



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 Argentina under article 29 (4) of the Convention*

A. Introduction

1. The Committee appreciates the additional information provided in a timely fashion by Argentina under article 29 (4) of the Convention,¹ as requested by the Committee in its 2013 concluding observations.² It is also grateful for the additional information submitted in writing in response to the list of themes communicated to the State party on 27 January 2023, and for the open, fruitful and constructive dialogue held with the delegation of the State party at the Committee's twenty-fourth session, on 21 March 2023, regarding the measures taken to fulfil the State party's obligations under the Convention in the following areas: (a) harmonization of legislation; (b) search and investigation; and (c) full reparation.
2. At its 438th meeting, held on 30 March 2023, the Committee adopted the following concluding observations.

B. Positive aspects

3. The Committee welcomes the measures taken by the State party following the issuance of its previous concluding observations, including:
 - (a) The promulgation of Act No. 26.994 of October 2014, which reformed the National Civil and Commercial Code and established the non-applicability of statutory limitations to civil actions arising from crimes against humanity;
 - (b) The establishment of the National Directorate of National Legal Affairs in respect of Human Rights under the National Secretariat for Human Rights, which is continuing the work of the Truth and Justice Programme of the National Secretariat for Human Rights and Cultural Pluralism;
 - (c) The promulgation of Act No. 27.482 of December 2018, which incorporated into the Federal Code of Criminal Procedure measures to prevent enforced disappearances through increased guarantees for defendants and detainees, including in the context of transfers of persons deprived of their liberty, and to ensure the right of victims to play an active part in the proceedings, as well as psychological support and security measures;
 - (d) The creation of local torture prevention mechanisms in 18 of the 24 provinces of Argentina;

* Adopted by the Committee at its twenty-fourth session (20–31 March 2023).

¹ CED/C/ARG/AI/1.

² CED/C/ARG/CO/1.



(e) The creation of the National Directorate of Policies to Combat Institutional Violence under the auspices of the National Secretariat for Human Rights of the Ministry of Justice and Human Rights, pursuant to Administrative Decision No. 483/2016 of May 2016;

(f) The creation of the Federal Search System for Disappeared and Missing Persons pursuant to Decree No. 1093/2016 of October 2016 to coordinate the efforts of the different State agencies in order to ensure the effectiveness of investigations into cases involving disappearances and of searches for disappeared persons;

(g) The adoption of the protocol for the investigation by the Public Prosecution Service of acts of ill-treatment, harassment, unlawful coercion and torture, pursuant to Resolution No. 3/11 of the Attorney General's Office, in which criminal prosecutors are instructed to exclude members of security forces from an investigation when they are presumed to have participated in the offence under investigation, and the adoption, pursuant to Resolution No. 4/12 of the Attorney General's Office, of minimum procedural rules for the investigation by the Public Prosecution Service of injuries and homicides committed by members of the security forces in the performance of their duties;

(h) The updating of the National Protection Programme for Witnesses and State's Witnesses to include cases of enforced disappearance as one of the scenarios in which interventions under the Programme may be carried out;

(i) The efforts made by the National Commission for the Right to an Identity to search for the children of disappeared detainees and persons born during the captivity of their mothers, and the recovery of the identity of 132 children stolen during the military dictatorship.

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

4. The Committee appreciates and welcomes the measures taken by the State party in the areas of justice, truth and reparation since the issuance of the Committee's previous concluding observations. However, it is of the view that a number of challenges persist with regard to the regulatory framework in force, as well as its application, and that these are impeding the full implementation of the Convention. The Committee encourages the State party to give consideration to its recommendations, which are made in a constructive and cooperative spirit, with a view to continuing to strengthen the regulatory framework in force and ensuring that it and all measures taken by the State party's authorities are in conformity with the rights and obligations referred to in the Convention.

1. General information

5. The Committee acknowledges the State party's efforts to develop a regulatory and institutional framework to prevent and punish enforced disappearances in accordance with the Convention, and takes note of the State party's assertion regarding the consolidation of national case law and granting constitutional status to the Convention. However, the Committee regrets that the State party has not implemented its recommendation regarding the need to explicitly grant constitutional status to the Convention and the impact that this could have on the direct applicability of its provisions in national law.

6. **The Committee reiterates its previous recommendation³ calling on the State party to accelerate the legislative process with a view to giving the Convention constitutional status. The Committee also urges the State party to recognize expressly the direct applicability of the Convention's provisions.**

7. The Committee takes note of the mandate of the Office of the Ombudsperson of the Nation but expresses its concern that the post of Ombudsperson of the Nation has been vacant since 2009.

³ Ibid., para. 9.

8. **The Committee encourages the State party to fill, as soon as possible, the post of Ombudsperson of the Nation and to ensure that the Office of the Ombudsperson of the Nation has the financial and technical resources and qualified staff necessary to fulfil its mandate.**

2. Harmonization of legislation

Transfers of persons deprived of their liberty

9. The Committee welcomes the adoption in February 2021 of the protocol for the transfer of persons deprived of their liberty within the Federal Prison Service, which, according to the information provided by the State party, applies both to transfers of convicted prisoners and to transfers of persons in pretrial detention. However, the Committee is concerned about the lack of information on its effective implementation, in particular the measures taken in cases where unlawful transfers have reportedly occurred, and the penalties imposed in those cases (art. 17).

10. **The Committee urges the State party to ensure the full implementation of the protocol for the transfer of persons deprived of their liberty within the Federal Prison Service in order to prevent unlawful transfers, and to ensure that, if such transfers occur, investigations are carried out and those responsible are punished.**

Bill on the establishment of a federal agency to search for disappeared persons

11. The Committee regrets that it has not received information on the follow-up given to the bill on the establishment of a federal agency to search for disappeared persons, the aim of which is to bring the State party's legislation and institutional structure into line with the Guiding Principles for the Search for Disappeared Persons adopted by the Committee (arts. 12, 24 and 30).

12. **The Committee encourages the State party to move forward with the process of establishing a federal agency to search for disappeared persons, ensuring the broadest possible participation by the various sectors of civil society concerned.**

3. Search and investigation

13. The Committee welcomes the State party's efforts to remove factual and legal obstacles in the fight against impunity for enforced disappearances perpetrated during the military dictatorship, including acts committed by non-State actors. It takes note of the information provided on the adoption of the Strategic Plan for the Advancement of Trials for Crimes Against Humanity, which was launched in December 2020 and sets out measures to expedite such trials, strengthen investigations and provide support to victims. It also notes that, as at 5 December 2022, 1,117 persons had been convicted of crimes against humanity and that 168 had been acquitted. However, the Committee regrets that the information provided did not indicate how many cases had involved alleged enforced disappearances, what the results of the investigations and prosecutions had been in those cases or what penalties had been imposed (art. 12).

14. **The Committee recommends that the State party consolidate the information on the investigation, prosecution and punishment of cases of enforced disappearance that occurred during the military dictatorship stored in the different State databases and generate accurate and reliable statistics. These statistics should make it possible to identify the different groups of victims, the causes and dynamics of enforced disappearance and patterns of behaviour, and serve as a basis for adopting more effective prevention, investigation and search measures. The register should be updated regularly, promptly and in a uniform and comprehensive manner with data on all known disappeared persons. At the very least, it should include:**

(a) **The total number and identity of all disappeared persons, with an indication of those who may have been subjected to enforced disappearance within the meaning of article 2 of the Convention;**

(b) **The sex, gender identity, sexual orientation, age, nationality and ethnic origin of the disappeared person, as well as the place, date, context and circumstances of the person's disappearance, including all evidence relevant to determining whether it was an enforced disappearance;**

(c) **The status of the relevant search, investigation and reparation procedures, including data on procedures for exhumation, identification and return of remains.**

15. The Committee is also concerned about the lack of information on the abolition of procedural and prison benefits, particularly house arrest and sentence reductions, for persons charged with or convicted of crimes against humanity, including enforced disappearance, as these could constitute a form of impunity (art. 7).

16. **The Committee encourages the State party to abolish the granting of unjustified procedural and prison benefits to persons charged with or convicted of the crime of enforced disappearance.**

17. The Committee is concerned about the backlog and delays in judicial proceedings, especially at the appeals stage, stemming from factors such as the failure to appoint federal judges. Such a situation may result in impunity in the event of the death of the perpetrator of a crime and thwart the efforts to seek justice of victims who are dying in their old age (art. 12).

18. **The Committee recommends that the State party ensure that judicial proceedings take place expeditiously, including by creating new federal judgeships and allocating the resources necessary to enable courts and tribunals to carry out their work without delay.**

19. The Committee takes note of the efforts made by the State party to investigate cases of enforced disappearance that occurred during the military dictatorship and following the return of democracy and to search for the disappeared persons. However, it is concerned about the reported lack of coordination among the authorities responsible for searches, investigations and prosecutions at the federal and provincial levels. It is also concerned about the lack of well-defined mechanisms to enable relatives of disappeared persons to participate in all stages of investigations, searches and identification processes relating to cases that have occurred following the return of democracy (art. 12).

20. **The Committee encourages the State party to step up its efforts to ensure that the institutions involved in investigating cases of enforced disappearance and in searching for, locating, recovering and identifying the remains of disappeared persons coordinate their activities, cooperate and exchange information systematically so that they can work effectively and expeditiously. It also urges the State party to ensure that the relatives of disappeared persons are able to participate in all stages of searches, investigations and identification processes, ensuring that they are regularly informed of the progress and results of the measures taken by the authorities.**

21. The Committee regrets that there is no central official registry for persons disappeared following the return of democracy and no central database of genetic data from families searching for their loved ones. The Committee also regrets that, for these cases, there is no database with information on the unidentified bodies found in the different provinces or a public policy for preserving and identifying them (art. 24).

22. **The Committee recommends that the State party establish a single, central official registry for persons disappeared following the return of democracy, provide it with the budget, organizational structure and independence it needs to carry out its work and ensure that it is suitably equipped to identify the bodies and remains located. In this connection, the Committee recommends that a genetic database be created to allow family reference samples from relatives of persons disappeared following the return of democracy to be cross-checked with the DNA profiles of unidentified human remains, ensuring full respect for the principles of individual data protection in accordance with article 19 of the Convention.**

23. The Committee is concerned about the alleged persistence of practices of institutional violence, including the deliberate concealment of victims' bodies, especially young people living in a situation of extreme poverty and marginalization, alleged users of illicit substances

and participants in social protests. It is also concerned about the lack of information on the effectiveness of the mechanisms in place to ensure that security forces allegedly involved in the events are excluded from the related investigations (art. 12).

24. **The Committee urges the State party to step up its efforts to put an end to acts of institutional violence that may lead to enforced disappearances. The Committee therefore encourages the State party to adopt an appropriate regulatory framework and to ensure that sufficient resources are allocated for this purpose. It also reiterates its recommendation⁴ calling on the State party to promote institutional reform of the police forces so as to eradicate violence and ensure that police officers who commit such offences are duly investigated, prosecuted and punished. The State party should also ensure that persons suspected of having committed an enforced disappearance are properly investigated and are not in a position to negatively influence the course of the related investigations.**

25. The Committee is concerned about the undue delays in initiating investigations into cases of enforced disappearance that have occurred following the return of democracy and about the fact that searches sometimes do not begin for up to 48 hours (arts. 12 and 24).

26. **The Committee reiterates its recommendation⁵ calling on the State party to take all measures necessary, whether legislative or other, to ensure that investigations and searches in cases of enforced disappearance are carried out immediately, thoroughly, impartially, diligently and effectively, even in the absence of a formal complaint, and that they continue until the fate or the whereabouts of the disappeared person have been established.**

4. Full reparation

27. The Committee takes note of the information provided by the State party on the reparations granted to victims of enforced disappearance but regrets the lack of detailed information on how those reparations are provided and on other forms of reparation granted in line with the concept of full reparation for events that occurred either during or after the military dictatorship (art. 24).

28. **The Committee reiterates its recommendation⁶ calling on the State party to collect detailed statistics on reparations granted to victims of enforced disappearances that occurred during the military dictatorship or following the return of democracy as a tool for improving reparation measures and ensuring that they are effective.**

29. The Committee takes note of the information provided by the State party on the measures taken to ensure that the system for granting reparations to victims of enforced disappearance takes account of their personal circumstances, in particular the action taken by the Ministry for Women, Gender and Diversity in the context of gender-based violence. However, the Committee is concerned about the difficulties reportedly encountered by victims of enforced disappearances perpetrated since the return of democracy in gaining access to reparation mechanisms (art. 24).

30. **The Committee recommends that the State party ensure that the regulatory and institutional framework in force guarantees access for all victims of enforced disappearance to a comprehensive system of reparation and compensation throughout its territory, regardless of the date when the events occurred. This system must take into account the personal circumstances of victims, such as their sex, gender identity, sexual orientation, age, ethnic origin, social status and disability.**

31. The Committee welcomes the information provided on the work carried out by the National Memory Archive and the efforts to promote the activities of the committee on memory archives and to ensure the continuation of the documents declassification process. It also takes note of the promulgation of Act No. 26.691 on the preservation, marking and

⁴ *Ibid.*, para. 15.

⁵ *Ibid.*, para. 17.

⁶ *Ibid.*, para. 37.

publicizing of places of remembrance of State terrorism and the policy of marking places where serious acts of institutional violence occurred (art. 24).

32. **The Committee recommends that the State party continue making symbolic reparation for and encouraging remembrance of past events and serious acts of institutional violence. The Committee also recommends that the State party preserve film recordings of hearings in cases involving crimes against humanity and continue its efforts to declassify documents.**

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

33. The Committee wishes to draw attention to the obligations taken on by States when they ratify the Convention and urges the State party to ensure that all the measures it adopts, regardless of their nature or the authority adopting them, are in full accordance with the Convention and other relevant international instruments.

34. The Committee also emphasizes the particularly cruel effect of enforced disappearance on women and children. Women victims of enforced disappearance are particularly vulnerable to sexual and other forms of gender-based violence. Women who are relatives of a disappeared person are also 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 are disappeared or because they suffer the consequences of the disappearance of members of their families, 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 the full range of rights and obligations deriving from the Convention.

35. The State party is encouraged to disseminate widely the Convention, the additional information submitted under article 29 (4) of 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 the participation of civil society in the actions taken to implement the recommendations contained in the present concluding observations.

36. In accordance with article 29 (4) of the Convention, the Committee requests the State party to submit, by no later than 4 April 2026, with a view to the review in 2027, specific and updated information on the follow-up given to the recommendations made in the present concluding observations concerning the harmonization of legislation, investigations, searches and reparations and any other 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.
