

January 11, 2023

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Re: The Republic of Korea's speedy accession to the International Convention for the Protection of All Persons from Enforced Disappearance and effective implementation to fulfil its responsibility as a global pivotal state

Dear President Yoon Suk-yeol,

We welcome the National Assembly's assent to the Republic of Korea's accession to the International Convention for the Protection of All Persons from Enforced Disappearance on 8 December 2022. Now, we urge your government to speedily accede to the Convention, followed by declarations recognizing the competence of the Committee on Enforced Disappearances to receive and consider communications from individuals or other states parties under articles 31 and 32 of the Convention and measures to ensure effective domestic implementation of the Convention to fulfil the Republic of Korea's responsibility as a global pivotal state.

During the Republic of Korea's third cycle Universal Periodic Review (UPR) on 9 November 2017, eight countries made recommendations concerning the Convention's ratification/accession (132.1, 132.2, 132.3)¹ and the Republic of Korea expressed its support for them.² In its candidatures to the UN Human Rights Council for the terms 2020-2022³ and 2023-2025⁴, the Republic of Korea pledged to examine the possibility of becoming a state party to and to consider the ratification of the Convention. With only weeks to go before its fourth cycle UPR on January 26, 2023, the Republic of Korea is finally on the cusp of fulfilling these international commitments.

¹ Report of the Working Group on the Universal Periodic Review: Republic of Korea, A/HRC/37/11, 27 December 2017; <https://undocs.org/A/HRC/37/11>

² Report of the Working Group on the Universal Periodic Review: Republic of Korea: Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, A/HRC/37/11/Add.1, 28 February 2018; <https://undocs.org/A/HRC/37/11/Add.1>

³ Note verbale dated 8 February 2019 from the Permanent Mission of the Republic of Korea to the United Nations addressed to the President of the General Assembly, A/74/76, 26 February 2019; <https://undocs.org/A/74/76>

⁴ Note verbale dated 9 May 2022 from the Permanent Mission of the Republic of Korea to the United Nations addressed to the President of the General Assembly, A/77/78, 10 May 2022; <https://undocs.org/A/77/78>

We therefore urge the Republic of Korea's speedy completion of its formal accession to the Convention. In addition, it is also important for the Republic of Korea to ensure that the Committee on Enforced Disappearances, a committee of independent experts created by the Convention, effectively monitor implementation by recognizing the Committee to receive and consider communications from individual victims or other states parties claiming violations of the Convention. Hence, we call upon the Republic of Korea to make declarations under articles 31 and 32 of the Convention to allow the Committee's consideration of individual and inter-state communications.

We also note that the Republic of Korea has yet to enact domestic implementing legislation for the Convention. Previously, the Ministry of Justice convened the Enforced Disappearance Convention implementing legislation committee, composed of domestic and international criminal law and international human rights law experts and representatives of the Ministries of Justice, Foreign Affairs and National Defense, from November 2020 to September 2021.⁵ This committee, headed by Judge Kwon O-Gon, formerly the presiding judge in the trial of Radovan Karadžić at the International Criminal Tribunal for the former Yugoslavia, fulfilled its mandate to prepare a draft implementing law.⁶

The Ministry of Justice must not only act to realize the speedy enactment of domestic implementing legislation but also ensure the extradition, surrender or prosecution of the perpetrators of enforced disappearances found within the Republic of Korea's jurisdiction in accordance with article 11 of the Convention. Moreover, article 5 of the Convention provides that the widespread or systematic practice of enforced disappearance constitutes a crime against humanity as defined in applicable international law and shall attract the consequences provided for under such applicable international law.

We point out that there have thus far been no cases brought under the Act on Punishment, etc. of Crimes under Jurisdiction of the International Criminal Court enacted in 2007, the domestic implementing legislation for the Rome Statute of the International Criminal Court which the Republic of Korea ratified in 2002. In this context, we take note of the need for a specialized agency for the effective investigation and prosecution of international crimes following the examples such as the Central Unit for the Fight against War Crimes and further Offences pursuant to the Code of Crimes against International Law (ZBKV: *Zentralstelle für die Bekämpfung von Kriegsverbrechen*) in the Federal Criminal Police Office (BKA: *Bundeskriminalamt*) and the Unit for International Criminal Law (*Referat für Völkerstrafrecht*), also called Unit S4 (*Referat S4*), in the Office of the Federal Public Prosecutor General (GBA: *Generalbundesanwalt*) that were created in 2003 and 2009 respectively after Germany's enactment of the Code of Crimes against International Law (VStGB: *Völkerstrafgesetzbuch*) in 2002.

Also, the Ministry of Justice's North Korean Human Rights Archive which prepares the perpetrator cards from the questionnaires of North Korea's human rights violations administered to the North Korean escapees and transferred to it by the Ministry of Unification's North Korean Human Rights Records Center under the North Korean Human Rights Act needs to be returned from the Institute of Justice's Yongin branch to the Government Complex – Gwacheon and the public prosecutors reassigned to properly support the investigation and preparation of crimes against humanity including enforced disappearance.

Thank you.

Sincerely,

Signature organizations (as of January 10, 2023)

International and regional organizations

Asian Federation Against Involuntary Disappearances (AFAD), Philippines
Euro-Mediterranean Federation Against Enforced Disappearances (FEMED), France
International Coalition Against Enforced Disappearances (ICAED), Switzerland
Latin American Federations of Associations of Relatives of Disappeared-Detainees (FEDEFAM), Venezuela

⁵ Ministry of Justice and Ministry of Foreign Affairs, Press Release: UN Enforced Disappearance Convention Accession Bill Approved by State Council, 21 June 2022, <https://www.moj.go.kr/bbs/moj/182/560423/artclView.do>
https://www.mofa.go.kr/www/brd/m_4080/view.do?seq=372431

⁶ MOJ, Established Rule no. 1262: Operational guideline for the Ministry of Justice Enforced Disappearance Convention Implementing Legislation Committee, <http://www.moj.go.kr/bbs/moj/155/530973/artclView.do>

National organizations

Advocacy Forum / Nepal

Asociación Pro-Búsqueda de Niñas y Niños Desaparecidos de El Salvador / El Salvador

Association of Family Members of Disappeared (AFMD) / Sri Lanka

Bread for the World / Germany

Citizens' Alliance for North Korean Human Rights (NKHR) / South Korea

Commission for Disappeared and Victims of Violence (KontraS) / Indonesia

Defence of Human Rights (DHR) / Pakistan

Desaparecidos / Philippines

Disarmament and Non-Violence / Georgia

Forum Marocain pour la Vérité et la Justice (FMVJ) / Morocco

Free Jonas Burgos Movement / Philippines

Ikatan Keluarga Orang Hilang Indonesia (IKOHI) / Indonesia

Karapatan / Philippines

Liga Guatemalteca de Higiene Mental / Guatemala

Non-Violence International / Canada

Odhikar / Bangladesh

Philippines' Families of Victims of Involuntary Disappearance (FIND) / Philippines

Save North Korea / South Korea

Stepping Stone / UK

Transitional Justice Working Group (TJWG) / South Korea