

Questionnaire for States

WGEID study on standards and public policies on effective investigation on enforced disappearances

- 1) Please indicate whether there is a specific and autonomous crime of enforced disappearance in your criminal legislation meeting the elements contained in the definition of the 1992 Declaration and 2006 Convention on the Protection of all Persons from Enforced Disappearance. If so, please provide details on the relevant legislative provisions, including with respect to:
 - a. the elements which are required to be met in order to charge suspected perpetrators with the crime of enforced disappearance;
 - b. the conditions for application of command/superior responsibility.
 - c. the criminal sanctions which can be imposed for the crime of enforced disappearance, including for any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance.
- 2) If the answer to question n° 1 is negative, please indicate how acts of enforced disappearances are or could be currently qualified and dealt with in your criminal legislation and whether the introduction of a specific crime is envisaged.
- 3) Please inform whether the statute of limitations applies for crimes of enforced disappearances or proposed to be applied in future legislation criminalizing enforced disappearances? If so, please indicate the duration of the statute of limitations and the moment from which it commences to count.
- 4) Please indicate whether anyone has been convicted for the crime of enforced disappearance in your country. If so, kindly provide detailed information and provide the related jurisprudence.
- 5) Please indicate whether there are special units in the law-enforcement and/or prosecution authorities in charge of the investigation of enforced disappearances. If so, please provide the name of the units and indicate their composition including whether these special units are staffed with professional from different disciplines, including forensic science, anthropology and psychology. If not, please explain who is in charge of investigating or prosecuting enforced disappearances.
- 6) Do these special units have the competence to initiate investigations of cases of potential enforced disappearances, even if no formal complaints have been made? Please describe how, and in which time frame, an alleged or potential case of enforced disappearance is investigated from the outset.
- 7) Do the authorities investigating cases of enforced disappearances have the necessary powers and resources to conduct the investigation, including powers to compel the attendance of witnesses and the production of relevant documents, including police, military and intelligence files? Are all archives potentially

containing information relevant for the investigation accessible to the investigating authorities?

- 8) Please explain the legal framework for the families or the representatives of the disappeared to participate in the investigation and be informed about the results thereof. Please explain if there is any psychosocial support available for the victims during the investigation.
- 9) Is there any provision and/or practice in the police or other law enforcement officials' bodies for the exclusion of the persons, units or institutions allegedly involved in an enforced disappearance from their participation in the investigation?
- 10) Under your country's legislation, can persons who have or are alleged to have committed enforced disappearance(s) benefit from special amnesty laws, pardons or similar measures that might have the effect of exempting them from any criminal proceedings or sanction?
- 11) Please indicate whether your legislation provides for mitigating circumstances for those who are instrumental in bringing the victims forward alive or in providing voluntarily information which would contribute to clarifying cases of enforced disappearance.
- 12) Please indicate whether there are instances in which cases of enforced disappearances may be investigated or tried by special or military courts.
- 13) Please indicate if a truth commission or any other similar truth-telling mechanisms have operated in your country and, if so, how this commission has contributed to investigations of enforced disappearances.
- 14) Please indicate in which cases your State may establish its jurisdiction over cases of enforced disappearance committed abroad, including whether it does so over the offence of enforced disappearance committed abroad when the alleged offender is present in any territory under its jurisdiction. If so, please provide examples of situations in which this has occurred.
- 15) Please indicate what measures are in place to ensure that all parties involved in the investigation of enforced disappearances, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal; and to ensure that – if these prohibited acts occur – they are appropriately punished, in accordance with article 13 (3) and (5) of the Declaration. If an office or unit for the protection of these persons exists, please explain its mandate, competency and powers, as well as the applicable legal framework.
- 16) What measures has your State adopted in the field of international judicial cooperation to facilitate the effective investigation of transnational cases of enforced disappearances?

- 17) Please explain what measures exist in your country for the coordination among the different agencies/units involved in the investigation of enforced disappearances.
- 18) What are the main obstacles and challenges encountered by your country, if any, to effectively investigate enforced disappearances? Does your State have any recommendations and/or proposals in this regard?