



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 Luxembourg under article 29 (1) of the Convention*

I. General information

1. Please explain the measures taken – following the establishment in 2015 of the Interministerial Human Rights Committee, which is responsible for ensuring the implementation of the State's human rights obligations, in consultation with the national human rights institution and civil society – to ensure in-depth exchanges between the various stakeholders during meetings of the Interministerial Committee.¹
2. In the light of article 102 of the Constitution and the Act of 17 December 2021 approving the Convention, please indicate what measures have been taken to promote the invocation of the Convention before and its application by the national courts or other relevant authorities. If available, provide examples of case law involving such application.
3. Please describe the actions taken to raise awareness of the Convention among judges, prosecutors, lawyers and the general public.
4. Concerning the Advisory Commission on Human Rights, please describe:
 - (a) The measures taken to enhance its effectiveness and independence, in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), and to implement the recommendations made by the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions;²
 - (b) Its mandate and any activities it has undertaken in relation to the Convention, indicating whether the Commission envisages receiving complaints concerning enforced disappearance;
 - (c) The financial, technical and human resources provided for the Commission's effective functioning.
5. With regard to paragraph 5 of the State Party's report, please explain how the process for the preparation of the report complied with the guidelines on the form and content of reports under article 29 to be submitted by States Parties to the Convention, adopted by the Committee at its second session,³ providing information about the consultations held with civil society and other stakeholders.

* Adopted by the Committee at its twenty-eighth session (17 March–4 April 2025).

¹ [A/HRC/WG.6/43/LUX/3](#), para. 3.

² Report of the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions, March 2022, pp. 19–21. Available at: https://ganhri.org/wp-content/uploads/2022/04/SCA-Report-March-2022_EN.pdf.

³ [CED/C/2](#).



6. Please indicate whether the State Party intends to make the declaration provided for in article 32 of the Convention related to the Committee's competence to receive and consider inter-State communications.

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

7. Please indicate whether there exists in the State Party a register of disappeared persons and, if so, explain what type of information it contains and how such information enables differentiation between cases of enforced disappearance, as defined under article 2 of the Convention, and other cases of disappearance that do not fall under that category. Please specify whether the information is cross-checked with other databases and what methodology is used to keep databases updated (arts. 1–3, 12 and 24).

8. In the light of the information contained in paragraph 14 of the State Party's report, according to which the State Party currently has no statistical data on enforced disappearance, please specify the steps taken to ensure that relevant statistical information can be gathered whenever necessary and used to identify cases of enforced disappearance in the State Party. Please provide information on the measures taken to guarantee that this statistical information is disaggregated by sex, gender identity, sexual orientation, age, nationality, ethnic origin, religious affiliation and occupation of the victim and that it indicates:

(a) The number of disappeared persons in the State Party, specifying the date and place of disappearance and the number among them who have been located;

(b) The number of persons who may have been subjected to enforced disappearance within the meaning of article 2 of the Convention;

(c) The number of persons who may have been subjected to the acts referred to in article 3 of the Convention, including disappearances committed for the purpose of trafficking in persons or illegal intercountry adoption and in the context of migration (arts. 1–3, 12 and 24).

9. With reference to article 17 of the Constitution and article 70 of the Criminal Code, please indicate whether the State Party plans to include in the Constitution a specific legal provision on protection from enforced disappearance. Please specify the measures taken to ensure that no exceptional circumstances may be invoked to justify an enforced disappearance, including a state of emergency (Constitution, art. 48), and the rights that may not be derogated from in this context (arts. 1, 12 and 24).

10. The Committee notes the new chapter of the Criminal Code entitled "Offences against the person constituted by enforced disappearance", articles 442-1 bis and 442-1 quater of which establish enforced disappearance as an autonomous offence. It also notes that enforced disappearance is defined as a crime against humanity under point 9 of article 136 ter of the Criminal Code. In this context, please indicate:

(a) Under what circumstances enforced disappearance could be punishable by a fine;

(b) Whether article 37 of the Criminal Code has been applied in relation to enforced disappearances or any of the other crimes listed in this provision and, if so, what the outcome of the proceedings was;

(c) What the maximum and minimum penalties envisaged in the Criminal Code for enforced disappearance are, explaining the mitigating and aggravating circumstances set out in articles 73–76 and 62–65 of the Criminal Code, respectively, and indicating what maximum and minimum penalties would apply in such cases (arts. 2, 4, 5 and 7).

11. With regard to articles 51, 52, 66–69 and 442-1 ter of the Criminal Code, please describe the applicable legislation governing the conduct enumerated in article 6 (1) (a) and (b) of the Convention and explain how this legislation ensures that any person engaging in such conduct is held criminally responsible. Please also indicate whether the notion of "due obedience" as a criminal law defence has any impact on the implementation of the

prohibition on invoking an order or instruction from a public authority to justify an offence of enforced disappearance (art. 6).

12. In the light of the Committee's general comment No. 1 (2023) on enforced disappearance in the context of migration,⁴ please indicate the number of complaints that have been lodged concerning cases of disappearance that occurred in the context of migration (including that of refugees and asylum-seekers) or trafficking in persons. Please describe the measures taken in these cases to search for the disappeared persons, investigate their disappearance, bring the perpetrators to justice, provide the victims with appropriate protection and reparation, and prevent such disappearances. In particular, report on the measures taken to prevent the disappearance of unaccompanied migrant children,⁵ including from migrant detention centres (arts. 1–3, 12, 24 and 25).

III. Judicial procedure and cooperation in relation to enforced disappearance (arts. 8–15)

13. In relation to the 10-year statute of limitations applicable to the offence of enforced disappearance, as set out in article 442-1 bis of the Criminal Code, and the fact that there is no statute of limitations where enforced disappearance constitutes a crime against humanity, in accordance with articles 637 (1) (3) and 635 (2) of the Code of Criminal Procedure, please indicate what mechanisms are in place to ensure the effective suspension of the statute of limitations in order to bring perpetrators of enforced disappearance to justice. Please explain the measures taken to guarantee accountability in cases of enforced disappearance discovered long after the fact, and to ensure the right of victims of enforced disappearance to an effective remedy even when no investigation or prosecution has been initiated (art. 8).

14. With regard to article 3 of the Criminal Code, the first paragraph of article 5, article 5-2 (1), the seventh paragraph of article 5, article 7-2 and article 7 (4) of the Code of Criminal Procedure and article 14-1 of the Extradition Act of 20 June 2001, please explain how the State Party establishes its competence to exercise jurisdiction over enforced disappearance in the cases contemplated in article 9 (1) and (2) of the Convention. In relation to paragraph 62 of the State Party's report, please provide information on any extraditions related to cases of enforced disappearance that may have occurred since the submission of the report (art. 9).

15. Please describe the procedures in place to ensure the presence of alleged offenders before the competent authorities and the legal, administrative or judicial measures for carrying out a preliminary inquiry or investigation to establish the facts should the State Party take the measures referred to in article 10 (1) of the Convention. In relation to the Act of 8 March 2017 reinforcing procedural guarantees in criminal matters, please explain how the State Party guarantees the right of any person in custody to notify and communicate with the consular authorities of the State of which he or she is a national and elaborate on the cases in which this right can be denied, as stated in paragraph 68 of the State Party's report, "if precluded by the needs of the preparatory investigation and under certain conditions" (art. 10).

16. Please clarify the legal framework enabling the national courts to exercise universal jurisdiction over the offence of enforced disappearance, including article 4 of the Criminal Code. Please indicate whether the competent national courts have ever applied the principle of universal jurisdiction in cases related to enforced disappearance and, if so, what the outcome of the proceedings was. Please also specify the measures taken to ensure that cases of enforced disappearance may be investigated and tried only by the competent civilian authorities and remain expressly outside the jurisdiction of the military courts (art. 11).

17. Please describe the measures taken to prevent and combat corruption in the treatment of any case related to enforced disappearance, including the actions carried out by the Committee for the Prevention of Corruption, and their outcomes (arts. 11 and 12).

⁴ CED/C/GC/1.

⁵ CAT/C/LUX/CO/8, para. 27; CCPR/C/LUX/CO/4, para. 17; and CRC/C/LUX/CO/5-6, para. 28.

18. With reference to paragraphs 80–96 of the State Party’s report, please specify:

(a) Which authorities are responsible for receiving complaints and investigating cases of alleged enforced disappearance, how the Grand Ducal Police and the Public Prosecutor’s Office divide their functions, which persons can report such cases to those authorities and what the requirements are for doing so;

(b) What measures are taken to ensure a prompt, thorough and impartial investigation, including in the absence of an official complaint;

(c) What steps are taken so that the competent authorities have the necessary powers and resources to search for disappeared persons and conduct investigations into allegations of enforced disappearance, including access to documentation and other relevant information and access to places of deprivation of liberty and any other place in which there are reasonable grounds to believe that a disappeared person may be held;

(d) Whether any complaints of enforced disappearance have been lodged since the submission of the State Party’s report; if so, provide disaggregated data on the search and investigations carried out and their results, the profile of the perpetrators, the proportion of proceedings launched that resulted in convictions and the sanctions imposed on the perpetrators (arts. 2, 3 and 12).

19. Please describe how the State Party ensures that persons suspected of having committed an offence of enforced disappearance are not in a position to influence the progress of the related search and investigation processes. In particular, indicate whether domestic law provides for suspension from duties, from the outset and for the duration of these processes, when the alleged offender is a State official. Please provide information on the mechanisms in place to ensure that law enforcement officials, security forces personnel or any other public officials who are suspected of being involved in the commission of an enforced disappearance do not participate in the search and investigation, including on interim measures as provided for under the Act of 18 July 2018 on the Disciplinary Statute for Officers of the Grand Ducal Police (art. 12).

20. Given that Luxembourg is a destination and transit country for victims of trafficking in persons, and given the increase in the number of cases and the emergence of forced labour as a new predominant form of exploitation in the State Party, particularly in the construction and catering sectors,⁶ please provide information on:

(a) The actions adopted to prevent and combat trafficking in persons, addressing the possible link with enforced disappearance, and to ensure that the applicable legislation, including the Act of 28 February 2018 strengthening measures to combat the exploitation of prostitution, procuring and trafficking in persons for sexual purposes, takes sufficient account of the possibility that the victims may have been subjected to disappearance, including enforced disappearance;

(b) The investigations carried out in relation to such cases and the results thereof, including the proportion of proceedings launched that resulted in convictions and the sanctions imposed, along with data on the perpetrators and the victims, disaggregated by sex, age and nationality;

(c) The steps taken to adopt a new national plan to combat all forms of trafficking, in follow-up to the 2016 National Action Plan on Trafficking in Persons;

(d) The measures adopted to align the definition of trafficking (Criminal Code, art. 382-1) with international standards and to provide the victims with appropriate protection, support and reparation (arts. 2, 3, 12 and 24).

⁶ CAT/C/LUX/CO/8, para. 31.

21. In view of the Committee's Guiding Principles for the Search for Disappeared Persons,⁷ please describe:

(a) The actions taken to guarantee that the search for an alleged victim of enforced disappearance is initiated ex officio and as soon as the competent authorities are notified of the disappearance, even if no formal complaint has been made;

(b) The measures taken to ensure that the search continues until the fate of the disappeared person has been clarified, and the protocols and procedures for searching for, locating and releasing disappeared persons, including the Amber Alert, and the applicable time frames;

(c) The steps taken to ensure the systematic collection of ante-mortem information related to disappeared persons and their relatives and to set up a database for the identification of persons, into which fingerprints, photographs and personal data from birth to death that are relevant for the identification are entered (arts. 12, 19 and 24).

22. Please indicate what remedies are available to complainants where the competent authorities fail to search for a disappeared person and to investigate the alleged disappearance, and what mechanisms are available for the protection of all persons referred to in article 12 (1) of the Convention against all ill-treatment or intimidation. Concerning paragraph 88 of the State Party's report, please provide an update on the establishment of a witness protection programme, including a time frame for its implementation (arts. 12 and 24).

23. Bearing in mind that enforced disappearance is not explicitly listed as an extraditable offence in the treaties ratified by the State Party but is covered by the European Convention on Extradition and the Extradition Act of 20 June 2001, and taking into account the Act of 8 August 2000 on International Mutual Assistance in Criminal Matters, please provide information on:

(a) The criteria applied to verify that extradition requests are made only for criminal offences and not for a political offence, an offence connected with a political offence or an offence inspired by political motives;

(b) Any extradition agreements with other States Parties that may have been concluded since the submission of the State Party's report, including whether enforced disappearance is included in such agreements and the applicable time frames and protocols;

(c) Whether any restrictions or conditions apply to requests for mutual legal assistance or cooperation, and whether the State Party has made or received any request concerning a case of enforced disappearance since the submission of its report;

(d) The mechanisms in place to ensure mutual assistance to the authorities of requesting States, with a view to facilitating the sharing of information and evidence and searching for and identifying disappeared persons, and to assisting the victims (arts. 13–15).

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

24. With reference to the Act of 18 December 2015 on international protection and temporary protection and the Act of 29 August 2008 on the free movement of persons and immigration, please indicate:

(a) Whether the State Party envisages adopting an explicit legal provision prohibiting the expulsion, return, surrender or extradition of any person where there are substantial grounds to believe that he or she would be in danger of being subjected to enforced disappearance;

(b) What procedures are applicable to expulsion, return, surrender and extradition, and what criteria are applied in such contexts to evaluate and verify the risk that the persons concerned may be subjected to enforced disappearance;

⁷ CED/C/7.

(c) Whether an appeal against a decision authorizing expulsion, return, surrender or extradition has suspensive effect (art. 16).

25. The Committee notes the allegations according to which the right of persons kept in police custody to meet with a lawyer as soon as they are taken into custody is not always respected and persons deprived of their liberty sometimes have to wait for several hours before being able to inform a third party about their detention.⁸ In the light of article 17 of the Constitution, articles 39, 52-1 and article 91 (1) of the Code of Criminal Procedure, and the Prison Administration Reform Act of 20 July 2018, please indicate:

(a) What legal provisions expressly prohibit secret or unlawful detention;

(b) What measures are taken to guarantee that persons deprived of their liberty, regardless of the offence of which they are accused, are afforded, from the outset of the deprivation of liberty, all the fundamental legal safeguards provided for under article 17 of the Convention, in particular the rights to have prompt access to a lawyer, to communicate with and be visited by family members, counsel or any other person of their choice and, in the case of foreign nationals, to communicate with their consular authorities;

(c) Whether any restrictions may be applied to the above rights, whether there have been complaints regarding the failure to observe these safeguards and, if so, what proceedings were carried out and what the outcomes were;

(d) How the access of the authorities or other bodies authorized to visit places of deprivation of liberty, including the Inspectorate General of Police and the Ombudsman, is ensured, even if such a visit is unannounced;

(e) Under what circumstances the needs of the investigation, referred to in articles 39 (4) and (5) and 84 (2) of the Code of Criminal Procedure, would be a reason to refuse persons deprived of their liberty the right to notify a third party about their deprivation of liberty and to communicate with others (arts. 17–20).

26. With regard to paragraphs 132–136 of the State Party’s report, the Code of Criminal Procedure and the Grand Ducal regulation of 24 March 1989 on prison administration and internal regulations, please indicate whether any complaints have been lodged concerning failure to record or delays in recording a deprivation of liberty or the recording of inaccurate information and, if so, what measures were taken to ensure that such omissions and errors were not repeated, including any disciplinary proceedings or sanctions involving the personnel concerned and any training conducted for them (arts. 17 and 21–23).

V. Measures to protect and ensure the rights of victims of enforced disappearance (art. 24)

27. Concerning paragraphs 207–213 of the State Party’s report, please specify:

(a) To what extent the definition of “victim” under article 4-1 of the Code of Criminal Procedure is applied in practice;

(b) What forms of reparation and compensation are provided for in national legislation for victims of enforced disappearance within the meaning of article 2 of the Convention, indicating whether they include all the forms of reparation listed in article 24 (5) of the Convention;

(c) What authority is responsible for granting compensation or reparation and what procedures are available to victims of enforced disappearance for obtaining it, including the applicable time limits, indicating whether access to compensation or reparation is conditional on a criminal conviction;

(d) Whether national legislation provides explicitly for the right of victims of enforced disappearance to the truth and what measures are taken to guarantee this right

⁸ CAT/C/LUX/CO/8, para. 9.

regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person;

(e) What measures are taken to assist victims, in addition to the distribution of the “information and support for victims” leaflet by the police and the provision of assistance by the victim support service of the Public Prosecutor’s Office, which offers psychological care (art. 24).

28. Please provide information on the legal situation of disappeared persons whose fate has not been clarified, and that of their relatives, in fields such as social welfare, financial matters, family law and property rights, and the application of a gender perspective in such contexts. With regard to paragraph 216 of the State Party’s report, please describe the impact of a declaration of absence on the State Party’s obligation to continue the search and investigation into an enforced disappearance until the fate of the disappeared person has been clarified (art. 24).

29. In view of article 26 of the Constitution, please report on the measures taken to guarantee the right to form and participate freely in organizations and associations concerned with attempting to establish the circumstances of enforced disappearances and the fate of disappeared persons and to assist victims of enforced disappearance (art. 24).

VI. Measures to protect children against enforced disappearance (art. 25)

30. In the light of the information provided in paragraphs 221–226 of the State Party’s report, of which the Committee takes due note, please clarify whether any complaints concerning the enforced disappearance or wrongful removal of children have been lodged since the entry into force of the Convention for the State Party or the submission of the report. In this context, please also indicate what measures are taken to locate the children concerned, the results of those measures, the procedures for returning them to their families of origin and the actions taken to prosecute and punish the perpetrators of such acts (art. 25).

31. Please describe the measures taken to ensure that information on unaccompanied minors is adequately recorded, to facilitate the identification of disappeared children (art. 25).
