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**Committee on Enforced Disappearances**

 Concluding observations on the additional information submitted by Serbia under article 29 (4) of the Convention[[1]](#footnote-2)\*

 A. Introduction

1. The Committee appreciates the additional information provided in a timely manner by Serbia under article 29 (4) of the Convention, as requested by the Committee in its 2015 concluding observations. It is also grateful for the constructive dialogue held with the State party’s delegation at the Committee’s 514th meeting on 18 March 2025, and for the information submitted during the dialogue regarding the measures taken to fulfil the State party’s obligations under the Convention in the following areas: (a) Legislative harmonization and institutional framework, (b) Prosecution, investigation, and cooperation, and (c) Search and identification. The Committee also thanks the State party for the additional information provided in writing after the dialogue.
2. At its 529th meeting, held on 27 March 2025, the Committee adopted the following concluding observations.

 B. Positive Aspects

1. The Committee acknowledges the steps taken by the State party following the issuance of its previous concluding observations, including:

 (a) The inclusion of enforced disappearance as a crime against humanity in article 371 of the 2016 Criminal Code.

 (b) The strengthening of the capacity of the War crimes prosecution office; and

 (c) The drafting of a law on missing persons to address existing gaps in national legislation.

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

 1. General Information

1. The Committee acknowledges the measures taken by the State party in areas relevant to the Convention following the adoption of the Committee’s previous concluding observations. In view of the information provided by the State party during the constructive dialogue held on the occasion of its 28th session, the Committee wishes to highlight its concerns and recommendations to ensure that legislation in the State party to prevent and punish enforced disappearance and to ensure the rights of victims, the implementation of such legislation, and the conduct of the competent authorities fully comply with the Convention. The Committee therefore invites the State party to implement its recommendations, which are made in a constructive and cooperative spirit.

 2. Legislative harmonization and institutional framework

 Criminalization of enforced disappearance as an autonomous offence

1. The Committee takes note of the State party’s position that its Criminal Code, specifically articles 371 on crimes against humanity, 132 on unlawful deprivation of liberty, and 134 on abduction, are sufficient to prosecute and sanction cases of enforced disappearance. However, the Committee is concerned that these articles of the Criminal Code do not adequately encompass all the constituent elements and modalities of enforced disappearance, as defined in article 2 of the Convention. In that connection, the Committee recalls that enforced disappearance is not a series of different crimes but rather a complex and single offence, and that only by criminalizing enforced disappearance as an autonomous offence can the State party fully comply with article 4 of the Convention (arts. 2-4).
2. **The Committee reiterates its recommendation inviting the State party to review of its legislation to incorporate enforced disappearance into national law as an autonomous offence in line with the definition contained in article 2 of the Convention.**

 Appropriate penalties

1. The Committee observes that in the absence of an autonomous crime of enforced disappearance, the offences existing within articles 132 and 134 of the Criminal Code do not offer punishments that are commensurate to the seriousness of the crime of enforced disappearance in compliance with article 7 (1) of the Convention (art. 7).
2. **The Committee recommends that the State party**

 (a) **Adopt the legislative measures necessary to include in its criminal law appropriate penalties for the offence of enforced disappearance that take into account its extreme seriousness, as well as the specific mitigating and aggravating circumstances set out in article 7 (2) of the Convention,**

(b) **Ensure that the criminal responsibility of superiors is provided for in national law, in accordance with article 6 (1) (b) of the Convention.**

1. The Committee takes note of the information provided by the State party that enforced disappearance as a crime against humanity is not subject to a statute of limitations. However, the Committee remains concerned that enforced disappearances that do not amount to a crime against humanity and are prosecuted under articles 132 and 134 of the Criminal Code are not referred to as continuous crimes under article 61 of the Criminal Code and are therefore subject to the standard status of limitation (art. 8).
2. **The Committee recommends that the State party ensures, in accordance with article 8 of the Convention, that the statute of limitations applicable to an autonomous offence of enforced disappearance is of long duration and proportionate to the extreme seriousness of the crime and that, given the continuous nature of the offence, it commences from the moment when the offence ceases.**
3. The Committee shares the concern of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence about the lack of inclusiveness of the Law on the Rights of Veterans, Disabled Veterans, Civilian Disabled Veterans and Their Family Members[[2]](#footnote-3) , “[that] serves only citizens of Serbia who were victims of violence committed by enemy troops and who suffered a certain degree of physical disability […]”[[3]](#footnote-4)(arts. 3, 4, and 24).
4. **The Committee recommends that the State party review the Law on the Rights of Veterans, Disabled Veterans, Civilian Disabled Veterans and Their Family Members and recognize the status of all wartime victims, and to provide them all, without discrimination, with full and effective reparation, compensation, rehabilitation, restitution, and satisfaction,.**

 Definition of victims

1. The Committee is concerned that under the Law on the Rights of Missing Persons and Members of their Families, the definition of victims is limited to those who went missing on the hands of enemy forces (art. 24).
2. **The Committee urges the State party to ensure that the definition of victims in its national legislation fully complies with article 24(1) of the Convention and includes all individuals who have suffered harm as a direct result of enforced disappearance.**

 Protection of witnesses

1. The Committee notes the information provided by the State party about the assistance and protection programmes that are available for witnesses and victims of enforced disappearances, and about the processes available to investigate allegations of threats or intimidation that they may suffer. However, the Committee is concerned about allegations received about intimidations and attacks against witnesses and victims, which deterred them from testifying in war crimes cases, and that legal action has not been taken to counter such practices, despite the existence of a specific offence in the Criminal Code (art. 12).
2. **The Committee reiterates the recommendation of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence inviting the State party to provide effective and comprehensive witness protection services to wartime victims and witnesses and ensure that all cases of threats or intimidation against them are thoroughly and impartially investigated, prosecuted and sanctioned.[[4]](#footnote-5)**

 Absence of a comprehensive national framework on enforced disappearance

1. The Committee notes the information the State party provided regarding the various institutions, legal instruments, policies, and strategies that have the competence to address enforced disappearances. However, the Committee is concerned that these do not provide a comprehensive framework to address the issue of enforced disappearance nor provide adequate support to victims given the absence of an autonomous offence on enforced disappearance (arts. 2, 7, 8, and 12).
2. **The Committee recommends that State party adopts the draft Law on the Rights of Missing Persons and Members of Their Families and ensure the adopted version adequately addresses existing gaps of the current legislation on enforced disappearance, particularly with regard to search and identification, the status and rights of victims of enforced disappearance and their families, high standards of proof, and limited eligibility to compensation. It encourages the State party to ensure the full participation of civil society in general, and victims of enforced disappearance and their associations in particular, in the review of the bill prior to its adoption.**

 3. Prosecution, investigation and cooperation

Prosecution and investigation

1. The Committee notes the information received on the 2016–2020 and 2021–2026 national strategies for war crimes prosecution and the action plan for implementation of the National War Crimes Strategy (2021-2026). However, the Committee is concerned by lengthy processing time, a reported backlog of over 1,700 pre-investigative cases, low prosecution rate of mid- and high-ranking officials, and war crime denial expressed in various settings, including high-level political actors (arts. 9,11, and 24).
2. **The Committee recommends that the State party intensify its efforts to ensure timely processing of investigations, reducing the backlog and ensure prosecution of all alleged perpetrators.**
3. The Committee notes the figures provided by the State party following the dialogue regarding the prosecution and conviction of cases. The Committee is concerned that given the absence of enforced disappearance as an autonomous offence, accurate data for prosecutions and convictions regarding enforced disappearances cannot be made available (arts. 2,3,11, and 12).
4. **The Committee recommends to the State party to ensure that existing registers include disaggregated data that enable the identification of enforced disappearance cases as defined under article 2 of the Convention, and ensures differentiation between such cases, acts covered by article 3, and other disappearances that do not fall under the Convention.**
5. The Committee notes the information provided by the State party regarding the transfer of cases from Bosnia Herzegovina and notes that they contribute to limiting impunity and reducing the number of outstanding prosecutions in the region (arts. 6,11, and 14).
6. **The Committee recommends that the State party maintains this cooperation in sharing information and evidence, and ensuring access to witnesses as relates to war crime cases.**
7. The Committee takes note of the statements by the State party regarding the consistency of application of existing laws to all cases of enforced disappearance. However, the Committee shares the concerns raised in 2023 by the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence regarding “stagnation in the will to prosecute Serbian officials for crimes against Kosovo Albanians, with no such indictments filed in the past five years”[[5]](#footnote-6) (arts. 6 and 13).
8. **The Committee recommends that the State party ensure the prosecution of all those involved in enforced disappearance regardless of the ethnicity of victims, and of the rank and ethnicity of involved officials.**

 Disappearances from maternity hospitals and illegal intercountry adoptions

1. The Committee notes the information provided by the State party regarding the adoption of the Law on Missing Babies in 2020. It also notes that after the law was enacted and a “Commission of investigation and to provide reparations” was set forth, several cases have been resolved. However, it regrets that many of the motions filled are still pending, as are some of the measures that remain necessary to comply with the 2013 judgment of the European Court of Human Rights in the Zorica Jovanovic v. Serbia case[[6]](#footnote-7) (art. 25).
2. **The Committee recommends that the State party ensure the investigation of all cases of disappearances from maternity hospitals occurred across Serbia and/or illegal intercountry adoptions, the search and identification of persons who may have been victims of these practices, and that it provides reparations to these victims considering their cases within the framework of enforced disappearance and in accordance with paragraphs 13 to 17 of the Joint statement of the Committee and other human rights mechanisms on illegal intercountry adoptions[[7]](#footnote-8).**

 International cooperation

1. The Committee notes the signing in 2015 of the Agreement for the Promotion of Regional Cooperation in the Processing of War Crimes and the Search for Missing Persons and for the Establishment of Coordination Mechanisms between Bosnia and Herzegovina, Croatia and Serbia, as well as the information provided by the State party regarding the agreements that have been adopted in the spirit of regional cooperation. Nonetheless, the Committee is concerned that according to the information received, the regional cooperation and coordination required for the effective development of search and identification processes have stalled in recent years, especially with Croatia and Kosovo[[8]](#footnote-9) (art. 13, 14, and 15).
2. **The Committee recommends that the State party continues to exert utmost efforts to overcome the challenges faced at bilateral and multilateral levels to ensure that all cases of enforced disappearances are addressed without delay, in full compliance with the Convention.**
3. The Committee is concerned that the State party continues to refuse to extradite Serbian citizens requested by the judicial authorities of Kosovo (art 13,14).
4. **The Committee recommends that the State party takes all necessary measures to enhance cooperation with judicial authorities in Kosovo and to facilitate the prosecution of all persons accused of perpetrating enforced disappearance, including agreements on the transfer of cases.**
5. The Committee notes the information provided by the State party regarding response to regional requests for the provision of archival records. However, the Committee is concerned that the relevant files and archives remain classified and that their access is limited (arts.13, 14and 15).
6. **The Committee recommends that the State party facilitates public access to all relevant archives including those of the Ministry of the Interior and the Serbian Armed Forces to promote the resolution of cases under investigation and to foster an enabling environment for civil society organizations working on transitional justice in the region**.
7. The Committee is concerned about the cancelation of the inaugural meeting of the Joint Commission for Missing Persons between Belgrade and Pristina planned on 15 January 2025. The lack of implementation of the Declaration on Missing Persons signed between Kosovo and Serbia in 2023 constitutes an obstacle to clarify the fate and whereabouts of the remaining disappeared persons (arts. 13 and 14).
8. **The Committee recommends the State party to resume talks with Kosovo to overcome the difficulties that are preventing progress in the implementation of the Declaration.**

 4. Search and identification

1. The Committee takes note of the information provided by the State party on the exhumation of mass graves, the identification of disappeared persons and the actions taken to ascertain the fate of those who may have been forcibly disappeared in the 1990s, as well as on the efforts made to establish regional cooperation mechanisms to address enforced disappearances. The Committee nonetheless regrets that, according to the Database of Active Cases of Persons Missing in Conflicts in the Former Yugoslavia, the fate and whereabouts of approximately 11.000 disappeared individuals remain to be clarified, and that the implementation of cooperation agreements still faces great challenges (arts. 12, 14, 15 and 24).
2. **The Committee recommends establishing effective mechanisms to finalize the search and investigation processes related to the 11000 disappeared individuals in the context of the armed conflicts of the 1990s; to promote the actual implementation of the regional cooperation mechanisms that have been established; and to ensure that the victims, their representatives, and the organizations accompanying them have access to the information related to the search and investigation processes and can participate therein, regardless of their ethnicity or nationality.**

 Memorialization of victims of enforced disappearances

1. The Committee takes note of the information provided by the State party regarding efforts for memorialisation such as the Museum of Genocide Victims and partnerships with victims, including from the Roma community, in memorialization projects. However, the Committee is concerned that these efforts do not equally represent the victims of enforced disappearances from non-Serbian ethnicities (art. 24).
2. **The Committee recommends that the State party to ensure that memorialization efforts equally represent the victims of enforced disappearances from non-Serbian ethnicities. Specifically, the State party should:**

 (a) **Ensure that memorialization projects, including museums, monuments, and exhibitions, are inclusive and represent the experiences of all victims of enforced disappearances, regardless of their nationality or ethnicity,**

 **(b) Collaborate with victims' associations from all national and ethnic backgrounds to develop and implement memorialization projects that reflect the experiences of all communities affected by the armed conflicts of the 1990s.**

1. The Committee notes that the State party is yet to declare its Support to the UN General Assembly resolution on the genocide in Srebrenica that condemns any denial of the Srebrenica genocide and actions that glorify those convicted by international courts for war crimes, crimes against humanity and genocide (art. 5 and 24).
2. **The Committee recommends to the State party to:**

**(a) Support the UN General Assembly resolution 78/282 on the genocide in Srebrenica,[[9]](#footnote-10) as it contributes to the memorialization of 11 July as the International Day of Reflection and Commemoration of the 1995 Genocide in Srebrenica,**

 **(b) Amend- its legislation to ensure the criminalisation of any form of denial of war crimes determined by the verdicts of ICTY and ICJ,**

 **(c)** **Condemn any denial of the Srebrenica genocide and other war crimes regardless of whether perpetrators were enemy or friendly forces, and**

 **(d) Prosecute and sanction actions that glorify those convicted of war crimes, crimes against humanity, and genocide.**

 Enforced Disappearance in the Context of Migration

1. The Committee takes note of the information provided by the State party regarding the measures taken to disseminate the Committee’s General Comment on enforced disappearances in the context of migration. The Committee acknowledges the legal reform that has been adopted as relates to human trafficking and birth registration. However, the Committee remains concerned that the adopted measures are oriented toward a security-based approach to migration, which can put migrants and asylum seekers at risk of enforced disappearance due to restrictive migration policies, inadequate protection mechanisms, and the lack of effective measures to address their specific requirements (arts. 2,3,16 and 25).
2. **The Committee recommends that the State party takes further measures in light of its General Comment on enforced disappearances in the context of migration to avoid practices that expose migrants and asylum seekers to risks of enforced disappearance, including by conducting a comprehensive review of existing migration policies and practices to identify such risks, and developing a differential approach to address the specific requirements of certain groups of migrants and asylum seekers, such as unaccompanied minors, women, and victims of trafficking. It further recommends strengthening cooperation and coordination with international organizations, specialized civil society organizations, and other stakeholders to ensure a comprehensive and effective response to the protection needs of migrants and asylum seekers against enforced disappearances.**

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

1. **The Committee wishes to draw attention to the obligations assumed by States when they become parties to the Convention and, in this respect, urges the State party to ensure that all the measures it takes, irrespective of their nature or the authority from which they emanate, are in full accordance with the obligations it assumed on becoming a party to the Convention and other relevant international instruments.**
2. **The Committee wishes to emphasize the particularly cruel effect of enforced disappearance on women and children. Women who are subjected to enforced disappearance are particularly vulnerable to sexual and other forms of gender-based violence. Women who are relatives of a disappeared person and thus** **considered as victims according to article 24(1) of the Convention, are particularly likely to suffer serious social and economic disadvantages and to be subjected to violence, persecution and reprisals as a result of their efforts to locate their loved ones. Children who are victims of enforced disappearance, either because they themselves disappeared or because they suffer the consequences of the disappearance of one of their relatives, are especially vulnerable to violations of their human rights. The Committee therefore places particular emphasis on the need for the State party to systematically adopt a gender perspective and take into account the specific needs of women and children as it acts on the recommendations made in the present concluding observations and implements the full range of the rights and obligations set forth in the Convention.**
3. **The State party is encouraged to disseminate widely the Convention and the present concluding observations in order to raise awareness among governmental authorities, civil society actors and the public at large. The Committee also encourages the State party to promote and facilitate the participation of civil society in the actions taken to implement the recommendations contained in the present concluding observations.**
4. **In accordance with article 29 (4) of the Convention, the Committee requests the State party to submit, no later than 4 April 2029, specific and updated information on the follow‑up given to the recommendations made in the present concluding observations and any other information that it considers relevant in the light of the Convention. The Committee encourages the State party to adopt a national policy on the prevention of enforced disappearance and to promote and facilitate the participation of civil society, in particular organizations of victims of enforced disappearance, in the preparation of this additional information.**

1. \* Adopted by the Committee at its twenty-eighth session (17 March – 4 April 2025) [↑](#footnote-ref-2)
2. A/HRC/54/24/Add.2 Paras. 20, 11, 24, 25. [↑](#footnote-ref-3)
3. A/HRC/54/24/Add.2 Para. 24 [↑](#footnote-ref-4)
4. A/HRC/54/24/Add.2, paras. 21 and 100. [↑](#footnote-ref-5)
5. A/HRC/54/24/Add.2 para 20 [↑](#footnote-ref-6)
6. ECHR, Zorica Jovanović v. Serbia - [21794/08](https://hudoc.echr.coe.int/eng#{%22appno%22:[%2221794/08%22]}) [↑](#footnote-ref-7)
7. CED/C/9 [↑](#footnote-ref-8)
8. All references to Kosovo in the present document should be understood to be in full compliance with Security Council resolution 1244 (1999), without prejudice to the status of Kosovo. [↑](#footnote-ref-9)
9. [A/78/L.67/Rev.1](https://www.undocs.org/A/78/L.67/Rev.1) [↑](#footnote-ref-10)