16. INTERNATIONAL CONVENTION FOR THE PROTECTION OF ALL PERSONS FROM ENFORCED DISAPPEARANCE

New York, 20 December 2006

ENTRY INTO FORCE: 23 December 2010, in accordance with article 39(1) which reads as follows: “This Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.”

REGISTRATION: 23 December 2010, No. 48088.


Note: The above Convention was adopted on 20 December 2006 during the sixty-first session of the General Assembly by resolution A/RES/61/177. In accordance with its article 38, the Convention shall be open for signature by all Member States of the United Nations. The Convention shall be open for signature on 6 February 2007 in Paris, France, and thereafter at United Nations Headquarters in New York.

<table>
<thead>
<tr>
<th>Participant</th>
<th>Signature</th>
<th>Accession(a), Ratification</th>
<th>Participant</th>
<th>Signature</th>
<th>Accession(a), Ratification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Angola</td>
<td>24 Sep 2014</td>
<td></td>
<td>Croatia</td>
<td>6 Feb 2007</td>
<td></td>
</tr>
<tr>
<td>Austria</td>
<td>6 Feb 2007</td>
<td>7 Jun 2012</td>
<td>Czech Republic</td>
<td>19 Jul 2016</td>
<td>8 Feb 2017</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>6 Feb 2007</td>
<td></td>
<td>Denmark</td>
<td>25 Sep 2007</td>
<td></td>
</tr>
<tr>
<td>Belgium</td>
<td>6 Feb 2007</td>
<td>2 Jun 2011</td>
<td>Dominica</td>
<td>13 May 2019 a</td>
<td></td>
</tr>
<tr>
<td>Belize</td>
<td>14 Aug 2015 a</td>
<td></td>
<td>Dominican Republic</td>
<td>26 Sep 2018</td>
<td></td>
</tr>
<tr>
<td>Bosnia and</td>
<td>6 Feb 2007</td>
<td>30 Mar 2012</td>
<td>Fiji</td>
<td>19 Aug 2019 a</td>
<td></td>
</tr>
<tr>
<td>Herzegovina</td>
<td></td>
<td></td>
<td>Finland</td>
<td>6 Feb 2007</td>
<td></td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>6 Feb 2007</td>
<td>3 Dec 2009</td>
<td>Gambia</td>
<td>20 Sep 2017</td>
<td>28 Sep 2018</td>
</tr>
<tr>
<td>Burundi</td>
<td>6 Feb 2007</td>
<td></td>
<td>Germany</td>
<td>26 Sep 2007</td>
<td>24 Sep 2009</td>
</tr>
<tr>
<td>Cabo Verde</td>
<td>6 Feb 2007</td>
<td></td>
<td>Ghana</td>
<td>6 Feb 2007</td>
<td></td>
</tr>
<tr>
<td>Cameroon</td>
<td>6 Feb 2007</td>
<td></td>
<td>Grenada</td>
<td>6 Feb 2007</td>
<td></td>
</tr>
<tr>
<td>Chad</td>
<td>6 Feb 2007</td>
<td></td>
<td>Guinea-Bissau</td>
<td>24 Sep 2013</td>
<td></td>
</tr>
<tr>
<td>Chile</td>
<td>6 Feb 2007</td>
<td>8 Dec 2009</td>
<td>Haiti</td>
<td>6 Feb 2007</td>
<td></td>
</tr>
<tr>
<td>Colombia</td>
<td>27 Sep 2007</td>
<td>11 Jul 2012</td>
<td>Honduras</td>
<td>6 Feb 2007</td>
<td>1 Apr 2008</td>
</tr>
<tr>
<td>Comoros</td>
<td>6 Feb 2007</td>
<td></td>
<td>Iceland</td>
<td>1 Oct 2008</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>India</td>
<td>6 Feb 2007</td>
<td></td>
</tr>
<tr>
<td>Participant</td>
<td>Signature</td>
<td>Accession(a), Ratification</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----------------------------</td>
<td>------------</td>
<td>---------------------------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indonesia</td>
<td>27 Sep 2010</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iraq</td>
<td></td>
<td>23 Nov 2010 a</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ireland</td>
<td>29 Mar 2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Italy</td>
<td>3 Jul 2007</td>
<td>8 Oct 2015</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Japan</td>
<td>6 Feb 2007</td>
<td>23 Jul 2009</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kazakhstan</td>
<td>27 Feb 2009 a</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kenya</td>
<td>6 Feb 2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lao People's Democratic</td>
<td>29 Sep 2008</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Republic</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lebanon</td>
<td>6 Feb 2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lesotho</td>
<td>22 Sep 2010</td>
<td>6 Dec 2013</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Liechtenstein</td>
<td>1 Oct 2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lithuania</td>
<td>6 Feb 2007</td>
<td>14 Aug 2013</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Luxembourg</td>
<td>6 Feb 2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Madagascar</td>
<td>6 Feb 2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Malawi</td>
<td>14 Jul 2017 a</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maldives</td>
<td>6 Feb 2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mali</td>
<td>6 Feb 2007</td>
<td>1 Jul 2009</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Malta</td>
<td>6 Feb 2007</td>
<td>27 Mar 2015</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mauritania</td>
<td>27 Sep 2011</td>
<td>3 Oct 2012</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mexico</td>
<td>6 Feb 2007</td>
<td>18 Mar 2008</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Monaco</td>
<td>6 Feb 2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mongolia</td>
<td>6 Feb 2007</td>
<td>12 Feb 2015</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Montenegro</td>
<td>6 Feb 2007</td>
<td>20 Sep 2011</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Morocco</td>
<td>6 Feb 2007</td>
<td>14 May 2013</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mozambique</td>
<td>24 Dec 2008</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Netherlands¹</td>
<td>29 Apr 2008</td>
<td>23 Mar 2011</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Niger</td>
<td>6 Feb 2007</td>
<td>24 Jul 2015</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nigeria</td>
<td></td>
<td>27 Jul 2009 a</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>North Macedonia</td>
<td>6 Feb 2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Norway</td>
<td>21 Dec 2007</td>
<td>22 Aug 2019</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oman</td>
<td></td>
<td>12 Jun 2020 a</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Palau</td>
<td>20 Sep 2011</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Panama</td>
<td>25 Sep 2007</td>
<td>24 Jun 2011</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Paraguay</td>
<td>6 Feb 2007</td>
<td>3 Aug 2010</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Peru</td>
<td></td>
<td>26 Sep 2012 a</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Poland</td>
<td></td>
<td>25 Jun 2013</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Portugal</td>
<td>6 Feb 2007</td>
<td>27 Jan 2014</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Republic of Moldova</td>
<td>6 Feb 2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Romania</td>
<td></td>
<td>3 Dec 2008</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Samoa</td>
<td>6 Feb 2007</td>
<td>27 Nov 2012</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Senegal</td>
<td>6 Feb 2007</td>
<td>11 Dec 2008</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Serbia</td>
<td>6 Feb 2007</td>
<td>18 May 2011</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Seychelles</td>
<td></td>
<td>18 Jan 2017 a</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sierra Leone</td>
<td>6 Feb 2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Slovakia</td>
<td>26 Sep 2007</td>
<td>15 Dec 2014</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Slovenia</td>
<td>26 Sep 2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Spain</td>
<td>27 Sep 2007</td>
<td>24 Sep 2009</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>10 Dec 2015</td>
<td>25 May 2016</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>St. Vincent and the Grenadines</td>
<td>29 Mar 2010</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sudan</td>
<td></td>
<td>10 Aug 2021 a</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sweden</td>
<td>6 Feb 2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Switzerland</td>
<td>19 Jan 2011</td>
<td>2 Dec 2016</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thailand</td>
<td>9 Jan 2012</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Togo</td>
<td>27 Oct 2010</td>
<td>21 Jul 2014</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tunisia</td>
<td>6 Feb 2007</td>
<td>29 Jun 2011</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Uganda</td>
<td>6 Feb 2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ukraine</td>
<td></td>
<td>14 Aug 2015 a</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>United Republic of Tanzania</td>
<td>29 Sep 2008</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Uruguay</td>
<td>6 Feb 2007</td>
<td>4 Mar 2009</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vanuatu</td>
<td>6 Feb 2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Venezuela (Bolivarian Republic of)</td>
<td>21 Oct 2008</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Zambia</td>
<td>27 Sep 2010</td>
<td>4 Apr 2011</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Declarations and Reservations**

(Unless otherwise indicated, the declarations and reservations were made upon ratification, accession or succession.)

**CUBA**

The Republic of Cuba hereby declares, in accordance with article 42, paragraph 2, that it does not consider itself obliged to refer its disputes to the International Court of Justice, as provided for in paragraph 1 of the same article.

**FIJI**

“The Government of the Republic of Fiji declares that it does not consider itself bound by provisions of Article 42(1).”

**GERMANY**

“**Article 16**

The prohibition of return shall only apply if the person concerned faces a real risk of being subjected to enforced disappearance.

Regarding Art. 17 (2) (f)

Under German law it is guaranteed that deprivation of liberty is only lawful if it has been ordered by a court or – in exceptional cases – subsequently authorized by a court. Article 104 para. 2 of the Basic Law (Grundgesetz)

IV 16. HUMAN RIGHTS 2
expressly provides: ‘Only a judge may rule upon the
permissibility or continuation of any deprivation
of liberty. If such a deprivation is not based on a judicial
order, a judicial decision shall be obtained without delay’. Article 104 para. 3 of the Basic Law provides that a
person who has been provisionally arrested on suspicion
of having committed a criminal offence ‘shall be brought
before a judge no later than the day following the arrest’.
In the event that a person is being held arbitrarily in
contravention of Article 104 of the Basic Law, anyone
can bring about a judicial decision leading to that person’s
release by applying to the competent Local Court for
his/her immediate release. If the person concerned has
been detained beyond the time limit permissible under the
Basic Law, the court has to order that person’s release
pursuant to section 128 (2), first sentence, of the Code of
Criminal Procedure (Strafprozessordnung, StPO).

Article 17 para. 3
In the case of an involuntary placement of sick persons
by a custodian or a person having power of attorney, the
information required under letters (a) to (h) is known to
the court which authorizes the placement. The court can
ascertain the information required under letters (a) to (h)
at any time through the custodian or person having power
of attorney; the information is then included in the
case-file. This information is also to be regarded as
records within the meaning of article 17 para. 3.

Regarding Article 18
Under German law, all persons with a legitimate
interest are entitled to obtain information from the court
files. The restrictions provided for in German law for the
protection of the interests of the person concerned or for
safeguarding the criminal proceedings are permissible
pursuant to Article 20 para. 1 of the Convention.

Regarding Article 24 para. 4
It is clarified that the envisaged provision on
reparation and compensation does not abrogate the
principle of state immunity.”

MOROCCO
Pursuant to 42 (2) of the Convention, the Kingdom of
Morocco does not consider itself bound by the provisions
of paragraph 1 of this article and declares that for any
dispute between two or more States to be brought before
the International Court of Justice, it is necessary to have,
in each case, the agreement of all States parties to the
dispute.

NORWAY
“The Kingdom of Norway declares its understanding
that whether and to what extent the various provisions of
the Convention apply in situations of armed conflict will
depend on an interpretation of the provision in question in
the light of international humanitarian law, having regard
to general principles of interpretation that apply where
several regimes of international law are relevant, such as
the principle of harmonisation and the principle of lex
specialis.

To the extent that Article 17 (2) of the Convention
may be interpreted as requiring each State Party to
establish ‘in its legislation’ conditions for and guarantees
related to deprivation of liberty that apply in situations
of armed conflict, the Kingdom of Norway reserves the right
declares that for any
to not apply this provision in such situations. Deprivation
of liberty during armed conflict is not currently regulated
in normal Norwegian law. In Norway, the rules
concerning deprivation of liberty during armed conflict
are set out in the Norwegian Armed Forces’ Manual of
the Law of Armed Conflict and in the rules adopted for
each specific operation, including the rules of engagement.”

“The Kingdom of Norway declares its understanding
that Article 20 (1) of the Convention, which permits
restrictions on the right to information referred to in
Article 18 on an exceptional basis, where ‘strictly
necessary’ and ‘if the transmission of the information
would adversely affect the privacy’ of the person deprived
of liberty, allows for weight to be given to an assessment
by the person concerned of whether these conditions are
met.

This applies provided that the information, viewed
objectively, is of a sensitive personal nature, that the
person concerned is under the protection of the law and
that the deprivation of liberty is subject to judicial control.

Thus, it is the understanding of the Kingdom of
Norway that, depending on the circumstances, access to
information may be denied if the person deprived of
liberty does not consent to the disclosure of sensitive
personal information on grounds of privacy.”

OMAN
Firstly, the Government of the Sultanate of Oman does
not recognize the competence of the Committee in cases
of enforced disappearances provided in article 33 of the
aforementioned Convention.

Secondly, the Government of the Sultanate of Oman
does not consider itself bound by the provisions of article
42, paragraph 1 of the aforementioned Convention.

SUDAN
“… the Government of the Republic of the Sudan, in
accordance with article (42) paragraph (2) doesn’t
consider itself bound by the provisions of the article (42)
paragraph (1) of this Convention.”

UKRAINE
“Regarding Articles 13 and 14 of the Convention, Ukraine
empowers the Prosecutor General’s Office of
Ukraine (concerning request during the pre-trial
investigation) and Ministry of Justice of Ukraine (concerning
request during the court proceedings or execution of judgments) to consider requests according to
Articles 10-14 of Convention”.

[...] Regarding Article 42 of the Convention, Ukraine does
not consider itself bound by the provisions of paragraph 1
of Article 42 concerning additional procedures of
settlement of disputes by arbitration or the International
Court of Justice.”

VENEZUELA (BOLIVARIAN REPUBLIC OF)
Reservation made upon signature:
The Bolivarian Republic of Venezuela, in accordance
with article 42, paragraph 2, of the International
Convention for the Protection of All Persons from
Enforced Disappearance, hereby formulates a specific
reservation concerning the provisions of paragraph 1 of
that article. Therefore, it does not consider itself to be
obliged to resort to arbitration as a dispute settlement
mechanism, nor does it recognize the compulsory
jurisdiction of the International Court of Justice.
Objections
(Under otherwise indicated, the objections were made upon ratification, accession or succession.)

BELGIUM

The Kingdom of Belgium has carefully examined the reservation made by the Sultanate of Oman on 12 June 2020 to Article 33 of the International Convention for the Protection of All Persons from Enforced Disappearance, done at New York on 20 December 2006 (hereinafter “the Convention”).

The Kingdom of Belgium notes that the reservation aims to exclude any visits by the Committee on Enforced Disappearances (hereinafter “the Committee”) pursuant to Article 33. However, visits which the Committee intends to make under Article 33 of the Convention are not subject to prior recognition of the competence of the Committee by the State concerned. Under Article 33, the Committee is competent to consider allegations, based on credible information, of serious violations of the Convention by a State Party. Paragraphs 2 and 4 specify that the Committee may only implement the measures provided for in paragraph 1 if it reaches agreement with the State Party concerned. While States Parties may request the postponement or cancellation of a visit, they cannot exclude as a matter of principle any visit by the Committee under Article 33.

Committee visits of the kind provided for in Article 33 are an integral part of the system established by the Convention and an essential element of its implementation. By not recognizing the competence which Article 33 confers on the Committee, the Sultanate of Oman is unduly limiting the Committee’s competence, which is inherent in the Convention.

The Kingdom of Belgium therefore considers that this reservation is contrary to the object and purpose of the Convention. The Kingdom of Belgium wishes to recall that, under the terms of Article 19 of the Vienna Convention on the Law of Treaties, a State cannot formulate a reservation that is incompatible with the object and purpose of a treaty.

Consequently, the Kingdom of Belgium objects to the above-mentioned reservation made by the Sultanate of Oman to the International Convention for the Protection of All Persons from Enforced Disappearance. This objection does not preclude the entry into force of the Convention as between Belgium and Oman.

FRANCE

... the Government of the French Republic has carefully examined the reservation made by the Sultanate of Oman upon its accession to the International Convention for the Protection of All Persons from Enforced Disappearance, expressed as follows: ‘the Government of the Sultanate of Oman does not recognize the competence of the Committee in cases of enforced disappearances provided in article 33 of the aforementioned Convention.’

The object and purpose of the Convention is to prevent enforced disappearances and to combat impunity for the crime of enforced disappearance. By virtue of article 26 of the Convention, a Committee on Enforced Disappearances, consisting of 10 experts elected by the States Parties, is established to implement the provisions of the Convention. The Committee is a core mechanism of the Convention.

The reservation made by the Sultanate of Oman thus relates to a core function of the Committee – indeed, one that is operational and practical in nature– in preventing and combatting impunity for the crime of enforced disappearance. Moreover, States Parties that are to be visited by the Committee retain the option of asking the Committee to postpone or cancel the visit. There are therefore no grounds for rejecting, by means of the reservation, a cooperation mechanism intended to fulfil the purposes of the Convention.

The Government of the French Republic recalls that, according to customary international law as codified in the Vienna Convention on the Law of Treaties of 23 May 1969, a reservation incompatible with the object and purpose of the Convention shall not be permitted.

The Government of the French Republic therefore objects to the reservation made by the Sultanate of Oman. The present objection does not, however, prevent the entry into force of the Convention between the French Republic and the Sultanate of Oman.

GERMANY


(i) It notes that undertakings by the Committee on Enforced Disappearances (hereinafter referred to as the “the Committee”) under Article 33 of the International Convention are not conditional upon a general recognition of the Committee’s competence by the State party. Rather, its competence under that provision is related to the elucidation of allegations of serious violations of the Convention, based on reliable information received by the Committee. Article 33, paragraphs 2 and 4, clarify that the Committee may carry out the measures referred to in paragraph 1 only if it reaches agreement with the State Party concerned on a case-by-case basis.

The Committee must also seek the consent of the State Party to take measures under Article 33, even if the State party has generally accepted the Committee’s competence under Articles 31 and 32. However, just as in the case of the conduct of measures under Article 34, the competence of the Committee under Article 33 cannot be excluded as a matter of principle.

(ii) The reservation made by the Government of the Sultanate of Oman is inadmissible under article 19(c) of the Vienna Convention on the Law of Treaties because it is incompatible with the object and purpose of the treaty. The object and purpose of the International Convention is to give the Committee, in cases of suspicion, based on reliable information, of a serious violation of the International Convention, the competence, with the consent of the State party to request on a case-by-case basis one or more members of the Committee to undertake a visit and to report to the Committee on the visit, in order to enable the Committee to communicate observations and recommendations to the State party concerned on the basis of the information obtained. By not recognizing the competence of the Committee, which is inherent in the International Convention, the Government of the Sultanate of Oman is unduly
restricting the Committee’s competence, which exists as a matter of principle under Article 33 of the International Convention.


Netherlands

“The Government of the Kingdom of the Netherlands has carefully examined the reservation made by the Government of the Sultanate of Oman upon accession to the International Convention for the Protection of All Persons from Enforced Disappearance on 12 June 2020, relating to article 33 thereof.

The competence of the Committee on Enforced Disappearances under article 33 – as opposed to its competence under articles 31 and 32 – is not conditional upon general recognition by individual State Parties. A visit under article 33 requires prior consultation with the State Party concerned and notification in writing (paragraphs 1-2); moreover, upon a substantiated request by the State Party, the Committee may decide to postpone or cancel its visit (paragraph 3). Therefore, article 33 only refers to visits and the involvement of the State Party concerned on a case-by-case basis. The competence of the Committee under article 33 cannot be excluded as a matter of principle.

The Government of the Kingdom of the Netherlands considers a general exclusion of the Committee’s competence under article 33 of the Convention, as conveyed in the reservation of the Sultanate of Oman, an unduly restriction of the Committee’s competence under the Convention. Such reservation unilaterally limits the scope of the Convention, contrary to its object and purpose of preventing enforced disappearances and combatting impunity for the crime of enforced disappearance, and the competence of the Committee under article 33 to verify reliable information on serious violations of the Convention to these ends.

The Government of the Kingdom of the Netherlands recalls that, according to customary international law as codified in article 19 (c) of the Vienna Convention on the Law of Treaties, reservations incompatible with the object and purpose of a Convention are not permissible.

The Government of the Kingdom of the Netherlands therefore objects to the reservation of the Sultanate of Oman relating to article 33 of the International Convention for the Protection of All Persons from Enforced Disappearance. This objection shall not preclude the entry into force of the Convention between the Kingdom of the Netherlands and the Sultanate of Oman.”

Portugal

“The Government of the Portuguese Republic has examined the reservation made by the Government of the Sultanate of Oman on 12 June 2020 to Article 33 of the International Convention for the Protection of All Persons from Enforced Disappearance, adopted in New York, on 20 December 2006 (henceforth referred to as “the Convention”).

Firstly, the Government of the Portuguese Republic notes that a reservation through which a State Party generally excludes action by the Committee on Enforced Disappearances (henceforth referred to as “the Committee”) under Article 33 defies a systematic interpretation of the Convention.

Articles 31 and 32 of the Convention provide for the cases where a State may declare to generally recognise the competence of the Committee for certain purposes. Conversely, possible action by the Committee under Article 33 of the Convention is not reliant on such a recognition of competence; on the contrary, it necessarily rests on a [case-by-case] assessment.

Article 33 establishes procedures for the Committee to – subject to certain conditions and with a view to provide observations and recommendations – conduct a visit to a State Party if it receives reliable information indicating that said State Party is seriously violating the provisions of the Convention. Such possible action by the Committee is subject to cumulative conditions under Article 33:

i) The Committee must have received reliable information indicating that a State Party is seriously violating the provisions of the Convention;

ii) The Committee must consult the State Party concerned on that received information;

iii) Only then, having decided to do so, may the Committee request one or more of its members to undertake a visit and report back to it without delay (i.e., it is not mandatory for the Committee to conduct the visit);

iv) For that visit to take place, the State Party concerned needs to agree to it, having been prior[ily] notified by the Committee, in writing, of the intention to organize a visit, indicating the composition of the delegation and the purpose of the visit. The modalities of the visit are defined by the Committee and the State Party concerned.

Consequently, even in the cases where a State Party has declared to accept the competence of the Committee in relation to Article 31 and/or Article 32 of the Convention, action by the Committee under Article 33 is still subject to those conditions, including the express consent by the State Party concerned.

Secondly, the Government of the Portuguese Republic recalls that, according to customary international law codified under subparagraph c) of Article 19 of the Vienna Convention on the Law of Treaties, reservations that are incompatible with the object and purpose of the Convention shall not be permitted.

Possible action by the Committee under Article 33 is an essential mechanism to the protection of persons from enforced disappearance, as an important monitoring procedure of the Convention.

The object and purpose of a treaty should be understood from a functional perspective, i.e., including not only the guiding principles and general objectives of the treaty, but also all the mechanisms and procedures established for the prosecution of said objectives.

The object and purpose of the Convention is the protection of all persons from enforced disappearances and the Convention provides mechanisms and procedures – including the possible action by the Committee under Article 33 – aimed at preventing and mitigating violations of the rights and freedoms protected under the Convention.

Thus, a reservation through which a State Party generally excludes action by the Committee under Article 33 as a matter of principle is incompatible with the object and purpose of the Convention.

Article 33 establishes a possible (non-mandatory) monitoring procedure by the Committee in cases of reliably alleged serious violations of the Convention. That monitoring procedure entails visits of one or more members of the Committee to the State Party concerned, visits that are authorized on a case-by-case basis. Should a visit take place, its outcome are observations and recommendations by the Committee.

In this regard, the Government of the Portuguese Republic considers that this reservation, insofar as it seeks to generally exclude possible action by the Committee under Article 33 of the Convention, is inadmissible for
being incompatible with the object and purpose of the Convention.

Hence, the Government of the Portuguese Republic objects to this reservation.

Notwithstanding, this objection shall not preclude the entry into force of the Convention between the Portuguese Republic and the Sultanate of Oman.”

SWITZERLAND

The Swiss Federal Council has examined the first reservation made by the Sultanate of Oman upon its accession to the International Convention for the Protection of All Persons from Enforced Disappearance of 20 December 2006, expressed as follows: “Firstly, the Government of the Sultanate of Oman does not recognize the competence of the Committee in cases of enforced disappearances provided in article 33 of the aforementioned Convention.”

The Swiss Federal Council recalls that the competence of the Committee under article 33 of the Convention is a binding competence that does not require prior recognition by the States parties. The Swiss Federal Council considers that the reservation made by the Sultanate of Oman – which has the effect of generally ruling out any visit by the Committee to Oman in case of allegations of serious violations of the provisions of the Convention based on credible information – violates one of the essential elements of the Convention, which is necessary for its overall balance, in such a way as to compromise its rationale. Consequently, the reservation made by the Sultanate of Oman is incompatible with the object and purpose of the Convention.

It is in the common interest of States that instruments to which they have chosen to become parties are respected by all the parties, as to their object and purpose, and that States are prepared to comply with their treaty obligations.

The Swiss Federal Council therefore objects to the reservation made by the Sultanate of Oman. This objection does not prevent the entry into force of the Convention, in its entirety, between Switzerland and the Sultanate of Oman.

**Declarations recognizing the competence of the Committee under articles 31 and 32**

*(Unless otherwise indicated, the declarations were made upon ratification, accession or succession.)*

**ALBANIA**

In accordance with Article 31 of the International Convention for the Protection of All Persons from Enforced Disappearance, the Republic of Albania declares that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation of provisions of this Convention by Albanian State.

In accordance with Article 32 of the International Convention for the Protection of All Persons from Enforced Disappearance, the Republic of Albania declares that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation of provisions of this Convention by Albanian State.

**ARGENTINA**

In accordance with the provisions of article[s] 31, paragraph 1 ... of the International Convention for the Protection of All Persons from Enforced Disappearance, the Argentine Republic recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation of any of the provisions of the Convention ...

In accordance with the provisions of ... article[s] 32 of the International Convention for the Protection of All Persons from Enforced Disappearance, the Argentine Republic recognizes the competence of the Committee on Enforced Disappearances ... to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under this Convention.

**AUSTRIA**

Pursuant to Article 32 of the Convention, the Republic of Austria recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under the Convention.

Pursuant to Article 31 of the Convention, the Republic of Austria recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation of provisions of this Convention by Austria.

**BELGIUM**

*Article 32:*

The Kingdom of Belgium declares, in accordance with article 32 of the Convention, that it recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under the Convention.

*Article 31:*

The Kingdom of Belgium declares that in accordance with article 31 of the Convention, [Belgium] recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation of provisions of this Convention by the Kingdom of Belgium.

**BOSNIA AND HERZEGOVINA**

“Bosnia and Herzegovina hereby declares, in accordance with article 32 of the International Convention for the Protection of All Persons from Enforced Disappearance, adopted in New York, December 20, 2006, that it recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under the Convention.”

“Bosnia and Herzegovina hereby declares that in accordance with article 31 of the International Convention for the Protection of All Persons from Enforced Disappearance, adopted in New York, December 20, 2006, Bosnia and Herzegovina recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation of provisions of this Convention by Bosnia and Herzegovina.”

**CHILE**

The Republic of Chile hereby declares, in accordance with article 31 of this Convention, that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject
to its jurisdiction claiming to be victims of a violation by this State Party of provisions of this Convention.

The Republic of Chile hereby declares, in accordance with article 32 of this Convention, that it recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under this Convention.

**CZECH REPUBLIC**

... pursuant to Article 31 (1) of the International Convention for the Protection of All Persons from Enforced Disappearance, the Czech Republic declares that it recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation by the Czech Republic of provisions of this Convention.

... pursuant to Article 32 of the of the International Convention for the Protection of All Persons from Enforced Disappearance, the Czech Republic declares that it recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under this Convention.

**ECUADOR**

In accordance with the provisions of article 31 (1) of the International Convention for the Protection of All Persons from Enforced Disappearance, the Republic of Ecuador recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of violations of provisions of this Convention by this State Party.

In accordance with the provisions of article 32 of the Convention for the Protection of All Persons from Enforced Disappearance, the Republic of Ecuador recognizes the competence of the Committee to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under the Convention.

**FRANCE**

... in accordance with the provisions of paragraph 1 of article 31, [France] recognizes the competence of the Committee on enforced disappearance to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation of provisions of this Convention by France.

... in accordance with article 32, [France] recognizes the competence of the Committee on enforced disappearance to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under this Convention.

**GERMANY**

In accordance with Article 31 of the International Convention for the Protection of All Persons from Enforced Disappearance (CED) of 20 December 2006, the Federal Republic of Germany declares that it recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of individuals subject to the jurisdiction of the Federal Republic of Germany claiming to be victims of a violation of provisions of this Convention by the Federal Republic of Germany.

In accordance with Article 32 of the International Convention for the Protection of All Persons from Enforced Disappearance (CED) of 20 December 2006, the Federal Republic of Germany declares that it recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications in which a State Party claims that the Federal Republic of Germany is not fulfilling its obligations under this Convention.

**JAPAN**

“In accordance with Article 32 of the Convention, the Government of Japan declares that it recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under the Convention.”

**LITHUANIA**

*Article 31*

“... in accordance with Article 31 of the Convention, the Seimas of the Republic of Lithuania declares that the Republic of Lithuania recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of individuals subject to the jurisdiction of the Republic of Lithuania claiming to be victims of a violation by the Republic of Lithuania of provisions of this Convention.”

*Article 32*

“... in accordance with Article 32 of the Convention, the Seimas of the Republic of Lithuania declares that the Republic of Lithuania recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications in which a State Party to this Convention claims that the Republic of Lithuania is not fulfilling its obligations under this Convention.”

**MALI**

The Government of the Republic of Mali declares that it recognizes the competence of the Committee on Enforced Disappearances to receive communications from individuals or any other State Party in accordance with the provisions of articles 31 and 32 of the International Convention for the Protection of All Persons against Enforced Disappearance, adopted on December 20, 2006.

**MEXICO**

In accordance with the provisions of article 31 (1) of the International Convention for the Protection of All Persons from Enforced Disappearance, the United Mexican States declares that it recognizes the competence of the Committee on Enforced Disappearances to receive communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation of provisions of the Convention by the United Mexican States.

**MONTENEGRO**

“In accordance with Article 31 of the International Convention for the Protection of All Persons from Enforced Disappearance, adopted in New York, December 20, 2006, the Government of Montenegro declares that Montenegro recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation by Montenegro of provisions of this Convention.”

“In accordance with Article 32 of the International Convention for the Protection of All Persons from Enforced Disappearance, adopted in New York, 20 December 2006, the Government of Montenegro declares that Montenegro recognizes the competence of the Committee to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under this Convention.”

**NETHERLANDS**

“In accordance with Article 32 of the International Convention for the Protection of All Persons from Enforced Disappearance, the Kingdom of the...
In accordance with article 31 of the International Convention for the Protection of All Persons from Enforced Disappearance, the Kingdom of Spain declares that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction, claiming to be victims of violations by Spain of provisions of this Convention.

**Declarations under articles 32**

In accordance with article 32 of the International Convention for the Protection of All Persons from Enforced Disappearance, the Kingdom of Spain declares that it recognizes the competence of the Committee to receive and consider communications in which a State party claims that another State party is not fulfilling its obligations under this Convention.

**SRI LANKA**

“... the Government [of the Democratic Socialist Republic of Sri Lanka] wishes to declare as per Article 32 of the Convention that it recognizes the competence of the Committee to receive and consider communications in which a State party claims that another State party is not fulfilling its obligations under this Convention’.

**SWITZERLAND**

In accordance with article 31 of the Convention, Switzerland recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of individuals subject to its jurisdiction, claiming to be victims of a violation of provisions of this Convention by Switzerland.

In accordance with article 32 of the Convention, Switzerland recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications in which a State party claims that another State party is not fulfilling its obligations under the Convention.

**UKRAINE**

**Article 31**

“Regarding Article 31 of the Convention, Ukraine recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of violation of provisions of the Convention by Ukraine.”

**Article 32**

“Regarding Article 32 of the Convention, Ukraine recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications in which a State party claims that another State party is not fulfilling its obligations under the Convention.”

**URUGUAY**

In accordance with article 31, paragraph 1, of the International Convention for the Protection of All Persons from Enforced Disappearance, the Eastern Republic of Uruguay recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications submitted by or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation by that State of the provisions of that Convention.

... in accordance with article 32 of the International Convention for the Protection of All Persons from Enforced Disappearance, the Eastern Republic of Uruguay recognizes the competence of the Committee [on Enforced Disappearances] to receive and consider communications in which a State party claims that the Uruguayan State is not fulfilling its obligations under that Convention.

**Netherlands,** for the European part of the Netherlands and the Caribbean part of the Netherlands (the islands of Bonaire, Sint Eustatius and Saba), declares that it recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under this Convention.”

“In accordance with Article 31 of the International Convention for the Protection of all Persons from Enforced Disappearances, the Republic of Peru declares that it recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of individuals subject to its jurisdiction, claiming to be victims of a violation of the provisions of the Convention by the Republic of Peru.

**PORTUGAL**

“The Portuguese Republic declares that it recognizes the competence of the Committee on Enforced Disappearances in accordance and for the purposes of Article 31, paragraph 1 of the International Convention for the Protection of All Persons from Enforced Disappearance, adopted in New York, on the Twentieth of December of two thousand and six.”

“The Portuguese Republic declares that it recognizes the competence of the Committee on Enforced Disappearances[s] in accordance and for the purposes of Article 32 of the International Convention for the Protection of All Persons from Enforced Disappearance, adopted in New York, on the Twentieth of December of two thousand and six.”

**SERBIA**

“The Republic of Serbia recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation by the Republic of Serbia of provisions of this Convention.”

“The Republic of Serbia recognizes the competence of the Committee to receive and consider communications in which a State party claims that another State party is not fulfilling its obligations under this Convention.”

**SLOVAKIA**

“In accordance with Article 32 of the Convention, the Slovak Republic declares that it recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications in which a State Party claims that the Slovak Republic is not fulfilling its obligations under this Convention.”

“In accordance with Article 31 of the Convention, the Slovak Republic declares that it recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of individuals subject to the jurisdiction of the Slovak Republic claiming to be victims of a violation of provisions of this Convention by the Slovak Republic.”

**SPAIN**

**Declarations under articles 31**

In accordance with article 31 of the International Convention for the Protection of All Persons from Enforced Disappearance, the Kingdom of Spain declares that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction, claiming to be victims of violations by Spain of provisions of this Convention.
Notes:

1 For the European part of the Netherlands and the Caribbean part of the Netherlands (the Islands of Bonaire, Sint Eustatius and Saba).

Subsequently, on 21 December 2017, the Government of the Netherlands notified the Secretary-General that the Convention will apply to Aruba, with a declaration under articles 31 and 32. (See C.N.783.2017.TREATIES-IV.16 of 21 December 2017.)