



United Nations

Report of the Committee on Enforced Disappearances

**Third session
(29 October–9 November 2012)**

**Fourth session
(8–19 April 2013)**

**General Assembly
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Note

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Chapter I

Organizational and other matters

A. States parties to the Convention

1. As at 19 April 2013, the closing date of the fourth session of the Committee on Enforced Disappearances, there were 37 States parties and 91 signatory States to the International Convention for the Protection of All Persons from Enforced Disappearance, which was adopted by the General Assembly in its resolution 61/177 of 20 December 2006 and opened for signature and ratification on 6 February 2007. In accordance with its article 39, paragraph 1, the Convention entered into force on 23 December 2010.

2. A list of States parties to the Convention, as at 19 April 2013, is contained in annex I to the present report.

B. Meetings and sessions

3. The Committee held its third session at the United Nations Office at Geneva from 29 to 9 November 2012. The Committee held twenty plenary meetings. The provisional agenda (CED/C/3/1), contained in annex II, was adopted by the Committee at its 1st meeting. The third session of the Committee on Enforced Disappearances was opened by the Director of the Human Rights Council and Special Procedures Division, Bacre Waly Ndiaye, who, on behalf of the High Commissioner for Human Rights, congratulated the Committee for the successful results of its utmost important work in the past year. In his statement, Mr. Ndiaye highlighted some concrete examples of efforts of the Office of the High Commissioner for Human Rights to support the promotion of universal ratification of the Convention, as well as its implementation. Mr. Ndiaye also welcomed the days of thematic discussions to be held by the Committee during its third session, emphasizing that the choice of topics demonstrated the Committee's victim-oriented approach. Finally, Mr. Ndiaye thanked the Committee for the endorsement of the Dublin II Outcome and encouraged further discussions on the treaty body strengthening process.

4. In his opening statement, the Chairperson, Emmanuel Decaux, said that the Committee's first two sessions had been of a more technical nature, during which it had enacted the practical tools required for the development of its work. He then stressed that the third session marked a turning point in the work of the Committee, during which those tools would be applied, particularly in light of the coming review of the first States parties' reports, expected by December 2012. He seized the occasion to appeal to States parties, especially those who were the pioneers to engage in the ratification of the Convention, to respect its reporting deadlines. The Chairperson emphasized that the engagement of the Committee with different stakeholders would be further strengthened and mentioned the meeting with a representative of the Human Rights Committee, with the Working Group on Enforced or Involuntary Disappearances, as well as with the National Human Rights Institutions and civil society. He singled out the second yearly meeting with the Working Group during which the members of both bodies would address together important issues of complementarity and harmonization of their respective work. Mr. Decaux expressed the support of the Committee to the treaty body strengthening process as well as its support to the Addis-Ababa guidelines on the independence of members of treaty bodies.

5. The Committee held its fourth session at the United Nations Office at Geneva from 8 to 19 April 2013. The Committee held twenty plenary meetings. The provisional agenda

(CED/C/4/1), contained in annex II, was adopted by the Committee at its first meeting. The fourth session of the Committee on Enforced Disappearances was opened by the Chief of Americas, Europe and Central Asia Branch, Gianni Magazzeni, who, on behalf of the High Commissioner for Human Rights, congratulated the Committee for the successful results of its important work in the previous year. In his statement, Mr. Magazzeni encouraged further discussions on the treaty body strengthening process, stating that the Committee had been exemplary in its positive involvement in this process. He also emphasized that in the survey related to the Committee's satisfaction with the Secretariat support, the respondents rated it either satisfactory or very satisfactory. He closed his statement by wishing the best concerning the first interactive dialogues with States and added that they would represent a significant step in the actual implementation of the Convention.

6. In his opening statement, the Chairperson, Emmanuel Decaux, started by recalling that enforced disappearances were not consigned to the past and emphasized that no continent was exempted from this tragedy. He mentioned two recent cases issued by the European Court of Human Rights referring to the Convention. He stressed how the promotion of the ratification of the Convention and its effective implementation should be a priority for the United Nations and for the international community as a whole. He stressed that the compliance with article 29, paragraph 1, of the Convention by States parties with regard to submitting reports within two years from the ratification of the Convention should not depend upon the good will of the States but upon their positive obligation to do so. Lastly, Mr. Decaux expressed the need to develop proactive methods of work in order to put into force the Committee's competences, including the examination of reports in the absence of States, should it be necessary.

7. At its fourth session in April 2013, in accordance with the calendar of conferences adopted by the General Assembly, the Committee confirmed the date of its fifth session to be held in Geneva from 4 to 15 November 2013.

C. Membership and attendance

8. The Committee on Enforced Disappearances was established in accordance with article 26, paragraph 1, of the Convention, with the first 10 members being elected by the Conference of States parties on 31 May 2011.

9. The list of members of the Committee, indicating the duration of their terms of office, is contained in annex III to the present report. All members attended the third and fourth sessions of the Committee.

D. Decisions of the Committee

10. At its third session, the Committee decided, *inter alia*, on the inclusion, as an annex to its rules of procedures, of the guidelines on the independence and impartiality of members of the human rights treaty bodies, endorsed by the chairpersons of the United Nations treaty bodies and adopted a statement on the Report of the United Nations High Commissioner for Human Rights on Strengthening the United Nations human rights treaty body system. Both statements can be found in Annex V and VI respectively of the present report. The Committee also decided to amend the form to submit urgent actions, according to article 30, to stress that an urgent action that has already been submitted to the Working Group cannot normally be admitted by the Committee and not to set a time limit within which urgent actions should be submitted. The Committee issued a joint statement with the Working Group. All decisions adopted by the Committee on its third session are included in the annex IV of the report.

11. At its fourth session the Committee decided, *inter alia*, on a draft document “The relationship of the Committee on Enforced Disappearances with civil society actors”, which will be posted on the Committee’s website for comments; the Committee asked the Secretariat to submit the final draft as an official document for adoption during its fifth session. The Committee also decided on the appointment of a rapporteur to draft, with the support of the Secretariat, a first draft of a document on the relationship of the Committee with National Human Rights Institutions. The Committee decided to disseminate its working methods through its webpage. The Committee decided to send a formal reminder to States parties on their obligation to timely submit their reports under article 29, paragraph 1, of the Convention. All decisions taken by the Committee at its fourth session are also included in annex IV to the present document.

E. Thematic discussions

12. During its third session, the Committee held three thematic discussions in closed meetings. It continued a discussion on the responsibility of States and the role of non-State actors, and held two new discussions, one concerning trafficking and enforced disappearance and another on the principle of non-refoulement, expulsion and extradition under article 16 of the Convention.

13. On 8 November 2012, the Committee held its second thematic discussion on the topic of the responsibility of States and the role of non-State actors, in a closed meeting, with the participation of Professor Andrew Clapham (Professor at the Graduate Institute of International and Development Studies in Geneva, and Director of the Geneva Academy of International Humanitarian Law and Human Rights). Presentations on the topic were given by Rainer Huhle and Kimio Yakushiji, in addition to the brief given by Professor Clapham, which were followed by a fruitful dialogue.

14. On 7 November 2012, the Committee held a thematic discussion on trafficking and enforced disappearances, in closed meeting, with the participation of experts from the United Nations Office on Drugs and Crime (UNODC), the International Organization for Migration (IOM), the United Nations Children’s Fund (UNICEF) and the Office of the High Commissioner for Human Rights (OHCHR), as well as the attendance of representatives of the International Committee of the Red Cross (ICRC) and the Office of the United Nations High Commissioner for Refugees (UNHCR). A presentation on the topic was given by Luciano Hazan, followed by a fruitful dialogue between the participants and the Committee members. During the discussion, the key differences and possible linkages between the phenomena of trafficking and enforced disappearances were emphasized.

15. On 2 November 2012, the Committee held a thematic discussion on the principle of non-refoulement, expulsion, extradition under article 16 of the Convention, in a closed meeting. Ms. Suela Janina presented a paper, which was discussed among the members, highlighting the legal consequences of reservations and declarations to this article; the procedures for handling cases submitted to the Committee under article 16; and the application of this provision to non-State actors. The Committee asked Suela Janina to continue working on this issue on the basis of suggestions addressed to her by the other members.

16. During its fourth session, the Committee decided, due to the workload, to postpone to a future session the continuation of the thematic discussion on the principle of non-refoulement, expulsion, and extradition under article 16 of the Convention.

F. Treaty body strengthening and adoption of the Addis Ababa guidelines

17. At its third session, the Committee adopted unanimously the Guidelines on the independence and impartiality of members of the human rights treaty bodies (Addis Ababa guidelines) and decided to annex them to its Rules of Procedure. The statement on the adoption of the Addis Ababa guidelines can be found in annex V of the present report. It also made a positive statement on the report of the High Commissioner for Human Rights on the strengthening of the human rights treaty bodies (A/66/860), pursuant to General Assembly resolution 66/254. The statement of the Committee can be found in annex VI of the present report.

18. During its fourth session, on 18 April 2013, the Committee met with the co-facilitators of the intergovernmental treaty body strengthening process at the United Nations General Assembly, H.E. Gréta Gunnarsdóttir, Permanent Representative of Iceland, and H.E. Desra Percaya, Permanent Representative of Indonesia. The Committee appreciated the meeting with the co-facilitators during which it could present its achievements during the first two years of activity. It also expressed some concerns, namely the lack of staff and resources devoted to the system, the need to respect the independence of Committees' members and the necessity for them to receive information from civil society actors, in particular from families of victims of enforced disappearances.

G. Cooperation with the Working Group on Enforced or Involuntary Disappearances and with Treaty Bodies

19. During the third session, on 1 November 2012, the Committee held its second annual meeting with the Working Group, during which was discussed a way to process the requests for urgent actions submitted, on behalf of victims of enforced disappearances, in parallel to both bodies. The Committee and the Working Group issued a joint statement, which can be found in Annex VII of the present report.

20. In the framework of the Committee's cooperation with the Working Group, on 30 October 2012, the Committee attended an event marking the twentieth anniversary of the Declaration on the Protection of All Persons from Enforced Disappearance, which was organized by the Working Group to explore the gender dimension in enforced disappearance. In his statement, the Chairperson of the Committee, Emmanuel Decaux, mentioned that the situation of women and children received particular attention from the Committee since the very start of its work. Ms. Suela Janina, member of the Committee, said that the Committee had recognized the special impact of the phenomenon of enforced disappearances on women, making them particularly vulnerable to sexual and other forms of violence. She recalled that during its second session, the Committee held a thematic discussion to deepen understanding of the provisions of the Convention on the situation of women and children. She emphasized that article 1 of the Convention protected without distinction all persons from enforced disappearances: men and women, boys and girls, while enforced disappearances of pregnant women were seen by the Convention as especially disturbing crimes. In addition, she mentioned that the Committee requested States to provide, in their reports, information about enforced disappearances of women, together with gender disaggregated data on enforced disappearances.

21. On 31 October 2012, the Committee met in closed meeting with Sir Nigel Rodley, member of the Human Rights Committee, who shared the jurisprudence and experience of the Human Rights Committee with regard to enforced disappearances. The meeting took place in compliance with article 28 of the Convention, which requests the Committee to cooperate with other treaty bodies, in particular with the Human Rights Committee.

22. On 18 April 2013, in the margins of the meeting with the co-facilitators of the intergovernmental treaty body strengthening process, the Committee met with Ms. Nicole Ameline, Chairperson of the Committee on the Elimination of Discrimination against Women, and started a dialogue on the possible future cooperation between the two treaty bodies.

H. Adoption of the annual report

23. At its fourth session, the Committee adopted its second report to the General Assembly, covering its third and fourth sessions.

Chapter II

Methods of work

24. During its third and fourth sessions, the Committee used the following as its working languages: Arabic, English, French and Spanish.

25. During its third session, the Committee discussed the following issues related to its working methods:

- (a) Methods of work related to articles 30 (urgent actions), 31 (individual communications) and 33 (visits) of the Convention;
- (b) Ratification strategy, and other matters;
- (c) Methods of work related to the engagement with civil society actors;
- (d) Methodology and process for considering reports.

26. During its fourth session, the Committee discussed the following issues related to its working methods:

- (a) Methodology and process for the adoption of lists of issues and consideration of reports;
- (b) Methods of work related to ratification and reporting strategy;
- (c) Methods of work related to the collaboration between the Committee and the Working Group, in particular on urgent actions;
- (d) Methods of work related to the engagement with civil society actors.

Chapter III

Cooperation with relevant bodies

A. Meeting with States

27. On 5 November 2012, the Committee held a public meeting with Member States of the United Nations, which was attended by 10 States parties, 8 signatory States, and 2 States which have neither signed nor ratified the Convention. The Chairperson updated the States on the work of the Committee and its cooperation with the Working Group on Enforced or Involuntary Disappearances. The Chair presented the Guidelines on State reporting under article 29 of the Convention (CED/C/2) and encouraged the timely submission of reports by States parties. The presentation was followed by a constructive dialogue with the participants. Several States stressed the importance of the meeting in raising awareness of the importance of the Convention and encouraging States to ratify the Convention.

28. On 8 April 2013, the Committee held a public meeting with Member States of the United Nations, which was attended by 13 States parties, 3 signatory States, and 3 States which have neither signed nor ratified the Convention. The Chairperson updated the States on the work of the Committee and its cooperation with the Working Group; he also encouraged the timely submission of reports by States parties. The presentation was followed by a dialogue with the participants.

B. Meeting with United Nations agencies and other mechanisms, intergovernmental organizations and national human rights institutions

29. On 30 October 2012, the Committee held a closed meeting with a delegation of the International Committee of the Red Cross (ICRC) on trends in forensic investigations concerning the missing, focusing on the work carried out by ICRC. The presentation was followed by an exchange of views on several aspects of forensic genetics as a tool for determining the identity of disappeared persons. Legal issues stemming from the difference between missing persons and forcibly disappeared persons were also discussed.

30. On 5 November 2012, the Committee held a public meeting with representatives of United Nations bodies and specialized agencies, intergovernmental organizations and national human rights institutions. Representatives from the Council of Europe, the National Institutions and Regional Mechanisms Section of OHCHR, and the United Nations Educational, Scientific and Cultural Organization (UNESCO) all participated in the meeting. Statements on behalf of the International Coordinating Committee of National Human Rights Institutions for the Promotion and Protection of Human rights and the International Committee of the Red Cross were also read out. The Committee seized the occasion to emphasize the important role which could be played by the national human rights institutions in urgent actions, communications, follow-up procedures, and cooperation during the Committee's country possible visits.

31. On 8 April 2013, during its fourth session, the Committee met in a public session with regional and intergovernmental organizations. Representatives from ICRC and the Council of Europe participated in the meeting.

32. On 17 April 2013, the Committee met with the Geneva representative of the International Coordinating Committee of National Human Rights Institutions to discuss

cooperation. The members expressed their appreciation for the work of NHRI, as a bridge between States parties and civil society.

C. Meeting with non-governmental organizations and other stakeholders

33. On 5 November 2012, the Committee held a public meeting with non-governmental organizations, in which representatives of six non-governmental organizations (NGOs) participated. The Committee welcomed the support of NGOs and underlined the importance of close cooperation in raising awareness about the Convention, and in assisting victims of enforced disappearances. During the dialogue, the representatives of NGOs raised questions about the upcoming examination of first States parties' reports, about the efforts to raise awareness in relation to the Convention, as well as about the participation of victims during the Committee's sessions.

34. On 6 November 2012, the Committee held another public meeting with civil society, in which representatives of nine NGOs participated, to discuss methodology of engagement. In their statements, NGOs expressed the importance of various methods of engagement, such as video conference and webcasting. They also emphasized the importance of offering protection against reprisals that human rights defenders might face as a result of their participation in the Committee's activities.

35. During its fourth session, on 8 April 2013, the Committee held a public meeting with non-governmental organizations, in which five representatives of NGOs participated. In this occasion, the Committee welcomed the support of NGOs and underlined the importance of close cooperation in raising awareness about the Convention, and in assisting victims of enforced disappearances. During the dialogue, the representatives of NGOs raised questions about the upcoming examination of States parties' reports and about the efforts to raise awareness in relation to the Convention.

Chapter IV

Consideration of reports submitted by States parties under article 29 of the Convention

36. The following sections, arranged on a country-by-country basis in the sequence followed by the Committee in its consideration of the reports, contain the concluding observations adopted with respect to the States parties' reports considered at its fourth session. The Committee urges those States parties to adopt the necessary measures, where indicated, consistent with their obligations under the Convention and to implement these recommendations.

37. Uruguay

(1) The Committee on Enforced Disappearances considered the report submitted by Uruguay under article 29, paragraph 1, of the Convention (CED/C/URY/1) at its 42nd and 43rd meetings (CED/C/SR.42 and 43), held on 9 and 10 April 2013. At its 57th meeting, held on 19 April 2013, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the report submitted by Uruguay under article 29, paragraph 1, of the Convention, drafted in accordance with the reporting guidelines, and the information contained in the report. In particular, it commends Uruguay for having been the first State party to submit its report and comply with the deadline set in article 29, paragraph 1, of the Convention. The Committee appreciates the constructive dialogue with the high-level delegation from the State party on the measures taken by the latter to implement the provisions of the Convention, which has dispelled many of its concerns. The Committee also thanks the State party for its written replies (CED/C/URY/Q/1/Add.1) to the list of issues (CED/C/URY/Q/1), as supplemented by statements by the delegation, and the additional information submitted in written form.

B. Positive aspects

(3) The Committee welcomes the fact that the State party has ratified all the core United Nations human rights treaties and their optional protocols currently in force, as well as the Rome Statute of the International Criminal Court and the Inter-American Convention on Forced Disappearance of Persons.

(4) The Committee also notes with satisfaction that the State party has recognized its competence, under articles 31 and 32 of the Convention, in respect of individual and inter-State communications.

(5) The Committee also applauds the adoption of the Act on Cooperation with the International Criminal Court in Combating Genocide, War Crimes and Crimes against Humanity (Act No. 18026), of 4 October 2006. The Act, *inter alia*, classifies as an offence enforced disappearance, which is deemed to be a continuing offence as long as the fate or whereabouts of the victim remains unknown; it establishes the imprescriptibility of the offence and its punishment; and it stipulates that no one may invoke superior orders or exceptional circumstances to justify the commission of such an offence.

C. Principal subjects of concern and recommendations

(6) The Committee recognizes that the legislation in force in the State party to prevent and impose penalties for enforced disappearances is by and large in line with the provisions of the Convention and the obligations imposed by the latter on States that have ratified it. The concerns expressed below and the recommendations to be implemented subsequently

are intended to help the State party strengthen existing legislation with the view to ensuring full compliance with all provisions of the Convention and their effective implementation.

General information

(7) The Committee welcomes the delegation's statement that the Convention has constitutional status and that its provisions are applied directly. However, it notes that the direct applicability of its provisions is not clearly defined in national legislation.

(8) The Committee invites the State party to consider taking the necessary steps to acknowledge explicitly the direct applicability of the provisions of the Convention.

(9) The Committee applauds the establishment of the National Human Rights Institution (NHRI) and Ombudsman's Office by Act No. 18446 of 27 January 2009. It also applauds the fact that the NHRI has been designated as the national preventive mechanism under the Optional Protocol to the Convention against Torture. The Committee takes note of the information provided by the delegation concerning the accreditation of the NHRI by the International Coordinating Committee of National Human Rights Institutions.

(10) The Committee recommends that the State party should ensure that all public entities cooperate with and provide all the necessary assistance within their power to the NHRI. The Committee also recommends that the State party should ensure that the NHRI has the human, technical and financial resources to discharge its functions effectively. The Committee encourages the State party to continue its efforts to ensure the accreditation of the NHRI by the International Coordinating Committee of National Human Rights Institutions.

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

(11) The Committee notes with satisfaction that the State party has classified enforced disappearance as an offence (Act No. 18026, art. 21) and that the definition of the offence is in line with that contained in article 2 of the Convention. However, it notes with concern the wide gap between the minimum and maximum penalties prescribed for the offence (2–25 years' imprisonment), which gives the courts a broad margin of discretion when imposing such penalties, including with regard to the length of the minimum sentence (arts. 2, 4, 6 and 7).

(12) The Committee recommends that the State party should consider adopting legislative measures to reduce the wide gap between the minimum and maximum penalties for the offence of enforced disappearance, in particular by ensuring that the minimum sentence is in line with article 7 of the Convention and takes due account of the extreme seriousness of the offence.

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

(13) The Committee notes with concern the information provided by the State party on the judgement of the Supreme Court of Justice, according to which persons disappeared for more than 30 years are considered to be deceased, and those accused of the disappearance are charged with homicide under especially aggravated circumstances, with the consequences that could be drawn in respect of the term of limitation (arts. 8 and 12).

(14) The State party should ensure that enforced disappearances are investigated as such and that the perpetrators are punished for the offence irrespective of the time that has elapsed since the commencement of the criminal conduct. The State party should ensure that all State officials, including judges and prosecutors, receive appropriate and specific training on the Convention and the obligations incumbent on States that have ratified it. The Committee wishes to emphasize the continuous nature of the offence of enforced disappearance, in accordance with the principles of the Convention, to recall the strict terms laid down in the article governing the statute of

limitations for this offence, and to emphasize its imprescriptible character in relation to crimes against humanity.

(15) The Committee takes note of the information received from the State party concerning the legislation on the transfer and dismissal of judges, which could compromise the internal independence of the judiciary. The Committee emphasizes the importance attaching to the independence of the authorities responsible for prosecuting such crimes, in order to guarantee the effectiveness of investigations, trials and penalties in relation to enforced disappearances.

(16) The Committee recommends that the State party should take the necessary steps, both at the legislative level and in terms of the administrative competence of the Supreme Court of Justice, to continue consolidating the internal independence of the judiciary.

(17) The Committee acknowledges the protection afforded to victims and witnesses under Act No. 18026 with regard to procedures for investigating the offences referred to in the Act, including enforced disappearances, and to victims, witnesses and persons who provide confidential information to the police under Act No. 18315. However, the Committee is concerned about reports indicating that there are no mechanisms to ensure that such measures are applied effectively, and that they do not cover all the persons mentioned in article 12 of the Convention. In this connection, the Committee notes the State party's intention, as reflected in paragraph 65 of its replies to the list of issues, to take steps to extend the protection to complainants, family members, witnesses, defence counsel and relatives of the disappeared person (art. 12).

(18) The Committee urges the State party to adopt the necessary legislative or other measures to ensure the effective application of existing protection measures and to extend those measures to all persons referred to in article 12, paragraph 1, of the Convention.

(19) The Committee notes the lack of clarity concerning the existing guarantees under Uruguayan legislation to prevent people who have allegedly committed an offence of enforced disappearance from influencing the progress of an investigation (art. 12).

(20) The Committee recommends that, in accordance with article 12, paragraph 4, of the Convention, the State party should adopt the necessary measures to ensure that persons suspected of having committed an offence of enforced disappearance are not in a position, directly or indirectly, by themselves or through others, to influence the progress of investigations.

(21) The Committee notes with interest the information provided by the State party on the draft amendments to the Code of Criminal Procedure currently under consideration in parliament. The Committee welcomes the fact that Uruguayan legislation (article 13 of Act No. 18026) provides for the participation of the complainant, the victim or relatives in investigations into enforced disappearances, but notes with concern that it does not provide for them to participate fully as parties in criminal proceedings, for example by appealing the decisions handed down. In this regard, the Committee notes with interest that the draft amendments to the Code of Criminal Procedure seek to maximize the opportunities for the participation of victims (arts. 12 and 24).

(22) The Committee encourages the State party to adopt swiftly the proposed amendments to the Code of Criminal Procedure, to ensure that they are fully in line with its obligations under the Convention, and to allow the victims of enforced disappearance to participate fully in judicial proceedings relating to the investigation of such an offence. The Committee also urges the State party to ensure that article 13 of Act No. 18026 is applied in accordance with the definition of victim contained in

article 24, paragraph 1, of the Convention. The Committee also invites the State party to consider establishing a specialized unit under the Public Prosecution Service or other competent body, with staff specifically trained to investigate cases of alleged enforced disappearance, to pursue investigations and coordinate criminal prosecution policy in this field.

(23) The Committee notes the delegation's statement to the effect that in extradition agreements concluded before the entry into force of the Convention, enforced disappearance was not considered to be a political offence. The Committee also takes note of the fact that agreements are being negotiated and concluded with other States in the region to exchange information on human rights violations, including enforced disappearances, as well as of the information provided by the delegation regarding the numerous cooperation agreements concluded with Argentina (arts. 13 and 14).

(24) The Committee urges the State party to ensure that all agreements on extradition or mutual judicial assistance to be concluded in the future, including those currently being negotiated, contain specific provisions on enforced disappearances.

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

(25) The Committee welcomes the fact that the remedy of habeas corpus is provided for under the Constitution and the statement by the State party that the absence of related legislation does not prevent the effective exercise of that remedy. In this regard, the Committee notes that draft regulations have been under consideration in the Chamber of Deputies of parliament since 2010 (art. 17).

(26) The Committee encourages the State party to adopt the necessary legislative measures to regulate the exercise of habeas corpus. In this regard, the Committee recommends that the State party should ensure that the legislative measures adopted are in conformity with the Convention, in particular article 17, and with other relevant international norms.

(27) The Committee welcomes the information provided by the delegation concerning the prison reform under way and in particular concerning the plan on the introduction of prison administration software (art. 17).

(28) The Committee encourages the State party to introduce the prison administration software and ensure that it is fully consistent with article 17, paragraph 3, of the Convention. The Committee also encourages the State party to use similar registration and monitoring tools in all facilities housing persons deprived of their liberty.

(29) While taking note of the human rights training dispensed to State officials, the Committee notes with concern that no specific and regular training is dispensed on the provisions of the Convention (art. 23).

(30) The Committee recommends that the State party should step up its efforts to provide training on human rights matters to State officials and, in particular, should ensure that all law enforcement personnel, whether civil or military, and medical personnel, public officials and other persons who may be involved in the custody or treatment of any person deprived of liberty, including judges, prosecutors and other court officials of all ranks, receive appropriate and regular training on the provisions of the Convention, in accordance with article 23.

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

(31) The Committee expresses its satisfaction concerning article 14 of Act No. 18026, which stipulates that the State shall be responsible for making reparation to victims of the offences defined in the Act, including enforced disappearances (art. 24).

(32) The Committee recommends that the State party should ensure that the term “victim” in article 14 of Act No. 18026 is applied in accordance with the definition of victim contained in article 24, paragraph 1, of the Convention.

(33) While taking note of the criminal provisions in force concerning deprivation of liberty and the removal and acquisition of civil status, the Committee is concerned that there are no provisions that specifically reflect the cases referred to in article 25, paragraph 1, of the Convention on the removal of children (art. 25).

(34) The Committee encourages the State party to consider reviewing its criminal legislation with the aim of including, as specific offences, the acts described in article 25, paragraph 1, of the Convention, which are subject to appropriate penalties that take into account the extreme seriousness of the offences.

(35) The Committee notes with interest the information provided by the State party on the regime governing adoption which respects the right to identity provided for in the Convention on the Rights of the Child. However, the Committee notes with concern the absence of specific procedures for the review and, where appropriate, the annulment of adoptions or placements that originated in an enforced disappearance.

(36) The Committee recommends that, in accordance with article 25, paragraph 4, of the Convention, specific procedures should be established for the review and, where appropriate, the annulment of adoptions or placements that originated in an enforced disappearance, as well as procedures which take into account the best interests of the child and, in particular, recognize the child’s right to be heard if he/she is capable of forming his or her own views.

D. Dissemination and follow-up

(37) The Committee wishes to recall the obligations undertaken by States when ratifying the Convention and, in this connection, urges the State party to ensure that all the measures it adopts, irrespective of their nature or the authority from which they emanate, are in full accordance with the obligations it assumed when ratifying the Convention and other relevant international instruments. In this regard, the Committee particularly urges the State party to ensure the effective investigation of all enforced disappearances and the full satisfaction of the rights of victims as set forth in the Convention.

(38) The Committee wishes to emphasize the particularly cruel effect of enforced disappearances on women and children. In the case of women, it exposes and makes them particularly vulnerable, as direct victims, to sexual and other forms of violence, and, as relatives of a disappeared person, to violence, persecution and reprisals. In the case of children, it makes them especially vulnerable to losing their identity. In this context, the Committee places special emphasis on the need for the State party to ensure that women and children who are victims of enforced disappearance are provided with special protection and assistance.

(39) The State party is encouraged to widely disseminate the Convention, its report submitted under article 29, paragraph 1, of the Convention, the written replies to the list of issues drawn up by the Committee and the present concluding observations, in order to raise awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the State party and the general public.

The Committee also encourages the State party to promote the participation of civil society, in particular organizations of relatives of victims, in the actions taken in line with the present concluding observations.

(40) Noting that the State party submitted its core document in 1996 (HRI/CORE/1/Add.9/Rev.1), the Committee invites the State party to update it in accordance with the requirements for the common core document contained in the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN.2/Rev.6, chap. I).

(41) In accordance with the Committee's rules of procedure, by 19 April 2014 at the latest, the State party should provide relevant information on its implementation of the Committee's recommendations as contained in paragraphs 14, 22 and 36.

(42) Under article 29, paragraph 4, of the Convention, the Committee requests the State party to submit, no later than 19 April 2019, specific and updated information on the implementation of all its recommendations and any other new information on the fulfilment of the obligations contained in the Convention, in a document prepared in accordance with paragraph 39 of the guidelines on the form and content of reports under article 29 to be submitted by States parties to the Convention (CED/C/2). The Committee encourages the State party to promote and facilitate the participation of civil society, in particular organizations of relatives of victims, in the preparation of this information.

38. France

(1) The Committee on Enforced Disappearances considered the report submitted by France under article 29, paragraph 1, of the Convention (CED/C/FRA/1) at its 46th and 47th meetings, held on 11 and 12 April 2013 (CED/C/SR.46 and 47), and adopted the following concluding observations at its 57th meeting, held on 19 April 2013.

A. Introduction

(2) The Committee welcomes the report of France submitted pursuant to article 29, paragraph 1, of the Convention, part II of which complies with the guidelines on the form and content of reports. The Committee commends the State party for having submitted its report within the time prescribed by article 29, paragraph 1, of the Convention. The Committee appreciated the high quality of the written replies provided by France to the list of issues (CED/C/FRA/Q/1/Add.1) and the additional information provided orally during the consideration of the report. The Committee also appreciated the constructive dialogue on the application of the provisions of the Convention held with the delegation representing the State party and thanks it for the answers to the questions raised by Committee members.

B. Positive aspects

(3) The Committee commends France for the role that it has played in combating enforced disappearances, from the first resolution on disappeared persons, resolution 33/173, adopted by the General Assembly of the United Nations on 20 December 1978, on the State party's initiative, to the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance on 20 December 2006, and for its role in promoting the ratification of that instrument.

(4) The Committee notes with satisfaction that the State party has ratified almost all the United Nations human rights treaties, including the Optional Protocols in force, as well as the Rome Statute of the International Criminal Court.

(5) The Committee also commends the State party for having recognized the competence of the Committee under articles 31 and 32 of the Convention concerning the consideration of communications submitted, respectively, by individuals or States parties.

(6) The Committee commends the State party for having started the process of adopting specific legislation on enforced disappearance.

(7) The Committee also notes with satisfaction that the provisions of Bill No. 250 brought before the Senate on 11 January 2012 were incorporated into a distinct legislative vehicle, namely Bill No. 736 (amended), in order to expedite their adoption and entry into force.

(8) The Committee commends the State party for having consulted with the National Consultative Commission on Human Rights and civil society on the drafting of the report submitted under article 29, paragraph 1, of the Convention.

C. Subjects of concern and recommendations

(9) The Committee notes that, as at the time of the drafting of its recommendations, the legislative framework in force in the State party for preventing and punishing enforced disappearances does not fully conform to the provisions of the Convention and the obligations that it imposes on States that have ratified it. The Committee welcomes Bill No. 736 (amended), and encourages the State party to take account of the recommendations made, in a constructive and cooperative spirit, in order to shore up the regulatory framework of the draft and ensure that it fully complies with all the provisions of the Convention for its effective implementation.

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

(10) The Committee notes the statement by the delegation of the State party that enforced disappearance is regarded as a “manifestly illegal” act. However, it would be appropriate to adopt a specific law that establishes the absolute prohibition of enforced disappearance in exceptional circumstances, whether a state of war or a threat of war, internal political instability or any other public emergency granting special powers to the President of the Republic.

(11) The Committee recommends that the State party should adopt a provision explicitly affirming that no exceptional circumstances of the kind described in article 1 of the Convention may be invoked to justify the offence of enforced disappearance.

(12) The Committee notes the State party’s position that “placement outside the protection of the law” is regarded as an element of enforced disappearance. The Committee expresses its concern that the definition of enforced disappearance as a separate offence set out in Bill No. 736 includes the reference “in conditions that place such a person outside the protection of the law” in a place in the text that differs from the text of article 2 of the Convention and introduces vague phrases such as “when such actions are followed by a person’s disappearance and accompanied by a refusal to acknowledge ...” that are not found in article 2 of the Convention.

(13) The Committee recommends that the State party should adopt a definition of enforced disappearance as a separate offence in line with article 2 of the Convention and avoid altering the text by changing the position of phrases in sentences or introducing new expressions. This is to preclude the definition of enforced disappearance from being understood as requiring intent to be shown to incriminate the conduct.

(14) The Committee commends the State party for having included in its legislation a definition of enforced disappearance as a crime against humanity, whether it is committed in peacetime or wartime. Nevertheless, the Committee notes that the definition provided in article 212-1 (para. 9) of the Criminal Code requires that such an offence must be committed “as part of a concerted plan”, a condition that is not found in article 5 of the

Convention or other international instruments, including article 7 of the Rome Statute of the International Criminal Court.

(15) **The Committee recommends that the State party should review its criminal legislation relating to enforced disappearance as a crime against humanity and delete the expression “as part of a concerted plan” in order to ensure compliance with article 5 of the Convention and applicable international law so as to avoid introducing an additional condition for the prosecution of cases of enforced disappearance.**

(16) The Committee notes the State party’s position that article 6, paragraph 1, of the Convention does not specify the measures necessary to hold a superior criminally responsible. The Committee notes that the Criminal Code provides the same penalties for the perpetrators and the accomplices of an offence and that attempt and complicity are codified in articles 121-4, 121-6 and 121-7. Nevertheless, given that for crimes against humanity the Criminal Code provides for the criminal liability of superiors, it would be appropriate to do the same in cases of enforced disappearance as offences in their own right.

(17) **The Committee recommends that, in Bill No. 736, the State party should hold superiors fully responsible in any case of enforced disappearance, in accordance with article 6 of the Convention, and not responsible as accomplices.**

(18) The Committee notes the State party’s position that the establishment of mitigating or aggravating circumstances provided for under article 7 of the Convention is not compulsory. Nevertheless, the Committee considers that the establishment of mitigating circumstances could help to clear up certain cases of enforced disappearance.

(19) **The Committee invites the State party to consider including mitigating circumstances in the law as a measure that might help in recovering the disappeared person alive or make it possible to clarify some cases of enforced disappearance or to identify the perpetrators of an enforced disappearance.**

Criminal responsibility and judicial cooperation with regard to enforced disappearance (arts. 8–15)

(20) The Committee notes with satisfaction that the State party has increased the statute of limitations from 10 to 30 years under Bill No. 736 but notes that the starting point is not explicitly stated and that the statute of limitations for civil damages for victims of disappearance will be the same as the statute of limitations under civil law, i.e. between 5 and 10 years.

(21) **The Committee recommends that, in Bill No. 736, the State party should specify the starting point of the statute of limitations, which begins from the moment that the offence of enforced disappearance ceases in all its elements. The Committee recommends that the statute of limitations for civil damages should be, at a minimum, in conformity with the statute of limitations applied to other offences of similar gravity such as torture.**

(22) The Committee notes with satisfaction that Bill No. 736 allows for extraterritorial jurisdiction of the French courts. Nevertheless, the Committee notes with concern the cumulative and restrictive conditions provided for under article 689-11 of the Code of Criminal Procedure, which make it difficult to prosecute and try persons alleged to have committed crimes against humanity, genocide and war crimes. The Committee also notes with concern that the obligation to extradite or try a suspect under article 113-8-1 of the Code of Criminal Procedure applies only to persons whose extradition is denied.

(23) **The Committee recommends that the State party should submit any cases of enforced disappearance to the competent authorities for the purpose of prosecution, in**

accordance with article 11 of the Convention, regardless of whether an extradition request against the suspect has been submitted beforehand.

(24) The Committee notes that the investigations ordered by the prosecution service and the investigating judge are conducted by the police and the Gendarmerie and that there is no mechanism that prohibits a police force suspected of having committed the offence of enforced disappearance from investigating the offence. The Committee also notes that article 40-1 of the Code of Criminal Procedure gives the prosecution service the power to decide whether or not to order an inquiry when an offence is reported to it. The complainants may lodge an appeal with the public prosecutor or the Minister of Justice, but not another independent judicial body, for a review of the legal merits of the prosecutor's initial decision.

(25) The Committee takes note of the statement by the State party that all cases of enforced disappearance were excluded from military jurisdiction. The Committee also recommends that the State party should include in Bill No. 736 a provision requiring the implementation of a mechanism to ensure that any police force suspected of the crime of enforced disappearance does not participate in the investigation. The Committee also recommends subjecting any offence of enforced disappearance to the jurisdiction of the specialized judicial centre recently established under the Paris Tribunal de Grande Instance (court of major jurisdiction) to ensure the independence of investigations. The Committee recommends that the State party should guarantee to any person who reports an enforced disappearance the right to challenge the legal merits of the decision of the prosecutor not to investigate or prosecute cases.

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

(26) The Committee notes that the State party's legislation prohibits refoulement, but no express reference is made to enforced disappearance among the factors that could put an alien who is returned in serious danger. The Committee also expresses its concern about the administrative procedures for admission and the very brief period of appeal granted to asylum seekers located in holding areas. The Committee remains concerned that the priority procedures do not provide for a suspensive appeal against an initial rejection by the French Office for the Protection of Refugees and Stateless Persons. Applicants may therefore be returned to countries where they are at risk of enforced disappearance before the National Court on the Right of Asylum is able to consider their applications for protection.

(27) The Committee recommends that the State party should make express provision under its domestic legislation for the prohibition of refoulement where there is a risk of a person being subjected to enforced disappearance. The Committee recommends that the State should guarantee an effective remedy to asylum seekers, within a suitable period, under asylum procedures at the border. The Committee recommends that the State party should introduce an appeal with suspensive effect for asylum applications submitted under the priority procedures on which the French Office for the Protection of Refugees and Stateless Persons has issued a negative decision.

(28) The Committee notes that the State party is involved in military operations abroad and highlights the need to fully implement the principles of the Convention, including the principle of non-refoulement. The Committee takes note of the information from the State party concerning the possible reasons for delays in communication to the chain of command regarding the capture or detention of persons during the intervention of French armed forces in situations of war or overseas operations and notes that the security reasons mentioned by the State should be limited solely to the detained persons' own security.

(29) The Committee recommends that, in the event of an intervention of the armed forces in crisis situations, delays in communication to the chain of command

regarding the capture or detention of persons should be limited exclusively to cases in which the detained persons' own security is at stake and, in any case, should be in keeping with the Convention. The Committee recommends that the State party should establish a protocol for the transfer of detainees between States that is consistent with international law. The Committee recommends that the State party should ensure that the protection standards enshrined in the Convention are also fully respected when the State is involved in military operations abroad.

(30) The Committee takes note of the State party's assurance that there is no secret detention in France, owing to the prohibition against arbitrary detention combined with the precise conditions in which a person may be deprived of liberty. The Committee expresses its concern about the frequent use of police custody, its monitoring by the prosecution instead of a judicial authority and the fact that it may be extended several times in cases involving crimes of terrorism. The Committee is also concerned that aliens in administrative detention waiting to leave the country may have access to a judge only after five days. Lastly, the Committee remains concerned that the prohibition against communicating with the outside world under article 145-4 of the Code of Criminal Procedure may be extended to 20 days. The Committee takes note of the powers of the Human Rights Defender and the Controller General of Places of Deprivation of Liberty concerning the holding centres and areas and administrative detention centres. The Committee is concerned about the legal provision, to date never applied, to establish ad hoc holding areas under article L221-2 of the Code on the Entry and Residence of Aliens and the Right of Asylum in the version introduced by the law of 16 June 2011. The Committee considers that if such a regime were applied in practice it would be difficult to provide legal guarantees applicable to the detainees or for the national mechanism for the prevention of torture to monitor ad hoc holding areas effectively.

(31) **The Committee recommends that the State party should establish the right of appeal before a sitting judge to ensure that coercive measures are lawful and to enable detainees to be present in court. The Committee also recommends that a sitting judge should rule on the extension of police custody beyond 24 hours and should limit that possibility. The Committee recommends that any person in pretrial or administrative detention should have the right to communicate with the outside world and that this right should not be restricted beyond 48 hours. The Committee recommends that the State party should repeal article L221-2 of the Code on the Entry and Residence of Aliens and the Right of Asylum in the version introduced by the law of 16 June 2011 as far as detention procedures in ad hoc holding areas are concerned.**

(32) The Committee recognizes the legal significance of respect for the privacy of any person detained. Nevertheless, given that the "refusal to acknowledge the deprivation of liberty or concealment of the fate" of the disappeared person are components of enforced disappearance, the right of any person with a legitimate interest to collect and receive information on the fate of a person presumed disappeared must be recognized.

(33) **The Committee recommends that the State party should establish a mechanism to guarantee that any person with a legitimate interest has the right and a real possibility of access to information concerning the person presumed disappeared referred to in article 17, paragraph 3, in accordance with article 18, paragraph 1, and that this person may lodge an appeal with the court to obtain the relevant information.**

Measures of compensation and protection of children against enforced disappearance (arts. 24 and 25)

(34) The Committee expresses concern that French criminal law provides that the victim must have suffered direct and personal harm and that the two conditions are more

restrictive than that under article 24, paragraph 1, of the Convention, which refers to both the disappeared person and any individual who has suffered harm as the direct result of enforced disappearance. While recognizing that the criminal legislation of the State party provides for the transmission of general information on procedural matters to the family of the victims, the Committee remains concerned that the victims' right to know the truth regarding the circumstances of the enforced disappearance is not explicitly granted in French law. The Committee is also concerned that French legislation provides for financial compensation as reparation to victims and does not ensure other forms of reparation specified under article 24, paragraphs 4 and 5, of the Convention, in particular, restitution, rehabilitation, satisfaction, including restoration of dignity and reputation, and guarantees of non-repetition.

(35) The Committee recommends that the State party should take adequate legislative measures to adopt a definition of victim that complies with the definition set out in article 24, paragraph 1, of the Convention, recognizing a victim as any person who has suffered harm as the direct result of enforced disappearance, without requiring that such harm should also be personal. The Committee recommends that the State party should make explicit provision for the right of victims to know the truth regarding the circumstances of an enforced disappearance, in accordance with article 24, paragraph 2, of the Convention, without needing to be represented by a lawyer. The Committee also recommends that the State party should take measures to broaden forms of reparation, in particular restitution, rehabilitation, satisfaction and guarantees of non-repetition, in accordance with article 24, paragraph 5, of the Convention.

(36) The Committee notes the State party's position about the appropriateness of French criminal legislation for the prevention and punishment of the disappearance of a child or the falsification or destruction of documents and of the procedures set out in the Code of Civil Procedure for the annulment of an adoption decree in exceptional cases in which the judge acting in good faith was misled. The Committee expresses concern about the State party's view that the implementation of article 25, paragraph 1, of the Convention does not require specific provisions applicable to the situations resulting from the commission of enforced disappearances.

(37) The Committee recommends that the State party should incorporate the acts described in article 25, paragraph 1, of the Convention into Bill No. 736 as offences specifically related to enforced disappearance and punish them with appropriate penalties that take into account the extreme seriousness of the offences. The Committee also recommends introducing an explicit provision into the Code of Civil Procedure that an appeal for review of adoption decrees should cover adoption that originated in an enforced disappearance as a legal basis for the appeal. The Committee recommends that the State party should ensure, in all cases, that the best interests of the child are a primary consideration, in accordance with article 25, paragraph 5, of the Convention, and that a child who is capable of forming his or her own views has the right to express those views freely, the views of the child being given due weight in accordance with the age and maturity of the child.

D. Dissemination and follow-up

(38) The Committee recalls the obligations assumed by States on ratifying the Convention and, accordingly, calls upon them to ensure that all necessary measures are taken, regardless of the authority of the State party that orders those measures and of their nature, in full conformity with the obligations arising from the ratification of the Convention and other relevant international instruments. In this regard, the Committee urges the State party to specifically guarantee the effectiveness of investigations into all

cases of enforced disappearance and full compliance with the rights of the victims as enshrined in the Convention.

(39) The Committee emphasizes the brutal impact of enforced disappearances on women and children. Women victims of disappearance are particularly vulnerable to sexual and other forms of violence, and women belonging to the family of a disappeared person are subjected to violence, persecution and reprisals. As for child victims of enforced disappearance, they are particularly vulnerable to identity substitution. The Committee therefore stresses the need for the State party to guarantee that women and child victims of enforced disappearance receive specific protection and assistance.

(40) The Committee encourages the State party to ensure the wide dissemination of the Convention, of its report submitted under article 29, paragraph 1, of the Convention, of the written replies to the list of issues prepared by the Committee and of the present concluding observations, with a view to raising awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations in the State party, and the broader public. The Committee also encourages the State party to promote the participation of civil society, in particular organizations of families of victims, in the implementation of these concluding observations.

(41) The Committee, noting that the State party's core document was submitted in 1996 (HRI/CORE/1/Add.17/Rev.1), invites the State party to update it in accordance with the requirements set out in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a core document and treaty-specific documents (HRI/GEN/2/Rev.6).

(42) In accordance with the Committee's rules of procedure, the State party should submit, no later than 19 April 2014, relevant information on the implementation of the Committee's recommendations in paragraphs 23, 31 and 35 above.

(43) Pursuant to article 29, paragraph 4, of the Convention, the Committee requests the State party to submit, no later than 19 April 2019, specific and updated information on the implementation of all its recommendations and any new information on compliance with the obligations under the Convention, in a document prepared in accordance with paragraph 39 of the guidelines on the form and content of reports under article 29 to be submitted by States parties to the Convention (CED/C/2). The Committee encourages the State party, in preparing its report, to promote and facilitate the participation of civil society, in particular associations of families of victims.

Chapter V

Exchanges with States parties

39. The Committee sent two letters to the Permanent Representative of the Republic of Mali to the United Nations Office and other international organizations in Geneva on 3 August and 23 November 2012 respectively.

40. In its first letter, dated 3 August 2012, the Chairperson of the Committee expressed deep concern about the deterioration of the situation in Mali, as noted in Human Rights Council resolution HRC/20/17. He pledged the Committee solidarity for Mali, but also its concern and vigilance. In accordance with article 26, paragraph 9, and article 29, paragraph 4, of the Convention, the Chairperson asked for clarifications following allegations made by the authorities of the State party on the possible occurrence of cases of enforced disappearances and for a reply before the beginning of its third session on 29 October 2012.

41. In its second letter, dated 23 November 2012, the Chairperson expressed the desire to continue the constructive dialogue established with the Permanent Mission of Republic of Mali to the United Nations Office of Geneva; recalled that the provisions of the Convention applies regardless of the exceptional circumstances existing in a State party and requested clarification in writing on the possible cases of enforced disappearances in the country.

42. As at 19 April 2013, when the present report was adopted, no response had been received from the State party.

Chapter VI

Urgent action procedure under article 30 of the Convention

43. During the reporting period, the Committee transmitted five urgent actions, submitted in conformity with article 30 of the Convention, to Mexico.

44. On 21 September 2012, the Committee transmitted to Mexico two urgent actions concerning the alleged enforced disappearances of Marcial Bautista Valle and Eva Alarcón Ortiz on 7 December 2011, in Guerrero, Mexico. According to the information received, the reported victims were taken from a bus while they were travelling from Zihuatanejo to Mexico City, by two people in police uniforms, and taken to an unknown destination. The author of the request for urgent actions reported that relevant competent authorities of the State party were contacted by the next of kin of the victims to enquire about the whereabouts of the disappeared persons. The Committee requested information on the investigations carried out by the authorities on these cases.

45. On 23 November 2012, the Committee transmitted a reminder of its letter dated 21 September 2012 to Mexico.

46. On 4 December 2012 and 11 April 2013 Mexico replied to the Committee and provided information on the ongoing investigation to search for the disappeared persons.

47. In accordance with article 30, paragraph 3, of the Convention, the Committee transmitted the information submitted by the State party to the authors of the requests for urgent actions.

48. In compliance with article 30, paragraph 4, of the Convention, the Committee will continue its efforts to work with Mexico for as long as the fate of Mr. Bautista Valle and Ms. Alarcón Ortiz remains unresolved.

49. On 1 October 2012, the Committee transmitted to Mexico three urgent actions concerning the alleged enforced disappearance of Ms. Ana Belém Sánchez Mayorga, Mr. Diego Antonio Maldonado Castañeda and Mr. Luis Enrique Castañeda Nava on 22 July 2012, in Michoacán, Mexico. According to information received, the victims were last seen in a hotel located in Paracho, Michoacán, before a group of persons, allegedly belonging to the Federal Police of the State of Michoacan, took them away in two vans. The author of the request for urgent actions reported that relevant competent authorities of the State party were contacted by the next of kin of the victims to enquire about the whereabouts of the disappeared persons. The Committee requested information on the investigations carried out by the authorities on these cases.

50. On 9 October 2012, Mexico transmitted information to the Committee concerning the ongoing investigations to search for and locate the persons sought.

51. On 23 November 2012, the Committee transmitted to Mexico a communication with follow-up questions, and a reminder of that communication on 28 March 2013.

52. On 11 April 2013 Mexico replied to the Committee reiterating the information on the ongoing investigations to search for and locate the persons sought.

53. In accordance with article 30, paragraph 3, of the Convention, the Committee transmitted the information submitted by the State party to the authors of the requests for urgent actions.

54. In compliance with article 30, paragraph 4, of the Convention, the Committee will continue its efforts to work with Mexico for as long as the fate of Ms. Ana Belém Sánchez Mayorga, Mr. Diego Antonio Maldonado Castañeda and Mr. Luis Enrique Castañeda Nava remains unresolved.

Annexes

Annex I

States that have signed, ratified or acceded to the Convention for the Protection of All Persons from Enforced Disappearance as at 19 April 2013

<i>Participant</i>	<i>Signature</i>	<i>Accession (a), Ratification</i>	<i>Declarations under article 31 and 32</i>
Albania	6 February 2007	8 November 2007	31 and 32
Algeria	6 February 2007		
Argentina	6 February 2007	14 December 2007	31 and 32
Armenia	10 April 2007	24 January 2011	
Austria	6 February 2007	7 Jun. 2012	31 and 32
Azerbaijan	6 February 2007		
Belgium	6 February 2007	2 June 2011	31 and 32
Benin	19 March 2010		
Bolivia (Plurinational State of)	6 February 2007	17 December 2008	
Bosnia and Herzegovina	6 February 2007	30 March 2012	31 and 32
Brazil	6 February 2007	29 November 2010	
Bulgaria	24 September 2008		
Burkina Faso	6 February 2007	3 December 2009	
Burundi	6 February 2007		
Cameroon	6 February 2007		
Cape Verde	6 February 2007		
Chad	6 February 2007		
Chile	6 February 2007	8 December 2009	31 and 32
Colombia	27 September 2007	11 July 2012	
Comoros	6 February 2007		
Congo	6 February 2007		
Costa Rica	6 February 2007	16 February 2012	
Croatia	6 February 2007		

<i>Participant</i>	<i>Signature</i>	<i>Accession (a), Ratification</i>	<i>Declarations under article 31 and 32</i>
Cuba	6 February 2007	2 February 2009	
Cyprus	6 February 2007		
Denmark	25 September 2007		
Ecuador	24 May 2007	20 October 2009	31 and 32
Finland	6 February 2007		
France	6 February 2007	23 September 2008	31 and 32
Gabon	25 September 2007	19 January 2011	
Germany	26 September 2007	24 September 2009	31 and 32
Ghana	6 February 2007		
Greece	1 October 2008		
Grenada	6 February 2007		
Guatemala	6 February 2007		
Haiti	6 February 2007		
Honduras	6 February 2007	1 April 2008	
Iceland	1 October 2008		
India	6 February 2007		
Indonesia	27 September 2010		
Iraq		23 November 2010 (a)	
Ireland	29 March 2007		
Italy	3 July 2007		
Japan	6 February 2007	23 July 2009	32
Kazakhstan		27 February 2009 (a)	
Kenya	6 February 2007		
Lao People's Democratic Republic	29 September 2008		
Lebanon	6 February 2007		
Lesotho	22 September 2010		
Liechtenstein	1 October 2007		
Lithuania	6 February 2007		
Luxembourg	6 February 2007		

<i>Participant</i>	<i>Signature</i>	<i>Accession (a), Ratification</i>	<i>Declarations under article 31 and 32</i>
Madagascar	6 February 2007		
Maldives	6 February 2007		
Mali	6 February 2007	1 July 2009	31 and 32
Malta	6 February 2007		
Mauritania	27 September 2011	3 October 2012	
Mexico	6 February 2007	18 March 2008	
Monaco	6 February 2007		
Mongolia	6 February 2007		
Montenegro	6 February 2007	20 September 2011	31 and 32
Morocco	6 February 2007		
Mozambique	24 December 2008		
Netherlands	29 April 2008	23 March 2011	31 and 32
Niger	6 February 2007		
Nigeria		27 July 2009 (a)	
Norway	21 December 2007		
Palau	20 September 2011		
Panama	25 September 2007	24 June 2011	
Paraguay	6 February 2007	3 August 2010	
Peru		26 September 2012	
Portugal	6 February 2007		
Republic of Moldova	6 February 2007		
Romania	3 December 2008		
Samoa	6 February 2007	27 December 2012	
Senegal	6 February 2007	11 December 2008	
Serbia	6 February 2007	18 May 2011	31 and 32
Sierra Leone	6 February 2007		
Slovakia	26 September 2007		
Slovenia	26 September 2007		
Spain	27 September 2007	24 September 2009	31 and 32

<i>Participant</i>	<i>Signature</i>	<i>Accession (a), Ratification</i>	<i>Declarations under article 31 and 32</i>
Saint Vincent and the Grenadines	29 March 2010		
Swaziland	25 September 2007		
Sweden	6 February 2007		
Switzerland	19 January 2011		
Thailand	9 January 2012		
The former Yugoslav Republic of Macedonia	6 February 2007		
Togo	27 October 2010		
Tunisia	6 February 2007	29 June 2011	
Uganda	6 February 2007		
United Republic of Tanzania	29 September 2008		
Uruguay	6 February 2007	4 March 2009	31 and 32
Vanuatu	6 February 2007		
Venezuela (Bolivarian Republic of)*	21 October 2008		
Zambia	27 September 2010	4 April 2011	

Annex II

Agendas of the Committee's third and fourth sessions

A. Agenda of the third session of the Committee on Enforced Disappearances (29 October–9 November 2012) (CED/C/3/1)

1. Opening of the session, in accordance with article 26, paragraph 7, of the International Convention for the Protection of All Persons from Enforced Disappearance.
2. Minute of silence in remembrance of victims of enforced disappearances.
3. The Committee will consider and adopt the agenda for its third session.
4. Communications, information and requests received by the Committee.
5. Matters related to the methods of work of the Committee:
 - (a) Methods of work related to articles 30, 31 and 33 of the Convention;
 - (b) Ratification strategy, development of model laws and other matters.
6. Consideration of reports of States Parties to the Convention.
7. Thematic discussions on:
 - (a) Human trafficking and enforced disappearances;
 - (b) Principle of non-refoulement, expulsion and extradition under article 16 of the Convention.
8. Day of general discussion under the Convention on the responsibility of States and the role of non-State actors.
9. Meeting with Member States of the United Nations.
10. Yearly meeting with the Working Group on Enforced or Involuntary Disappearances.
11. Meeting with the members of the Human Rights Committee (HRC) in accordance with article 28 of the Convention.
12. Meeting with United Nations agencies and mechanisms, intergovernmental organizations and national human rights institutions.
13. Meeting with non-governmental organizations and other stakeholders.
14. Programme of work of the fourth session.
15. Treaty body strengthening update.
16. Discussion on the presentation of the annual report of the Committee to the General Assembly at its sixty-seventh session.

B. Agenda of the fourth session of the Committee on Enforced Disappearances (8–19 April 2013) (CED/C/4/1)

1. Opening of the fourth session.
2. Minute of silence in remembrance of victims of enforced disappearances.
3. Adoption of the agenda.
4. Communications, requests for urgent actions and information received by the Committee.
5. Matters related to the methods of work of the Committee:
 - (a) Methods of work related to articles 32, 33 and 34 of the Convention;
 - (b) Interaction with relevant stakeholders;
 - (c) Ratification strategy and other matters.
6. Consideration of reports of States parties to the Convention.
7. Thematic discussion on the principle of non-refoulement, expulsion and extradition under article 16 of the Convention (continued).
8. Meeting with Member States of the United Nations.
9. Meeting with United Nations agencies and mechanisms, and intergovernmental organizations.
10. Meeting with national human rights institutions.
11. Meeting with non-governmental organizations and other stakeholders.
12. Report of the Committee to the General Assembly at its sixty-eighth session.
13. Provisional agenda for the fifth session.
14. Treaty body strengthening update.

Annex III

Membership of the Committee on Enforced Disappearances and terms of office as at 19 April 2013

<i>Name of member</i>	<i>State party</i>	<i>Term of office expires</i>
Mr. Mohammed Al-Obaidi	Iraq	30 June 2013
Mr. Mamadou Badio Camara	Senegal	30 June 2015
Mr. Emmanuel Decaux	France	30 June 2015
Mr. Alvaro Garcé García y Santos	Uruguay	30 June 2015
Mr. Luciano Hazan	Argentina	30 June 2013
Mr. Rainer Huhle	Germany	30 June 2015
Ms. Suela Janina	Albania	30 June 2015
Mr. Juan José López Ortega	Spain	30 June 2013
Mr. Enoch Mulembe	Zambia	30 June 2013
Mr. Kimio Yakushiji	Japan	30 June 2013

Annex IV

Decisions adopted by the Committee on Enforced Disappearances during its third and fourth sessions

A. Decisions adopted by the Committee during its third session

1. The inclusion, as an annex to its rules of procedures, of the guidelines on the independence and impartiality of members of the human rights treaty bodies, endorsed by the chairpersons of the United Nations treaty bodies.
2. To amend the form to submit urgent actions, according to article 30, to stress that an urgent action that has been already been submitted to the Working Group on Enforced or Involuntary Disappearances cannot normally be admitted by the Committee and not to set a time limit within which urgent actions should be submitted.
3. The adoption of a statement on treaty body strengthening.
4. The adoption of a methodology relating to reporting procedures and relationship with NGOs.
5. The joint statement with the Working Group.
6. The provisional agenda for the fourth session.
7. The dates of the fourth session of the Committee, which will be held from 8 to 19 April 2013 and of the fifth session, which will be held from 4 to 15 November 2013.
8. The adoption of its third session informal report.

B. Decisions adopted by the Committee during its fourth session

1. A draft document regarding “The relationship of the Committee on Enforced Disappearances with civil society actors”, which will be posted on the Committee’s website for comments by all stakeholders, with a view to adopting it at the fifth session.
2. The dissemination of its working methods through its webpage.
3. The appointment of a rapporteur to prepare, with the support of the Secretariat, a first draft of a document on the relationship of the Committee with National Human Rights Institutions.
4. The methodology to conduct constructive dialogues with States parties.
5. The organization of a thematic discussion on “enforced disappearances and military justice” at its fifth session.
6. The follow-up to five urgent actions received according to article 30 of the Convention.
7. The concluding observations on the reports submitted by Uruguay and France under article 29, paragraph 1, of the Convention.
8. The appointment of the country rapporteurs for the lists of issues of Argentina, Spain and Germany.

9. The consideration at its fifth session of the reports of Spain and Argentina submitted in compliance with article 29, paragraph 1, of the Convention.
10. The examination at its sixth session of the report of Germany submitted in compliance with article 29, paragraph 1, of the Convention.
11. The adoption of its annual report to the sixty-eighth session of the General Assembly.
12. The provisional agenda for the fifth session.
13. A formal reminder to be sent to States parties on their obligation to timely submit their reports under article 29, paragraph 1, of the Convention.

Annex V

Committee on Enforced Disappearances 3rd session, 7 November 2012

Decision of the Committee on Enforced Disappearances on the Guidelines on the independence and impartiality of members of the human rights treaty bodies (Addis Ababa guidelines)

The Committee on Enforced Disappearances,

Considering the relevant provisions of the International Convention for the Protection of All Persons from Enforced Disappearance, in particular article 26, as well as the rules of procedure (CED/C/1) adopted during its second session, in March 2012,

Recalling to States Parties their own responsibilities in the selection of candidates and election of experts,

Aware of the importance of the strengthening of the United Nations human rights treaty body system in ensuring the independence and impartiality of the treaty body members, in their activities and practices,

1. Welcomes the “guidelines on the independence and impartiality of members on the human rights treaty bodies” endorsed by the 24th Annual Meeting of Chairpersons of Human Rights Treaty Bodies, held in Addis Ababa from 25 to 29 June 2012,
2. Emphasizes that its recent rules of procedure (CED/C/1) already comply with the highest standards of independence and impartiality, notably rules 10, 11, 47 and 69, and
3. Decides to incorporate the Addis Ababa Guidelines as an annex to its rules of procedure.

Annex VI

Statement by the Committee on Enforced Disappearances on the report of the United Nations High Commissioner for Human Rights on Strengthening the United Nations human rights treaty body system (June 2012)

7 November 2012

The Committee on Enforced Disappearances,

Recalling that since its first session, a year ago, it supported the treaty body strengthening process and endorsed the Dublin II Outcome Document during its second session, in March 2012, even though it did not participate in the process due to its recent establishment,

Aware of the importance of the strengthening of the United Nations human rights treaty body system as a whole, in order to reinforce its coherence and its efficiency,

Emphasizing the centrality and specificity of the International Convention for the Protection of All Persons from Enforced Disappearance, as a new and modern legal instrument, taking into account the experience of other human rights treaties,

1. Welcomes the report of the High Commissioner for Human Rights on “Strengthening the United Nations Human Rights Treaty Body System” (A/66/860) published in June 2012, and expresses appreciation for the efforts of the High Commissioner in this regard,

2. Notes that it benefited from being the latest treaty body to be established and that, for this reason, many of the proposals made by the High Commissioner’s report are already reflected in its rules of procedures (CED/C/1) and its guidelines on the form and content of reports (CED/C/2),

3. Stresses the need for adequate resourcing, especially for service conferences and translation of documents, in order to fulfil the mandate of the treaty bodies and to ensure full information and accessibility to victims,

4. Reaffirms that article 29, paragraph 1, of the Convention creates a strict legal obligation for the States parties to report within two years and that paragraph 4 offers to the Committee on Enforced Disappearances the competence to request “additional information” at any time, without periodic reports, in a very innovative way, to be duly preserved in the establishment of a comprehensive reporting calendar,

5. Recalls its willingness to evaluate the quality of reports submitted in accordance with harmonized guidelines, including the common core documents and treaty-specific documents, and considers that strict adherence to page limitations is important and in line with its reporting guidelines,

6. Welcomes the recommendation to streamline the constructive dialogue with States, in particular the proposal to establish country task forces, to introduce strict limitations on the number and length of interventions, and to adopt short, focused and action-oriented concluding observations, with a precise time frame and a follow-up procedure,

7. Welcomes the recommendation to further institutionalize its engagement with United Nations entities and civil society organizations as well as with National Human

Rights Institutions. The Committee notes that such an engagement is already included in its rules of procedure and that since its very first session it has been dedicating time to meeting with different stakeholders to exchange views on different issues related to enforced disappearances,

8. Welcomes the proposal concerning an aligned consultation process for the elaboration of general comments and is willing to discuss it further,

9. Stresses that the consideration of individual communications is the responsibility of each treaty body, which cannot be shared or delegated, but that further consultations on the methodology, as conditions of admissibility or substantial issues, and on the follow-up of the views of the Committees could be useful,

10. Supports the recommendations made concerning reprisals, which it considers to be of great importance. The Committee has taken measures to deal with this issue, in accordance to article 12 as well as to articles 30 and 31 of the Convention and to its rules of procedure, in particular rules 63, 95 and 99, and expresses its willingness to work further and consider the different proposals for effective protection as it advances on its work,

11. Recalls its decision to incorporate the guidelines on the independence and impartiality of members of the human rights treaty bodies (Addis Ababa Guidelines) as an annex to its rules of procedure,

12. In relation to the intergovernmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system, the Committee shares the view of other treaty bodies that such a process must comply with the legal framework of the respective treaties and respect their integrity, their competence to decide on their own rules of procedure and working methods, and guarantee their independence.

Annex VII

Second Annual meeting of the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances – Joint statement

Geneva, 8 November 2012

The second annual meeting of the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances took place in Geneva on Thursday, 1 November 2012.

During the meeting, the members of the two United Nations expert bodies working on the issue of enforced disappearance exchanged information on their respective activities and discussed the coordination of common initiatives. The Working Group and the Committee reaffirmed their commitment to cooperate and coordinate in the discharge of their respective mandates. They agreed on the principle of sharing information on a permanent basis. They held discussions on the complementarity of their procedures, on the interpretation of international law in the field of enforced disappearances, as well as on country visits. In addition, they fixed the agenda for their next annual meeting.

The two organs recalled that “the Working Group and the Committee have different mandates and act in a complementary and mutually reinforcing way to prevent and combat the heinous crime of enforced disappearance.” “Coordination and coherence are essential to guarantee the effective protection of victims of enforced disappearances,” they emphasized. In this regard, they welcomed the recent opportunity given to the Chairpersons of the two bodies to jointly address the General Assembly during an interactive dialogue which allowed them to illustrate the synergies and common purposes of the Committee and the Working Group.

In the year marking the 20th anniversary of the adoption of the Declaration on the Protection of all Persons from Enforced Disappearance, the experts envisioned strategies to continue promoting and giving full effect to the Declaration as well as to the International Convention for the Protection of All Persons from Enforced Disappearance. Experts also agreed on the need to work collectively for achieving universal adherence to the Convention and recognition of the competence of the Committee under articles 31 and 32.

Annex VIII

List of documents before the Committee at its third and fourth sessions

CED/C/3/1 and Corr.1	Provisional agenda and annotations for the third session of the Committee
CED/C/4/1	Provisional agenda and annotations for the fourth session of the Committee
CED/C/URY/1	Report of Uruguay
CED/C/URY/Q/1	List of issues in relation to the report of Uruguay
CED/C/URY/Q/1/Add.1	Replies to the list of issues on the report of Uruguay
CED/C/URY/CO/1	Concluding observations on the report submitted by Uruguay
CED/C/FRA/1	Report of France
CED/C/FRA/Q/1	List of issues in relation to the report of France
CED/C/FRA/Q/1/Add.1	Replies to the list of issues on the report of France
CED/C/FRA/CO/1	Concluding observations on the report submitted by France
CED/C/1	Rules of procedure

Annex IX

Schedule for submission of reports by States parties under article 29 of the Convention

<i>State party</i>	<i>Ratification/Accession</i>	<i>Report due</i>	<i>Submission</i>
Albania	8 November 2007	2012	
Argentina	14 December 2007	2012	21 December 2012
Armenia	24 January 2011	2013	
Austria	7 June 2012	2014	
Belgium	2 June 2011	2013	
Bolivia	17 December 2008	2012	
Bosnia and Herzegovina	30 March 2012	2014	
Brazil	29 November 2010	2012	
Burkina Faso	3 December 2009	2012	
Chile	8 December 2009	2012	
Colombia	11 July 2012	2014	
Costa Rica	16 February 2012	2014	
Cuba	2 February 2009	2012	
Ecuador	20 October 2009	2012	
France	23 September 2008	2012	21 December 2012
Gabon	19 January 2011	2013	
Germany	24 September 2009	2012	25 March 2013
Honduras	1 April 2008	2012	
Iraq	23 November 2010	2012	
Japan	23 July 2009	2012	
Kazakhstan	27 February 2009	2012	
Mali	1 July 2009	2012	
Mauritania	3 October 2012	2014	
Mexico	18 March 2008	2012	
Montenegro	20 September 2011	2013	

<i>State party</i>	<i>Ratification/Accession</i>	<i>Report due</i>	<i>Submission</i>
Netherlands	23 March 2011	2013	
Nigeria	27 July 2009	2012	
Panama	24 June 2011	2013	
Paraguay	3 August 2010	2012	
Peru	26 September 2012	2014	
Samoa	27 November 2012	2014	
Senegal	11 December 2008	2012	
Serbia	18 May 2011	2013	
Spain	24 September 2009	2012	26 December 2012
Tunisia	29 June 2011	2013	
Uruguay	4 March 2009	2012	4 September 2012
Zambia	4 April 2011	2013	
