



# **International Convention for the Protection of All Persons from Enforced Disappearance**

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## **Committee on Enforced Disappearances**

### **Information received from Iraq on follow-up to the concluding observations on the additional information submitted under article 29 (4) of the Convention\***

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\* The present document is being issued without formal editing.



## Introduction

1. In accordance with paragraph 32 of the concluding observations on the additional information submitted by Iraq under the Convention for the Protection of All Persons from Enforced Disappearance (CED/C/IRQ/OAI/1), this document contains the follow-up report of the Republic of Iraq on the implementation of the priority recommendations contained in the Committee's concluding observations in respect of the initial report of the Republic of Iraq. We wish to state the following:

### **Progress in the review, adoption and implementation of the legislation on enforced disappearances**

2. Iraqi legislation, in particular the Code of Criminal Procedure, is being reviewed with a view to making amendments in line with human rights standards.
3. The enactment and revision of laws are the exclusive competence of the legislature, as in the Office of the Speaker, on the basis of the principle of separation of powers.
4. Article 1 of the bill on enforced disappearances contains a definition of the crime of enforced disappearance in line with that of the Convention and establishes appropriate penalties. A reference to the crime of enforced disappearance is also included in the new Criminal Code that is currently being drafted.
5. The Ministry of Justice has made significant efforts when it comes to the law on enforced disappearance, based on the recommendations of the General Secretariat of the Council of Ministers and the observations of the international Committee on Enforced Disappearances. A bill on combating enforced disappearances was submitted to the Council of State based on article 13 of Council of State Act No. 65 of 1989 and in compliance with the international obligations of Iraq under the Convention. The bill was submitted on 6 November 2017 and took account of the observations of the competent authorities, including the Supreme Judicial Council.
6. The bill was submitted to the competent body of the Council of State, which approved it and referred it in turn to the plenary, which also approved the bill. On 17 March 2020, the Council of State sent the bill to the General Secretariat of the Council of Ministers. The text of the decision which was examined by the Council of State include provision for approval of the bill on enforced disappearance as submitted by the Ministry of Justice and its referral to the Council of Representatives.
7. A committee was set up to review some articles of the bill, based on the Prime Minister's directives. The committee is chaired by an adviser to the Council of State.

### **Secret detention**

8. No evidence has been provided to indicate that secret detention is still used, especially in Camp Justice, al-Muthanna Airport prison, Baghdad airport prison and the city of Jurf al-Sakhar. The central prisons and detention and deportation centres are under the supervision of the Office of the Public Prosecutor and are subject to regular inspection visits. All persons being held in these places have been arrested pursuant to official arrest warrants issued by the courts. There is nobody who matches the Committee's description, especially among the demonstrators. There are no demonstrators in custody or detention, except for those who committed offences during the demonstrations. There is no detention centre in Jurf al-Sakhar.
9. A team from the International Report Writing Committee also paid an inspection visit to al-Muthanna Airport central prison, where it learned about the operating processes, which comply with Iraqi law, met with inmates and was informed that the prison is subject to visits from international organizations, including the United Nations Assistance Mission for Iraq and the Red Cross, and the embassies of a number of countries.

### **Reparation to victims**

10. Whenever a criminal conviction is handed down for the crimes of kidnapping or enforced disappearance, the judge's ruling includes a special section on the victim's right to apply to the civil courts for compensation for the damages suffered as a result of the kidnapping or enforced disappearance. The civil courts are obliged to assess the appropriate compensation upon submission of the court's decision convicting the offender of the crime in question. They have discretion to determine the value of the compensation in proportion to the seriousness of the crime and the extent of the damage caused to the victim.

11. The idea of a bill on compensation for all persons subjected to arbitrary or unlawful arrest or detention and all those whose innocence has been proven through a final ruling has previously been presented. It was presented in the context of a package of ideas at the height of terrorist activity and the proliferation of security measures, including arrests and detentions. However, the proposal was not well received from a legal point of view, as the general rules of law already provide for compensation. Iraqi law provides appropriate legal and procedural safeguards for the accused during the investigation and trial, and decisions on arrest and committal for trial cannot be based on flimsy grounds but require fresh justification for action to be taken. In addition, special laws have been passed, including the Informant Reward Act (No. 23) of 2008, which establishes that informants found to have been lying are liable for the maximum penalty applicable to the original perpetrator of the reported crime.

12. The Iraqi Budget Act includes a reference to compensation for relatives of missing persons. Article 60 of the Federal Budget Act of 2021 provides that the provisions of Act No. 20 of 2009, as amended, shall apply to persons who went missing in liberated areas between 2014 and 2017, after security screening, and their families.

### **Legislation and practices concerning the wrongful removal of children**

13. The Criminal Code provides for harsher penalties if the crime of enforced disappearance is committed against children or if information is concealed with the intention of abducting them or removing them from their families.

14. Article 10 of the bill on combating enforced disappearance also establishes a penalty of life imprisonment for the removal of children who are subjected to enforced disappearance or whose mother, father or legal guardian is subjected to enforced disappearance.

15. Article 11 of the aforementioned bill establishes that anyone who falsifies, conceals or destroys documents attesting to the true identity of the children referred to in article 10 of the Act shall be liable to imprisonment.

### **Prevention of all acts of intimidation and reprisals and protection of the persons referred to in articles 12 (1) and 30 (1) of the Convention**

16. Iraqi legislation provides for the protection of the families of victims, their legal representatives and civil society from any attacks to which they might be subjected for taking a case before the courts or pursuing investigations into violations, including violations covered by the Convention. Iraq complies with the provisions of the Convention and other treaties that explicitly or implicitly provide for the protection of victims, their legal representatives and their relatives when they cooperate with international mechanisms.

17. Pursuant to the international obligations of Iraq, Act No. 58 of 2017, concerning the protection of witnesses, experts, informants and victims, was passed, under which a special mechanism was established for the submission of applications for protection to the investigating judge or the court considering the case. This enables the authorities to protect the personal details and status of the person requesting protection and his or her relatives to ensure that the case can be heard without any impact on them. Pursuant to the Act, a department was established in the Ministry of the Interior to undertake these tasks. Regulation No. 9 of 2018 sets out the criminal cases covered by the provisions of the Act on the protection of witnesses, experts, informants and victims.

### **Dissemination of the Convention and concluding observations**

18. Iraq seeks to raise awareness of the Convention among the broadest range of stakeholders and among the general public through the following measures:

1. The Convention is included in training programmes run by the Ministry of Defence, the Ministry of the Interior, military academies, the Police Academy, the Human Rights Commission, the Judicial Institute, the Judicial Development Institute, the Department of Corrections, the security, executive and judicial authorities in the Kurdistan Region and law faculties, as well as in the programmes run by civil society and the Human Rights Department of the Ministry of Justice.
  2. In the context of efforts to disseminate information on the Convention, Iraq has sought to establish implementation mechanisms by adopting a bill for the implementation of the Convention, which is currently being drafted, as described in this report.
  3. With regard to the concluding observations on ministries, bodies not attached to a ministry, the security services and the Kurdistan Region:
    - The concluding observations have been incorporated into the Ministry of Justice's programmes for the implementation of the Convention.
    - The concluding observations have been publicized in the framework of cooperation with the Human Rights Commission and civil society.
    - Meetings have been organized for the stakeholders involved in the implementation of the recommendations to define the responsibilities entrusted to each ministry to implement the recommendations related to its work.
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