

Contribution in relation to the List of priority themes in relation to the additional information submitted by Armenia under article 29 (4) of the Convention

This contribution is submitted on behalf of the Protection of Rights without Borders (PRWB) and International and Comparative Law Center.

PRWB is a human rights organization based in Armenia. Among other issues, PRWB monitors human rights situation in Armenia, including legal safeguards in criminal proceedings as well as focuses on the issues related to the rights of missing persons and victims of enforced disappearances.

International and Comparative Law Center (ICLaw) is a human rights organization that represents the families of the victims of enforced disappearances before the European Court of Human Rights and UN special procedures, including the Working Group on Enforced or Involuntary Disappearances. It is also a member of the Commission on the Prisoners of War, Hostages and Missing persons.

The present contribution aims to provide information on the issues identified as a priority by the Committee in relation to the additional information submitted by Armenia under article 29 (4) of the Convention. This contribution may be made public.

I. Definition of, and legal framework on, enforced disappearance

While the Law on the missing was adopted in March 2026, however, it does not effectively include the victims of the enforced disappearances, thus leaving it only in the criminal justice domain (see details in paragraph 1.6).

1.1 Criminalization of enforced disappearances

Article 451 of the Criminal Code criminalizes enforced disappearance. Overall, its definition is consistent with the definition of enforced disappearance contained in the International Convention for the Protection of All Persons from Enforced Disappearance (the Convention).

The offence is punishable by imprisonment for a term of three to seven years. Aggravated forms of the offence, including when committed against a pregnant woman, a child, or a person in a helpless situation, are punishable by five to ten years' imprisonment. Where the offence negligently results in the victim's death or other grave consequences, the punishment ranges from eight to fifteen years' imprisonment.

Under Armenian legislation, offences punishable by a maximum term of up to ten years' imprisonment are classified as grave crimes. Accordingly, both the basic offence of enforced disappearance and its qualified forms are classified as grave crimes, while the most aggravated form constitutes a particularly grave crime.

Enforced disappearance is also criminalized as a constituent act of crimes against humanity (Article 135) and war crimes (Article 137).

The definition of enforced disappearance as a crime against humanity differs slightly from the definition set out in Article 451. Specifically, the Criminal Code defines enforced disappearance as the arrest, detention, or abduction of a person by the State or a political organization, or with their authorization, support, or acquiescence, followed by a refusal to acknowledge the deprivation of liberty or to provide information on the person's fate or whereabouts, with the intention of depriving that person of the protection of the law for a prolonged period. The punishment for this offence is imprisonment for a term of twelve to twenty years or life imprisonment.

1.2 Legal safeguards against impunity

The Criminal Code contains additional safeguards aimed at preventing impunity for enforced disappearance. These include the criminalization of the **failure to report the preparation of an enforced disappearance** where a person has reliable knowledge of the intention to commit the crime, and it would have been possible to prevent it. This offence is punishable by up to one month's imprisonment (Article 473).

Article 7 of the Criminal Code also establishes an exception to the principle of *ne bis in idem* (prohibition of double jeopardy) with respect to enforced disappearance. Specifically, it permits the prosecution of an alleged perpetrator who has previously been exempted from criminal liability on illegitimate grounds, sentenced to an unduly lenient punishment, or wholly or partially released from serving a sentence in another State.

However, unlike certain other offences, such as torture, the Criminal Code does not prohibit the application of amnesty or the granting of a pardon to perpetrators of enforced disappearance, except where the offence constitutes a crime against humanity or a war crime (Articles 135 and 137 of the Criminal Code). In such cases, the application of amnesty and the granting of a pardon as well as the application of a statute of limitations are expressly prohibited. This is not the case in the case of a general crime of enforced disappearance, and a statute of limitation of 15 years apply, unless the crime is continuous.

1.3 The concept of “being in a helpless situation”

The Armenian Criminal Code defines a person as **being in a helpless situation** where, due to their physical or psychological condition, they are unable to resist, control their behaviour, or understand the nature of the conduct directed against them. The definition also includes children under the age of 12 (Art. 3).

With regard to the application of this aggravating circumstance, to the best of PRWB's knowledge, no criminal proceedings have been instituted under Article 451 of the Criminal Code. Consequently, although the concept of being in a helpless situation has been applied in prosecutions for other offences, as it constitutes a common aggravating circumstance applicable to a range of crimes, it has not been applied in any investigation of enforced disappearance during peacetime.

1.4 Statute of limitations

Enforced disappearance is a continuous crime. Under Article 83(3) of the Armenian Criminal Code, the statute of limitations for continuous offences, including enforced disappearance, begins to run on the day following the cessation of the offence. Consequently, as long as the fate and whereabouts of the disappeared person remain unknown, the statute of limitations does not begin to run.

This safeguard is even stronger in relation to enforced disappearance constituting a war crime or a crime against humanity, as no statute of limitations applies to such offences (Article 83(9)).

In this context, it is noteworthy that, to the best of PRWB's knowledge, no investigation has been initiated into cases of enforced disappearance committed during the First Karabakh War in the 1990s, despite the fact that Armenian law permits such investigations, given the continuous nature of the offence and the inapplicability of the statute of limitations to enforced disappearance as a war crime or crime against humanity.

With regard to procedural safeguards, depending on the fate of the disappeared person, either the disappeared person, if found alive, or, where the disappeared person has died, their family members are recognized as victims and granted the procedural rights afforded to victims under Armenian law.

1.5 Procedural status of a victim

Under the Criminal Procedure Code, a victim is defined as a natural or legal person, the State, a community, or an international organization where there are sufficient grounds to believe that they have suffered harm as a result of an alleged crime or would have suffered such harm had the crime been completed (Article 6(1)(26)).

In this regard, it is noteworthy that, at the initial stage of investigations into cases of persons who went missing or were subjected to enforced disappearance in the context of the 2020 hostilities, family members were not consistently granted victim status. This procedural status is essential, as it enables access to the case file and ensures that victims are informed about the progress of the investigation.

According to the information available to PRWB, this issue has since been resolved. In all relevant cases, one family member of each disappeared person has been granted procedural victim status. This status is conferred pursuant to the provisions governing cases involving a deceased victim or a person who would have been entitled to be recognized as a victim.

Article 51 of the Criminal Procedure Code regulates the recognition of another person as a victim where the victim has died or instead of the person entitled to be recognized as a victim. Under this provision, a next of kin may be recognized as a victim upon submitting a corresponding motion to the investigative body.

In such cases, only one relative may be granted procedural victim status. Preference is given to the relative whose recognition is supported, or at least not opposed, by the other close relatives.

If no motion is submitted, the investigator may, with that person's consent, recognize one of the family members as the victim for procedural purposes.

Once recognized as a victim, the person enjoys all procedural rights afforded to victims, with the exception of the right to withdraw the complaint or reconcile with the alleged perpetrator. The rights of victims are set out in Article 50 of the Criminal Procedure Code.

The application of this provision has made it possible to grant procedural victim status to the family members at an early stage of the investigation, without waiting until the fate of the disappeared person has been established.

This approach is generally consistent with the definition of a victim contained in Article 24 of the Convention, as it recognizes not only the direct victim—the disappeared person—but also any individual who has suffered harm as a direct result of the enforced disappearance, including family members. At the same time, the domestic legal framework presents a degree of legal uncertainty, as Article 51 explicitly refers to situations involving a deceased victim or a person who would have been entitled to be recognized as a victim, implying the death, rather than cases in which the fate or whereabouts of the disappeared person remain unknown.

With regard to the right to know the truth, the Criminal Procedure Code grants victims the right to access certain documents during the investigation and the complete case file once the investigation has been completed. In practice, however, the families of missing persons, including victims of enforced disappearance, have repeatedly expressed dissatisfaction with the lack of tangible progress in investigations and delays or failures in conducting forensic examinations of recovered human remains.

Family members have organized several public demonstrations in front of State institutions to demand that their right to know the truth be respected, including by restoring search operations in Azerbaijan aimed at establishing the fate and whereabouts of missing persons.¹

During one such protest in the autumn of 2025, a relative of a missing person was arrested and charged with hooliganism and obstruction of the lawful activities of public officials after attempting to block the entrance to the Ministry of Defence. According to publicly available information, the protest escalated after representatives of the Ministry declined to meet with the families to discuss their concerns. The demonstrators had gathered to demand that the Armenian military provide more information on the measures being taken to establish the fate and whereabouts of their missing relatives. During the protest, confrontations occurred between demonstrators and riot police as protesters attempted to block the main entrance to the Ministry's premises.²

1.6 Law on the Missing

Para. 8 of the List of priority themes in relation to the additional information submitted by Armenia under article 29 (4) of the Convention refers to the Law on the disappeared persons,

¹ <https://www.panorama.am/en/news/2026/04/23/missing-soldiers-protest/3157455>,
<https://news.am/en/video/906951>, <https://news.am/en/video/921088>

² <https://news.am/en/video/921088>

however, the title of the Law is The Law on the persons who went missing in circumstances and conditions created as a result of the hostilities (The Law on the Missing persons).

It was adopted on 4 March 2026, and entered into force on 1 May 2026.³

First, the Law applies only to persons who went missing during or in connection with an armed conflict. Other situations of disappearance are not covered by its provisions.

Moreover, analysis of the text and definitions suggests that it does not encompass victims of enforced disappearances, does not recognize them as a standalone category given the circumstances of disappearance and the role of state agents in deprivation of liberty and refusal to acknowledge the detention or reveal the person's fate. While some of the rights concerned are the same, due attention shall be given to peculiarities of enforced disappearances.

A positive development is that the Law was adopted following decades of advocacy. It introduces a definition of a missing person that is relatively inclusive with respect to combatants, regardless of their official status. However, unlike the broad range of categories of combatants covered by the Law, it does not explicitly include civilians who went missing during or in connection with an armed conflict. Lack of legal certainty may result in adverse interpretation of the law towards civilian victims. During the public consultations on the draft Law, PRWB drew the attention of the Ministry of Justice to this omission; however, the gap was not addressed in the final text.⁴

With regard to its remaining provisions, it is noteworthy that the Law largely codifies pre-existing rules governing social and related assistance to missing persons and their family members. As a result, it perpetuates the existing differential treatment of families depending on the period during which the person went missing. The Government decrees regulating social assistance have each been limited to specific periods of hostilities and have not applied uniform eligibility criteria, resulting in unequal treatment of different groups of victims and their families. Furthermore, all of these assistance programmes have been limited to combatants, excluding civilians who went missing in connection with an armed conflict.

The Law also defines the family members of a missing person. The definition is broad and includes a spouse, including a de facto spouse, children, including adopted children, parents, grandparents, grandchildren, brothers and sisters, including half-siblings, as well as guardians, trustees, and persons under guardianship or care (Article 1(1)(2)).

The Law further provides for the establishment of a unified registry of missing persons. The Registry is intended to centralize all relevant information and data necessary for the registration of missing persons, as well as for the processing, storage, protection, use, and dissemination of such data. It also serves to collect and consolidate information on the circumstances and causes of disappearances, including information obtained through efforts to establish the whereabouts of missing persons.

³ <https://www.arlis.am/hy/acts/223247/latest>

⁴ <https://www.e-draft.am/projects/8472/digest>,

<https://prwb.am/wp-content/uploads/2025/04/%D4%BF%D4%B1%D5%90%D4%BE%D4%BB%D5%94-%D5%86.pdf>

Article 3 guarantees the right of a missing person to an investigation into the circumstances of their disappearance and to efforts aimed at establishing their whereabouts. It also places an obligation on the Republic of Armenia to take all possible measures to conduct an adequate and effective search for missing persons. Furthermore, the Law provides that the rights and interests of a missing person shall remain protected until the search is terminated in accordance with the law or a court decision declaring the person deceased enters into force.

Article 4 codifies the right of family members to know the circumstances and causes of the disappearance, the whereabouts of the missing person, or, where the person has died, the circumstances of the death and the place of burial, where known, or to recover the person's remains.

In addition to the investigative authorities, the Law places an obligation to provide information on the progress and results of search efforts on the National Security Service, acting in its capacity as the authority responsible for maintaining the Registry, and as the Chairperson of the Commission on Missing Persons, Prisoners of War and Hostages.

The Law also refers to the Commission on Missing Persons, Prisoners of War and Hostages. It defines the Commission as a voluntary consultative body tasked with supporting efforts to search for and repatriate missing persons within the scope of its mandate, as well as maintaining regular communication with families, public authorities, and relevant organizations. The composition, membership, and rules of procedure of the Commission are determined by a decision of the Prime Minister. Regulating these key aspects through a decision of the Prime Minister, rather than by law, does not provide sufficient institutional stability. Moreover, the Commission's mandate, composition, and membership, including the participation of associations representing the families of missing persons, may be modified at any time.

The Law also requires the National Security Service to submit an annual report on the Registry to the Prime Minister. From the perspective of transparency and accountability, however, the National Security Service should also be required to report annually to the National Assembly and to publish regular public reports, while excluding information protected by law.

The provision governing access to information contained in the Registry, including by family members, is formulated in a manner that may unduly restrict access to information concerning the circumstances of a person's disappearance. Specifically, it provides that information may be disclosed to family members upon application, subject to the requirements of the legislation on the protection of personal data and on State or other legally protected secrets. While these restrictions pursue legitimate aims, their practical application raises concerns. In practice, the National Security Service frequently relies on State secrecy as a ground for refusing access to information, and the courts have generally been reluctant to conduct a rigorous assessment of whether the requested information is lawfully subject to confidentiality or whether the refusal to disclose it is necessary and proportionate.

The Law provides that the search for a missing person shall cease within three days of establishing their whereabouts, place of burial, or the location of their remains. The family must be notified accordingly (Article 15). However, this wording creates a risk that the search may be

terminated before the person's fate has been conclusively established. In particular, the identification of a burial site does not in itself confirm the identity of the deceased, and the remains should be identified through DNA analysis or other appropriate forensic methods before the search is discontinued.

At the same time, the Law contains an important safeguard by providing that a civil court's determination that a person is missing does not constitute grounds for terminating the search.

II. Registration and investigation of present and past enforced disappearances, and cooperation

While there are no investigations into enforced disappearance in peacetime, investigations relating to war crimes and crimes against humanity allegedly committed during the 2020 hostilities in and around Nagorno-Karabakh and the 2023 military offensive have included instances investigated as enforced disappearance under Articles 135 (crimes against humanity) and/or 137 (war crimes) of the Criminal Code. Neither Article 135 nor Article 137 provides for a differentiated approach based on the sex, age, or other status of the victim of enforced disappearance

According to official information provided, there are female victims whose fate and whereabouts remain unknown and whose cases fall within the definition of enforced disappearance.

The PRWB, together with partner organizations, documented a number of such cases through fact-finding missions conducted during and in the immediate aftermath of the 2020 hostilities⁵ and 2023 attack by Azerbaijan against Nagorno-Karabakh⁶.

ICLaw as well documented and investigated dozens of cases of enforced disappearances of Armenian servicemen in Azerbaijani custody.⁷

In 2026, Prime Minister Nikol Pashinyan publicly stated that Armenia would not pursue international criminal justice mechanisms or other legal measures in relation to war crimes allegedly committed by Azerbaijani servicemen against Armenians. These statements appeared to encompass all categories of crimes, including enforced disappearances and the possible extrajudicial execution of missing persons. As justification, the Prime Minister referred to ongoing peace negotiations, asserting that criminal investigations and efforts to secure accountability for victims, both domestically and internationally, could undermine the peace process.⁸

Such a position raises serious concerns regarding Armenia's compliance with its obligations under both domestic law and international law. In particular, Article 3 of the International

⁵ Human Rights Violations during the 44-Day War in Artsakh (Fact-finding Report), Yerevan, 2022, <https://prwb.am/en/2022/08/27/report/>

⁶ Why Are There No Armenians in Nagorno-Karabakh? Special Report, 2024, <https://freedomhouse.org/report/special-report/2024/why-are-there-no-armenians-nagorno-karabakh>

⁷ <https://iclaw.am/publications/11/details>

⁸ <https://civilnet.am/hy/news/1011476>

Convention for the Protection of All Persons from Enforced Disappearance requires each State Party to take appropriate measures to investigate acts defined in Article 2 when committed by persons or groups of persons acting without the authorization, support or acquiescence of the State, and to bring those responsible to justice. More broadly, any policy or practice of refraining from investigating alleged enforced disappearances or other serious international crimes on the basis of political considerations or peace negotiations would be incompatible with the State's obligation to conduct prompt, effective, impartial, and independent investigations and to ensure accountability for victims of serious human rights violations.

Moreover, in 2025, Armenian government first informed the public about agreeing to Azerbaijan's demand to reciprocally withdraw interstate cases related to the armed conflict⁹, and later the parties initialled a peace agreement whereby they commit to withdraw, dismiss, or otherwise settle any and all interstate claims, complaints, protests, objections, proceedings, and disputes related to the issues existed between the Parties before the signing of this Agreement in any legal forum within one month from the date of entry into force of this Agreement and shall not initiate such claims, complaints, protests, objections, proceedings, and shall not be involved in any manner into such claims, complaints, protests, objections, proceedings initiated against the other Party by any third-party.¹⁰

At the time this commitment was made, the majority of victims of alleged enforced disappearance were represented within the interstate application brought by Armenia against Azerbaijan before the European Court of Human Rights. The proposed withdrawal of these proceedings raises serious concerns regarding Armenia's compliance with its international human rights obligations, including its positive obligation to secure the rights of individuals within its jurisdiction, to ensure access to an effective remedy, and to uphold the right of victims and their families to know the truth regarding serious human rights violations.

In addition, the effectiveness of investigations has been adversely affected by deficiencies in the forensic identification of human remains. PRWB has documented cases in which families of missing persons were informed that recovered remains belonged to their relatives on the basis of DNA analysis, but it was subsequently established that the remains of two individuals had been commingled or that the DNA match had been incorrectly attributed.¹¹ Such incidents have significantly undermined confidence in the reliability of the identification process. As a consequence, some families have refused to accept the DNA identification results or the conclusion that their relatives are deceased, insisting that they remain missing until the identification process is demonstrably reliable and transparent.¹²

These shortcomings also contribute to discrepancies between the figures reported by the Armenian authorities and those published by the International Committee of the Red Cross (ICRC) regarding the number of missing persons.

⁹ Armenia has launched four interstate cases against Azerbaijan in relation to violations committed during the 44-day war in 2020 and what followed. <https://www.echr.coe.int/inter-state-applications>

¹⁰ <https://www.mfa.am/en/press-releases/2025/08/11/Initialed%20Arm-Az%20Peace%20Agreement%20text/13394>

¹¹ <https://www.youtube.com/watch?v=xM-o8FR1oNQ>

¹² <https://news.am/hy/video/694603>

III. Peace treaty and the right to know

Peace treaty between the Republic of Armenia and Azerbaijan that was initialled in August 2025¹³, contains a provision whereby the Parties undertake to address the cases of missing persons and enforced disappearances taken place in the armed conflict which involved both of the Parties, including through the exchange of all available information about these persons, directly or in cooperation with relevant international organizations, as appropriate. The Parties, hereby, acknowledge the importance of investigating the fate of those persons, including searching for and returning the remains as appropriate and ensuring that justice is served in relation to these persons through proper investigations, as a means of reconciliation and building confidence. Corresponding modalities, in this regard, shall be negotiated and agreed upon in detail in a separate agreement.

While the inclusion of this issue in the peace process is an important step towards ensuring the continued search for missing persons and efforts to establish their fate and whereabouts, no tangible progress has been made since the announcement of the agreement.

PRWB considers that, given the humanitarian nature and urgency of the issue of missing persons and victims of enforced disappearance, the Parties should take immediate and concrete measures to continue the search for missing persons and clarify their fate and whereabouts without awaiting the entry into force of the peace agreement. Ideally, such mechanism shall be facilitated by an independent neutral third party.

Moreover, applications concerning a number of missing persons have been submitted to the United Nations Working Group on Enforced or Involuntary Disappearances with the expectation that it could facilitate the provision by Azerbaijan of information concerning the fate and whereabouts of Armenians who were last seen alive in Azerbaijani custody. In several of these cases, there is credible evidence that the individuals were taken into Azerbaijani custody, including video footage recorded and disseminated by Azerbaijani servicemen themselves. Nevertheless, the Azerbaijani authorities have consistently failed to provide any meaningful information regarding their fate or whereabouts.¹⁴

¹³ <https://www.mfa.am/en/press-releases/2025/08/11/Initialed%20Arm-Az%20Peace%20Agreement%20text/13394>

¹⁴ See, for example, Annual Report of the Working Group on Enforced or Involuntary Disappearances, 2025, <https://docs.un.org/en/A/HRC/60/35>; Communications transmitted, cases examined, observations made and other activities conducted by the Working Group on Enforced or Involuntary Disappearances, Session report 138th session (26–30 January 2026), <https://docs.un.org/en/A/HRC/WGEID/138/1>; Communications transmitted, cases examined, observations made and other activities conducted by the Working Group on Enforced or Involuntary Disappearances, Session report, 137th session (15–24 September 2025), <https://docs.un.org/en/A/HRC/WGEID/137/1>, Allegation letter by the Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, 29 July 2024, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=29213> and the response of the Azerbaijani government <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=38681>

This is of particular concern not only because the continued absence of information prolongs the suffering of the disappeared persons' families and may itself amount to inhuman treatment, but also because Azerbaijan has reportedly undertaken unilateral exhumation activities without the participation or monitoring of credible and neutral international organizations. Publicly available footage of these exhumations raises concerns regarding compliance with international forensic standards, including the proper recovery, preservation, documentation, and identification of human remains, as well as the preservation of evidence for future accountability processes.

Furthermore, the persistent use of anti-Armenian hate speech, the continued promotion of Armenophobic narratives, and the absence of effective investigations into allegations of war crimes committed by Azerbaijani servicemen during and immediately after the hostilities have severely undermined the confidence of the families of the disappeared in the willingness of the Azerbaijani authorities to conduct these activities in good faith.

In these circumstances, it is essential that all search, recovery, exhumation, identification, and information-sharing activities be conducted with the meaningful participation and oversight of credible, independent, and neutral international organizations, in order to safeguard the rights and interests of victims and their families and to ensure compliance with international standards.

Recommendations:

- To amend the Law on the Missing to explicitly include civilians in the definition.
- To amend the Law on the Missing and include the situations of enforced disappearances explicitly.
- To ensure effective investigation into circumstances of disappearance during the armed conflict and provide the families with regular information.
- To launch investigations into cases of disappearance during the First Karabakh War in the 1990s and grant family members a procedural status of victim.
- To ensure that the forensic examination is of highest quality, and the families are provided verified and credible information.
- To engage international neutral third party in the initiatives to establish the fate and whereabouts of the victims of enforced disappearances.
- To take effective steps in launching mechanisms to expedite search and establishment of whereabouts of the victims of enforced disappearances and missing not waiting for the peace treaty to enter into force. It shall be facilitated by an independent neutral party.
- To publish annual updates by the Commission on the Missing, Prisoners of War and Hostages on the steps taken to establish the whereabouts and fate of the missing, including statistics.