



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

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**Committee on Enforced Disappearances**

Twentieth session

12–23 April 2021

**Consideration of additional information submitted  
by States parties to the Convention**

**Additional information submitted by Germany under  
article 29 (4) of the Convention\***

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## I. Introduction

1. On 27 March 2014, the Committee on Enforced Disappearances (hereinafter: the Committee) adopted its concluding observations on the report submitted by Germany under article 29 paragraph 1 of the Convention (CED/C/DEU/1).
2. In compliance with the request under margin number 33 of those concluding observations, the Federal Government has – one year after presenting its report – gathered information on the implementation of the recommendations contained under margin numbers 8, 9 and 29 and has submitted this information to the Committee.
3. Under margin number 34, the Committee requested the State party to submit by no later than 28 March 2020 specific and updated information pursuant to Article 29 paragraph 4 of the Convention on the implementation of all its recommendations and any other new information on the fulfilment of the obligations contained in the Convention. Due to the current situation (COVID-19), the Committee extended this deadline until 6 July 2020. The Federal Government hereby submits its statement in accordance with paragraph 39 of the guidelines on the form and content of reports under article 29 to be submitted by States parties to the Convention (CED/C/2). Germany’s Common Core Document, which contains general information, serves as the underlying document.<sup>1</sup>

## II. Specific and updated information

### A. Follow-up information relating to paragraphs 8 and 9 of the concluding observations (CED/C/DEU/CO/1)

4. In the report submitted under article 29 paragraph 1 of the Convention (hereinafter: the report) and in the follow-up statement on the recommendations contained in margin numbers 8, 9 and 29 of the concluding observations (hereinafter: the statement), the Federal Government explained that the Convention cannot be interpreted as giving rise to an obligation for States parties to create a separate criminal offence of “enforced disappearance”. The Federal Government also pointed out that the offences already defined in German criminal law, combined with the provisions of other acts, are sufficient to adequately investigate and punish cases of enforced disappearance. The numerous relevant criminal offences can be found listed under margin numbers 9, 23 and 28–42 of the report and under margin numbers 9 and 12–14 of the statement.
5. Likewise, the Federal Government remains convinced that the aggravating and mitigating circumstances foreseen in German criminal law fully reflect the meaning of article 7 paragraph 2 and also enable appropriate punishment in less serious cases (see margin numbers 43–47 of the report and margin numbers 6–12 of the statement). Finally, the existing law ensures that the limitation period for enforced disappearance is in line with article 8 and, in particular, is proportionate to the extreme seriousness of the offence (see margin numbers 48–55 of the report and margin numbers 14–17 of the statement).
6. The Federal Government nonetheless recognises the symbolic impact of having a separate criminal offence of enforced disappearance and has been quick to begin considering possible improvements to its criminal law. The issue has been discussed with civil society and in parliamentary circles. For example, the Federal Ministry of Justice and Consumer Protection has discussed the various standpoints and potential regulatory approaches with Amnesty International among others. The Committee’s concluding observations were furthermore discussed in the relevant parliamentary body (Bundestag Committee on Human Rights and Humanitarian Aid) on 5 November 2014. When considering potential regulatory approaches towards how the criminal law might be amended in the area of enforced disappearance, it is important to take into account not only the relevant criminal provisions which already enable such cases to be punished. Special attention must also be given to the

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<sup>1</sup> [https://www.bmjuv.de/SharedDocs/Downloads/DE/Ministerium/AbteilungenReferate/Kernbericht\\_2016\\_DE.pdf?\\_\\_blob=publicationFile&v=1](https://www.bmjuv.de/SharedDocs/Downloads/DE/Ministerium/AbteilungenReferate/Kernbericht_2016_DE.pdf?__blob=publicationFile&v=1).

particular way in which German criminal law deals with qualifying elements and less serious cases that enable mitigating and aggravating circumstances to be recognised, and the way it regulates limitation periods. However, the Federal Government's open and unprejudiced examination of whether and, if so, to what extent German criminal law might be amended has not yet been completed.

## **B. Follow-up information relating to paragraph 11 of the concluding observations**

7. Criminal proceedings currently pending before Koblenz Higher Regional Court against two members of the Syrian intelligence service demonstrate that the provisions of German law allow criminal prosecution in the constellation described in article 9 paragraph 2 of the Convention. The case involves actions that fall under the definition of "enforced disappearance" as set down in article 2 of the Convention. In September or October 2011, members of the Syrian intelligence service dispersed a demonstration by firing shots at peaceful demonstrators. One of the defendants, along with other colleagues, searched the streets for fleeing demonstrators. Individuals who failed to escape were arrested by the defendant and other members of the security forces and taken to a prison run by the Syrian intelligence service. The demonstrators were detained there for a considerable period and brutally abused. The second defendant was the director of the prison. The offences at the centre of the proceedings were committed in Syria. Neither the defendants nor the injured parties were German nationals. But domestic provisions (in this case: section 1 sentence 1 of the Code of Crimes against International Law [*Völkerstrafgesetzbuch*, VStGB] as the *lex specialis* in relation to section 7 (2) no. 2 of the Criminal Code [*Strafgesetzbuch*, StGB]) nevertheless made it possible for the offenders who were in Germany to be prosecuted by the Federal Public Prosecutor General – as required by article 9 paragraph 2 of the Convention. The Federal Public Prosecutor General brought charges on 18 October 2019. No judgment has yet been handed down.

## **C. Follow-up information relating to paragraph 13 of the concluding observations**

8. German authorities are complying with their obligation to undertake effective investigations into all illegal transfers or renditions that are alleged to have occurred in its territory, calling to account all authorities and officials, regardless of their nationality, who have been involved to any degree. One concrete example is the case of a former manager of a state-owned Vietnamese construction company who was abducted in Berlin and taken to Vietnam. In Vietnam, the man who would later be abducted had initially been accused of embezzlement as a managing director. The investigation was terminated in 2015 due to a lack of relevant findings. Thereafter, the man continued to hold public and party office. Following an internal power struggle within the party, he left for Germany and applied for political asylum. In September 2016, German authorities rejected the Vietnamese authorities' requests for residence investigation and extradition due to a lack of evidence that criminal offences had been committed. The Vietnamese authorities were asked to provide substantial improvements but they did not comply. Instead they conducted their own covert investigations in Germany. On 23 July 2017, the Vietnamese intelligence service abducted the former manager in Berlin, taking him first to the Vietnamese embassy and from there to Vietnam. Criminal investigations were immediately initiated in Germany. On 1 August 2017, a representative of the Federal Foreign Office conveyed Germany's explicit protest to the Vietnamese ambassador and demanded the immediate return of the abducted man. An embassy staff member who was involved in the abduction was deported as *persona non grata*. The abducted man's asylum application has since been approved. In two separate proceedings in Vietnam, the manager has been sentenced to life imprisonment for embezzlement among other things. A Vietnamese national living in the Czech Republic but who is not a member of the Vietnamese intelligence service was involved in the operation. In July 2018, he was sentenced to three years and ten months in prison for operating as an intelligence agent and aiding the deprivation of liberty. This judgment has since become final

and binding. Proceedings against other suspected accomplices are pending with the Federal Public Prosecutor General.

9. Wherever the Federal Government plays a leading role in international bodies for combating terrorism (e.g. the CDCT working group within the Council of Europe framework; the group of States parties to the Convention on the Prevention of Terrorism; the Criminal Justice/Rule of Law working group within the GCTF framework), it is always committed to ensuring that effective counter-terrorism is only conducted in compliance with rule-of-law standards and respect for human rights, including the prohibition of enforced disappearance.

10. As regards intelligence cooperation with third States for counter-terrorism purposes, there is a mutual exchange of information. This is regulated in section 19 (3) of the Act Regulating the Cooperation between the Federation and the Federal States in Matters Relating to the Protection of the Constitution and on the Federal Office for the Protection of the Constitution [*Gesetz über die Zusammenarbeit des Bundes und der Länder in Angelegenheiten des Verfassungsschutzes und über das Bundesamt für Verfassungsschutz*, BVerfSchG] and is subject to certain conditions. These include the rule that information may not be transmitted if this would conflict with legitimate and overriding interests of the person concerned. This would be the case if, for example, the receiving third State does not comply with obligations arising from international human rights conventions. These aspects have already been reviewed and adhered to in the past. Data is not then transmitted to the third State.

11. In the context of police information exchange and international mutual legal assistance in criminal matters, the Federal Criminal Police Office may, under certain conditions, transmit personal data to the competent authorities in third States and to international organisations involved in the prevention or prosecution of criminal offences (section 27 (1) of the Act on the Federal Criminal Police Office [*Bundeskriminalamtgesetz*, BKAG]). When transmitting personal data to third States or international organisations, the provisions of Directive (EU) 2016/680 – as transposed in sections 78 to 80 of the Federal Data Protection Act [*Bundesdatenschutzgesetz*, BDSG] – must be observed. According to those provisions, data transmission may only be considered if adequate data protection safeguards are in place. Data may not be transmitted if the legitimate interests of the person concerned outweigh the general interest in the transmission (section 28 (1) no. 1 BKAG), or if the use of the transmitted data in the receiving state threatens to violate fundamental rule-of-law principles or human rights (section 28 (2) no. 4 BKAG). The Federal Criminal Police Office maintains a constantly updated list, indicating the compliance with fundamental rule-of-law principles and human rights standards and describing the level of data protection in each third State. It takes particular account of the Federal Government's latest findings, giving decisive consideration to whether the European Commission has issued an adequacy decision under Article 36 of Directive (EU) 2016/680 (section 28 (3) BKAG).

#### **D. Follow-up information relating to paragraph 15 of the concluding observations**

12. As the report already pointed out, the interplay of constitutional and criminal law norms at the domestic level protects individuals against enforced disappearance. Pursuant to section 73 sentence 1 of the Act on International Legal Assistance in Criminal Matters [*Gesetz über die internationale Rechtshilfe in Strafsachen*, IRG], legal assistance and transmission of data without request may not be granted if this would conflict with basic principles of the German legal system.

13. In the formal extradition procedure, the admissibility of an extradition is reviewed by a Higher Regional Court. This ensures that the person concerned has preventive legal protection and guards against state interference with their constitutionally protected interests. Article 19 (4) sentence 1 of the Basic Law [*Grundgesetz*, GG] contains a fundamental right to effective and, as far as possible, comprehensive judicial protection against acts of public authority. Article 19 (4) sentence 1 GG reads as follows: "Should any person's rights be violated by public authority, he may have recourse to the courts."

14. Individuals who claim that their rights have been violated by an act of public authority or who, in extradition proceedings, claim in advance that their rights would be unlawfully impaired by the adverse impact of an anticipated act of public authority are thus entitled to effective judicial review.

15. Courts and administrative authorities are furthermore obliged to comply with the provisions of the European Convention on Human Rights (ECHR) which in Germany has the status of federal law. In doing so, they must observe the case law of the European Court of Human Rights. This is accompanied by the obligation to not give effect to violations by non-German sovereign entities within the territorial scope of the Basic Law and not to play any determinant role in violations by non-German sovereign entities.

16. As a result, prior to any extradition or other transfer to another state, both the courts and the administrative authorities are obliged to review whether the extradition and the acts upon which it is based comply with the minimum standards of international law binding in Germany and whether the person concerned is not in danger of falling victim to enforced disappearance.

17. Requests for the transfer of persons convicted in Germany to serve their sentence in the requesting state do not require a court decision on the admissibility of execution in the requested state. The convicted person is however entitled to request judicial review of the decision of the public prosecution office under sections 23 ff. of the Introductory Act to the Courts Constitution Act [*Einführungsgesetz zum Gerichtsverfassungsgesetz*, EGGVG].

18. Finally, there is still no necessity for withdrawing the declaration on Article 16 of the Convention. Article 3 of the ECHR – which in Germany has the status of federal law (see margin no. 13) – ensures that deportation may not occur if there are substantial grounds for believing that the person concerned would be in real danger of being subjected to torture or inhuman or degrading treatment or punishment in the receiving state. This is also made clear by the provision in section 60 (5) of the Residence Act [*Aufenthaltsgesetz*, AufenthG] which states that a foreigner may not be deported if the deportation is prohibited under the terms of the ECHR.

## **E. Follow-up information relating to paragraph 17 of the concluding observations**

19. The assessment of the reliability and suitability of diplomatic assurances is subject to strict legal and substantive requirements as developed in the jurisprudence of the highest German courts. These requirements are observed by the competent authorities.

20. In the existing legal situation, it is already the case that diplomatic assurances are effectively evaluated with the utmost care. In extradition proceedings, the Federal Government obtains diplomatic assurances in individual cases at the request of the competent courts, subject to the proviso that the content of these assurances is reliable and that they are binding under international law. The courts are also responsible for assessing the reliability of such assurances within the scope of their duty to ascertain the facts of the case. The courts base their assessment on the findings of the Federal Foreign Office (asylum situation reports, individual statements). If the Federal Foreign Office has information that raises concern about a risk of enforced disappearance, assurances are not generally sought in the first place. Assurances are not accepted if there are substantial grounds for believing that fundamental rights might be violated – this includes the risk of enforced disappearance.

21. The following observations are provided regarding the domestic extradition procedure.

22. In Germany, the procedure is divided into two stages. First, in accordance with sections 29 - 32 of the Act on International Cooperation in Criminal Matters (IRG), a Higher Regional Court decides on the admissibility of the extradition with the participation of the person sought and the Office of the Public Prosecutor General. The reliability of any assurances is examined at this stage. In cases of doubt, the Higher Regional Court is entitled to request additional information and documents. However, assurances do not release the court from the obligation to first produce its own risk prognosis so that it can assess the situation in the receiving state and thus set up the conditions for examining the reliability of

the assurances. This requirement also arises from the case law of the European Court of Human Rights (see ECtHR, *Othman v. United Kingdom*, judgment of 17 January 2012, application no. 8139/09, § 187 ff.). If it emerges in the course of this examination that the actual circumstances in the receiving state differ significantly from the assured conduct, this is likely to raise the question of whether the assured conduct is even possible and whether the assurances are reliable. The same applies if there are indications to suggest a danger of political persecution in the receiving state. In its examination, the court has to assess in a comprehensible and objective manner the statement given by the person to be extradited regarding the danger of political persecution. These principles are enshrined in the established case law of the Federal Constitutional Court.

23. If the person to be extradited nonetheless believes that fundamental rights have not been sufficiently taken into account, there is the option of filing a constitutional complaint with the Federal Constitutional Court.

24. Following the admissibility review, the Federal Office of Justice independently decides – pursuant to section 74 IRG in conjunction with the 2004 Jurisdiction Agreement of 19 April 2004 – on the approval of the extradition (and thus also on the reliability of assurances) in consultation with the Federal Foreign Office and any other federal ministries whose remits are affected by the legal assistance. In extradition and enforcement matters with EU Member States, section 79 (2) IRG stipulates that the authority in charge of granting approval decides – prior to the Higher Regional Court taking its decision on admissibility – whether or not it intends to raise any objections in the event of the court declaring the extradition to be legally admissible. This decision is subject to review by the Higher Regional Court if the person sought has not consented to being extradited. If circumstances change or only become known at a later date, the authority in charge of granting approval must issue a new decision on whether or not to raise objections pursuant to section 79 (3) IRG. The Higher Regional Court must also be referred to this decision retrospectively. The authority in charge of granting approval is obliged to examine *ex officio* any obstacles to admissibility and approval until the transfer has been completed and, if necessary, to work towards a decision by the Higher Regional Court.

#### **F. Follow-up information relating to paragraph 19 of the concluding observations**

25. The Federal Government explained in its report that in the penal system, the prisons keep personal records and medical records for every person in custody, also pointing out that the specifics are essentially for the *Länder* to determine. An up-to-date detailed overview of the record-keeping system can be found in the [annex to margin number 19](#). This shows that all the information required under Article 17 paragraph 3 of the Convention is accurately and promptly recorded and updated and that measures are available for regular verification and for sanctions in the event of irregularities. The recorded information is made immediately available at the request of any court or other competent authority or institution, provided that the statutory requirements for this purpose (especially related to data protection) have been met. The recommendations formulated under margin number 19 of the concluding observations have thus already been implemented in Germany.

#### **G. Follow-up information relating to paragraph 21 of the concluding observations**

26. Because its tasks cover both the federal and federal-state level, the National Agency for the Prevention of Torture was established on the basis of an administrative agreement between the Federation and the *Länder*. Since 2015, the funding of the National Agency has consisted of €180,000 from the budget of the Federal Ministry of Justice and Consumer Protection (Federal Agency) and €360,000 from the budgets of Germany's *Länder*. In the administrative agreement regarding cooperation between the Federal Agency and the Joint Commission of the *Länder*, the exact amount of the funding was specified, so that any change would require an amendment to the administrative agreement. Based on a calculation performed by the National Agency, the Conference of Justice Ministers of the *Länder* decided

in November 2019 to increase funding for the National Agency by a total of €100,000 per year from 2020.

27. In addition, the Federal Ministry of Justice and Consumer Protection has reliably seen to the translation into English of each annual report since the first such report was published; this has significantly reduced the strain on the staff and budget of the National Agency.

28. We also wish to note the following:

29. At their autumn conference on 9 November 2017, the Justice Ministers of the *Länder* resolved to give non-governmental organisations the opportunity to propose candidates to the Conference of Justice Ministers of the *Länder* for any open positions in the Joint Commission of the *Länder*.

30. When the mandate of two members of the Joint Commission of the *Länder* expired at the end of 2018, two new members were appointed by the Conference of Justice Ministers of the *Länder* (Chief Senior Public Prosecutor Petra Bertelsmeier (retired) and *Leitender Regierungsdirektor* (retired) Dr Werner Päckert). This appointment marked the first time that civil society was involved in advance.

31. Regrettably, the head of the Federal Agency who had dedicated himself to serving as its director for many years, retired *Leitender Regierungsdirektor* Klaus Lange-Lehngut, died unexpectedly in October 2019. For his commitment and hard work in establishing the Federal Agency, he was awarded the Cross of Merit of the Order of Merit of the Federal Republic of Germany in 2016.

32. At present, the deputy head of the Federal Agency is solely responsible for managing it. In the run-up to appointing a successor to Klaus Lange-Lehngut, the German Institute for Human Rights (DIMR) as well as several other civil society organisations were consulted (*Forum Menschenrechte* (forum for German human rights organisations), European Center for Constitutional and Human Rights, Amnesty International, Human Rights Watch) were consulted. The process of filling the position of director of the Federal Agency has not yet been concluded.

33. Awareness of the National Agency and interest in its work has grown steadily in recent years. The respective ministries also generally issue meaningful statements in response to each individual recommendation. However, in its last annual report for 2019 (published on 20 May 2020), the National Agency pointed out that some of the highest supervisory authorities had once again not managed to fully comply with their obligation under Article 22 of the OPCAT to examine the recommendations of the National Agency and enter into a dialogue with it on possible implementation measures. This was the case, for example, with regard to some of the supervisory authorities responsible for psychiatric clinics. In 2019, the National Agency called on them to place a particular focus on visits to psychiatric facilities. Germany will strive to ensure that cooperation is improved here.

34. Various deficiencies – some of them serious – were identified and criticised in all types of facility, some of them not for the first time. This highlights the importance of the repeated inspection of facilities and the publication of annual reports. However, the progress made in improving accommodation conditions and treatment clearly shows that the work of the National Agency does have a long-term impact.

## **H. Follow-up information relating to paragraph 23 of the concluding observations**

35. Military personnel receive comprehensive training in operations law. This includes addressing the limitations and requirements imposed by constitutional and international law with regard to compulsory measures such as detention. In addition, various regulations and operational rules (including a pocket guide) serve to ensure that military personnel comply with international humanitarian and human rights standards during their operations.

36. In both the theoretical legal training and the practical training of the Federal Police, great importance is attached to the respect and protection of human and fundamental rights. This includes teaching the principles contained in the Convention, which has the status of

directly applicable federal law in Germany. All the further training courses on the subject of operations law also generally address measures involving the restriction or deprivation of liberty and their constitutional implications. The legal situation (in particular the requirement for a judicial decision and the duties to inform and instruct) is presented in detail and the practical implementation is discussed.

37. Comprehensive further training is also provided at the *Länder* level for the groups of persons mentioned in margin number 23 of the concluding observations. In many *Länder*, the relevant provisions of the Convention are explicitly addressed in the context of training courses for personnel involved with custodial tasks. In Thuringia, for example, the aims of the Convention have been incorporated into the training of candidates for the intermediate general prison service and are taught as part of their theoretical instruction. Also in Thuringia, a seminar organised in 2016 to train prison staff was offered not only to members of the prison service but also to staff across the entire justice system.

38. Another example is that in Saxony-Anhalt, the personnel tasked with the execution of custodial placements under section 63 of the Criminal Code [*Strafgesetzbuch*, StGB], sections 11 ff. of the Act on Assistance for Mentally Ill Persons and Protective Measures of the Land Saxony-Anhalt [*Gesetz über Hilfen für psychisch Kranke und Schutzmaßnahmen des Landes Sachsen-Anhalt, PsychKG LSA*] and section 1906 of the Civil Code [*Bürgerliches Gesetzbuch*, BGB] are taught the relevant provisions of the Convention either during their training period or at the very latest during their on-the-job induction phase, with their knowledge being deepened via further training courses at regular intervals.

39. Other *Länder* either have concrete plans to introduce similar types of specifically Convention-related training sessions in future, or they provide appropriate training by ensuring that the admissibility, restrictions and legal safeguards applicable to custodial measures are the subject of regular training courses, so that there is at least a discussion of the substantive principles and core ideas underlying the Convention. In Bremen, for example, the study course for the police force and the associated further training courses include a strong focus on fundamental and human rights, whereby the provisions of ordinary legislation are always examined within the context of constitutional and international law. In connection with the preventive and repressive police powers of detention and the criminal law provisions on unlawful imprisonment, the course deals among other things with the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the European Convention on Human Rights and the Basic Law of Germany. The International Convention for the Protection of All Persons from Enforced Disappearance is not yet an explicit part of the training. However, the Convention is to be incorporated separately into the aforementioned subject areas in future.

## **I. Follow-up information relating to paragraph 25 of the concluding observations**

40. In the report, the Federal Government explained that the victims of enforced disappearance (i.e. the disappeared persons themselves and their relatives) have extensive rights to compensation for pecuniary and non-pecuniary damage which they can assert before the competent civil courts (see margin numbers 161–163 of the report).

41. In the case of acts committed in Germany or on a German ship or aircraft, disappeared persons are also legally entitled to state benefits to compensate for the health and economic consequences of personal injury caused by an intentional unlawful assault. This entitlement under the Victims Compensation Act [*Opferentschädigungsgesetz*, OEG] requires that the personal injury was caused by an assault (i.e. an act of physical violence). With the reform of social compensation law adopted in late 2019, the law was amended with effect from 1 January 2024 to include acts of psychological violence. Disappeared persons can thereby receive compensation if they have suffered personal injury due to an act of violence. Under both current and future regulations, relatives may also be entitled to compensation – for example if they experience shock at hearing about the “disappearance” or death of the missing person and thereby suffer their own personal injury.

42. Full and effective reparation is not precluded by Germany's declaration in respect of Article 24 paragraph 4 of the Convention on State Immunity. The point of state immunity is that the sovereign acts of one state are not supposed to be reviewed by the courts of another state. It is however possible for Germany to be sued in German courts, even where sovereign acts are involved. The success of any such legal action depends to a large extent on substantive law (in accordance with the principles outlined in margin numbers 161–163 of the report) and of course on the facts of the individual case.

#### **J. Follow-up information relating to paragraph 27 of the concluding observations**

43. The report pointed out that Germany has no special provisions governing the legal status of “disappeared” persons since there are no known cases of “enforced disappearance” in Germany (see margin number 164 of the report). Irrespective of this, the Federal Government currently sees no need to create a procedure for obtaining a “declaration of absence by reason of enforced disappearance”. Under general regulations, “disappeared” persons can be declared dead if the conditions stipulated in the Missing Persons Act [*Verschollenheitsgesetz*, VerschG] for issuing a declaration of death have been met. This would require that, given the circumstances of the “disappearance”, serious doubts exist about whether the person concerned is still alive. If no such doubts exist and instead it must be assumed that the “disappeared” person is being held at an unknown location against their will, measures must be taken to prevent their legal status from being compromised. It is possible to appoint a curator *in absentia* to take care of the property matters of the “disappeared” person, for example.

44. Curatorships *in absentia* for adults are established by court orders issued by the adult guardianship court (section 23c (1) of the Courts Constitution Act [*Gerichtsverfassungsgesetz*, GVG]; section 1915 (1) sentence 3 of the Civil Code [*Bürgerliches Gesetzbuch*, BGB]; section 340 no. 1 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction [*Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit*, FamFG]). This court is also responsible for selecting and appointing the curator as well as for monitoring and supporting the curator in the performance of their duties. Pursuant to section 1911 BGB, a curatorship *in absentia* can only be ordered where an adult person is absent and their property matters need looking after. The requirements for the duration of absence must be assessed by the adult guardianship court in light of the circumstances of the individual case. A missing person (section 1 (1) VerschG) is neither a precondition nor an obstacle to curatorship *in absentia*. In particular, there is no need for curatorship if the missing person has already made precautionary arrangements for their property.

#### **K. Follow-up information relating to paragraph 29 of the concluding observations**

45. The Federal Government explained in its statement that the Convention cannot be interpreted as giving rise to an obligation for States parties to create a separate criminal offence for the actions described in Article 25 paragraph 1 of the Convention. The Federal Government also pointed out that, irrespective of this, the German Criminal Code already contains special offences that cover the actions described in Article 25 paragraph 1 of the Convention and impose sufficient punishment for them (see margin numbers 18–28 of the statement). As there has been no change in this state of affairs, there is no need to submit any specific and updated information.

#### **L. Follow-up information relating to paragraph 31 of the concluding observations**

46. Due to Germany's international obligations (e.g. under the UN Convention on the Rights of the Child or the Convention on the Elimination of Discrimination against Women),

all state authorities and institutions are already required to take account of gender perspectives in their actions and, wherever relevant, to pursue child-sensitive and age-sensitive approaches. As an example of a child-sensitive approach, it should be mentioned that under the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction [*Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit*, FamFG], it is essentially mandatory for the child to be heard in person in parent/child and adoption cases (sections 159 and 192 FamFG), that considerable weight is attached to the will of the child in the context of the assessment of the child's best interests to be conducted in such proceedings, and that under procedural law there is also the option of appointing a guardian *ad litem* to represent the interests of the child (sections 158 and 191 FamFG).

### **M. Follow-up information relating to paragraphs 30 and 32 of the concluding observations**

47. The report, the written replies to the list of issues drawn up by the Committee, and the concluding observations are all available on the website of the Federal Ministry of Justice and Consumer Protection.<sup>2</sup> In addition, the concluding observations were sent in English and German to the federal ministries involved, the *Länder*, the divisions involved at the Federal Ministry of Justice and Consumer Protection, and civil society organisations (German Institute for Human Rights, Potsdam Human Rights Centre, Amnesty International, ECCHR and Human Rights Watch). On 15 October 2014, the Federal Government furthermore spoke to the Bundestag Committee on Human Rights and Humanitarian Aid on the subject of "enforced disappearance" on the occasion of the report's presentation. On 5 November 2014, the concluding observations were discussed in the Bundestag Human Rights Committee.

48. The Federal Government also attaches great importance to maintaining good cooperation and regular exchange with civil society. On 9 July 2014, for example, the Federal Ministry of Justice and Consumer Protection hosted an expert meeting to follow up on the presentation of the report. It was attended by representatives of Amnesty International and the ECCHR. Following the meeting, a telephone discussion was held with Dr Huhle, the German CED member at the time.

49. Financial support from the Federal Foreign Office enables the independent German Institute for Human Rights (DIMR) to provide the German CED member (initially Dr Rainer Huhle and currently Barbara Lochbihler) with support in the form of research input. In this context, the activities of the Convention Committee are regularly presented to the interested public in Germany. For example, as a result of several international conferences and consultation processes, the Committee adopted the "Guiding principles for the search for disappeared persons" in April 2019. Prior to that, the DIMR project had compiled the numerous responses to the draft for Dr Huhle. On 8 May, Dr Huhle then presented the guiding principles at a Federal Foreign Office event entitled "Searching for and finding the disappeared. Experiences by practitioners for practitioners". During the event, the DIMR also presented its own publication on the topic entitled "Improving the search for victims of enforced disappearance. UN Committee adopts new guiding principles". The current priorities of the DIMR project are to elaborate international law obligations with regard to enforced disappearances in the context of migration, and to increase the number of Convention ratifications. For spring/summer 2020, the DIMR project had been planning events with the support of the Federal Foreign Office in connection with the Nuremberg conference on "Prohibition, Prosecution, and Prevention of Enforced Disappearances". Like the conference itself, these have been postponed to the first half of 2021 due to the pandemic. An online event on the subject of "Enforced disappearance in the context of migration and flight" is planned for autumn 2020.

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<sup>2</sup> [https://www.bmjv.de/DE/Themen/Menschenrechte/VereinteNationen/Berichtsverfahren/Berichtsverfahren\\_node.html](https://www.bmjv.de/DE/Themen/Menschenrechte/VereinteNationen/Berichtsverfahren/Berichtsverfahren_node.html) (under: "Dokumente zum Internationalen Übereinkommen zum Schutz aller Personen vor dem Verschwindenlassen").

50. On 9 January 2020, a meeting of German independent experts in the human rights treaty committees was held on the premises of the DIMR with representatives from the DIMR, the Federal Foreign Office and the Federal Ministry of Justice and Consumer Protection. The aim of the meeting was to give the committee members an opportunity to directly share experiences and improve their networking.

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