



International Convention for the Protection of All Persons from Enforced Disappearance

Distr.: General
7 July 2014
English
Original: Spanish

Committee on Enforced Disappearances

Concluding observations on the report submitted by Uruguay under article 29, paragraph 1, of the Convention

Addendum

Information received from Uruguay on follow-up to the concluding observations*

[Date received: 14 April 2014]

I. Introduction

1. The following information concerns the recommendations made by the Committee on Enforced Disappearances in paragraphs 14, 22 and 36 of its concluding observations.

II. Information relating to paragraph 14 of the concluding observations

2. As the Committee is aware, with its submission of its initial report in September 2012, Uruguay became the first country to fulfil that obligation. On 9 and 10 April 2013, the State made its oral presentation to the Committee.

3. In April 2013, following the presentation before the Committee, representatives of the executive branch (the Secretary of the Office of the President, Mr. Homero Guerrero, and the Minister for Foreign Affairs, the Minister for Internal Affairs and the Minister of Education), accompanied by members of the delegation who had taken part in the presentation before the Committee, as well as Mr. Álvaro Garcé García y Santos, a Committee member himself, acting in his capacity as an independent expert, held a cordial meeting with the judges of the Supreme Court.

4. At that meeting, the representatives of the executive branch informed the members of the Supreme Court of the Committee's recommendations to the Government of Uruguay, with particular attention being devoted to those that concern the judiciary.

* The present document is being issued without formal editing.



5. During the same meeting, the representatives of the executive branch presented a report to the Court authorities which had been prepared by the commission responsible for monitoring implementation of the Inter-American Convention on Forced Disappearance of Persons. That report criticizes the Court's decision to declare the law interpreting the Act on the Expiry of the Punitive Powers of the State unconstitutional on the grounds that the statute of limitations does apply to offences committed during the military dictatorship in Uruguay (1973–1985), rather than considering those offences to be crimes against humanity, in which case the statute of limitations would not apply.

6. The then President of the Supreme Court, Mr. Ruibal Pino, stated that the Supreme Court had taken due note of the recommendations and would take them under advisement, without prejudice to the positions or opinions it had already adopted. He stressed that, by necessity, the judiciary acts independently in such matters.

III. Information relating to paragraph 22 of the concluding observations

7. The proposed amendments to the Code of Criminal Procedure are currently under consideration in parliament (specifically, in the Senate Committee on the Constitution and Codes).

8. The amendments have been working their way through the legislature since the time of the Committee's consideration of the report of Uruguay (April 2013).

9. The proposed amendments were drafted by the commission established under the Humane Prison System Act (Act No. 17897 of 14 September 2005).

10. Article 21 of Act No. 17897 provided for the establishment of an honorary commission to draft proposed amendments to the Code of Criminal Procedure. Article 22 of the Act provided for the establishment of a commission to draft proposed amendments to the Criminal Code. That commission was instructed to draw upon modern principles of criminal law policy and to incorporate exemplary standards for the prosecution of organized crime into the texts.

11. The commission was headed by Mr. Milton Cairoli, a criminal lawyer and a former Supreme Court judge. Its membership comprised representatives of the executive branch, the Supreme Court, the Attorney General's Office, the University of the Republic, the Judiciary Association of Uruguay, the Association of Investigating Judges, the Association of Court-Appointed Lawyers, the Uruguayan Bar Association, the Association of Judicial Officers and the Association of Court Clerks.

12. Pursuant to the Humane Prison System Act, a second commission was also established. It was tasked with drafting a bill for submission to parliament that would update the Code of Criminal Procedure, which has been in force since July 1980.

13. This commission was headed by Mr. Dardo Preza, a member of the Administrative Court and a criminal lawyer. Its composition was similar to that of the commission working on amendments to the Criminal Code.

14. The amendment of the Code of Criminal Procedure in Uruguay should be placed in its historical context, as it will inevitably entail major changes in the country's legal culture. The importance of this should not be underestimated, particularly since the proposed amendments provide for a new system of criminal procedure whereby the current criminal justice system, which relies primarily on written materials and uses an inquisitorial approach, will be replaced with an adversarial criminal procedure based on oral pleadings and public hearings.

15. The reform will also entail major changes in the Public Prosecution Service that are designed to enhance its performance.
16. The Supreme Court estimates that, even if the new Code of Criminal Procedure is approved by the current legislature before 2015 and the necessary funding is allocated for its implementation, it will still take at least three years to transition to the new system.
17. It should be borne in mind that an overhaul of the system of this scope will most likely require the passage of a new budget law for 2015–2019 by the new Administration that is to be elected in this year’s upcoming national elections. That Administration will assume office on 1 March 2015.
18. The above considerations are based on the understanding that the introduction of the new Code of Criminal Procedure involves not just a new code per se, but also a change in the country’s legal culture. It will also entail investments in new infrastructure, as new criminal courts will have to be built, as well as the availability of the necessary human resources.
19. The Supreme Court has calculated that the changes would require 62 new criminal courts, 62 new criminal judges and court-appointed lawyers, in addition to offices for court clerks and more judicial staff. Clearly, this will require an investment of millions of pesos.
20. From 1987 to 1988, a sweeping reform in areas other than criminal law culminated in the enactment of the General Code of Procedure (Act No. 15982 of October 1988).
21. At that time, the preference was to prioritize these reforms, partly for financial reasons, and to leave changes in the criminal law system for a later date.
22. In 1997, an attempt was made to modify the existing criminal law system with the submission of a draft criminal code (Act No. 16893 of December 1997). However, it never entered into force.
23. The Government of Uruguay wishes to continue moving forward with the development of a new system of criminal procedure.
24. It is aware that such a reform process is urgently needed and will be of great help in upholding the right of all persons to have the benefit of a modern, transparent, efficient, safe and independent justice system that is accessible to all sectors of society.

IV. Information relating to paragraph 36 of the concluding observations

25. Under Act No. 17894 of September 2005, persons whose disappearance in Uruguay was confirmed in annex 3.1 of the report of the Peace Commission (established by Presidential Decision No. 858/000 of 9 August 2000), which was approved by Decree No. 146/003 (of 16 April 2003), were declared “missing by reason of enforced disappearance”. That declaration made it possible to initiate succession proceedings in order to settle the estates of these missing persons in accordance with article 1037 of the Civil Code.
26. As part of the overhaul of the Public Prosecution Service in line with the implementation of the new Code of Criminal Procedure, the Service is expected to establish units that will specialize in enforced disappearances.
27. This will require the introduction of specific procedures and specialized units for such cases, with all that that implies, especially in regard to adoption cases that may be linked to cases of enforced disappearance.