15 of the Convention.

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

10. Please provide information about the mechanisms and criteria applied in the context of procedures of expulsion, refoulement, surrender or extradition to evaluate and verify the risk that a person may be subjected to enforced disappearance. Please specify whether any decision on expulsion, refoulement, surrender or extradition can be appealed, before which authorities it can be brought and what the applicable procedures are. Please also clarify whether the decision regarding such an appeal is final. Please describe any other measures in place to ensure strict compliance with the principle of non-refoulement under article 16 (1) of the Convention. Furthermore, please indicate whether the State party accepts diplomatic assurances when there is a reason to believe that there is a risk that a person may be subjected to enforced disappearance (art. 16).

11. Please indicate whether there is a list of States that are considered to be safe with regard to procedures for the expulsion, refoulement, surrender or extradition of persons. If so, please indicate the criteria according to which a State is considered safe, how often such criteria are reviewed and whether, before proceeding to the expulsion, refoulement, surrender or extradition of a person to a State considered safe, a thorough individual assessment is made of whether the person concerned is in danger of being subjected to enforced disappearance (art. 16).

12. With reference to paragraph 172 of the State party's report, please clarify whether the Office of the Public Defender of Rights has immediate and unrestricted access to all places of deprivation of liberty and whether the Office has sufficient financial and human resources to enable it to carry out its functions effectively. While noting that the State party

signed the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 14 December 2018, the Committee would appreciate information on the State party's plans to ratify that Optional Protocol and, in accordance with the provisions of article 17 of the Optional Protocol, to establish a national preventive mechanism.

13. In the light of paragraph 173 of the State party's report, please indicate measures adopted to ensure, in practice, that the official registers kept in all places of deprivation of liberty, regardless of their nature, contain all the information listed in article 17 (3) of the Convention. In particular, please provide information on measures taken to put an end to the reported use of unauthorized spaces in certain police units where individuals were detained without a decision by a competent authority (art. 17).

14. With reference to paragraph 176 of the State party's report, please explain what criteria are used in determining whether a person who is neither a relative nor a legal representative of a person deprived of liberty has demonstrated a legitimate interest and can thus have access to at least the information listed in article 18 of the Convention.

15. In relation to paragraphs 206 and 207 of the State party's report, please indicate whether the State party has provided or plans to provide specific and regular training on the provisions of the Convention to civil and military law enforcement personnel, medical personnel, public officials and other persons, including judges and prosecutors, who may be involved in the custody or treatment of any person deprived of liberty (art. 23).

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

16. In relation to paragraph 216 of the State party's report, please provide detailed information on:

(a) Whether the recognition of a person as an absentee or a declaration of death may have an impact on the State party's obligation to continue the search for the person until their fate has been clarified and whether that may have an impact on any investigation into an enforced disappearance;

(b) The procedures for establishing a legal guardian for a disappeared person in accordance with section 48 (4) of the Code of Criminal Procedure, particularly for the purpose of resolving relevant civil and family matters, matters of social welfare and matters concerning the property rights of the disappeared person and his or her relatives;

(c) Whether there is a maximum period during which a person can be recognized as an absentee and, if so, what procedures should be followed after the expiration of such a period (art. 24).

17. In relation to paragraphs 215 and 216 of the State party's report, please clarify the rules and procedures for obtaining compensation. Please indicate whether the newly enacted Victims Act provides for forms of reparation besides compensation, such as a guarantee of non-repetition (art. 24 (5)), and whether the available forms of financial compensation differ from those provided under the system governed by the previous legislation. Please indicate whether there is a time limit for victims of enforced disappearance to access reparation (art. 24).

18. Please describe the existing procedures for guaranteeing the right of children subjected to wrongful removal to have their true identity re-established. Please indicate whether there is any restriction in place when a child who has been subjected to wrongful removal accesses information concerning his or her origin (art. 25).