



**Permanent Mission
of the Republic of Azerbaijan
to the UN Office and other
International Organizations**

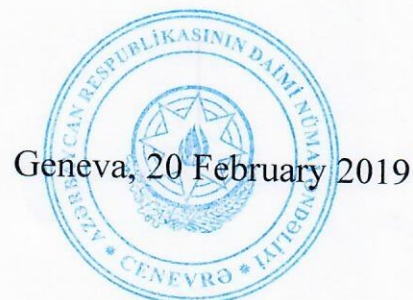
GENEVA

Ref: 0083/12/19/18

The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and, with reference to the request of the Working Group on Enforced or Involuntary Disappearances (WGEID) dated 30 November 2018 concerning a call for inputs to its report on the issue of standards and public policies for an effective investigation of enforced disappearances to the UN Human Rights Council at its 45th session, has the honor to transmit herewith information prepared by the competent authorities of the Republic of Azerbaijan.

The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Enclosure: 4 pages



Office of the United Nations
High Commissioner for Human Rights
GENEVA

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 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 application of command /superior responsibility;
- c. the criminal sanctions which can be imposed for the crime of enforced disappearance, including for any who any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance.

Response: *In accordance with the criminal-procedural legislation of the Republic of Azerbaijan, there are legal norms in Criminal Code that cause criminal responsibility on the basis of all complaints related to forced disappearance of the persons as well as other information discovered during the investigation by competent law-enforcement agencies. These norms are enshrined in the article 110 of the Criminal Code of the Republic of Azerbaijan. Mentioned article determines criminal responsibility for crime of enforced disappearance of persons. Detention, arrest or kidnapping of a person with the purpose of deprivation of lawful protection on long term under task, support or with consent of the state or political organization and subsequent denying of the fact on imprisonment of a person or refusal providing information about his/her future or whereabouts shall be punishable by imprisonment for the term from ten up to twenty years or life imprisonment.*

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.

Response: *Answer for question No 1 is identical to this paragraph.*

3) Please inform whether the statute of limitations applies 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 moment from which it commences to count.

Response: *The article 75 (statute of limitation) of Criminal Code of the Republic of Azerbaijan doesn't apply to these kind of crimes because of article 110 is belonging to the special part of Criminal Code under "Crimes against peace and humanity".*

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.

Response: *There is no any information.*

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 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 forced disappearances.

Response: *Under article 215 of the Criminal Procedure Code of the Republic of Azerbaijan, preliminary investigation on crime of enforced disappearance of persons stipulated in article 110 of Criminal Code of the Republic of Azerbaijan is conducted by prosecuting authorities. The same authorities's competencies are regulated by Constitution, criminal-procedural legislation, other legislative and normative-legal acts of the Republic of Azerbaijan.*

6) Do these special units have the competence to initiate investigations cases of potential enforced disappearance, 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.

Response: *According to article 37.6 of Criminal Procedure Code of the Republic of Azerbaijan criminal prosecution against the crimes of enforced disappearance of the persons is carried out in public procedure. In addition, under article 46.2 of the same Code, the reason to initiate criminal case may be an application from an individual, information from a legal entity (or official) or the mass media, or information concerning an offence committed or in preparation directly discovered by the interrogator, investigator or prosecutor. Crime of forced disappearance that causes to criminal responsibility stipulated in article 110 of Criminal Code of the Republic of Azerbaijan is considered as the most serious crime with the view of crimes' classification. Time limits for conducting the preliminary investigation on the most serious crimes are determined under article 2018 of Criminal Procedure Code of the Republic of Azerbaijan.*

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 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?

Response: *The competencies of the investigating authority related to the conduct of the necessary investigative actions on the criminal case against the crimes of enforced disappearance are realized in accordance with provisions of criminal-procedural legislation of the Republic of Azerbaijan.*

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.

Response: *The rights and duties of victim, his/her legal heir or representative are setting up in article 87 of Criminal Procedure Code. The victim shall have the following rights in accordance with this article: to know the nature of the charge, to give statements, to make submissions, to raise objections, to submit applications, to speak and reply at the hearings of first instance and appeal courts of his representative is not present, to exercise other duties provided for in this Code.*

9) Is there any provision and/or practice in the police or other law enforcement officials' bodies for the exclusion of persons, units or institutions allegedly involved in an enforced disappearance from their participation in the investigation?

Response: *There is no any information.*

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?

Response: *Amnesty or pardon measures may be applied to the accused persons under articles 81-82 of Criminal Code of the Republic of Azerbaijan.*

11) Please indicate whether your legislation 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.

Response: *Confessing his /her guilty voluntarily, helping solve crime, expose other participants of crime as well as reach and find the property obtained as a result of the crime is taken into consideration as one of the mitigating circumstances under article 59.1.10 of Criminal Code of the Republic of Azerbaijan.*

12) Please indicate whether there are instances in which cases of enforced disappearances may be investigated or tried by special or military courts.

Response: *There is no any information.*

13) Please indicate if a truth commission or other similar truth-telling mechanisms have operated in your country and, if so, how this commission has contributed to investigations of enforced disappearances.

Response: *There is no any information.*

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 committed abroad when the alleged offender is present in any territory under its jurisdiction. If so, please provide examples situations in which this has occurred.

Response: *Applicability of the Criminal Law to an offence which was committed outside the territory of the Republic of Azerbaijan is defined in article 12 of Criminal Code of Azerbaijan.*

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.

Response: *Measures system on ensuring safety and social protection of victims, witnesses, lawyers and other participants in criminal proceedings in the Republic of Azerbaijan are determined by Law of Azerbaijan "On state protection of persons taking part in criminal procedure" (No 585 of 11 December 1998). Besides, according to the item 2 of Presidential Decree of the Republic of Azerbaijan (No 86 of 1 February 1999) concerning application of the same law, realization safety measures in relation to person protected by special decision issued by the authority that conducts criminal proceeding on the basis of and pursuant to procedure provided by criminal-procedural legislation is mandated the Ministry of Internal Affairs and State Security Service of the Republic of Azerbaijan within their competences.*

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?

Response: *There is no any information.*

17) Please explain what measures exist in your country for the coordination among the different agencies/units involved in the investigation of enforced disappearance.

Response: *There is no any information.*

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?

Response: *There is no any information.*