



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 Armenia under article 29, paragraph 1, of the Convention*

I. General information

1. Please indicate whether the State party envisages making the declarations provided for in articles 31 and 32 concerning the competence of the Committee to receive and consider individual and inter-State communications. Please indicate what measures have been taken to ensure the implementation of article 18 (4) of the Constitution of Armenia (CED/C/ARM/1 and Corr.1, para. 22).
2. Please provide information about the report preparation process, including, in particular, information on consultations with the Human Rights Defender of Armenia, civil society actors and other relevant stakeholders.
3. Please provide examples, if any, of case law in which the provisions of the Convention have been invoked before the courts and/or applied by the relevant authorities. Please provide further information on the direct applicability of the provisions of the Convention by the judiciary in Armenia.

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

4. Please indicate whether there have been any allegations of cases which could fall under enforced disappearance as defined in the Convention and, if so, please provide detailed information thereon. Please indicate whether the domestic law specifically provides for the principle of non-derogability of the prohibition of enforced disappearances. Furthermore, please provide information on the measures taken to ensure the effective implementation of this principle (arts. 1 and 2).
5. Please update the Committee about the current status of the preparation of the draft law on amendments to the Criminal Code (CED/C/ARM/1 and Corr.1, para. 46) and about the content of the draft amendments, in particular with regard to the definition of enforced disappearance, specific aggravating and mitigating circumstances and penalties, as well as

* Adopted by the Committee at its seventh session (15–26 September 2014).



the envisaged timeframe for its adoption and entry into force. With reference to paragraph 32 of the State party's report, please indicate why the State party considers the wording "placing such a person outside the protection of the law" as a "binding element" of the crime, rather than a consequence of the crime of enforced disappearance (arts. 2, 4, 6 and 7).

6. In relation to paragraphs 48 to 50 of the report, please indicate whether the current draft amendments to the Criminal Code envisage adopting a definition of enforced disappearance as a crime against humanity, in line with the Convention (art. 5).

7. Please indicate whether the provision, under which a person acting in pursuance of an order is exempted from criminal responsibility, as stipulated in article 47, paragraph 1, of the Criminal Code, may have an impact on the effective implementation of the prohibition of invoking superior orders as a justification of enforced disappearance (art. 6).

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

8. Please explain the difference between "continuous crime" and "continuing crime" (CED/C/ARM/1 and Corr.1, para 70). In that respect, please also indicate which of the two would apply to a potential case of enforced disappearance (art. 8).

9. Please explain whether the conditions set forth in article 15 (1) of the Criminal Code (CED/C/ARM/1 and Corr.1, para. 76) are in line with the obligation under article 9 of the Convention, aimed at ensuring jurisdiction over the offence of enforced disappearance (art. 9).

10. Please provide further information whether military authorities are competent under domestic law to investigate and whether military courts are competent to try alleged cases of enforced disappearance (CED/C/ARM/1 and Corr.1, para. 92) (art. 11).

11. Please indicate whether the powers of the investigator and/or investigating body, as stipulated in articles 55 and 57 of the Criminal Procedure Code, include the power to undertake an investigation ex officio (art. 12).

12. Please indicate whether domestic law provides for suspension from duties during an investigation when the alleged offender is a public official. Please also specify whether there are any procedural mechanisms in place to exclude a civil or military, security or law enforcement force from the investigation into an enforced disappearance when one or more of its officials are accused of committing the offence (art. 12).

13. Please clarify whether, in the absence of an autonomous crime, the provisions of the Criminal Code which are invoked to deal with cases of enforced disappearances may be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives for the purpose of extradition, and whether extradition may be refused on any of those grounds. Furthermore, please indicate whether a denial of extradition could be based on the immunity granted to certain categories of persons and/or officials and, in that case, please enumerate such categories (art. 13).

14. Please provide examples, if any, of extradition treaties that have been concluded between Armenia and other States parties and/or other countries which are not parties to the Convention, in which the offence of enforced disappearance is expressly established as a basis for extradition. Please explain the framework for providing legal assistance in criminal matters in the absence of such a treaty (CED/C/ARM/1 and Corr.1, para. 80) (art. 13).

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

15. Please provide detailed information about: (a) the competent authorities to determine the expulsion, return, surrender or extradition of persons; (b) the mechanisms and criteria applied in the framework of procedures of expulsion, return or surrender to evaluate and verify the risk that a person may be subjected to enforced disappearance; and (c) whether it is possible to appeal a decision on expulsion, return, surrender or extradition and, if so, please indicate before which authorities, what are the applicable procedures and whether they have suspensive effect (art. 16).

16. Please specify whether the measures requiring notification of and access to family members, counsel, consular representatives, in the case of foreign nationals and any other person chosen by the individual deprived of liberty apply in all cases from the outset of the deprivation of liberty. In that regard, please also provide detailed information about the conditions and/or restrictions that could be applied with regard to prompt notification and/or access of the above-mentioned persons (art. 17).

17. Please indicate whether the Human Rights Defender of Armenia possesses sufficient human, financial, technical and logistical resources to enable it to carry out its functions effectively and independently, in particular given that the institution has been designated as the National Preventive Mechanism (NPM), in accordance with the State party's obligations under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Moreover, please provide information about the existing guarantees to ensure that the Human Rights Defender of Armenia has immediate and unrestricted access to all places of deprivation of liberty. If there are mechanisms to inspect prisons, other than those comprising the NPM, please also provide similar information about those mechanisms (art. 17).

18. Please indicate whether up-to-date registers are kept of all persons deprived of their liberty, no matter what the nature of the place of deprivation of liberty, which include all of the information listed in article 17, paragraph 3, of the Convention, beyond the basic information included in registers and records of arrested persons, as provided for in article 29 (4), of the Law on Custody of Arrested and Detained Persons (CED/C/ARM/1 and Corr.1, para. 161). Please also indicate whether there have been any complaints concerning the failure by public officials to record the deprivation of liberty of a person or any other pertinent information in registers concerning persons deprived of their liberty and, if so, please provide information about the proceedings initiated and, if relevant, the sanctions imposed (arts. 17 and 22).

19. Please indicate whether any person with a legitimate interest can access information about a person deprived of liberty that could be contained in the registers and/or records of prisons and other centres of deprivation of liberty. In that respect, please also provide information about the procedures for accessing such information and indicate whether any restrictions to access could be applied and, if so, for how long (art. 18).

20. Please provide information on the collection, processing, use and storage of personal information, including medical and genetic data, with the aim of identify remains of disappeared persons (art. 19).

21. Please indicate whether there are any mechanisms in place to prevent and sanction the conduct set out in article 22, paragraphs (b) and (c) of the Convention (art. 22).

22. In the light of paragraph 168 of the report, please indicate to what extent the State party provides human rights training, in particular on the Convention, to law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody or treatment of any person deprived of liberty, in particular

members of the police, the Prosecutor General's Office and the judiciary, as set out in article 23 of the Convention. Please also provide detailed information about the content, nature and frequency of the training provided, and the authorities in charge of facilitating such training (art. 23).

V. Measures for reparation and protection of children from enforced disappearance (arts. 24 and 25)

23. Please clarify whether the definition of victim contained in the current legislation encompasses any individual who has suffered harm as the direct result of an enforced disappearance. With reference to paragraph 174 of the State party's report, please clarify how the discretionary power to declare a person a victim is in line with article 24 of the Convention. Please clarify how the choice of legal successor of the victim is actually made from among the close relatives who have applied with an appropriate request (CED/C/ARM/1 and Corr.1, para. 175) (art. 24).

24. Please indicate whether, besides compensation, the legislation provides for other forms of reparation for persons who have suffered harm as the direct result of an enforced disappearance, such as rehabilitation, satisfaction and guarantees of non-repetition. Please also indicate whether there would be a time limit for victims of enforced disappearance to access to reparation. Please provide information about any applicable legislation regarding the legal situation of disappeared persons whose fate has not been clarified as well as the legal situation of their relatives, in terms of, inter alia, social welfare, financial matters, family law and property rights (art. 24).

25. Please provide information about the relevant criminal provisions that would apply should any of the conduct set out in article 25, paragraph 1, of the Convention occur. Please also indicate whether the current draft amendments to the Criminal Code envisage bringing national legislation into line with article 25, paragraph 1, of the Convention.

26. In relation to paragraph 193 of the State party's report, please provide additional information about the procedures in place to review and, if necessary, annul any adoption or placement of children that originated from an enforced disappearance (art. 25).
