



International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

Report on follow-up to the concluding observations of the Committee on Enforced Disappearances under article 29 (1) and (4) of the Convention*

I. Introduction

1. The present report reflects the information received by the Committee between its twenty-first and twenty-third sessions in follow-up to its concluding observations on Switzerland,¹ under article 29 (1) of the Convention, and on Colombia,² under article 29 (4) of the Convention, and the assessments and decisions that the Committee adopted at its twenty-third session. The States parties appear in chronological order according to the deadline for submission of their follow-up information.

2. The assessments contained in the present report refer only to the recommendations that were selected for the follow-up procedure and in relation to which the States parties were requested to submit information within one year of the adoption of the concluding observations. The present report does not constitute an assessment of the implementation of all the recommendations made to the State party in the concluding observations, nor a comparison between States parties.

3. To carry out its assessment of the information provided by the States parties concerned, the Committee uses the criteria described below:

Assessment of replies

A Reply/action satisfactory

The State party has provided evidence of significant action taken towards implementing the Committee's recommendation.

B Reply/action partially satisfactory

The State party has taken steps towards implementing the recommendation, but additional information or action is necessary.

C Reply/action not satisfactory

The State party has sent a reply, but action taken or information provided is not relevant or does not implement the recommendation.

* Adopted by the Committee at its twenty-third session (12–23 September 2022).

¹ CED/C/CHE/FCO/1.

² CED/C/COL/FOAI/1.



Assessment of replies

D No reply regarding a recommendation

The State party has provided no information on implementation of the recommendation.

E Information or measures taken are contrary to or reflect rejection of the Committee's recommendation

The reply reveals that the measures taken are contrary to or have results or consequences that are contrary to the recommendation of the Committee or reflect rejection of the recommendation.

II. Assessment of follow-up information submitted under article 29 (1) of the Convention

Switzerland

Twentieth session (April–May 2021)

Switzerland

Concluding observations: [CED/C/CHE/CO/1](#), adopted 4 May 2021

Recommendations to be followed up on: Paragraphs 14 (definition of enforced disappearance), 30 (access to information) and 40 (children adopted in Sri Lanka)

Reply: [CED/C/CHE/FCO/1](#), due 7 May 2022, received 3 May 2022

Paragraph 14: The Committee invites the State party to review the definition of enforced disappearance contained in article 185 bis of the Criminal Code so as to ensure that it is in full conformity with that contained in article 2 of the Convention, to remove the ambiguities regarding its constituent elements and to clarify its meaning for all.

State party's reply

The reply of the State party is provided in [CED/C/CHE/FCO/1](#), paragraphs 1 and 2.

Committee's evaluation

[C]: The Committee notes with regret that the State party does not consider it necessary to take the recommended legislative measures to review the definition of enforced disappearance contained in article 185 bis in line with article 2 of the Convention. The Committee therefore reiterates the recommendation contained in paragraph 14 of its concluding observations and requests the State party to provide updated information on its implementation when submitting its next report under article 29 (4) of the Convention.

Switzerland

Paragraph 30: The Committee recommends that the State party ensure that the persons referred to in article 18 (1) of the Convention have the right to a prompt and effective judicial remedy to obtain, without delay, the information referred to in that paragraph. It also recommends that the State party prevent and punish the refusal to provide such information and the provision of inaccurate information.

State party's reply

The reply of the State party is provided in [CED/C/CHE/FCO/1](#), paragraphs 3 to 6.

Committee's evaluation

[C]: While taking note of the information in paragraphs 3, 4 and 5 of the follow-up report of the State party, the Committee observes that no information was included as to the measures taken to provide any person with a legitimate interest with access to at least the information listed in article 18 (1) of the Convention, including during the custody period. The Committee also observes that the State party does not describe the measures taken to prevent and punish refusal to provide such information, and the provision of inaccurate information. Therefore, the Committee reiterates its recommendation and requests the State party to submit updated information in that regard in its next report under article 29 (4) of the Convention in compliance with paragraph 30 of its concluding observations,³ specifying:

- (a) The progress made towards implementing measures with a view to ensuring that any person with a legitimate interest can promptly and easily access anywhere in the territory of the State party at least the information listed in article 18 (1) of the Convention, including during the period of police custody;
- (b) The measures taken to guarantee the right of recourse where a request for access to the information listed in article 18 (1) of the Convention has been denied.

Paragraph 40: The Committee urges the State party to:

- (a) Conduct thorough and impartial investigations to determine whether children adopted in Sri Lanka during the 1980s and 1990s may have been victims of enforced disappearance or wrongful removal, and whether other offences, such as falsification, concealment or destruction of identity documents, were committed in these cases, with a view to identifying and punishing the perpetrators of such offences;
- (b) In consultation with the persons concerned, identify the victims of enforced disappearance or wrongful removal of children and provide them with the support that they need to establish their identity and parentage, and clarify in full the circumstances in which they were adopted;
- (c) Guarantee the right to reparation to any person who has suffered direct harm as a result of an offence of enforced disappearance, irrespective of the date on which the act was committed, including when the harm originated in another State, even if no criminal proceedings have been instituted against the alleged perpetrators or if they have not been identified;
- (d) As necessary for the purpose of giving effect to these recommendations, request the cooperation of Sri Lanka under articles 14, 15 and 25 of the Convention.

³ [CED/C/CHE/CO/1](#).

Switzerland

State party's reply

The reply of the State party is provided in [CED/C/CHE/FCO/1](#), paragraphs 7 to 9.

Committee's evaluation

[C]: The Committee takes note of the position of the State party that it is willing to consider illegal adoptions from Sri Lanka as enforced disappearances on a case-by-case basis. Nonetheless, the Committee considers that such position is not sufficient to ensure the proper implementation of its recommendation, and additional information remains necessary with respect to the concrete actions taken on all the points raised. The Committee therefore requests the State party to submit updated information in that regard in its next report under article 29 (4) of the Convention, with the following details:

- (a) Provide additional information on the cases that the State party has identified as enforced disappearance in the context of illegal adoptions;
- (b) Describe the measures taken to provide the persons concerned with the support they need to establish their identity and filiation, to clarify the circumstances in which they were adopted and to ensure their right to redress;
- (c) Provide information on the precise mandate of the working group and clarify the entity and the forms of cooperation that the working group has had with the Sri Lankan authorities;
- (d) Provide information on the 2022 report of the working group, its conclusions, and the actions taken on the basis of this report.

Committee's decision

The Committee decides to send a letter to the State party to communicate its evaluation and to inform the State party about the deadline for the report providing additional information in accordance with article 29 (4) of the Convention. The letter will emphasize that the State party, when implementing the Committee's recommendations and when submitting additional information, should take into account the specific guidance and request for information contained in the present report, together with the Committee's Guiding Principles for the Search for Disappeared Persons.

Deadline for the submission by the State party of additional information under article 29 (4) of the Convention: 2 October 2026

III. Assessment of follow-up information submitted under article 29 (4) of the Convention

4. Unlike the other human rights treaty bodies, the Committee does not have a system of periodic reports. Under article 29 (4) of the Convention, however, the Committee may request States parties to provide additional information on the implementation of the Convention. In 2018, Mexico became the first State party to submit additional information at the Committee's request under this procedure.⁴ The Committee is in the process of analysing various options to ensure that the procedure is as flexible, nimble, efficient and effective as possible.

⁴ See [CED/C/MEX/CO/1/Add.2](#) and [CED/C/MEX/OAI/1](#).

5. By this procedure, the Committee aims to ensure thorough monitoring of the implementation by all States parties of their obligations under the Convention and of the Committee's recommendations. The frequency and extent of such monitoring is determined by the specific situation in each State party.

6. The procedure is also aimed at enabling the Committee to fulfil its mandate to the extent possible despite its limited resources. In that connection, the Committee wishes to highlight the backlog, as at the date of the present report, of 11 reports submitted under article 29 (4) of the Convention. Pursuant to General Assembly resolution 68/268 and subsequent Assembly resolutions, however, the Committee's allocation of meeting time allows it to examine only five reports per year – this includes reports submitted under article 29 (1) of the Convention and reports containing additional information submitted under article 29 (4).

7. Following the adoption by the Committee of its concluding observations on the additional information, the Committee may ask the State party to provide further information with respect both to the recommendations adopted and to issues not addressed during the dialogue.

8. In some cases, such as that of Colombia, the Committee may consider it necessary to request the State party to submit additional information on a number of priority recommendations within one year, without prejudice to the Committee's entitlement to request additional information on the other recommendations at a later date.

Colombia

Twentieth session (April–May 2021)

Colombia

Concluding observations:

[CED/C/COL/OAI/1](#), adopted 5 May 2021

Areas of focus during the dialogue:

Harmonization of domestic law and the Convention

Prevention of enforced disappearance and mechanisms for search and investigation

Reparation

Recommendations to be followed up on:

Paragraphs 17 (statistical information on enforced disappearances), 19 (investigation of cases of enforced disappearance) and 27 (search for disappeared persons)

Reply:

[CED/C/COL/FOAI/1](#), due and received 7

May 2022

National human rights institution submission from:

Defensoría del Pueblo de Colombia

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Paragraph 17: The Committee recommends that the State party complete without delay the process of cleansing the National Register of Disappeared Persons, consolidate the information on disappeared persons contained in the various State databases and produce accurate and reliable statistics on disappeared persons, including on those who may have been subjected to enforced disappearance. These statistics should make it possible to identify the different groups of victims, the causes and dynamics of enforced disappearance and patterns of behaviour and serve as a basis for adopting more effective prevention, investigation and search measures. The National Register should be updated systematically, ensuring the uniform, comprehensive and immediate registration of all known disappeared persons. At the very least, it should include:

- (a) The total number and identity of all disappeared persons, with an indication of those who may have been subjected to enforced disappearance within the meaning of article 2 of the Convention;**
- (b) The sex, gender identity, age, nationality and ethnic origin of the disappeared person, as well as the place, date, context and circumstances of the person's disappearance, including all evidence relevant to determining whether it was an enforced disappearance;**
- (c) The status of the relevant search and investigation procedures, as well as of procedures for exhumation, identification and return of remains.**

State party's reply

The reply of the State party is provided in [CED/C/COL/FOAI/1](#), paragraphs 8 to 13.

Committee's evaluation

[C]: The Committee takes note of the information provided by the State party on the ongoing work of the entities involved in the information systems on disappeared persons to register cases of disappearance and to cleanse the National Register of Disappeared Persons. Nonetheless, it regrets the State party's position that it is not possible to complete the process of cleansing the Register, despite the importance for the effective implementation of the Convention of having clear and reliable data as a means of identifying the different groups of victims, and the causes, dynamics and patterns of the disappearances, as well as for preventing and eradicating the crime of enforced disappearance. For that reason, the Committee considers that the process of cleansing and consolidation of the Register must be accelerated in order to guarantee the existence of a unified, accurate and reliable source on the number of disappeared persons in the State party, including those who may have been subjected to enforced disappearance.

In addition, the Committee regrets that the State party has ruled out including mention of the gender identity and sexual orientation of the victim in the Register, despite its importance in identifying cases of enforced disappearance and patterns of conduct. For the same reason, it also regrets that the State party did not consider it necessary to include in the Register the status of the corresponding search and investigation procedures, as well as those of exhumation, identification and return of remains.

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Taking into account the considerations above, the Committee reiterates its recommendation and requests the State party to provide updated information on its implementation when submitting its next report under article 29 (4) of the Convention. In doing so, the Committee requests the State party to include the following information: (a) progress in the process of cleansing and consolidating the National Register of Disappeared Persons; (b) measures taken to promote, facilitate and guarantee the participation of victims and civil society organizations in the processes of compiling statistical information and data cleansing, as well as to promote and facilitate the reporting and updating of cases; (c) updated data – disaggregated by sex, gender identity, sexual orientation, age, nationality, ethnic origin, religious affiliation and occupation of the victim – on the number of disappeared persons in the State party, specifying the date and place of disappearance, how many of those persons have been located, the number of those persons who may have been subjected to enforced disappearance within the meaning of the definition of enforced disappearance contained in article 2 of the Convention, and the number of those persons who may have been subjected to the acts described in article 3 of the Convention; (d) with reference to paragraph 12 of the State party's report, describe the results of the monitoring of 4,123 cases conducted by the National Institute of Legal Medicine and Forensic Sciences; (e) in relation to paragraph 18 of the State party's report, specify whether the National Register of Disappeared Persons allows the classification of the victim's belonging to the lesbian, gay, bisexual and transgender community as a "vulnerability factor" and whether there are plans to make explicit the classifications of sexual orientation and gender identity in the Register; and (f) progress in incorporating the "status of the search" variable in the Universe of Persons Reported Disappeared and in the National Register of Disappeared Persons referred to in paragraph 25 of the State party's report.

Paragraph 19: The Committee recommends that the State party take all necessary measures to:

- (a) Ensure that all cases of enforced disappearance are investigated *ex officio*, promptly, exhaustively, impartially, independently and with a differential approach and that the Special Jurisdiction for Peace prioritizes the launch, within its purview, of macro cases in respect of the cases of enforced disappearance committed in the context of the conflict;
- (b) Ensure that the alleged perpetrators of enforced disappearance, including military and civilian superiors and State officials who authorize, support or acquiesce to such disappearances, are tried and, if found guilty, given appropriate penalties;
- (c) Prevent State agents, civilian or military, from giving instructions to falsify accounts, conceal the truth and obstruct investigations;
- (d) Guarantee that all institutions involved in the investigation of cases of enforced disappearance, including the Truth Commission and the Special Jurisdiction, have effective and timely access to all relevant documentation that may be in the possession of State agencies, in particular intelligence agencies of the armed and security forces.

State party's reply

The reply of the State party is provided in [CED/C/COL/FOAI/1](#), paragraphs 44 to 92.

Committee's evaluation

[C]: The Committee takes note of the information provided by the State party on the measures taken to investigate cases of enforced disappearance. While recognizing that in some respects the information provided is specific to recent actions, some of it even being dated 2022, the Committee wishes to emphasize that this information is not sufficient to assess whether significant progress has been made in the investigation of

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cases of enforced disappearance by the Office of the Attorney-General and the Special Jurisdiction for Peace since the adoption of the Committee's concluding observations. The Committee also notes with concern that, according to available information, almost all cases of enforced disappearance have gone unpunished, while others have reportedly been archived despite the fact that the victim has neither reappeared nor been located.

The Committee reiterates its recommendation and requests the State party to provide updated information on its implementation when submitting its next report under article 29 (4) of the Convention. In doing so, the Committee requests the State party to include the following information: (a) updated statistical information on the number of convictions for enforced disappearance; (b) additional information, including examples, on the differential approach and gender approach implemented by the Attorney General's Office in cases where children, adolescents, lesbian, gay, bisexual, transgender and intersex persons, persons belonging to certain ethnic groups and persons with disabilities have been identified as victims, as referred to in paragraph 52 of the report; (c) in relation to paragraphs 64 to 68 of the report, progress in the opening of a macro case exclusively to investigate enforced disappearances committed in the context of the armed conflict; (d) information on progress made in investigating and punishing, with appropriate penalties, hierarchical superiors in relation to crimes of enforced disappearance, including detailed information on the sentences handed down; (e) with regard to paragraphs 81 to 87 of the report, indicate whether there have been instances in which, in the phase of cross-checking information relating to cases of enforced disappearance, it was determined that the versions given by the persons appearing were not true and, if so, provide information on the measures adopted in that regard; and (f) regarding paragraph 92 of the report, provide additional and detailed information on the measures taken by the Ministry of National Defence to ensure that all authorities involved in the investigation of enforced disappearances have effective and timely access to all relevant documentation that contributes to the clarification of facts relating to alleged enforced disappearances.

Paragraph 27: The Committee encourages the State party to systematically incorporate the methods of the guiding principles for the search for disappeared persons in the design and implementation of comprehensive search strategies and recommends that it:

- (a) Ensure that the search plans designed by the Special Unit for the Search for Persons Deemed Disappeared in the Context of and Due to the Armed Conflict are implemented expeditiously and that the entities established under the peace agreement, the Attorney General's Office and other institutions work in concert;
- (b) Guarantee that the institutions responsible for the search for disappeared persons have the human, financial and technical resources they need to fulfil their responsibilities;
- (c) Ensure that, when a disappearance is reported, the search is always initiated ex officio and without delay;
- (d) Intensify its efforts to search for, locate and free disappeared persons and, if they are found dead, to identify the remains and return them in dignified fashion, adopting a differential approach with regard to women, children, adolescents, lesbian, gay, bisexual, transgender and intersex persons, members of particular ethnic communities and persons with disabilities;
- (e) Ensure that disappeared children are returned to their families of origin and that their true identity, if it has been stolen, is re-established;
- (f) Guarantee that the search for disappeared persons continues until they have been found and that the investigation of their disappearance is pursued until the facts are established and the perpetrators are identified.

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State party's reply

The reply of the State party is provided in [CED/C/COL/FOAI/1](#), paragraphs 93 to 154.

Committee's evaluation

[C]: The Committee takes note of the information provided by the State party on the measures taken to search for disappeared persons. The Committee also takes note of the information on some proceedings, which although very recent, as they are dated 2022, show limited results as only a small number of the disappeared persons have been located.

Furthermore, the Committee regrets the lack of information about the number of disappeared persons who have been located, and, in the case of death, the number of persons who have been identified and their bodies returned to their families.

The Committee also regrets that no information has been provided on the actions that are expected to be taken to locate all disappeared persons and the time frame in which these are expected to be carried out.

The Committee reiterates its recommendation and requests the State party to provide updated information on its implementation when submitting its next report under article 29 (4) of the Convention. In doing so, the Committee requests the State party to include the following information: (a) progress in the search for disappeared persons, in particular the number of persons located and, in case of death, identified and their remains returned in a dignified manner to their relatives, as well as an estimation of the time frame for completing the location of all disappeared persons; (b) with reference to paragraph 93 of the report, please provide additional information on the guidelines and protocols developed by the Unit for the Search for Disappeared Persons that have as a reference support, *inter alia*, the Guiding Principles for the Search for Disappeared Persons, including their content and objective; (c) measures adopted to ensure the correct implementation of the Urgent Search Mechanism, including information on the number of actions carried out since its establishment, as well as on the actions taken to raise awareness about this mechanism among victims and civil society as a whole; (d) additional information about the institutional strategic plan for 2023–2026 referred to in paragraph 143 of the report; and (e) in relation to paragraphs 147 and 148 of the report, indicate if any cases of kidnapping, irregular adoption or analogous practices reported in the State party amount to wrongful removal in the terms of article 25 (1) of the Convention and, if so, report on measures taken in that respect.

Committee's decision

The Committee decides to send a letter to the State party communicating its evaluation. The letter will emphasize that the State party, when implementing the Committee's recommendations and when submitting its next report under article 29 (4) of the Convention, should take into account the specific guidance and requests for information contained in the present report, together with the Committee's Guiding Principles for the Search for Disappeared Persons. The letter should also recall the Committee's request for a visit under article 33 of the Convention, which has not yet been accepted by the State party.

Deadline for the submission by the State party of its next report under article 29 (4) of the Convention: 7 May 2024
