

Call for inputs for a research by the Working Group on Enforced or Involuntary Disappearances on the use of universal criminal jurisdiction in cases of enforced disappearance

Deadline	3 February 2025
Issued by	Working Group on Enforced or Involuntary Disappearances
Purpose	Research on the use of universal criminal jurisdiction in cases of enforced disappearance

Questions

Feel free to answer only the questions that are relevant for you. Replies can be country or regional-specific or of a more general nature and can refer to the application of the principle of conditional/absolute universal jurisdiction, as well as the application of the principles of active and passive personality.

- 1) Can you kindly identify the legal provisions that would allow the application of universal criminal jurisdiction to cases of enforced disappearance in your country and, where applicable, the main existing challenges?
- 2) What are the pre-requisites to apply universal criminal jurisdiction in your country (e.g. presence of the alleged perpetrator on the territory) and, where applicable, the main existing challenges?
- 3) Does the applicable legal framework or the established jurisprudence in your country recognise immunity to Heads of State or Government, members of a Government or parliament, elected representatives or Government officials? Can you please provide the details of the verdicts where this issue was addressed (especially in cases where there was an attempt to apply universal criminal jurisdiction)?
- 4) Which are, in your country, the competent investigative/prosecutorial/judicial authorities for cases dealt with under the principle of universal criminal jurisdiction? In case there are special/dedicated units, can you kindly describe their mandate, composition and functioning?
- 5) Does your country recognise/apply the notion of contextual/structural investigation in cases dealt with under universal criminal jurisdiction? If so, how does it work in practice? If not, how would investigations be conducted in cases falling under universal criminal jurisdiction?
- 6) When investigations or trials of cases of enforced disappearance take place under the principle of universal criminal jurisdiction, is the participation of victims (including those living in a different country) and their representative organisations, as well as other civil society organisations, granted? If so, how and what are the main challenges? If not, what would be their respective rights and roles? Are specific measures envisaged to facilitate the translation of relevant documents or the simultaneous interpretation of oral statements or hearings, including through technologies appropriate to different users, with special attention to persons with disabilities? If no such measure has been adopted, what are the main challenges encountered?
- 7) When investigations or trials of cases of enforced disappearance take place under the principle of universal criminal jurisdiction, is any form of protection and psychosocial assistance granted to victims and their representative organisations and witnesses? If so, how? If not, what would each of them be entitled to?
- 8) What are the applicable evidentiary criteria applicable and effective to be applied in investigations and trial pursuant to universal criminal jurisdiction concerning cases of enforced disappearance?
- 9) What are the applicable and effective measures to ensure that a State willing to apply universal criminal jurisdiction in a case of enforced disappearance affords assistance to victims of an enforced disappearance allegedly perpetrated in another State?

- 10) What is the applicable and effective legal framework to ensure that a State willing to apply universal criminal jurisdiction counts on measures of mutual legal assistance with another State in connection with criminal investigations or proceedings brought in respect of enforced disappearance, including the supply of all evidence that may be relevant for the investigation or necessary for the proceedings? Can you share any good practices in terms of cooperation among States or illustrate the main existing challenges?
- 11) How many investigations and trials pursuant to universal criminal jurisdiction have taken place in cases of enforced disappearance in your country? Please provide details and elaborate on the obstacles encountered, the lessons learned and good practices identified, including in the implementation of judgments.
- 12) Feel free to add anything else you consider might be relevant for the study.