**COMMITTEE ON ENFORCED DISAPPEARANCES**

*INTERNAL GUIDELINES FOR THE REVIEW OF STATES IN THE ABSENCE OF A REPORT DUE UNDER ARTICLE 29(1) OF THE CONVENTION*

**Introduction**

1. The purpose of the present internal guidelines is to provide the Committee with objective yet flexible criteria for dealing with States which have overdue reports under art. 29(1) of the Convention. These internal guidelines will evolve as the Committee advances on its work and therefore are subject to periodic review.
2. As a matter of principle, these guidelines apply as from the moment when a report under article 29(1) of the Convention is overdue and foresee the launching of the procedure of review in the absence of a report as from when a report is overdue for five years. Nonetheless, the procedure and timelines provided for in these guidelines are indicative only and the Committee may decide to adjust them on a case by case basis, for instance in cases where it considers that the prevailing situation in the State party concerned merits a prompt review of the measures taken by such State party to give effect to its obligations under the Convention.

**Legal framework**

1. In virtue of article 29(1) of the Convention, each State party shall submit to the Committee, within two years after the entry into force of the Convention for the State party concerned, a report on measures taken to give effect to its obligations under the Convention.[[1]](#footnote-1)
2. In the absence of the submission of a report, according to Rule of Procedure 50, the Committee may transmit a reminder to the State party concerned and, if that State party still fails to comply with its obligation to submit a report, the Committee shall add a reference in its annual report.
3. Pursuant to Rule of Procedure 50(3), the Committee may notify the State party concerned of its intention to examine in **public session** the measures taken by the State party to implement its obligations under the Convention in the absence of a report and adopt concluding observations.
4. This procedure is further developed in paragraph 28 of the Committee’s working methods as follows:

*The Committee may also notify the defaulting State party that it intends, on a specified date, to examine in public session the measures taken by the State party to implement its obligations under the Convention, in the absence of a report. This notification is made public on the Committee’s website.  In this case, it will also adopt Concluding Observations as it deems appropriate in the circumstances. If the State party responds by submitting a report, the procedure shall be suspended and the normal process of consideration of the report shall begin. Where the State party concerned indicates that a report will be provided, pending receipt of that report, the review may be postponed to another session. In the letter notifying the State party of its intention to carry out a review in the absence of the report, the Committee may also include a list of issues on which the Committee may wish to focus the review of the report. In this letter, the Committee will also invite the State party concerned to send a delegation to participate during the review. If the State party is not represented, the Committee may decide to proceed with the review, or it may notify the State party of a new date for consideration.  The Committee will transmit the adopted Concluding Observations to the State party concerned. The review of the situation in the State party concerned will be carried out on the basis of information available to it, including any dialogue with the State party delegation, and information obtained from UN partners, NHRIs and civil society stakeholders, as well as on the basis of other reliable sources of information.*

**Guidelines for interaction with States parties whose reports under art. 29(1) are overdue**

*Updated list of submitted reports*

1. The Secretariat keeps an [updated public timetable of reports due under article art. 29(1) of the Convention](http://www.oas.org/juridico/spanish/mesicic3_chl_cod_penal.pdf).

*Reminders*

1. Once a year, the Committee sends a reminder to all States parties with overdue reports. The **first reminder** shall be sent within the year following expiration of the deadline for submission of the report.

*Good offices*

1. If there is no indication from the State party concerned about a date for the submission of its overdue report, following the transmission of a **second reminder,** the **Secretariat** of the Committee will informally engage with the State party’s representatives in Geneva. The Secretariat will seek information about the reasons for the delay in the submission of the report and will explore venues to assist the State party concerned in meeting its obligation to submit the overdue report as soon as possible, including by offering capacity building support. The Secretariat will report back to the Committee in due course about the measures it has taken to engage with States parties with overdue reports.
2. If despite the efforts of the Secretariat to engage with the State party concerned the latter does not submit its overdue report or provides a clear indication of when it will submit its overdue report, one month prior to the commencement of the session following the transmission of the **fourth reminder**, the Committee, in a constructive spirit of cooperation, will request the Permanent Representative of the State party concerned for a meeting at the margins of such session. The Committee will be represented by its Chair and one member of the same region as the State party concerned. During this meeting, the Committee will discuss with the representatives of the State party concerned a timeframe for the submission of its overdue report which **cannot exceed of one year after the meeting**. The Committee will further explain that, following expiration of that timeframe, the Committee will proceed with the review in the absence of a report. The Chair and the Committee member who held the meeting will report back to the plenary during the same session.
3. After the meeting, a letter from the Chair of the Committee will be sent to the Permanent Representative of the State party concerned to record the timeframe for the submission of the overdue report discussed during that meeting as well as an indication of the launching of the review in the absence of a report in case the deadline is not met.

*Decision to proceed with review in the absence of report*

1. If the overdue report is not submitted following the expiration of the timeframe discussed with the representative of the State party concerned or the State party concerned does not request an extension of such deadline, the Committee will schedule a review in the absence of a report.
2. Unless there are compelling reasons for delaying the review in the absence of a report (e.g. significant backlog of reports submitted by other States parties under art. 29 of the Convention), the Committee will adopt a list of issues in the absence of the report at the earliest possible session following the expiration of the timeframe of the overdue report and will schedule the review in the absence of a report no later than two sessions thereafter.

*Public announcement of relevant dates*

1. The dates for adoption of the list of issues in the absence of a report will be made public in the Committee’s website so NHRIs, civil society organizations, in particular associations of families of disappeared persons, and other interested stakeholders are aware and can submit alternative reports, documentation or other information to the Committee by a given date prior to the session.[[2]](#footnote-2)

*Adoption of List of issues in the absence of a report*

1. The List of issues in the absence of a report will be prepared following the Committee’s guidelines on the form and content of reports under article 29 of the Convention (CED/C/2) and on the basis of information available to it, including information obtained from offices, organs and specialized agencies and funds of the United Nations, NHRIs and civil society stakeholders, as well as on the basis of other reliable sources of information.
2. The List of issues cannot exceed 30 paragraphs.
3. The adopted list of issues will be transmitted to the State party through a letter which will request a reply to be received ideally three months prior to the commencement of the session where the review will take place; indicate that should the replies to the list of issues be comprehensive the Committee could consider that the State party has complied with its obligation under article 29(1) of the Convention; indicate the dates in which the review in public session will take place; and invite the State party to designate a delegation to participate during the review. The list of issues and the dates of the review will be made public in the Committee’s website.

*Submission of report*

1. If at any stage prior to the dialogue the State party submits a report, the procedure outlined in these guidelines shall be adapted to the normal process of consideration of reports.

*Indication of submission of report*

1. Where the State party concerned indicates that a report will be submitted, pending receipt of that report, the review may be postponed to another session provided that such indication is communicated to the Committee at least six months prior to the commencement of the session when the Committee will hold the review in the absence of a report. In case a List of issues has already been adopted, the Committee will request the State party to address in its report the issues contained therein.

*Several States parties with overdue reports*

1. Where there are several States with the same number of reminders, the Committee will adopt list of issues and schedule reviews in a staggered mannered based on objective criteria, such as date of ratification/effective date when the report was due, or on the basis of available information raising concerns about the State party’s compliance with its obligations under the Convention. The Committee may also decide to schedule two reviews with the same timetables in special circumstances, such as the absence or low number of pending reports submitted by other States parties.

*Public review and adoption of concluding observations*

1. If the State party is not represented at the public review, the Committee may decide, after thorough consideration, to proceed with such review or to notify the State party of a new date for consideration.[[3]](#footnote-3) Paragraph 18 of the Committee’s working methods, on constructive dialogues, provides that “exceptionally, the Committee may examine in a public meeting a report in the absence of representatives of the State party when, after being duly notified, they fail to appear without providing compelling reasons.”
2. In case the review of the situation in the State party concerned takes place, with or without the presence of a delegation:
	1. Unless otherwise agreed in advance by the Committee, it shall follow its usual practice for dialogues: the review will be **public** (including live streaming); it will be held over two meetings of three hours each or less if necessary in case the State party is not represented; and only Committee members and representatives of the State party concerned, if any, will be allowed to take the floor.
	2. The review will be guided by the list of issues previously adopted and will take into consideration information available to it, including the dialogue with the State party delegation, if any; information obtained from offices, organs and specialized agencies and funds of the United Nations, NHRIs and civil society stakeholders; as well as on the basis of other reliable sources of information. In this respect, the Committee will discuss each of the issues raised in the list of issues and, when relevant, make specific reference to information obtained from reliable sources, always mindful of its public or confidential nature as appropriate.
	3. The issues and information discussed during the public review will inform and delineate the content of the Committee’s concluding observations.
3. Following the review, the Committee will adopt concluding observations in accordance with its usual practice.

Adopted by the Committee on Enforced Disappearances at its 16th session.

1. See also Rule of procedure 48. [↑](#footnote-ref-1)
2. As per usual practice, conditions for the submission of information will be made available through the Secretariat’s NHRI and NGOs notes. [↑](#footnote-ref-2)
3. See also Rule of procedure 51(3). [↑](#footnote-ref-3)