



International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances Twenty-fifth session

Summary record (partial)* of the 450th meeting

Held at the Palais Wilson, Geneva, on Friday, 15 September 2023, at 10 a.m.

Chair: Mr. Ravenna (Vice-Chair)

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* No summary record was prepared for the rest of the meeting.

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In the absence of Mr. de Frouville, Mr. Ravenna (Vice-Chair) took the Chair.

The meeting was called to order at 10.05 a.m.

Consideration of reports of States parties to the Convention (*continued*)

Additional information submitted by the Kingdom of the Netherlands under article 29 (4) of the Convention (CED/C/NLD/AI/1; and CED/C/NLD/AI/1/Add.1)

1. **The Chair** said that the Permanent Mission of the Kingdom of the Netherlands had informed the Committee that representatives of the State party would be unable to participate in the dialogue as planned. The Committee had therefore decided to proceed with its consideration of the additional information submitted by the State party in accordance with rule 51 (3) (a) of its rules of procedure.

2. **Mr. Ayat** (Country Rapporteur) said it was regrettable that the State party was unable to take part in an interactive dialogue, which was a vital part of the Committee's monitoring work. The Committee welcomed the entry into force of the Convention for Aruba and would like to know whether it was now also in force in Curaçao and Sint Maarten and, if not, what progress had been made in that connection. The definition of enforced disappearance set forth in the International Crimes Act, insofar as it applied to the autonomous crime of enforced disappearance, still appeared to be at variance with that contained in article 2 of the Convention, as it stated that the crime must be committed "by or with the authorization, support or acquiescence of a State or political organization" and not "by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State". Moreover, he understood the definition of enforced disappearance set forth in the International Crimes Act to stipulate that, in order for the crime to be committed, the victim must be removed from the protection of the law for a prolonged period of time. He wondered whether any steps had been taken to remedy those inconsistencies and to bring the definition of enforced disappearance laid down in the International Crimes Act fully into line with that set out in the Convention.

3. It would be useful to know what steps, if any, the State party had taken to review its criminal legislation to ensure that the minimum penalty imposable for enforced disappearance was commensurate with the extreme seriousness of the crime and that a fine could not be the sole penalty imposed. He would also appreciate clarification as to whether the definition of enforced disappearance set out in the Convention was considered self-executing and thus directly applicable by judges, and as to the exact meaning of paragraph 9 of the report containing additional information, which dealt with the direct applicability of treaty provisions.

4. **Ms. Kolaković-Bojović** (Country Rapporteur) said that it would be helpful to receive data, disaggregated by sex, gender identity, sexual orientation, age, nationality, ethnic origin, religious affiliation, occupation of the victim and nationality of the perpetrator, on any investigations carried out into suspected acts of enforced disappearance and their outcome, including the proportion of criminal proceedings that had resulted in convictions and the sanctions that had been imposed on the perpetrators. She wished to know how many investigations had been opened into cases of migrants who had disappeared and into illegal intercountry adoptions. She would likewise appreciate information on the trafficking and smuggling of migrants to the Caribbean part of the Kingdom of the Netherlands and persons who had disappeared at sea while trying to reach it, including from the Bolivarian Republic of Venezuela. She would be interested to hear about any measures taken to increase search and rescue capabilities in the sea surrounding that part of the State party, including through cooperation with neighbouring countries, and about any steps taken to address trafficking in persons in the region, including through effective investigation and prosecution. She wondered what was being done to ensure effective access to asylum procedures, increase access to regular migration channels and collect harmonized data on migration and asylum in that part of the State party.

5. She would like to learn more about the measures taken by the State party to prevent and eradicate the disappearance of migrants and to promote mutual legal assistance with other States parties in that connection. Specifically, she wondered whether the State party had taken any steps towards ratifying the International Convention on the Protection of the Rights of

All Migrant Workers and Members of Their Families. Since the International Crimes Act was not fully aligned with the Convention in terms of jurisdiction over offences and the definition of enforced disappearance as an autonomous crime, the Committee would welcome updated information on any criminal proceedings brought under the Act for acts of enforced disappearance, including the number of cases concerned, the decisions handed down and how those decisions had been implemented within the framework provided by articles 9 and 10 of the Convention.

6. She would also like to know what the State party had done to ensure that the rights enshrined in article 24 of the Convention, in particular the right of victims to know the truth regarding the circumstances of an act of enforced disappearance and the fate of the disappeared person and the right of victims of enforced disappearance to forms of reparation other than compensation, were explicitly provided for in the criminal procedure law of the Kingdom of the Netherlands and that any measures taken to enforce those rights were applied in the Caribbean part as well as in the European part of the State party. She wondered whether the State party had made any progress towards incorporating into its legislation provisions that would allow for the issuance of a declaration of absence as a result of enforced disappearance and whether it had taken any other steps to address the legal situation of disappeared persons and that of their relatives in areas such as social welfare, financial matters, family law and property rights.

7. **Mr. Ayat** said that he would like to receive an update on the situation regarding the unaccompanied minors who had disappeared from asylum reception centres in the State party, and information on the circumstances in which they had disappeared, the measures that had been taken to prevent such incidents and their impact, and the likelihood of those minors' having fallen victim to trafficking in persons. He also wished to hear about the general measures in place to protect unaccompanied minors and the assistance that unaccompanied minors who had disappeared received once they had been located. As many cases of enforced disappearance occurred in the context of migration, he wished to urge the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

8. He would be grateful to receive information on any steps taken towards removing the legislative restriction preventing the Netherlands Institute for Human Rights from visiting all places of detention in the State party and on any steps taken to ensure that the State party's legislation specifically provided for the right of any person with a legitimate interest to have direct access to the information on persons deprived of their liberty referred to in article 18 of the Convention.

9. He would be interested to know what steps the State party had taken to act on the Committee's previous recommendation calling on it to ensure that the national mechanism for the prevention of torture could operate effectively in the Caribbean part as well as in the European part of the Kingdom of the Netherlands. He also wished to hear about the measures taken to ensure the coordination of the activities of the Justice and Security Inspectorate and the Law Enforcement Council and to know how they worked, whether jointly or independently, to prevent and, if applicable, eradicate enforced disappearance in the Caribbean part of the State party. Lastly, he would welcome additional information on the administrative and budgetary resources allocated to the national preventive mechanism to enable it to carry out its mandate in the European and the Caribbean parts of the State party.

10. **Ms. Kolaković-Bojović** said that she would like to receive information on the application of the principle of non-refoulement in the Caribbean part of the State party, particularly with respect to asylum-seekers from the Bolivarian Republic of Venezuela. The State party might also respond to concerns that the effective application of the principle was often undermined by the invocation of national security and public order considerations to justify the return of foreign nationals from the European part of the Kingdom of the Netherlands to countries where they could be at risk of enforced disappearance.

11. It would be helpful to know more about the measures taken to ensure that, in accordance with article 20 of the Convention, persons with a legitimate interest had access to prompt and effective judicial remedies to obtain without delay the information on persons deprived of their liberty mentioned in article 18 and about the possibility of appealing any

refusal to disclose such information. She would appreciate additional information about the progress made by the State party in implementing article 23 of the Convention, including by developing adequate training programmes for the groups referred to in that provision and by ensuring continuity of training in the face of staff turnover. Lastly, since the State party had acknowledged the harm caused by abuses in its adoption system and had decided to temporarily halt intercountry adoptions, she would be interested to hear about the steps taken to establish specific procedures for the review and, where appropriate, the annulment of adoptions that had originated in an act of enforced disappearance while upholding the principle of the best interests of the child.

12. **The Chair** said that the Committee would adopt concluding observations based on the information at its disposal and hoped to meet with representatives of the State party in the near future to clarify any pending issues and to determine the measures necessary to further the implementation of the Convention in all parts of the Kingdom of the Netherlands.

The discussion covered in the summary record ended at 10.50 a.m.