

## **Answers to questions of Working Group on Enforced or Involuntary Disappearances of the Human Rights Council**

**1. Can you please share examples of how the Declaration on the Protection of All Persons from Enforced Disappearances (hereinafter, the Declaration") has contributed to the development of domestic legislation in your country (or countries in focus)? Can you kindly share examples of domestic provisions that were adopted in your country (or countries in focus) as a result of the implementation of the Declaration?**

On 5 May 2021 the Parliament of Armenia has adopted the New Criminal Code of the Republic of Armenia which will enter into force on July 2022. Within the New CC the enforced disappearance is criminalized. In particular:

### **Article 451: Enforced disappearance:**

1. Enforced disappearance—denial or hiding the fact of or the status or the place of a legally or illegally detained person by an official, another person or a group of persons, with the authorization, assistance, consent or connivance of the state as a result of which the disappeared person found himself outside the protection of law—is punished with imprisonment from 3 to 7 years.
2. The act, envisaged by the 1st part of the given article, committed in relation to
  - 1) a pregnant woman
  - 2) a minor
  - 3) a helpless personis punished with imprisonment from 5 to 10 years.
3. The act, envisaged by 1st or 2nd parts of the given article that has unintentionally caused a death or another grave consequence is punished with imprisonment from 8 to 15 years.

- A criminal liability for enforced disappearance is also envisaged within the *corpus delicti* of crimes against humanity. In particular:

### **Article 135 of the New CC (Crimes against humanity)**

1. Within the frames of massive or regular attack against civilians, committing one of the listed acts, including enforced disappearance is punished with imprisonment from 12 to 20 years or for life.

### **Article 137 of the New CC. War crimes against a sponsored person**

The commission of any one of the following acts: 1) causing harm to health of mild or moderate severity, 2) the imposition or execution of a sentence without a fair trial against a person or 3) humiliation of honor and dignity, considered a serious violation of the norms of international humanitarian law or the laws or customs of warfare against a person sponsored by international humanitarian law or another person enjoying international protection in an international armed conflict or an armed conflict not of an international nature is punished with imprisonment from 6 to 12 years. The commission of the following acts considered as considered a serious violation of

the norms of international humanitarian law or the laws or customs of warfare, including (.....) ***enforced disappearance***, against a person's envisaged by the 1<sup>st</sup> part of this Article is punished with imprisonment from 12 to 20 years or for life.

***2. Can you please indicate the status of the Declaration in the domestic legal order in your country (or countries in focus), i.e. with respect to ordinary legislation?***

The Republic of Armenia ratified the International Convention on the Protection of All Persons from Enforced Disappearances on January 24, 2011, in which recalls the Declaration on the Protection of All Persons from Enforced Disappearance.

In accordance with Article 5 of the Constitution "In case of conflict between the norms of international treaties ratified by the Republic of Armenia and those of laws, the norms of international treaties shall apply." Thus the Declaration is an integral part of the Legislation of the Republic of Armenia.

**3. Can you please illustrate if the provisions of the Declaration can be invoked before domestic courts in your country (or countries in focus) and, if so, share examples of case law where domestic courts made reference to the Declaration in their verdicts (if possible, summarizing to which provisions of the Declaration reference was made and how they were interpreted)?**

The courts of the Republic of Armenia may refer to international documents ratified by the Republic of Armenia to substantiate a judicial act.

**5. Has your State (or countries in focus) ratified or acceded to the International Convention on the Protection of All Persons from Enforced Disappearances? If your State (or countries in focus) has not yet ratified or acceded to the Convention, is there any pending project or initiative to do so?**

The Republic of Armenia ratified the International Convention on the Protection of All Persons from Enforced Disappearances on January 24, 2011.

Armenia is also among traditional co-sponsors of the resolutions on Enforced or involuntary disappearances both in the General Assembly and in the Human Rights Council.

**8. Can you kindly illustrate whether your country (or countries in focus) has previous experiences with regard to technical cooperation and assistance from Special Procedures and whether you think this could be an effective means to further disseminate and foster the implementation of the Declaration? What other kind of initiatives could be favored?**

Armenia greatly values the role and the mission of the special procedure mandate holders of the United Nations. Armenia demonstrated utmost readiness for cooperation with them. At the moment the most pressing issue with regard to the enforced disappearances is the fate of hundreds of Armenians that went missing during and aftermath of aggression by Azerbaijan against Artsakh/Nagorno Karabakh. Azerbaijan conceals the real number of the Armenian prisoners of

war and civilians despite the existence of a large number of video, photo and other materials posted on the online social networks attesting the fact of the captivity of those persons.

Under such circumstances it is apparent that the lives of these people are in real danger, and there is a great risk of enforced disappearances with all possible violations of human rights and dignity. Enforced disappearance, which may include extrajudicial executions, is a crime against humanity that has no statute of limitations.

One of the most vivid examples of enforced disappearance in connection to the recent conflict is the case of “the Zangelan group”, captured by Azerbaijan in October 2020. Despite numerous video or photo footages disseminated by the representatives of the armed forces of Azerbaijan on social media and testimonies of repatriated Armenian prisoners of war that prove that 21 persons from this group have been detained by Azerbaijani Armed Forces, Azerbaijan continues to deny their captivity.

Azerbaijan has one of the poorest human rights records in the world and is known for wide spread, notorious practices of torture against its own citizens. The Report of the Working Group on Arbitrary Detention on its mission to Azerbaijan in May 2016, Concluding observations on the fourth periodic report of Azerbaijan of the Committee against Torture, the Human Rights Watch and other watchdogs made detailed reports on this dire situation. Under such circumstances it is apparent that the lives of missing persons are in real danger, and there is a great risk of enforced disappearances with all possible violations of human rights and dignity.

**9. Can you kindly illustrate any activity undertaken in your country (or countries in focus) to raise awareness and further disseminate the content of the Declaration? To your knowledge, has the Declaration been translated in any local language other than the six UN language? If so, could you please share a copy?**

The International Convention on the Protection of All Persons from Enforced Disappearances has been translated into Armenian.<sup>1</sup>

**10. Can you kindly share information on existing training programs (directed both at authorities and at civil society organizations) in your country (or countries in focus) where the Declaration is analyzed and disseminated? Any information on the nature and frequency of such trainings is welcome.**

The Academy of Justice of the Republic of Armenia conducts periodic training of law enforcement agencies, during which the Convention and its regulations are also affected.

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<sup>1</sup> <https://www.arlis.am/DocumentView.aspx?DocID=72842>