



International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

Concluding observations on the additional information submitted by Serbia under article 29 (4) of the Convention*

A. Introduction

1. The Committee expresses appreciation for the additional information submitted by Serbia under article 29 (4) of the Convention as requested by the Committee in its previous concluding observations,¹ and for timely manner in which it was submitted. It is grateful for the constructive dialogue with the State Party's delegation at the Committee's 514th meeting, held on 18 March 2025,² and for the information presented during the dialogue regarding the measures taken to fulfil the State Party's obligations under the Convention in the following areas: (a) legislative harmonization and institutional framework; (b) prosecution, investigation and cooperation; and (c) search and identification. In addition, the Committee thanks the State Party for the additional information provided in writing after the dialogue.

2. At its 529th meeting, held on 27 March 2025, the Committee adopted the present concluding observations.

B. Positive aspects

3. The Committee acknowledges the measures taken by the State Party following the issuance of the Committee's previous concluding observations, including:

- (a) The inclusion of enforced disappearance as a crime against humanity in article 371 of the Criminal Code;
- (b) The strengthening of the capacity of the Office of the War Crimes Prosecutor;
- (c) The drafting of a law on missing persons to address existing gaps in national legislation.

C. Effect given to the Committee's recommendations and new developments in the State Party

4. Having considered the information provided by the State Party in the context of the constructive dialogue, the Committee wishes to highlight its concerns and recommendations to ensure that legislation in the State party on preventing and punishing acts of enforced disappearance and on ensuring the rights of victims, the implementation of such legislation and the conduct of the competent authorities comply fully with the

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

¹ CED/C/SRB/CO/1, para. 37.

² See CED/C/SR.514.



Convention. The Committee therefore invites the State party to implement its recommendations, which are made in a constructive and cooperative spirit.

1. Legislative harmonization and institutional framework

Criminalization of enforced disappearance as an autonomous offence

5. The Committee takes note of the State Party's position that its Criminal Code, specifically article 371, on crimes against humanity, article 132, on unlawful deprivation of liberty, and article 134, on abduction, are sufficient to prosecute and sanction cases of enforced disappearance. However, the Committee is concerned that those articles of the Criminal Code do not adequately encompass all the constituent elements and modalities of enforced disappearance as defined in article 2 of the Convention. In that connection, the Committee recalls that enforced disappearance is not a series of different crimes but rather a complex and single offence, and that only by criminalizing enforced disappearance as an autonomous offence can the State Party fully comply with article 4 of the Convention (arts. 2–4).

6. **The Committee reiterates its recommendation that the State Party review its legislation to incorporate enforced disappearance into national law as an autonomous offence in line with the definition contained in article 2 of the Convention.**

Appropriate penalties

7. The Committee observes that in the absence of an autonomous crime of enforced disappearance, the offences set out in articles 132 and 134 of the Criminal Code do not entail punishments that are commensurate to the seriousness of the crime of enforced disappearance in compliance with article 7 (1) of the Convention (art. 7).

8. **The Committee recommends that the State Party**

(a) **Adopt the legislative measures necessary to include in its criminal law appropriate penalties for the offence of enforced disappearance that take into account both its extreme seriousness and the specific mitigating and aggravating circumstances set out in article 7 (2) of the Convention,**

(b) **Ensure that the criminal responsibility of superiors is provided for in national law, in accordance with article 6 (1) (b) of the Convention.**

9. The Committee takes note of the information provided by the State Party that enforced disappearance as a crime against humanity is not subject to a statute of limitations. However, the Committee remains concerned that enforced disappearances that do not amount to a crime against humanity and are prosecuted under articles 132 and 134 of the Criminal Code are not referred to as continuous crimes under article 61 of the Criminal Code and are therefore subject to the standard statute of limitation (art. 8).

10. **The Committee recommends that the State Party ensure, in accordance with article 8 of the Convention, that the statute of limitations applicable to an autonomous offence of enforced disappearance is of long duration and proportionate to the extreme seriousness of the crime and that, given the continuous nature of the offence, the statute of limitations commences from the moment the offence ceases.**

Definition of victims

11. The Committee shares the concern of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence about the lack of inclusiveness of the Law on the rights of veterans, disabled veterans, civilian disabled war victims and their family members, namely that it serves “only citizens of Serbia who were victims of violence committed by members of ‘enemy troops’ and who suffered a certain degree of physical impairment”³ (arts. 3, 4 and 24).

³ [A/HRC/54/24/Add.2](#), para. 24; see also para. 25.

12. **The Committee recommends that the State Party review the Law on the rights of veterans, disabled veterans, civilian disabled war victims and their family members, recognize the status of all wartime victims and provide all of those victims, without discrimination, with full and effective reparation, compensation, rehabilitation restitution and satisfaction.**

13. The Committee is concerned that in the draft law on the rights of missing persons and members of their families, the definition of victims is limited to those who went missing at the hands of enemy forces (art. 24).

14. **The Committee urges the State Party to ensure that the definition of victims in its national legislation fully complies with article 24 (1) of the Convention and includes all individuals who have suffered harm as a direct result of enforced disappearance.**

Protection of witnesses

15. The Committee notes the information provided by the State Party about the assistance and protection programmes that are available for witnesses and victims of enforced disappearances, and about the processes that are in place to investigate allegations of threats or intimidation that they may suffer. However, the Committee is concerned about allegations it has received about intimidation of and attacks against witnesses and victims, which deterred them from testifying in war crimes cases, and that, despite the existence of a specific offence in the Criminal Code, legal action has not been taken to counter such practices (art. 12).

16. **The Committee supports the recommendation of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence that the State Party provide effective and comprehensive witness protection services to wartime victims and witnesses and ensure that all cases concerning threats or acts of intimidation against them are thoroughly and impartially investigated and prosecuted and that convicted perpetrators are punished.⁴**

Absence of a comprehensive national framework on enforced disappearance

17. The Committee takes note of the information that the State Party provided regarding the various legal instruments, policies and strategies on, and institutions that have the competence to address, enforced disappearance. However, the Committee is concerned that those institutions and measures do not provide a comprehensive framework to address the issue of enforced disappearance or provide adequate support to victims, given the absence of an autonomous offence on enforced disappearance (arts. 2, 7, 8 and 12).

18. **The Committee recommends that State Party adopt the draft law on the rights of missing persons and members of their families and ensure that the adopted version adequately addresses the existing gaps of the current legislation on enforced disappearance, particularly with regard to search and identification, the status and rights of victims of enforced disappearance and their families, high standards of proof and limited eligibility to compensation. It encourages the State Party to ensure the full participation of civil society in general, and victims of enforced disappearance and their associations in particular, in the review of the draft law prior to its adoption.**

2. Prosecution, investigation and cooperation

Prosecution and investigation

19. The Committee takes note of the information received with regard to the 2016–2020 and 2021–2026 national strategies for the prosecution of war crimes and the action plan for the implementation of the 2021–2026 strategy. However, the Committee is concerned by: lengthy processing times; reports of a backlog of over 1,700 pre-investigative cases; the low rate of prosecutions of mid- and high-ranking officials; and war-crime denials that have

⁴ Ibid., para. 100; see also para. 21.

been expressed, including by high-level political actors, in various settings (arts. 9, 11 and 24).

20. **The Committee recommends that the State Party intensify its efforts to ensure timely processing of investigations, reduce the backlog and ensure prosecution of all alleged perpetrators.**

21. The Committee takes note of the figures provided by the State Party, following the dialogue, regarding the prosecution and conviction of cases. The Committee is concerned that given the absence of enforced disappearance as an autonomous offence, accurate data on prosecutions and convictions regarding enforced disappearances cannot be made available (arts. 2, 3, 11 and 12).

22. **The Committee recommends that the State Party ensure that existing registers include disaggregated data that enable the identification of cases of enforced disappearance as defined under article 2 of the Convention, and ensure differentiation between such cases, acts covered by article 3 and other disappearances that do not fall under the Convention.**

23. The Committee takes note of the information provided by the State Party regarding the transfer of war-crime cases from Bosnia and Herzegovina and notes that such transfer contributes to limiting impunity and reducing the number of outstanding prosecutions in the region (arts. 6, 11 and 14).

24. **The Committee recommends that the State Party maintain its cooperation with regard to sharing information and evidence, and ensuring access to witnesses, in war-crime cases.**

25. The Committee takes note of the statements made by the State Party regarding the consistency of the application of existing laws to all cases of enforced disappearance. However, the Committee shares the concerns raised in 2023 by the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence regarding “stagnation in the will to prosecute Serbian officials for crimes against Kosovo Albanians, with no such indictments filed in the past five years”⁵ (arts. 6 and 13).

26. **The Committee recommends that the State Party ensure the prosecution of all those involved in enforced disappearance regardless of the ethnicity of victims and of the rank and ethnicity of the officials involved.**

Disappearances from maternity hospitals and illegal intercountry adoptions

27. The Committee notes the information provided by the State Party regarding the adoption of the Law on missing babies in 2020. It also notes that following the enactment of the law and the establishment of a commission to investigate and to provide reparations, several cases have been resolved. However, it regrets that many of the motions filed are still pending, as are some of the measures that are necessary to comply with the 2013 judgment of the European Court of Human Rights in the *Jovanović v. Serbia* case (Application No. 21794/08) (art. 25).

28. **The Committee recommends that the State Party ensure the investigation of all cases related to disappearances from maternity hospitals that occurred across Serbia and/or illegal intercountry adoptions, ensure the search for and identification of persons who may have been victims of those disappearances and/or adoptions, and provide reparation to those victims, considering their cases within the framework of enforced disappearance and in accordance with paragraphs 13 to 17 of the joint statement on illegal intercountry adoptions⁶ issued by the Committee and other human rights mechanisms.**

⁵ Ibid., para. 20.

⁶ CED/C/9.

International cooperation

29. The Committee notes the signing in 2015 of the Agreement for the Promotion of Regional Cooperation in the Processing of War Crimes and the Search for Missing Persons and for the Establishment of Coordination Mechanisms between Bosnia and Herzegovina, Croatia and Serbia, as well as the information provided by the State Party regarding other agreements that have been adopted in the spirit of regional cooperation. Nonetheless, the Committee is concerned that according to the information received, the regional cooperation and coordination required for the effective development of search and identification processes, especially cooperation and coordination with Croatia and with Kosovo,⁷ has stalled in recent years (arts. 13–15).

30. **The Committee recommends that the State Party continue to exert the utmost efforts to overcome the challenges faced at the bilateral and multilateral levels to ensure that all cases of enforced disappearance are addressed without delay, in full compliance with the Convention.**

31. The Committee is concerned that the State Party continues to refuse to extradite Serbian citizens when so requested by the judicial authorities of Kosovo (arts. 13 and 14).

32. **The Committee recommends that the State Party take all measures, including agreements on the transfer of cases, necessary to enhance cooperation with judicial authorities in Kosovo and to facilitate the prosecution of all persons accused of perpetrating enforced disappearance.**

33. The Committee takes note of the information provided by the State Party regarding responses to requests submitted by actors working on transitional justice in the region for the provision of archival records. However, the Committee is concerned that the relevant files and archives remain classified and that access to them is limited (arts. 13–15).

34. **The Committee recommends that the State Party facilitate public access to all relevant archives, including those of the Ministry of the Interior and the Serbian Armed Forces, in order to facilitate the resolution of cases under investigation and to foster an enabling environment for civil society organizations working on transitional justice in the region.**

35. The Committee is concerned about the cancellation of the inaugural meeting of the Joint Commission for Missing Persons of Belgrade and Pristina, which was scheduled to be held on 15 January 2025. The lack of implementation of the Declaration on Missing Persons signed between Serbia and Kosovo in 2023 constitutes an obstacle to clarifying the fate and whereabouts of the remaining disappeared persons (arts. 13 and 14).

36. **The Committee recommends that the State Party resume talks with Kosovo to overcome the difficulties that are preventing progress in the implementation of the Declaration on Missing Persons.**

3. Search and identification

37. The Committee takes note of the information provided by the State Party on the exhumation of mass graves, the identification of human remains and the actions taken to ascertain the fate of those who have been forcibly disappeared in the 1990s, as well as on the efforts made to establish regional cooperation mechanisms to address enforced disappearance. The Committee nonetheless regrets that, according to the database of active missing persons cases from conflicts in the former Yugoslavia, the fate and whereabouts of approximately 11,000 disappeared individuals remain to be clarified, and that the implementation of cooperation agreements still faces great challenges (arts. 12, 14, 15 and 24).

38. **The Committee recommends establishing effective mechanisms to finalize the search and investigation processes related to the approximately 11,000 disappeared individuals in the context of the armed conflicts of the 1990s; to promote the**

⁷ References to Kosovo shall be understood to be in the context of Security Council resolution 1244 (1999).

implementation of the regional cooperation mechanisms that have been established; and to ensure that the victims, their representatives and the organizations assisting them have access to the information related to the search and investigation processes and can participate in those processes, regardless of their ethnicity or nationality.

Memorialization of victims of enforced disappearances

39. The Committee takes note of the information provided by the State Party regarding efforts for memorialization, such as the museum commemorating victims of genocide, and partnerships with victims, including from the Roma community, in memorialization projects. However, the Committee is concerned that these efforts do not equally represent the victims of enforced disappearances from non-Serbian ethnicities (art. 24).

40. The Committee recommends that the State Party ensure that memorialization efforts equally represent the victims of enforced disappearances from non-Serbian ethnicities. Specifically, the State Party should:

(a) Ensure that memorialization projects, including museums, monuments and exhibitions, are inclusive and represent the experiences of all victims of enforced disappearance, regardless of their nationality or ethnicity;

(b) Collaborate with victims' associations from all national and ethnic backgrounds to develop and implement memorialization projects that reflect the experiences of all communities affected by the armed conflicts of the 1990s.

41. The Committee notes that the State Party has yet to declare its support for General Assembly resolution 78/282, in which the Assembly condemns without reservation any denial of the Srebrenica genocide as a historical event and actions that glorify those convicted of war crimes, crimes against humanity and genocide by international courts (arts. 5 and 24).

42. The Committee recommends that the State Party:

(a) Support General Assembly resolution 78/282, as it contributes to the memorialization of 11 July as the International Day of Reflection and Commemoration of the 1995 Genocide in Srebrenica;

(b) Amend its legislation to ensure the criminalization of any form of denial of acts constituting war crimes as determined in verdicts of International Tribunal for the Former Yugoslavia and the International Court of Justice;

(c) Condemn any denial of the Srebrenica genocide and other war crimes regardless of whether perpetrators were enemy or friendly forces;

(d) Prosecute and impose sanctions for actions that glorify persons convicted of war crimes, crimes against humanity and genocide.

Enforced disappearance in the context of migration

43. The Committee takes note of the information provided by the State Party regarding the measures taken to disseminate the Committee's general comment No. 1 (2023) on enforced disappearance in the context of migration. The Committee acknowledges the legal reform that has been adopted in relation to trafficking in persons and to birth registration. However, the Committee remains concerned that the measures adopted are oriented towards a security-based approach to migration, which can put migrants and asylum-seekers at risk of enforced disappearance owing to restrictive migration policies, inadequate protection mechanisms and a lack of effective measures to address their specific requirements (arts. 2, 3, 16 and 25).

44. The Committee recommends that the State Party take further measures in the light of the Committee's general comment No. 1 (2023) to avoid practices that expose migrants and asylum-seekers to risks of enforced disappearance, including by conducting a comprehensive review of existing migration policies and practices to identify such risks and developing a differential approach to address the specific requirements of specific groups among migrants and asylum-seekers, such as

unaccompanied minors, women and victims of trafficking. It also recommends that the State Party strengthen cooperation and coordination with international organizations, specialized civil society organizations and other stakeholders to ensure a comprehensive and effective response to the needs of migrants and asylum-seekers and ensure protection against enforced disappearance.

D. Realization of the rights and fulfilment of the obligations under the Convention, dissemination and follow-up

45. The Committee wishes to draw attention to the obligations assumed by States when they become parties to the Convention and, in this respect, urges the State Party to ensure that all the measures that it takes, irrespective of their nature or the authority from which they emanate, are in full accordance with the obligations it assumed on becoming a party to the Convention and other relevant international instruments.

46. The Committee wishes to emphasize the particularly cruel effect of enforced disappearance on women and children. Women who are subjected to enforced disappearance are particularly vulnerable to sexual and other forms of gender-based violence. Women who are relatives of a disappeared person, and thus considered victims pursuant to article 24 (1) of the Convention, are particularly likely to suffer serious social and economic disadvantages and to be subjected to violence, persecution and reprisals as a result of their efforts to locate their loved ones. Children who are victims of enforced disappearance, either because they themselves were subjected to disappearance or because they suffer the consequences of the disappearance of their relatives, are especially vulnerable to violations of their human rights. The Committee therefore places particular emphasis on the need for the State Party to systematically adopt a gender perspective and take into account the specific needs of women and children as it acts on the recommendations contained in the present concluding observations and implements the full range of the rights and obligations set forth in the Convention.

47. The State Party is encouraged to widely disseminate the Convention and the present concluding observations in order to raise awareness among governmental authorities, civil society actors and the public at large. The Committee also encourages the State Party to promote and facilitate the participation of civil society in the process for implementing the recommendations contained in the present concluding observations.

48. Under article 29 (4) of the Convention, the Committee requests the State Party to submit, by no later than 4 April 2029, specific and updated information on the follow-up given to the recommendations contained in the present concluding observations and any other new information that it considers relevant in the light of the Convention. The Committee encourages the State Party to adopt a national policy on the prevention of enforced disappearance and to promote and facilitate the participation of civil society, in particular organizations of victims of enforced disappearance, in the preparation of this additional information.
