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International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

Additional information submitted by France under article 29 (4) of the Convention*

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* The present document is being issued without formal editing.

1. Following the consideration of the additional information submitted by France on 19 April 2019, pursuant to article 29 (4) of the International Convention for the Protection of All Persons from Enforced Disappearance, and the additional information submitted by France on 22 July 2021, as well as the dialogue that took place with a technical delegation from the Committee on Enforced Disappearances on 20 September 2021, the Committee adopted its concluding observations on 23 September 2021 and highlighted three recommendations, requesting France to provide, by 27 September 2024, specific and updated information on their implementation. These three recommendations concern legislation on child abduction (para. 16), the right to communication of persons deprived of their liberty and the right to information of persons with a legitimate interest (para. 20) and the right to the truth and to reparation (para. 22).

2. The Government has the honour to transmit to the Committee the following responses in respect of these three recommendations.

3. By way of introduction, the French authorities note that, as at 24 September 2024, 15 proceedings (police or judicial preliminary investigations) related to enforced disappearance were under way before the division of the Paris ordinary court dealing with crimes against humanity and war crimes, under either article 221-12 of the Criminal Code, concerning the autonomous offence of enforced disappearance, or article 212-1, concerning enforced disappearance as the act underlying a crime against humanity.[1]

4. In 2024, for the first time in France, a court was called upon to rule on a case involving enforced disappearance as a crime against humanity and to convict on this charge, in an assize trial held from 21 to 24 May 2024 (known as the "Dabbagh" trial).

5. The case concerned the arrest and disappearance of two French-Syrian nationals, Mazzen Dabbagh and his son Patrick Abdelkader Dabbagh, on 3 and 4 November 2013, from their home in Damascus. The investigation established the widespread and systematic practice of arbitrary arrests, acts of torture, enforced disappearances and wilful attacks on life by the Syrian intelligence services, particularly air force intelligence services, notably in Mezzeh. Warrants were issued for the arrest of three high-ranking Syrian officials – Ali Mamlouk, head of the National Security Bureau, Jamil Hassan, head of the Syrian Air Force Intelligence Service, and Abdel Salam Mahmoud, head of the investigation branch of the Syrian Air Force Intelligence Service – and the case was referred for trial.

6. In a judgment passed in absentia on 24 May 2024, the Paris assize court found Ali Mamlouk, Jamil Hassan and Abdel Salam Mahmoud guilty of complicity in imprisonment, torture, enforced disappearance and murder constituting crimes against humanity, in relation to Mazzen and Patrick Abdelkader Dabbagh, and of the war crime of complicity in extortion, in relation to Mazzen Dabbagh.[2] The court sentenced them to life imprisonment.

I. Follow-up information relating to paragraph 16 of the concluding observations (CED/C/FRA/OAI/1)

7. Article 25 (1) of the Convention states that:

> (1) Each State Party shall take the necessary measures to prevent and punish:
>
> (a) The wrongful removal of children who are subjected to enforced disappearance, children whose father, mother or legal guardian is subjected to enforced disappearance or children born during the captivity of a mother subjected to enforced disappearance;
>
> (b) The falsification, concealment or destruction of documents attesting to the true identity of the children referred to in subparagraph (a) above.

[1] Enforced disappearance was made an autonomous offence pursuant to Act No. 2013-711 of 5 August 2013, prior to which and following the promulgation of Act No. 2010-930 of 9 August 2010, enforced disappearances tended to fall under other offences, particularly crimes against humanity as the underlying act.

[2] Criminal Code, art. 461-16.

8. The French authorities note that such acts are already punishable under French criminal law as the offences of removal of a child from the person with custody of the child (Criminal Code, art. 227-8); deliberate substitution or false representation or concealment resulting in the violation of a child's civil status (Criminal Code, art. 227-13); abduction and false imprisonment (Criminal Code, arts. 224-1 et seq.); and forgery (Criminal Code, arts. 441-1 et seq.), among others.

9. Furthermore, the adoption procedure, reformed pursuant to Act No. 2022-219 of 21 February 2022, which was passed for that purpose, now offers solid guarantees to prevent the conclusion of adoptions originating in an enforced disappearance.

10. This law put an end to so-called "individual" intercountry adoptions (Social Welfare and Family Code, art. L. 225-14-3), which had led to abuses in the past. Intercountry adoptions must now be carried out through authorized adoption bodies or through the French Adoption Agency. The law also strengthened oversight of authorized adoption bodies to prevent any unlawful practices (Social Welfare and Family Code, arts. L. 225-11–L. 225-14-3) by limiting to five years, renewable, the duration of the approval issued by the central authority that allows authorized adoption bodies to act as intermediaries. This approval may be suspended or withdrawn if the conditions under which it was issued are no longer met.

11. With regard to the recommendation to establish legal procedures to review or annul adoptions that originated in an enforced disappearance, French law already ensures that consideration is given in this context to the extreme seriousness of the crime of enforced disappearance, despite the broad, non-specific scope of the relevant provisions.

12. Within the scope of these provisions, a court decision on an adoption that originated in an enforced disappearance can be challenged by means of the following three mechanisms:

- The judicial review procedure provided for in article 595 (1) of the Code of Civil Procedure, which is available "if it becomes clear, after the ruling, that the decision was inadvertently based on a fraud committed by the party in whose favour it was made". An adoption originating in an enforced disappearance, or in an abduction, is categorized as fraud. The fraud must, however, have been perpetrated by the party who benefited from the contested ruling, i.e., in practice, the adopter(s) who knew that the adopted child had been subjected to enforced disappearance.

- The third-party application, provided for in article 353-2 of the Civil Code, whereby an interested third party who was not notified of the decision concerning a simple or full adoption may have that decision set aside or revised in his or her favour, provided that he or she can prove deceit or fraud on the part of the adopters. In this context, "deceit" is defined as any deception or deceitful act aimed at obtaining an adoption decision, while "fraud" presupposes acts or concealment to circumvent certain legal requirements to the detriment of third parties. Deceit and fraud are aimed at altering the judge's perception of the reality of a situation. A third-party application can thus trigger an investigation into whether the conditions for adoption were met at the time of the petition. One of the conditions for adoption is the consent of the birth parents. The enforced disappearance of a child, or its abduction, does not allow such consent to be obtained. The procedural rules relating to time limits favour the use of third-party applications, which may be filed for a period of 30 years from the date of the decision (Code of Civil Procedure, art. 586, first para.).

- Revocation under article 368 of the Civil Code. At the request of the public prosecutor when the adopted person is a minor, or at the request of the adopted person or the adopter when the adopted person is of age, a simple adoption may be revoked where there is evidence of serious grounds for so doing. Judges have sovereign power to assess, in each case, whether the alleged grounds are sufficiently serious to justify revocation and also whether the plaintiff(s) have established, as is required, that the family ties have become morally unbearable (First Civil Division, 13 May 2020, No. 19-13.419). While enforced disappearance corresponds to the definition in case law of "serious grounds", the Court of Cassation recently ruled that a simple adoption may be revoked only when such grounds reside in a cause that arose subsequent to the adoption decision (First Civil Division, 13 May 2020, No. 19-13.419). While the

enforced disappearance necessarily predates the adoption decision, the discovery of this event by the child or his or her adoptive parents may, on the other hand, occur subsequent to the adoption. A flexible assessment of the case law of the Court of Cassation thus seems to suggest that a simple adoption could be revoked on serious grounds if it was discovered after the adoption that the child had been subjected to enforced disappearance. However, it would still be impossible to revoke a full adoption.

13. The guarantees afforded by French law in terms of recourse against decisions on adoptions originating in enforced disappearances are thus sufficient.

14. With regard to placements ordered as part of the assistance procedure, article 375-6 of the Civil Code provides that decisions taken "may, at any time, be modified or rescinded by the judge who made them, either ex officio or on application by the father and mother jointly or by one of them, by the person or service entrusted with the minor's care or by the minor's guardian, the minor himself or herself or the public prosecutor's office". These ordinary law provisions thus enable the children's judge to terminate a placement at any time, for example if the placement originated in an enforced disappearance.

II. Follow-up information relating to paragraph 20 of the concluding observations

15. Articles 17 and 18 of the Convention provide for a right to communication for persons deprived of their liberty and a right to information for all individuals with a legitimate interest therein.

A. Persons in police custody

16. Articles 63-1 and 63-2 of the Code of Criminal Procedure provide that a person placed in police custody may have any person he or she designates notified thereof and communicate with such person.

17. Article 63-2 of the Code of Criminal Procedure was amended pursuant to Act No. 2024-364 of 22 April 2024, whereby a number of provisions of French law were aligned with European Union law regarding the economy, finance, ecological transition, criminal law, social law and agriculture. Since the Act's entry into force on 1 July 2024, a person deprived of his or her liberty by being placed in police custody may, "at his or her request, have a person with whom he or she usually lives, a relative in the direct line, a sibling or any other person he or she designates notified by telephone of the measure to which he or she is subject. The person may also have his or her employer notified. If the person in police custody is of foreign nationality, he or she may contact the consular authorities of his or her country."

18. Pursuant to article 63-2 (II) of the Code of Criminal Procedure, communication with a third party is subject to the agreement of the criminal investigation officer, who may refuse to authorize such communication if it appears to be incompatible with the objectives mentioned in article 62-2 of the Code or if there is a risk that it might allow an offence to be committed.

19. In addition, article 63-2 of the Code of Criminal Procedure specifies that the public prosecutor, the liberties and custody judge or the investigating judge may, at the request of the criminal investigation officer, defer the notification to third parties or not issue such notification.

20. This possibility, available to prosecutors and judges, is strictly regulated and may be used only when it is essential for the collection or preservation of evidence or to prevent serious harm to the life, liberty or physical integrity of a person (Code of Criminal Procedure, art. 63-4-2-1).

21. The Court of Cassation has ruled that, in the absence of any mention in the record of proceedings of the grounds for deferring the notification to the family, the issuance of this

notification must be held to have been irregular, which may result in its being declared null and void if the person in police custody suffers actual harm to his or her interests (Criminal Division, 7 February 2024, No. 22–87.426).

22. In addition, articles 63-1 and 63-3-1 of the Code of Criminal Procedure enshrine the right of a person placed in police custody to be assisted by a lawyer from the outset of, and at any time during, the period of police custody and specify how this right is to be exercised. Article 32 of the Act of 22 April 2024 abolished the waiting period provided for in article 63-4-2 of the Code, which allowed criminal investigation officers to begin interviewing a person in police custody once two hours had elapsed from the time that the lawyer chosen by him or her or appointed by the court had been notified, if the lawyer failed to appear.

23. In order to promote the involvement of a lawyer during the period of police custody, the circular issued by the Directorate for Criminal Matters and Pardons of the Ministry of Justice on 14 June 2024 outlining the criminal procedure provisions of the Act of 22 April 2024 specifies that, in the event that the person in police custody designates a lawyer of his or her choosing who cannot be reached, declares that he or she is unable to appear within two hours or does not appear within that time, the investigating officer must refer the matter to the President of the Bar so that a lawyer can be appointed for the person (Code of Criminal Procedure, art. 63-3-1).

24. Thus, since 1 July 2024, if the person in police custody has asked to be assisted by a lawyer, no interview of such person may begin without the lawyer being present.

25. Lastly, the Juvenile Criminal Justice Code, which came into force on 30 September 2021, confers a specific right for minors to support and information, the terms of which are set out in articles L. 311-1–L. 311-5 of the Code.

26. In principle, minors are supported by their legal representatives (Juvenile Criminal Justice Code, art. L. 311-1). When it is not possible or desirable to inform the legal representatives or have them support the minor, he or she must be supported by an appropriate adult (Juvenile Criminal Justice Code, arts. L. 311-1, fifth paragraph, and L. 311-2). This can occur in three specific situations: if the involvement of the legal representatives is contrary to the best interests of the minor; if the holders of parental authority cannot be reached despite every effort having been made; or if there are objective and factual elements indicating that they could significantly compromise the criminal proceedings.

27. Pursuant to article D. 311-2 of the Juvenile Criminal Justice Code, the appropriate adult is designated by the minor. If the minor does not designate an adult, or if the adult he or she has designated does not appear to be suitable, the public prosecutor, children's judge or investigating judge must appoint such a person. The person appointed must be of age and must preferably be chosen from among the minor's relatives. If no adult can be appointed, the public prosecutor, children's judge or investigating judge must appoint an ad hoc administrator (Juvenile Criminal Justice Code, arts. L. 311-2 and D. 311-2).

28. In addition, article L. 413-7 of the Juvenile Criminal Justice Code provides that, when minors are held in police custody, a police officer must inform their legal representatives. This notification may be deferred for a maximum of 24 hours and solely to allow for the collection or preservation of evidence or to prevent serious harm to the life, liberty or physical integrity of a person. This option is open to the public prosecutor or investigating judge, depending on the circumstances of the case.

B. Persons in pretrial detention

29. The Code of Criminal Procedure provides for persons deprived of their liberty to have access to the information referred to in article 18 (1) of the Convention.

30. However, access to the information by "any person with a legitimate interest" therein, such as the person's relatives, representatives or lawyers, is not systematically provided for.

31. In fact, only the person being prosecuted, represented by a lawyer, any civil parties, the witnesses assisted by counsel and the public prosecutor are parties to the criminal proceedings. Other persons, however close to the detainee, are third parties and, as such, have no right of access to information about the progress of the proceedings. Certain specific provisions do, nevertheless, provide for information to be given to the detainee's relatives in particular cases.

32. Under article 11 of the Code of Criminal Procedure, "except as otherwise provided by law and without prejudice to the rights of the defence, proceedings during the investigation shall be secret". This provision is aimed, first and foremost, at preserving the presumption of innocence, enshrined in article 9 of the Declaration of the Rights of Man and of the Citizen and article 6 (2) of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights).

33. Article 5 of the Decree of 30 June 2023 on the code of ethics for lawyers obliges lawyers to respect the secrecy of criminal investigations by refraining from communicating information taken from the case file and publishing documents, exhibits or letters concerning an ongoing investigation, except for the purpose of exercising the right of defence.

Information on the grounds for incarceration and on the decision-making authority

34. A number of provisions require the person remanded in custody and his or her lawyer to be informed of the grounds for incarceration and the authority deciding on the matter.

35. For example, article 145 of the Code of Criminal Procedure provides for the hearing of both parties on the issue of remand in custody. Under the article, the liberties and custody judge, on receiving an order from the investigating judge for the detention of the accused, must summon this person to appear before him or her, assisted by his or her lawyer if one has been appointed. On the basis of the information contained in the case file, and after hearing the interested party's observations where he or she deems this useful, the liberties and custody judge must inform the accused if his or her remand in custody is being envisaged. In such a case, the judge may make his or her decision only after both parties have been heard. If the accused is not already assisted by a lawyer, the judge must inform him or her that he or she will be defended at the hearing by a lawyer of his or her choice or, if he or she does not choose a lawyer, by a court-appointed lawyer. The judge rules after hearing the public prosecutor, the observations of the accused and, where appropriate, of his or her lawyer. The sixth paragraph of the article specifies that, if the accused person is of age, the hearing of the parties will take place, and the judge will rule, in open court. The relatives of the accused person may thus attend the hearing and be informed of the decision handed down. However, if the accused is a minor, or if there are specific reasons for not holding the hearing in public – for example, if a public hearing could be prejudicial to the presumption of innocence or to the dignity of the accused – the hearing will take place, and the judge will rule, in chambers.

36. The liberties and custody judge must issue a reasoned order. Under article 137-3 of the Code of Criminal Procedure, as amended by the Act of 23 March 2019, the reasoning must include a "statement of the legal and factual considerations that render the constraints provided by court supervision or compulsory residence with electronic surveillance insufficient, and of the grounds for the detention with reference solely to the provisions of articles 143-1 and 144".

37. In addition, article 803-6 of the Code of Criminal Procedure requires all suspects or accused persons subject to a custodial measure to be given a document setting out their rights in simple, accessible terms and in a language they understand. The office of the Inspector General of Places of Deprivation of Liberty ensures during its visits that this document is actually given to persons deprived of their liberty.

38. In the case of minors facing proceedings, article L. 12-5 of the Juvenile Criminal Justice Code provides that the legal guardians must receive the same information as that which must be communicated to the minor during the proceedings. Article L. 311-1 of the Code enshrines the right of the minor's legal representatives to be informed by the public prosecutor or the investigating or trial court of decisions taken with respect to the minor. Minors also have the right to be supported by their legal representatives at all hearings and during questioning, if the authority concerned deems this to be in the child's best interests.

Information on the duration of pretrial detention

39. There are strict provisions concerning the duration of pretrial detention. In the case of serious offences, article 145-2 of the Code of Criminal Procedure provides that the accused may not be held in custody for more than one year. However, once this period has expired, the liberties and custody judge may extend the person's detention for a period not exceeding six months by reasoned order issued after a hearing involving both parties, organized in accordance with the sixth paragraph of article 145 of the Code, the provisions of which are described above. Depending on the potential sentence for and nature of the offence charged, the period of pretrial detention may be extended to four years, in accordance with the second paragraph of article 145-2 of the Code.

40. In the case of ordinary offences, article 145-1 of the Code of Criminal Procedure provides that pretrial detention may not exceed four months unless the accused has already been convicted of a serious or ordinary offence and sentenced either to a criminal penalty or to an unsuspended prison term of more than 1 year and he or she is facing a sentence of up to 5 years. In exceptional circumstances, the liberties and custody judge may extend the period of pretrial detention after a hearing involving both parties, organized in accordance with the sixth paragraph of article 145 of the Code of Criminal Procedure, the provisions of which are described above. The total duration of pretrial detention may be extended to two years and four months when the investigating judge's inquiries must be continued and the release of the accused would pose a particularly serious threat to the safety of persons and property.

Right to an effective remedy

41. The provisions of the Code of Criminal Procedure govern the right to an effective remedy. They enable the accused and his or her lawyer to appeal all court decisions concerning pretrial detention (Code of Criminal Procedure, arts. 137-3, 145-1, 145-2, 179, 148 and 181).

42. The filing of an urgent application for interim measures to protect a fundamental freedom (*référé-liberté*), provided for in article 187-1 of the Code of Criminal Procedure, allows the president of the investigating chamber, to whom the matter may be brought by the accused or the public prosecutor, to declare an appeal against an order for remand in custody to have suspensive effect. The accused must be released if the president of the investigating chamber considers that the conditions set out in article 144 of the Code of Criminal Procedure have not been met. Under article 187-2 of the Code, the person lodging the appeal may request that it be examined directly by the investigating chamber.

43. Moreover, in all cases, a person remanded in custody, or his or her lawyer, may submit a request for release at any time, in accordance with article 148 of the Code of Criminal Procedure. The liberty and custodies judge must issue a reasoned order, setting out the legal and factual considerations on which his or her decision is based. If the judge does not take a decision within 3 working days of the case being referred to him or her, the matter may be referred directly to the investigating chamber, which must take a decision within 20 days, failing which the accused will be released automatically.

Information on the place of detention

44. With regard to the place of detention, persons remanded in custody are incarcerated, in accordance with the terms of the warrant or court order issued in relation to them, in the remand prison or remand section of the prison in the town where the investigating or trial court before which they are to appear is located or, if there is no such facility in this town, in the nearest remand prison (Code of Criminal Procedure, arts. 714 and D. 53, and Prison Code, art. D. 211–4).

45. Under the second paragraph of article D. 428 of the Code of Criminal Procedure, the communication by the prison administration to third parties of information concerning a person's place of detention, criminal status or release date is subject, on the one hand, to the discretion of the investigating judge to whom the case has been referred, where applicable, and, on the other, to the detainee's express consent. Under the third paragraph of

article D. 428, if the detainee does not give his or her consent, persons with a legitimate interest in obtaining this information may request it by petitioning the public prosecutor.

Communication between detainees and their lawyers and relatives

46. Anyone remanded in custody may, with the authorization of the investigating judge, receive visits at the place of detention or telephone third parties (Code of Criminal Procedure, art. 145-4, second para.). The right to respect for family ties is protected by the third paragraph of article 145-4 of the Criminal Code, under which the investigating judge may only refuse to issue a visiting permit to a member of a detainee's family on the basis of a specifically reasoned decision in writing.

47. By way of exception, the first paragraph of article 145-4 of the Code of Criminal Procedure allows the investigating judge to impose on an accused person who has been remanded in custody a 10-day prohibition on communications, renewable only once. Under article D. 56 of the Code, this prohibition prevents the detainee concerned from being visited by or corresponding with any other person outside the prison administration. This prohibition does not apply to the accused's lawyer.

48. With regard to written correspondence with other people, article L. 345-1 of the Prison Code allows accused persons to correspond in writing with any person of their choice, subject to any prohibition on correspondence decided by the investigating judge in application of article 145-4-2 of the Code of Criminal Procedure. The first paragraph of that article allows the investigating judge to impose a prohibition on written correspondence with one or more persons where necessary for the purpose of the investigation, the maintenance of good order and safety or the prevention of crime.

49. Articles R. 345-6 et seq. of the Prison Code list items constituting specially protected correspondence of detainees, which are transmitted in sealed envelopes.

50. Correspondence between detainees and their lawyers may not be monitored or stopped. Article 715-1 of the Code of Criminal Procedure provides that "all communications and facilities compatible with the requirements of prison safety shall be granted to accused persons to enable them to mount a defence". Article R. 345-8 of the Prison Code affords such correspondence specially protected status.

51. Pursuant to article D. 262 of the Code of Criminal Procedure, "detainees may correspond under sealed cover with judges and prosecutors at their courts".

52. Lastly, article D. 345-10 of the Prison Code lists the French and international administrative and judicial authorities, other than the office of the Inspector General of Places of Deprivation of Liberty, with which detainees may correspond under sealed cover.

Information on the circumstances of the detainee's disappearance or death

53. The third paragraph of article 26 of the Act of 21 July 1995 on security guidelines and planning governs administrative procedures in cases of worrying or suspicious disappearance. This article lists the people who can report to the police or gendarmerie the disappearance of a minor, a protected adult or an adult whose disappearance is worrying or suspicious. They may be a spouse, a cohabitee or a partner under a civil solidarity pact, a descendant, an ascendant, a sibling, a legal representative, an employer or a relative.

54. The eighth paragraph of article 26 of this law specifies that, "except where absolutely necessary for the investigation, the declarant is kept informed of the results of the search undertaken, subject to the right of the adult declared missing and found to expressly oppose the communication of his or her address to the declarant by signing a document specifically drawn up for this purpose before a criminal investigation officer".

55. Article 74-1 of the Code of Criminal Procedure allows the public prosecutor to open an investigation into the causes of the disappearance.

56. When this provision is applied, the administrative search is terminated.

57. The second paragraph of article 80-4 of the Code of Criminal Procedure provides that, when a judicial investigation into the causes of a death or disappearance is opened, as referred

to in articles 74 and 74-1 of the Code, the family members or relatives of the deceased or missing person may bring criminal indemnification proceedings. Under the first paragraph of article 87 of the Code, such proceedings can be brought at any time during the investigation.

58. Article L. 344-1 of the Prison Code provides that, when a suicide occurs in detention, the prison administration must immediately inform the family or relatives of the circumstances surrounding the death and facilitate, at their request, any steps they may be called upon to take.

III. Follow-up information relating to paragraph 22 of the concluding observations

59. In accordance with article 4 of the Code of Criminal Procedure, the civil action to obtain reparation for the harm caused by an offence, referred to in article 2 of the Code, may be brought before a civil court separately from the criminal proceedings. It may be initiated by anyone who has suffered personally as a result of the offence.

60. The absence of criminal proceedings thus does not prevent civil liability proceedings for compensation for the harm suffered by the victim of an enforced disappearance from being brought, on the victim's behalf, by his or her dependants or relatives.

61. Victims can also obtain compensation from the Guarantee Fund for Victims of Terrorist Acts and Other Offences, including when the perpetrator of the offence has not been identified or cannot be found.

62. Compensation by the State, based on the principle of national solidarity, was introduced pursuant to Act No. 77-5 of 3 January 1977 guaranteeing compensation for certain victims of bodily injury resulting from an offence; the Indemnification Commission for Victims of Offences was established pursuant to the Act.

63. Victims of the most serious offences against the person (including offences resulting in death, permanent disability or incapacity of more than one month, acts of a sexual nature and acts related to trafficking in persons) can claim full compensation for harm suffered, with no means test. Victims of damage to property, and victims of offences against the person who do not qualify for full reparation, can also claim compensation for harm suffered, although the amount may be limited and subject to a number of conditions (notably means testing).

64. To claim such compensation, the injured party, or his or her dependants, must refer the matter to the Indemnification Commission for Victims of Offences, which forwards the request to the Guarantee Fund for Victims of Terrorist Acts and Other Offences. The Fund has two months to make a compensation proposal to the victim. If the Fund and the claimant are unable to reach an agreement, the Commission will rule on the claim. Cases may be referred to the Commission by any French national or by a foreign national if the acts were committed in French territory. The victim's relatives can claim compensation for harm suffered in their own right and for the harm suffered by the victim of an enforced disappearance in their capacity as dependants. The time limit for taking action is three years from the date of the offence if there has been no trial. If there has already been a trial, the time limit is one year, starting from the handing down of the final decision by the court. However, in exceptional cases, the Commission may accept an application submitted after the deadline for a legitimate reason. This is the case if the person concerned has not been able to assert his or her rights within the allotted time or if the harm suffered has been aggravated.