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## الجمعية العامة



## مجلس حقوق الإنسان

الدورة الخامسة والأربعون

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البند 3 من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

## زيارة إلى قيرغيزستان

## تقرير الفريق العامل المعني بحالات الاختفاء القسري أو غير الطوعي \*\*

موجز

قام الفريق العامل بزيارة إلى قيرغيزستان في الفترة من 25 إلى 30 حزيران/يونيه 2019. وكانت حكومة قيرغيزستان قد أدخلت تحسينات تشريعية كبيرة في مجال الحماية من الاختفاء القسري في السنوات الأخيرة. ومن التطورات الإيجابية، على وجه الخصوص، الاعتراف بجرمة الاختفاء القسري الجديدة والتغييرات التشريعية التي تحسن شروط الإخطار والتسجيل أثناء الاعتقال والاحتجاز الأوليين. ومع ذلك، وعلى الرغم من هذه التدابير والبيانات التي أدلت بها قيادة البلد بشأن وجود إرادة سياسية قوية وبشأن اتخاذ إجراءات قوية لمكافحة الاختفاء القسري والتعذيب، لا يزال هناك افتقار إلى تغييرات جوهرية في الممارسة العملية. وثمة حاجة إلى تضافر الجهود لا سيما للقضاء على المشكلة الواسعة الانتشار المتمثلة في الاختفاء القسري لمدة قصيرة عقب الاعتقال الأولي للمشتبه فيهم على النحو المحدد الآن في قانون الإجراءات الجنائية.

وإن الالتزام بمبدأ عدم حظر الطرد أو الرد مهم لتعزيز الحماية من الاختفاء القسري. ويكرر الفريق العامل المعني بحالات الاختفاء القسري أو غير الطوعي تأكيد الحاجة إلى ضمان أن يُكرس هذا المبدأ في تشريعات قيرغيزستان وأن ينفذ عملياً، وضمن عدم طرد أي فرد أو إعادته أو تسليمه إلى دولة توجد أسباب موضوعية تدعو إلى الاعتقاد بأنه سيكون عرضة فيها للاختفاء القسري.

\* يُعمّم موجز التقرير بجميع اللغات الرسمية. أما التقرير نفسه، المرفق بهذا الموجز، فيعمم باللغة التي قُدم بها وباللغة الروسية فقط.

\*\* قُدم هذا التقرير بعد انقضاء الموعد النهائي لتضمينه آخر التطورات.



وعلاوة على ذلك، لا يزال هناك عدد قليل من الأفراد المفقودين والجثث التي لم تُحدد هويتها بعد المرتبطين بالعنف العرقي الذي اندلع في المقاطعات الجنوبية في عام 2010. ويشجع الفريق العامل الحكومة على بذل المزيد من الجهود لحل هذه المسائل ومعالجة عواقب هذه الأحداث معالجة كاملة.

وللمضي قدماً، توجد أمام قيرغيزستان فرصة لاتخاذ بضعة خطوات إضافية لضمان الحماية الكاملة من الاختفاء القسري. وعلى وجه الخصوص، من شأن التصديق الفوري على الاتفاقية الدولية لحماية جميع الأشخاص من الاختفاء القسري أن يساعد على تعزيز التقدم المحرز. ويكرر الفريق العامل تأكيد استعدادة لمساعدة حكومة قيرغيزستان على سد الثغرات القليلة المتبقية لضمان حماية أكمل من الاختفاء القسري في البلد.

## **Annex**

### **Report of the Working Group on Enforced or Involuntary Disappearances on its visit to Kyrgyzstan**

#### **I. Introduction**

1. The Working Group on Enforced or Involuntary Disappearances, represented by Bernard Duhaime (Chair) and Henrikas Mickevicius (member), conducted an official visit to Kyrgyzstan from 25 to 30 June 2019.
2. The Working Group thanks the Government of Kyrgyzstan for inviting it to visit the country and for the efforts made before and during the visit to facilitate its smooth undertaking. Moreover, it appreciates the Government's openness to engage with the Working Group, noting that virtually all the meetings that it requested were accommodated.
3. The Working Group also thanks the Regional Office for Central Asia of the Office of the United Nations High Commissioner for Human Rights for the continuous support it provided during the visit.
4. The Working Group visited Bishkek and Osh. In Bishkek, it met, inter alia, with representatives of the Ministry of Foreign Affairs, the State Border Guard Service, the State Registration Service, the Ministry of Justice, the State Migration Service, the State Committee for Defence Affairs, the Coordination Council on Human Rights, the Office of the President, the Prosecutor General's Office, the State Committee for National Security, the State Service for the Execution of Punishment, the Ministry of Internal Affairs, the Ombudsman's Office and the national preventive mechanism. In Osh, the Working Group met with municipal and regional representatives of the State Committee for National Security, the police department and the Prosecutor's Office, as well as with the Head of the pretrial detention facility.
5. The Working Group also met with representatives of civil society, including non-governmental organizations, human rights defenders and lawyers, all of whom it thanks.
6. The present report covers developments that occurred between June 2019, when the visit was conducted, and the date of its submission to the Human Rights Council. The Working Group thanks the Government of Kyrgyzstan for its comments on the report, received on 4 August 2020. The Working Group hopes that a dialogue can continue with a view to implementing all the recommendations contained in section VII of the present report.

#### **II. General background and situation on enforced disappearances**

7. Since its independence from the Soviet Union in 1991, Kyrgyzstan has undergone significant developments marked by two popular uprisings against sitting State presidents, in 2005 and 2010. The adoption of a progressive Constitution in 2010, which guarantees equal rights to all Kyrgyz without distinction of sex, race, language, ethnicity, age or disability, ushered in a process of consolidating democratic institutions and the rule of law.
8. In the southern parts of Kyrgyzstan, decades of inequitable distribution of wealth and pervasive institutional discrimination, mainly affecting the Uzbek minority, have contributed to long-standing grievances and tensions. This led to an outburst of inter-ethnic violence in June 2010 that claimed hundreds of lives and resulted in massive displacement and destruction of property.
9. The democratic gains made over the years have been weakened by shortcomings in the independence and capacity of the judiciary and in the accountability of law enforcement. Human rights defenders and independent media outlets critical of the Government have been under significant pressure, which has in turn shrunk the civic space.

10. The imprisonment in 2010 of Azimjan Askarov, a prominent human rights defender who documented abuses against the Uzbek community during and after the violent episodes in the southern provinces of Osh and Jalalabad, attracted mounting criticism from civil society and the international community. In its Views on the case of Mr. Askarov,<sup>1</sup> the Human Rights Committee found that Kyrgyzstan was obligated to immediately release Mr. Askarov, triggering debates about denial of justice to the victims, their families and human rights defenders. Instead of releasing Mr. Askarov, the Government proposed amendments to the Constitution, including the removal of a provision giving international human rights treaties direct applicability and priority over other international treaties and the removal of another provision specifying that restoration and/or compensation were required if international human rights bodies found that a person's human rights had been violated.<sup>2</sup> The amendments were approved in a referendum on 11 December 2016. On 8 May 2020, the Special Rapporteur on the situation of human rights defenders urged that Mr. Askarov be released, noting that his frail health made him particularly vulnerable during the COVID-19 pandemic. On 13 May 2020, the Supreme Court rejected Mr. Askarov's latest appeal. Mr. Askarov died in detention on 25 July 2020.

11. The Working Group does not have any formal complaints of enforced disappearance registered in its database related to Kyrgyzstan under its humanitarian procedure. It notes, however, that a number of individuals who disappeared following the 2010 violence in the southern provinces remain unaccounted for. According to the Government, 17 individuals are still reported missing, while the remains of 9 others are pending identification.

12. Allegations of short-term enforced disappearance, primarily resulting from delays in the registration of persons deprived of their liberty and in the notification of relatives and defence lawyers, have been raised by the coalition of civil society organizations that monitors places of detention to contribute to preventing torture and ill-treatment of detainees.<sup>3</sup> In its response to the present report, the Government stated that no cases of enforced disappearance, whether of a long or short duration, had been registered by the authorities in the penitentiary system of Kyrgyzstan.

13. A lack of awareness of the principle of non-refoulement, which has allegedly resulted in deportations despite the individuals being at risk of enforced disappearance, has also been reported. More generally, while legislative changes have been made to prevent enforced disappearance, there appears to be limited attention given to the issue in other relevant forums. For example, the issue has not been addressed in the human rights action plan for 2019–2021, nor has it been discussed during the meetings of the Coordination Council on Human Rights, the body in charge of monitoring and coordinating reforms in the field of human rights.

### III. Legislative and institutional framework

14. The Constitution of Kyrgyzstan provides for a non-exhaustive list of protected human rights, including the right to life, the right not to be subjected to torture and the right to personal integrity, liberty and security. While Kyrgyzstan is a party to eight of the nine core human rights treaties, it has yet to sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance. Regrettably, while during the first cycle of the universal periodic review several recommendations to ratify the Convention were supported by the Government, in the second cycle they were only noted. During the Working Group's visit, government representatives reiterated that the possibility and

<sup>1</sup> In May 2016, the Human Rights Committee adopted its Views on the case of Azimjan Askarov, who had been detained and allegedly tortured in the aftermath of ethnic violence in southern Kyrgyzstan in 2010. The Committee was of the view that the facts disclosed a violation of the author's rights under article 7, read separately and in conjunction with article 2 (3), and articles 9 (1), 10 (1) and 14 (3) (b) and (e), of the International Covenant on Civil and Political Rights. The Committee noted that Kyrgyzstan was under an obligation to provide Mr. Askarov with an effective remedy and full reparation; to immediately release him; to quash the conviction and, if necessary, conduct a new trial; and to provide him with adequate compensation (CCPR/C/116/D/2231/2012).

<sup>2</sup> Articles 6 and 41 respectively.

<sup>3</sup> See Notorture.kg.

implications of ratifying the Convention were being studied. The Coordination Council on Human Rights does not, however, have this issue on its agenda.

15. The Working Group underscores that ratification of the Convention would help cement the progress that Kyrgyzstan is already making to counter enforced disappearance. Moreover, the Convention contains useful guidance for States to build a more solid and robust legal and institutional framework to prevent disappearances and would help Kyrgyzstan overcome the few remaining gaps discussed in the present report. Prompt ratification would also send a clear message that Kyrgyzstan is committed to providing full protection against enforced disappearance of any duration.

16. Article 382 of the Criminal Code that came into force on 1 January 2019 introduces the autonomous crime of enforced disappearance and recognizes that even a single act of enforced disappearance amounts to a crime against humanity. Criminalization of enforced disappearance is a commendable development and is welcomed by the Working Group.

17. The Working Group is concerned, however, that this provision will be applied only to lengthy disappearances. The definition of the crime contained in the Criminal Code essentially reproduces the definition contained in the Rome Statute of the International Criminal Court, which includes the element of the intention of removing a person from the protection of the law for a prolonged period.<sup>4</sup> The fusion of definitional elements of an enforced disappearance in international human rights law and in international criminal law creates the risk of excluding cases of short-term disappearance and ensuring impunity for the seemingly widespread practice of disappearing individuals for short periods following their apprehension (see paras. 25–27 below). The Working Group underscores that victims of enforced disappearance are exposed to the greatest dangers of torture and other ill-treatment, as well as death, in the first few hours after they have been deprived of their liberty and that there is no minimum timeframe for an enforced disappearance to occur.

18. The new criminal law provisions have not yet been tested in practice. It is thus important that legal professionals be properly trained so that the constitutive elements of the crime, as defined in article 382 of the Criminal Code, including the temporal element, are construed in conformity with the Declaration on the Protection of All Persons from Enforced Disappearance. Exchanges with judges, prosecutors, investigators and lawyers during the visit have demonstrated the need for training to ensure a broader understanding of the nature, elements and continuous character of the act of enforced disappearance, the concept of a victim of enforced disappearance and other precepts of the crime.

19. It is commendable that the crime of enforced disappearance is considered as one of a serious nature, as the Criminal Code provides for a punishment of up to 15 years' imprisonment and does not permit amnesties. The Working Group welcomes the fact that the Criminal Code covers different modes of participation in acts of enforced disappearance, such as committing, ordering, soliciting, organizing, instigating the commission of and attempting to commit the crime. Since a single act of enforced disappearance is considered a crime against humanity, no statute of limitations applies.

20. The Working Group notes that competency for investigating cases of enforced disappearance rests with the State Committee for National Security, which is a hybrid agency with both law enforcement and intelligence powers. This raises concerns, given that the intelligence services should not assume any functions related to the maintenance of law and order, such as investigations of suspected crimes, especially given the infamous past of this agency (for more details, see para. 30 below). The Code of Criminal Procedure (art. 153) envisions that cases of enforced disappearance allegedly committed by State Committee officers are to be investigated by the military prosecutor.

21. The Working Group recalls that all victims of enforced disappearance, including the family members of those forcibly disappeared, have the right to full reparation, which includes compensation, satisfaction, restitution, rehabilitation and guarantees of non-repetition, as provided for in article 19 of the Declaration on the Protection of All Persons

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<sup>4</sup> See article 7 (2) (i) of the Rome Statute. The only element of the provision in international criminal law that is lacking from the Constitution is that of context. In other words, in accordance with article 7 (1) (i) of the Rome Statute, enforced disappearance amounts to a crime against humanity if it is committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.

from Enforced Disappearance. The information received indicates that no specific civil law provisions are available to victims of enforced disappearance to claim these rights.

22. As regards safeguards during arrest and detention, the legislation of Kyrgyzstan includes important provisions on notification and registration after apprehension and following transfers and these guarantees have been strengthened by the reform of the Code of Criminal Procedure in 2019. Indeed, article 24 of the Constitution and article 12 of the Code of Criminal Procedure stipulate that a person cannot be detained in a temporary detention facility for more than 48 hours without a judicial decision. In the case of minors, article 12 of the Code provides for a reduced period of detention of up to 24 hours, which is a welcome change. It also mandates that a court, prosecutor, investigator and inquiry body must immediately release any person illegally detained or deprived of liberty or illegally placed in a medical or psychiatric hospital or held in custody for a period exceeding that provided for by the Code.

23. The Working Group welcomes the fact that, in accordance with article 104 of the Code of Criminal Procedure as revised in 2019, the investigative authorities are obliged to immediately notify a close relative and a defence counsel of the arrest of a suspect. In addition, article 45 of the same Code provides for the right of arrested suspects to place one effective telephone call at no cost to themselves. It appears, however, that in practice the obligation to notify and the right to make a call are set in motion only once the suspect has appeared before an investigative authority.

24. Moreover, the notification should be recorded in the detention report and in the decision to temporarily detain, which should be taken immediately upon the transfer of the apprehended person to an investigator. If the apprehended suspect is a citizen of another State, the embassy or consulate of that State must be notified. In the absence of an embassy or consulate of the State of which the apprehended suspect is a citizen, the notification is sent to the authorized State body. In case of underage apprehended suspects, the authorized State authority for the protection of children should be notified. Article 187 of the new Criminal Code provides for criminal liability for illegal arrests, temporary detentions and failures to notify the relatives of an arrested or detained individual about his or her arrest and detention. According to article 12 (3) of the Code of Criminal Procedure, evidence obtained through torture and inhuman or degrading treatment cannot be used in court proceedings.

25. While the strengthening of the guarantees is a welcome development, the Working Group is concerned about the extent to which they are implemented. The Working Group received reliable information about the entrenched practice of delayed transfers of apprehended suspects, which unjustifiably take hours and sometimes days, from the place of actual apprehension to the offices of the investigative authorities. Reportedly, in some cases, the recordings of the actual times of apprehension of suspects are then falsified. It is during this time, according to the Working Group's sources, that most cases of abuse, some of which may amount to torture, take place.<sup>5</sup> The Working Group welcomes the indications from the Government that it is taking steps to fully comply with these guarantees. In this regard, the Working Group hopes that the recommendations contained in section VII of the present report can be promptly implemented.

26. Furthermore, the Working Group was made aware of allegations that inculpatory evidence likely obtained under duress had been considered and accepted during trials. The seriousness of this situation is compounded by the limited number of investigations that are carried out: according to government statistics, 1,230 complaints of torture were submitted between 2015 and 2018 but criminal cases were initiated in only 162 of them.<sup>6</sup>

27. The Working Group was informed by several interlocutors that delayed registration was seen as entirely normal by detainees and that even some judges were not aware that it constituted a violation. Some delays in registration reportedly involve foreign citizens,

<sup>5</sup> The reports of the National Centre for the Prevention of Torture also reflect these issues. According to information contained in a 2017 report, only 34 per cent of respondents were placed in temporary detention facilities within three hours of their actual detention; in 12 per cent of cases, this took more than two days.

<sup>6</sup> A/HRC/WG.6/35/KGZ/1, para. 185.

particularly labour migrants, who are often held for several days without their embassies being notified as required.

28. The Working Group highlights the fact that the failure to acknowledge deprivation of liberty by State agents and the refusal to acknowledge detention may constitute enforced disappearance, even if it is of a short duration. Such practices also weaken the value of the new provision, which defines arrest as the short-term deprivation of the freedom of movement of a suspect by law enforcement authorities, meaning that the definition of arrest now includes the time between actual apprehension of a person before his or her presentation before the relevant authority.

29. The Working Group was also informed that according to monitoring jointly conducted by the national preventive mechanism and civil society in 2018, at least 300 defendants had been placed in overcrowded temporary detention facilities under the auspices of law enforcement authorities, where their detention was not properly registered. The Working Group was made aware of 10 cases of deaths in such facilities since 2016, which raises serious concerns about mistreatment of detainees, whether perpetrated by police officers or other inmates, about lack of medical attention and about deaths resulting from gross negligence.

30. Investigations into these crimes are conducted by the State Committee for National Security. The Working Group notes that the State Committee lacks the trust of civil society organizations, among others, and does not appear to have the subject-specific expertise to properly investigate enforced disappearance. Another concern conveyed to the Working Group was the lack of effective oversight exercised by the parliament and the courts over the State Committee, which shapes the prevailing perception of privilege and, by default, impunity. The Working Group understands that the State Committee has its own temporary detention facilities, one in Bishkek and one in Osh, and its own pretrial detention facility. The Working Group received information that these facilities are especially difficult for institutional, let alone independent, monitors to access. As an illustration, the Working Group's own repeated requests to visit the temporary detention facility in Bishkek were not granted.

31. The Working Group encourages the Government to make a concerted effort to ensure that the new legal guarantees on notification and registration are systematically implemented in practice. This should include establishing a simple, accessible and effective mechanism for quickly notifying families after an individual has been deprived of his or her liberty. In addition, confessions obtained under torture or duress should not be admissible in court proceedings in practice, which would help remove the incentive for carrying out enforced disappearances of a short duration. The Working Group welcomes information that some projects are under way, including a project to institute video registration in Osh and Bishkek. It encourages further efforts, including to conduct additional training, disseminate information and raise awareness on the relevant provisions, to extend video registration and to systematically sanction all those responsible for not notifying families or for falsifying registration records. All instances of deprivation of liberty must be registered effectively and promptly from the moment of first apprehension. Moreover, appropriate investigations into alleged abuses should be conducted without delay, with the objective of bringing perpetrators to justice and providing commensurate compensation to the victims and their families. In this regard, free legal aid for the victims of violations should be considered.

32. The Working Group encourages the Government to ensure that evidence obtained under duress is not accepted during legal proceedings and to strengthen the monitoring mechanisms in place to prevent such a practice, including by implementing the recommendations made by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment following its 2018 visit (CAT/OP/KGZ/2), which would help remove the incentive for carrying out enforced disappearances of a short duration.

33. The Working Group welcomes the request made by the Government following its visit for the Working Group to provide technical assistance in the form of training in Kyrgyzstan for judges, prosecutors and lawyers on enforced disappearance. Due to the coronavirus disease (COVID-19) situation, the provision of technical assistance, which was originally planned for April 2020, has been delayed but will hopefully take place as soon as circumstances permit.

#### IV. Enforced disappearances in the context of the 2010 inter-ethnic violence

34. The Working Group conducted a visit to the region of Osh, where inter-ethnic violence had broken out between 11 and 14 June 2010, and was informed that the conflict had resulted in a significant number of missing persons. According to the Government, although the majority of cases have been resolved, 17 individuals are still missing and the remains of 9 others are still pending identification. While noting that the authorities have provided assurances that the search continues, no real progress has been made recently. The Working Group hopes that further efforts will be made to search for those missing and complete identifications, with the involvement and participation of the relatives concerned.

35. The Working Group was informed by civil society representatives that the State had failed to address transitional justice issues from the June 2010 events and had implemented few related policies, laws or programmes. The criminal justice system had produced highly unequal outcomes, with over 70 per cent of victims identified as being ethnic Uzbeks and over 70 per cent of the charges relating to the 442 registered murder cases having been brought against this minority group. There were serious doubts over fair trial standards in many cases, which risked fuelling resentment between members of this minority group and the authorities.<sup>7</sup> Defence lawyers representing ethnic Uzbek defendants are said to have been subjected to improper interference and intimidation.

#### V. Non-refoulement

36. Article 8 of the Declaration on the Protection of All Persons from Enforced Disappearance prohibits the expulsion, return or extradition of a person to another State where there are substantial grounds to believe that he or she would be in danger of enforced disappearance. Under international human rights law, the principle of non-refoulement is of an absolute nature, which means, *inter alia*, that States cannot transfer or remove foreign nationals from their jurisdiction to another country when they risk being subjected to enforced disappearance, regardless of whether they entered the State regularly or not, whether they are asylum seekers, refugees, stateless persons, migrant workers or have another status, and whether they maintain or have lost their status. During its visit, the Working Group observed that there was little awareness about this cardinal international legal principle and obligation, as demonstrated by the phrase “we are not responsible for what happens in the other country”, which was pronounced by a high-ranking representative of a State agency.

37. Kyrgyzstan has failed to integrate its non-refoulement obligation into its legislation. The Working Group was informed that only transfers and removals that may lead to torture, not those involving the risk of being subjected to enforced disappearance, were prohibited. Indeed, it received reports of transfers that had resulted in enforced disappearances, in particular of persons returned to China and Uzbekistan.

38. The Working Group was informed about the lack of detailed and transparent mechanisms and procedures for ensuring that the protection needs of migrants were assessed individually and in accordance with due process. In particular, the Working Group

<sup>7</sup> The Committee on the Elimination of Racial Discrimination too has expressed concern about the administration of justice following the inter-ethnic conflict of June 2010 (CERD/C/KGZ/CO/8-10). In particular, it expressed concern that investigations into the human rights violations that occurred during and after the violence had not been effective and had been marred by ethnic bias and lack of respect for fair trial and due process guarantees. The Committee was particularly concerned that the majority of the victims of the violations and of those facing criminal prosecution were ethnic Uzbeks, that no compensation had been provided to ethnic Uzbek victims of miscarriages of justice and that there was an absence of remedies for persons arbitrarily dismissed from their posts following the events of 2010. The Committee reiterated its concern about the reported reliance on forced confessions in courts. It recommended setting up a hybrid national/international mechanism to review all cases of persons convicted, investigating all human rights violations to bring perpetrators to justice and compensate victims, investigating allegations of torture committed by law enforcement officials and providing remedies to ethnic Uzbeks arbitrarily dismissed from their posts as a result of the events of 2010.

received information indicating that many migrant workers from Xinjiang autonomous region of China lost their work permits once their passports expired, were allegedly not informed about their rights, including the right to seek asylum, were deported – frequently upon the request of the Chinese authorities – and were subsequently subjected to enforced disappearance.

39. During its visit, the Working Group received fragmented and inconsistent information from different interlocutors about the administrative procedures applicable at the borders of Kyrgyzstan in cases of foreign nationals seeking temporary protection or asylum. This is worrisome, especially in the light of several reports of such persons having been forcibly deported and given the small number of individuals granted either temporary protection or asylum. The Working Group therefore welcomes information indicating that the border protection and migration services, in cooperation with the Office of the United Nations High Commissioner for Refugees and its partners, have been developing guidelines for the identification and referral of asylum seekers arriving at the borders of Kyrgyzstan and that the guidelines focus on the right to seek asylum and to gain access to the territory of Kyrgyzstan of refugees and asylum seekers, including those arriving in an irregular manner.

## VI. Conclusion

40. The Government of Kyrgyzstan has made significant legislative improvements to provide protection against enforced disappearance in recent years. In particular, the introduction of the new crime of enforced disappearance and legislative changes aimed at improving the notification and registration requirements during initial apprehension and detention are positive developments.

41. Despite these measures and the statements made by the country's leadership about there being strong political will and about robust action being taken to counter enforced disappearance and torture, substantive changes in practice are still lacking. A concerted effort is recommended, in particular, to eradicate the widespread problem of enforced disappearance of short duration following the initial apprehension of suspects, as now defined in the Code of Criminal Procedure.

42. The principle of non-refoulement is a critical safeguard against enforced disappearance. The Working Group reiterates the need to ensure that the principle is enshrined in Kyrgyz legislation and implemented in practice so that no individual is expelled, returned or extradited to a State where there are substantial grounds to believe that he or she may be at risk of enforced disappearance.

43. A small number of individuals remain missing and bodies are pending identification in relation to the inter-ethnic violence that broke out in the southern provinces in 2010. The Working Group encourages the Government to undertake further efforts to resolve these cases and to fully address the consequences of the events.

44. Going forward, Kyrgyzstan has an opportunity to take a few more steps to ensure full protection from enforced disappearance. In particular, prompt ratification of the International Convention for the Protection of All Persons from Enforced Disappearance would help cement progress made. The Working Group reiterates its willingness to assist Kyrgyzstan in closing the few remaining gaps to ensure full protection against enforced disappearance in the country.

## VII. Recommendations

45. **The Working Group recommends that the Government of Kyrgyzstan:**

(a) **Ratify the International Convention for the Protection of All Persons from Enforced Disappearance as soon as possible and thereby expressly recognize the competence of the Committee on Enforced Disappearances in accordance with articles 31 and 32 of the Convention;**

(b) **Ensure that enforced disappearance of any duration, including short-term enforced disappearance, is criminalized;**

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- (c) **Provide training on enforced disappearance to legal professionals;**
  - (d) **Reassign the function of investigating enforced disappearances and cases of torture from the State Committee for National Security to a law enforcement agency;**
  - (e) **Ensure that legal provisions include an enforceable right for victims of enforced disappearance to receive full reparation, including compensation, satisfaction, restitution, rehabilitation and guarantees of non-repetition;**
  - (f) **Ensure that the new legal guarantees on notification and registration are systematically implemented in practice, including by:**
    - (i) **Conducting extensive training and awareness-raising activities on the guarantees among legal professionals, law enforcement officials and the public;**
    - (ii) **Informing all law enforcement officials that delays in notifications and the falsification of records will not be tolerated and that such delays may amount to the crime of enforced disappearance;**
    - (iii) **Extending video registration;**
    - (iv) **Systematically investigating all cases in which families have not been notified or in which registration records have been falsified and sanctioning perpetrators and consider providing free legal aid for use in such cases;**
  - (g) **Fully implement the recommendations made by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment following its 2018 visit;**
  - (h) **Undertake further efforts to search for those missing from the southern regions since 2010 and complete the identification of remains;**
    - (i) **Ensure effective implementation of the principle of non-refoulement with respect to individuals, including those arriving in an irregular manner, in cases where there are substantial grounds to believe that, if deported or refused entry, they may be at risk of enforced disappearance;**
    - (j) **Conduct training and awareness-raising sessions for government officials on the non-refoulement principle;**
    - (k) **Ensure that all the views, recommendations and conclusions of international human rights bodies are implemented, including in relation to the case of Mr. Askarov.**
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