



# International Convention for the Protection of All Persons from Enforced Disappearance

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## Committee on Enforced Disappearances Twenty-first session

### Summary record of the 373rd meeting\*

Held at the Palais des Nations, Geneva, on Monday, 20 September 2021, at 3 p.m.

*Chair:* Ms. Villa Quintana

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\* No summary record was issued for the 372nd meeting.

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*The meeting was called to order at 3 p.m.*

**Consideration of additional information submitted by States parties** *(continued)*

*Additional information submitted by France under article 29 (4) of the Convention*  
(CED/C/FRA/AI/1)

1. *At the invitation of the Chair, the delegation of France joined the meeting via video link.*
2. **Mr. Chamouard** (France) said that, since its previous dialogue with the Committee, France had continued to bring its domestic legislation into closer alignment with the Convention. Prosecution proceedings for the crime of enforced disappearance were now conducted by the National Counter-Terrorism Prosecution Service, which had a unit specializing in crimes against humanity and enforced disappearance. Judicial proceedings had been instituted to investigate and punish offences perpetrated abroad under the broad criminal jurisdiction provided for in the Convention.
3. **Mr. Retailleau** (France) said that, since the transposition of the Convention into domestic law in 2013, France had developed a robust legal arsenal to prevent enforced disappearance and to provide support for victims. The judicial authorities had instituted 23 sets of investigative proceedings in respect of alleged cases of enforced disappearance.
4. Article 221-12 of the Criminal Code specifically defined the crime of enforced disappearance as the arrest, detention, abduction or any other form of deprivation of liberty of a person, in conditions that placed such a person outside the protection of the law, by one or more agents of the State or by a person or group of persons acting with the authorization, support or acquiescence of State authorities, where such actions were followed by a person's disappearance and accompanied by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person. That definition met all the requirements of the Convention. Enforced disappearance was punishable by life imprisonment for both perpetrators and their accomplices. "Passive complicity" was specifically criminalized to ensure that superiors could be prosecuted for offences of enforced disappearance committed by their subordinates. Legal entities could also be held responsible for such offences.
5. The statute of limitations applicable to the crime of enforced disappearance was 30 years from the date on which the disappearance ceased, in other words, when the victim had reappeared or his or her death had been confirmed. Enforced disappearance was thus recognized as a continuous offence.
6. According to article 212-1 of the Criminal Code, when enforced disappearance was committed as part of a concerted plan directed against any civilian population as part of a widespread or systematic attack, it constituted a crime against humanity and was punishable by life imprisonment. A "concerted plan" was defined in French law as a contextual element characterizing the acts committed and not as a constitutive element or a supplementary condition. The term "widespread or systematic" had been introduced to ensure that the text incorporated a precise definition of the crime and liability for the attack. Article 212-1 was thus consistent with article 5 of the Convention and the international definition of crimes against humanity. No statute of limitations applied to the crime of enforced disappearance when it constituted a crime against humanity. Both perpetrators and their accomplices were sentenced to life imprisonment. Legal entities could also be prosecuted.
7. The French courts had quasi-universal jurisdiction in cases involving offences of enforced disappearance. Proceedings could be instituted if the victim and/or the perpetrator was a French national, but also if the perpetrator was in France. The National Counter-Terrorism Prosecution Service and the judicial investigation authorities attached to the Parisian courts all had jurisdiction in cases involving crimes against humanity. The National Counter-Terrorism Prosecution Service was overseeing the 23 sets of investigative proceedings opened in respect of alleged cases of enforced disappearance mentioned previously. As was the case for any other crime, investigations into alleged cases of enforced disappearance were conducted under the authority of a public prosecutor or an investigating judge, including in cases involving military officers. In such cases, the public prosecutor or

investigating judge delegated responsibility for the investigation to the Central Office for Combating Crimes against Humanity, Genocide and War Crimes. Cases involving one or more police officers were referred to the police and gendarmerie inspection services.

8. Legitimate coercive measures were accompanied by numerous safeguards designed to prevent enforced disappearance. For example, police custody and pretrial detention were strictly regulated; detainees enjoyed specific rights and those coercive measures were subject to effective oversight. Persons in police custody had the right to inform their relatives and employer or, in the case of foreign nationals, their consular authorities of their arrest, and were entitled to the confidential services of a lawyer. The prosecutor had to be informed of the custody measure without delay. Persons in pretrial detention could, with the permission of the investigating judge, receive visits or make telephone calls to third parties and should be allowed to inform their family of their detention as soon as possible. Every prison was required to keep a prison register. Foreign nationals placed in administrative detention were informed of their right to communicate with consular officials and any person they chose.

9. Victims of enforced disappearance and their relatives were entitled to redress. Other persons could be recognized as indirect victims if they could prove that they had suffered personal damages as a result of the offence. In addition to financial compensation, victims could receive confidential advice and psychological support from a victims' association free of charge. They could also institute legal proceedings to obtain compensation from the State.

10. No statistics were available on adoptions that had originated in an offence of enforced disappearance. Although the number of such cases was minimal, the French authorities were looking into the matter. It was currently possible to challenge such adoptions by means of an application to reopen civil proceedings or an application by a third party to set aside a judgment.

11. **Ms. Dumont** (France) said that, in its Views concerning *E.L.A. v. France* (CED/C/19/D/3/2019), the Committee had concluded that the deportation of the author to Sri Lanka would violate article 16 of the Convention. She wished to reassure the Committee that French law permitted foreign nationals who had been ordered to leave French territory, even when the order had been issued following the rejection of an asylum application, to lodge an appeal for suspension of that decision and the decision concerning the country of destination. The administrative court that heard the appeal was bound to comply with the relevant provisions of the Code on the Entry and Residence of Aliens and the Right of Asylum, which prohibited deportation to a country where a person's life or liberty would be threatened or where the person would be subjected to treatment contrary to article 3 of the European Convention on Human Rights, on torture and inhuman or degrading treatment or punishment. That prohibition also applied when a foreign national claimed that he or she would be at risk of enforced disappearance. It was clear from the jurisprudence of the Council of State and the administrative courts that neither the administrative authority that specified the country of destination nor the administrative judge who reviewed the decision was bound by the analysis carried out by the asylum authorities. Accordingly, the mere fact that a person's application had been rejected did not preclude recognition of the risks involved.

12. **Mr. Ayat** (Country Rapporteur) said he welcomed the fact that the State party had defined enforced disappearance as a separate offence in its domestic law. However, that definition was not fully consistent with article 2 of the Convention, which treated the placement of a person outside the protection of the law as a consequence rather than an essential element of the offence. The French definition, which referred to deprivation of liberty in conditions that placed a person outside the protection of the law, could create difficulties for prosecutors and judges.

13. Article 212-1 of the Criminal Code stipulated that enforced disappearance constituted a crime against humanity when it was committed as part of a concerted plan directed against any civilian population as part of a widespread or systematic attack. In its concluding observations on the initial report of France, the Committee had recommended that France should delete the expression "as part of a concerted plan" in order to avoid introducing a condition for the prosecution of cases of enforced disappearance that was not included in the Convention (CED/C/FRA/CO/1, para. 15). In its report containing additional information, the State party had responded that the term "concerted plan" was used in domestic legislation

as a contextual element characterizing the acts and attack committed and that such an element was always required to establish a crime against humanity (CED/C/FRA/AI/1, para. 14). Article 7 of the Rome Statute of the International Criminal Court defined an attack directed against any civilian population as “a course of conduct involving the multiple commission of acts ... against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such an attack”. He wondered whether it had the same meaning in article 212-1 of the Criminal Code. If not, it seemed that more precise harmonization was required.

14. According to the State party’s report containing additional information, article 132-78 of the Criminal Code, which provided for exemption from punishment, was not applied in respect of the offence of enforced disappearance. Moreover, he understood that a working group had been set up by the Ministry of Justice to improve the coherence and effectiveness of the provision, and that consideration would be given to its potential application to offences of enforced disappearance. He wondered whether the working group had examined the possibility of including mitigating circumstances in the provision in order to help solve more cases of enforced disappearance, to find more disappeared persons alive and to identify more perpetrators.

15. The Committee welcomed the 30-year statute of limitations applicable to cases of enforced disappearance. However, despite the assurances provided in the additional information and the opening statement, article 7 of the Code of Criminal Procedure failed to specify that the period of limitation should not begin until the date on which the offence ceased. Steps should be taken to bring that provision into line with article 8 (1) (b) of the Convention.

16. While there were no military courts in France during peacetime, he understood that, in a crisis situation, military courts would be reintroduced and military personnel who were accused of having committed acts that could constitute enforced disappearance would be brought before them. However, according to article 697-1 and the following paragraphs of the Code of Criminal Procedure, ordinary courts that specialized in hearing military criminal cases could theoretically be mandated to try offences of enforced disappearance committed by military officers, although they had never done so in practice. The Committee would appreciate clarification in that regard.

17. **Mr. López Ortega** (Country Rapporteur) said that he would be interested to know why the State party had not introduced a specific provision prohibiting refoulement in cases where there was a risk of enforced disappearance. The Committee was concerned by the fact that, when some categories of asylum seekers, for whom appeals before the National Court of Asylum did not have automatic suspensive effect, appealed a removal decision and asked for the suspensive effect of the appeal to be restored, the administrative judge could order the suspension of the removal decision only if he or she considered that the asylum seeker could present evidence justifying the request to allow him or her to stay on French territory during consideration of the appeal, which appeared to be contrary to Convention. He wondered whether, in the short- or medium-term, the State party might consider bringing its asylum procedure into line with the standards set out in the Convention. It would be useful to receive information on the precise way in which the State party’s authorities evaluated the risk of individual asylum seekers being subjected to enforced disappearance. He would be grateful for an explanation as to how evidence of enforced disappearance was processed in expulsion, surrender or extradition proceedings. More specifically, he would like to know whether administrative judges or the authorities responsible for issuing expulsion, surrender or extradition decisions sought the advice of independent experts; whether the burden of proof fell on the person who was subject to expulsion, surrender or extradition and what type of evidence they could use to support their claims. He also wished to know whether the State party had taken any steps to modify its immigration policy in the light of the Committee’s Views concerning *E.L.A. v. France*.

18. The delegation might also explain how the 30-minute limit on telephone calls and meetings with family members, lawyers, employers and other third parties for persons in pretrial detention was imposed in practice. He wondered whether detainees were permitted to make telephone calls themselves, whether they were allowed to communicate with family members and whether in-person meetings were confidential. He would be interested to hear

whether persons suspected of serious crimes such as terrorism had the same right to communicate with the outside world while being held in pretrial detention. He would like to know in what circumstances judges could ban pretrial detainees from communicating with anyone except their lawyer for a period of 10 days and for how long such bans could be extended. It would be helpful to know whether other persons deprived of their liberty, such as foreigners detained with a view to deportation, also enjoyed the right to communicate with the outside world and whether their relatives, representatives and lawyers were provided with the information outlined in article 18 of the Convention. Were detainees permitted to communicate with their relatives and/or their lawyer immediately after having been deprived of their liberty?

19. He wished to know whether the State party kept a register of victims of enforced disappearance and what policies were in place to ensure the individual and collective right to truth. He would welcome information concerning the State party's reparation policy, including examples of the reparation that victims had received. He wished to invite the State party to share its experience regarding the implementation of those policies. In view of the conditions attached to the procedure for reviewing and reversing illegal adoptions, such as the obligation to demonstrate fraudulent conduct by the adoptive parents, he would be interested to know whether the State party might consider taking steps to bring that review procedure into line with the requirements of the Convention.

*The meeting was suspended at 4 p.m. and resumed at 4.15 p.m.*

20. **Mr. Retailleau** (France) said that the legislation transposing the Convention into French law had been drafted in such a way as to further clarify the definition of the crime of enforced disappearance and to make the conduct covered by that definition easier to identify. He did not agree that it provided room for misinterpretation. To date, none of the 23 sets of investigative proceedings brought in relation to alleged cases of enforced disappearance had given rise to interpretation-related problems. If any difficulties arose, the courts would refer to the original definition of the crime under the Convention and interpret domestic law on that basis. Under French law, illegal arrest, detention, abduction or any other form of deprivation of liberty of a person constituted an act of enforced disappearance, and the placement of victims outside the protection of the law was the consequence of that action. When committed intentionally, any such act, even when it did not result in the victim being placed outside the protection of the law, was still punishable as an attempted offence. The definition of enforced disappearance as a crime against humanity included the concept of a widespread or systematic attack in order to distinguish it from an isolated act. The scope of that definition was not restrictive and was in line with the Convention. Classifying enforced disappearance as a crime against humanity when it was part of a "concerted plan directed against any civilian population" was in keeping with the definition of crimes against humanity in the Rome Statute and ensured that it covered not only political acts by the State, but also acts by organized non-State actors.

21. Sentence reductions or exemptions from punishment could in fact be applied in respect of persons who had been involved in committing an offence of enforced disappearance but whose assistance had resulted in a successful investigation or had helped to bring the victim forward alive, as was permitted under article 7 of the Convention. Judges assessed all the circumstances of the case when determining the appropriate penalty, if any, to hand down, which was also standard judicial practice for crimes other than enforced disappearance. The Government was considering extending sentence reductions to persons whose assistance had limited the impact of the offence of enforced disappearance.

22. The statute of limitations for crimes including enforced disappearance was 30 years from the date of commission of the act. However, in practice, the period of limitation would not start to run until the disappeared person had been located, their remains had been found and identified, or their fate had been clarified, given that enforced disappearance was a continuous crime, as had been recognized in the case law of the Court of Cassation. Therefore, the Government did not see any need to include a specific provision removing the statute of limitations for enforced disappearance.

23. **Ms. Dumont** (France) said that, while there were no specific provisions in French law prohibiting extradition when there was a risk of enforced disappearance, France was a party

to the European Convention on Human Rights. According to the case law of the European Court of Human Rights, enforced disappearance constituted a violation of article 2, on the right to life, and article 3, on the prohibition of torture and inhuman or degrading treatment or punishment, of that Convention.

24. Appeals against orders to leave French territory submitted to an administrative judge had automatic suspensive effect. When an appeal was filed, removal was suspended until the judge had made a decision in respect of the legality of the deportation order and the choice of the country to which the person concerned was to be deported. Such suspension ensured that there was enough time to review the risk of violation of articles 2 and 3 of the European Convention on Human Rights and hence the risk of enforced disappearance. Appeals against deportation or expulsion orders were dealt with separately from appeals against the rejection of asylum applications. If an individual's asylum application was rejected, he or she could appeal before the National Court of Asylum. Since that remedy had no suspensive effect, a deportation order might be issued against the individual in the meantime. In such cases, the person subject to deportation could appeal to an administrative judge, whereupon deportation would be postponed pending a decision by the National Court of Asylum on his or her appeal.

25. To assess the risk of enforced disappearance in deportation cases, administrative judges used the framework established by the European Court of Human Rights, under which it was up to the applicant to show that there were substantial grounds for believing that he or she would face a real risk of torture or inhuman or degrading treatment in the event of removal. Where such evidence was presented, the onus fell on the administrative authorities seeking deportation to demonstrate that there was no such risk. The burden of proof was therefore shared and the deportation decision was made based on the weight of the evidence produced. There were no plans to change the existing procedure because the appeals in question had full suspensive effect.

26. Foreign nationals could be detained with a view to deportation for up to 48 hours. They were informed of their rights upon being notified of the detention measure, prior to being brought to the detention facility. They were entitled to contact their lawyer, a person of their choice or their country's consulate using their own device or a telephone provided to them.

27. **Ms. Luche-Rocchia** (France) said that, during peacetime, if a military officer was suspected of having committed an offence of enforced disappearance in the course of duty, there would be theoretical concurrent jurisdiction between the ordinary courts specializing in military affairs, the National Counter-Terrorism Prosecution Service and the judicial investigation authorities attached to the Paris Court of Appeal. In practice, all 23 sets of investigative proceedings instituted in respect of alleged cases of enforced disappearance were being handled by the specialized unit of the National Counter-Terrorism Prosecution Service. The ordinary courts specializing in military affairs were civilian courts; following the reform of the judicial system carried out pursuant to the Act of 21 July 1982, there were no military courts in France during peacetime. The Code of Criminal Procedure provided for the re-establishment of military courts with jurisdiction over offences committed by military officers in times of major crisis, such as a state of war or siege. Those courts would be partly composed of civilian judges appointed by an official order or seconded from the Ministry of the Armed Forces. A state of war could only be declared with the approval of the French parliament. Such a declaration had never been made since the promulgation of the current Constitution. The declaration of a state of war would not, however, alter the organization of the ordinary judiciary and its guiding principles, including the principle of concurrent jurisdiction; the specialized unit of the National Counter-Terrorism Prosecution Service and the competent ordinary judicial authorities would continue to handle offences allegedly committed by military officers.

28. **Mr. Retailleau** (France) said that steps had been taken to strengthen the safeguards in place for persons held in police custody. At the end of the initial period of custody, the police were required to submit a report to the person directing the judicial investigation – either the public prosecutor or the investigating judge – demonstrating that all applicable safeguards had been observed, otherwise the coercive measure would be nullified. Pursuant to article 63-2 of the Code of Criminal Procedure, persons in police custody had the right to notify the person with whom they shared a residence or one of their parents or siblings of

their arrest. They could also inform their employer and, in the case of foreign nationals, their consular representatives. Except in the event of force majeure, the police were required to take steps to facilitate notification of the coercive measure within three hours of the detainee's having made the relevant request, and had to record the notification in the record of the detainee's custody. Detainees could ask the authorities to carry out the notification on their behalf or use their own mobile telephone to notify the person of their choice, in the presence of a police officer. Requests to delay notification had to be submitted to the public prosecutor, who could approve the request only if the delay was justified by imperative motives relating to the efficacy of the investigation or the need to protect a third party from harm. Following changes to the law, persons in custody now had the right to receive assistance from counsel from the moment they were detained. It was possible for the law enforcement authorities to delay a detainee's access to counsel in cases involving the most serious offences and where justified by imperative motives relating to the efficacy of the investigation, but only with the authorization of the judge assigned to the case. The counsel of the person concerned had unrestricted access to his or her hearings and custody record and could therefore verify whether all applicable safeguards had been observed.

29. Persons in pretrial detention had the right to communicate freely with their counsel, to whom they were granted access as quickly as possible after remand. In exceptional circumstances involving the most serious offences, it was possible to delay the detainee's access to counsel for a period of 10 days; that 10-day period could be extended once, if necessary. Such a delay could only be authorized pursuant to a decision issued by the investigating judge based on imperative motives related to the investigation, subject to oversight by the public prosecutor, the Attorney-General, where appropriate, and the detainee's counsel, who could lodge an appeal on the detainee's behalf.

30. **Ms. Wach** (France) said it was true that the procedure for annulling adoptions was perhaps not pertinent to adoptions that had originated in an offence of enforced disappearance, since it applied only to simple adoptions and not full adoptions such as intercountry adoptions. Likewise, the third-party opposition procedure was perhaps not entirely applicable to adoptions that had originated in an offence of enforced disappearance, since it would require, in such cases, the submission of proof that the adoptive parents had been aware of the offence of enforced disappearance at the time of the adoption. With regard to appeals for review of adoption decisions, she wished to correct the written replies of France to the list of themes (informal document without a symbol); third parties with a legitimate interest could submit an appeal for the review of an adoption decision not only on the basis of evidence that the adoptive parents had acted fraudulently in the adoption procedure, but also on the basis of evidence that the documents used in the procedure, such as the birth certificate or a certificate of consent to adoption, had been falsified, which was particularly relevant in the case of adoptions that had originated in an offence of enforced disappearance. For that reason, inter alia, the State party did not consider it necessary to introduce a specific remedy applicable only to the review of adoptions that had originated in an offence of enforced disappearance. The rules governing the review of adoption decisions were particularly strict with a view to ensuring the stability of the parent-child relationship and preventing undue challenges to adoption decisions.

31. **Mr. Chamouard** (France) said that the French criminal justice system gave victims ample opportunity to make their voices heard, which contributed in part to reparation. There was no register of victims of enforced disappearance in France, nor was a specific memorial service held for them, because cases of enforced disappearance were relatively rare in the country's recent history.

32. **Mr. Ayat** said that he wished to know whether the State party's domestic legislation explicitly prohibited the participation of a law enforcement agency or security force in an investigation into an alleged case of enforced disappearance when one or more of its members stood accused of the offence and if not, why not. While he appreciated that the State party's domestic legislation provided for offences that might be applicable in cases involving the conduct described in article 25 of the Convention, he was concerned that the lack of specific criminal offences covering such conduct could cause problems in relation to the strict interpretation of the law. He would be grateful for the State party's comments in that regard. Lastly, he wished to know how many of the alleged cases of enforced disappearance currently

being investigated involved enforced disappearance as a separate offence and whether any of those cases involved enforced disappearance in the context of immigration or human trafficking; whether the principle of universal jurisdiction had ever been applied in respect of a suspected case of enforced disappearance; and why the State party was not in a position to provide information on the number of cases in which an appeal to the prosecutor general against a decision to discontinue proceedings had resulted in the case being reopened and tried, and the number of alleged cases of enforced disappearance in which such an appeal had been lodged, as requested in paragraph 7 of the list of themes (informal document without a symbol).

33. **Mr. López Ortega** said that he would welcome further information on the 23 sets of investigative proceedings instituted in respect of alleged cases of enforced disappearance mentioned by the delegation. In the Committee's view, the reference to a "concerted plan" in the State party's definition of enforced disappearance as a crime against humanity actually restricted the scope of the offence, since the widespread or systematic practice of enforced disappearance did not necessarily involve such a plan in all contexts. With regard to the principle of non-refoulement, if he had understood correctly, appeals against asylum decisions were non-suspensive, but appeals against deportation orders were. He would be grateful if the delegation could clarify whether persons whose asylum application had been rejected were automatically subject to deportation or whether a deportation order must first be issued against them. With reference to the safeguards applicable to persons in police custody and pretrial detention, he wondered whether, in exceptional circumstances, it would be possible to delay the exercise of a detainee's right to notify a relative of his or her detention throughout custody and pretrial detention by successively applying all the derogations from that entitlement provided for by law and described by the delegation.

34. As he understood it, two of the judicial avenues by which an unlawful adoption could be challenged and possibly annulled called for evidence of fraudulent conduct on the part of the adoptive parents. However, in cases of international adoption that were in fact unlawful because they had originated in an offence of enforced disappearance, the adoptive parents might not be aware of that fact; moreover, proving that the adoption was unlawful in origin would not be sufficient, since a serious ground for annulment would also need to have emerged after the adoption. While it was important to be sensitive to the needs of the child and to the situation within the adoptive family, he wondered whether article 25 of the Convention could not be used as a basis for amending French adoption legislation to include the specific characteristics of adoptions that had originated in an offence of enforced disappearance.

35. He wished to conclude by complimenting the State party, whose efforts to implement the Convention set an example for others to follow. The good practices detailed by the delegation benefited both the State party and the Convention itself.

36. **Mr. Ayat** said that the delegation had made it clear that, while there were several means of challenging adoptions, specific constraints applied to each of them. Nevertheless, it was important to recognize the progress that had been made by the State party. He too wished to thank the delegation for the very frank and open dialogue.

37. **Mr. Chamouard** (France) said that the delegation would reply in writing to several of the Committee's questions within 24 hours.

38. **Mr. Retailleau** (France) said that French law did not explicitly prohibit the participation in an investigation by a security body when one of its members stood accused of involvement in an offence of enforced disappearance. However, even though such a prohibition was not laid down in legislation, in practice, no one leading an investigation would allow a security body to take part in an investigation into an alleged case of enforced disappearance when such accusations had been made. Indeed, that was the very purpose of the specialized unit of the National Counter-Terrorism Prosecution Service, which, in practice, handled all alleged cases of enforced disappearance. The Government considered that existing legislation already offered sufficient means to deal with offences of enforced disappearance and had no plans to take any further legislative measures in that connection.

39. Details on specific cases of enforced disappearance and, in particular, whether they were being prosecuted as separate offences or as crimes against humanity would be shared



in writing for security and confidentiality reasons. A portion of the investigations opened into those cases did come under the universal competence claimed by France.

40. Regarding the use of the term “concerted plan” in the definition of enforced disappearance as a crime against humanity, he wished to underscore that the delegation was not aware of any cases in which the different forms of conduct covered by the Convention had been restricted or reduced. The term was inspired by the language used in the Charter of the Nuremberg Tribunal. Moreover, use of that term allowed a distinction to be made in French law between serious offences such as crimes against humanity, terrorist offences and war crimes.

41. As for the hypothetical situation in which the exercise of a detainee’s right to notify a relative of his or her detention could be delayed by applying the different derogations provided for in law successively, he wished to clarify that, in practice, a public prosecutor would only restrict detainees’ access to family and friends and, under more limited circumstances, to counsel, to either preserve the integrity of the investigation or to ensure the safety of one or more persons. Persons could not be held in pretrial detention for more than 48 hours without being able to exercise their statutory rights. Beyond that period, a liberty and custody judge independent of the investigation could, on grounds relating to the security of the investigation, authorize an extension. However, the judge might refuse to grant such an extension if he or she did not consider it proportional. The liberty and custody judge had to explain his or her reasons for authorizing the extension, which could be contested. In addition, the investigating judge who had ordered the pretrial detention must, within one month, provide detailed reasons for the incommunicado detention. Lastly, the detainee’s lawyer had the right to challenge decisions taken in respect of pretrial detention and was also able to notify the detainee’s relatives.

42. No statistics on appeals lodged, discontinued cases that had subsequently been reopened or cases of enforced disappearance involving members of the police or military were currently available, either because the events in question had never occurred, or because it had not been possible to compile such statistics.

43. In France, any friend or relative of a victim who met the admissibility criteria could join criminal proceedings to sue for damages before the investigating judge. If the investigating judge accepted their request to join, he or she would then open a judicial inquiry to ascertain the truth about the reported offence.

44. **Ms. Wach** (France) said she wished to clarify that there were three ways of challenging an unlawful adoption. For third-party opposition, fraud or deceit on the part of the adoptive parents had to be proven, while, for setting aside an adoption decision, there had to be serious grounds justifying that course of action. The judicial review procedure was a viable course of action in suspected cases of enforced disappearance because it did not require evidence of fraud on the part of the adoptive parents; it was simply sufficient to prove that the adoption decision was based on falsified documents.

45. Regarding the ability to challenge an adoption that might be the result of an offence of enforced disappearance, the Government believed in prevention rather than cure. Accordingly, a bill to reform the country’s adoption legislation had been submitted to the National Assembly and had been adopted on first reading; it was now in the process of being scrutinized by parliamentary committees. Among other proposals, an end to individual international adoptions had been mooted, in order to ensure that all such adoptions were handled by officially sanctioned bodies, such as the French Adoption Agency, which ensured compliance with the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. The bill would also strengthen oversight of authorized adoption bodies, in order to ensure that any unlawful practices were duly punished.

46. **Mr. Chamouard** (France) said that the delegation wished to thank the Committee for the high quality of the dialogue and for a fruitful exchange of ideas. He hoped that the Committee had been persuaded that the French legal framework met the requirements of the Convention. While not everything was spelled out explicitly in legislation, it did include general provisions sufficient to prevent enforced disappearance in a variety of circumstances; that was particularly true in areas such as foreign nationals’ rights and adoption.

47. No cases of enforced disappearance had been recorded in French territory. In those cases that were being prosecuted, the criminal acts in question had been committed abroad; such cases represented a means whereby the Government could take action against the phenomenon of enforced disappearance, pursuant to the Convention. Such action was part of the rationale behind the establishment of the specialized unit of the National Counter-Terrorism Prosecution Service.

48. The Government was continuing to support the implementation of the Convention both domestically and internationally, and would also continue its efforts to promote its ratification.

*The meeting rose at 5.50 p.m.*