



**International Convention for  
the Protection of All Persons  
from Enforced Disappearance**

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**Committee on Enforced Disappearances**

**Additional information submitted by Mexico under  
article 29 (4) of the Convention\*, \*\*, \*\*\***

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  - \*\*\* The annexes to the present document are available on the Committee's website.



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## **I. Introduction**

1. Pursuant to article 29 (3) of the International Convention for the Protection of All Persons from Enforced Disappearance, the Government of Mexico hereby submits specific, up-to-date information relating to the recommendations issued by the Committee on 6 September 2019, in order to supplement the information that was provided directly to the delegation of the Committee that visited Mexico in November 2021.

2. The initial deadline for the submission of this information was 16 November 2021. However, in view of the Committee's visit to Mexico, a two-month extension was arranged.

3. In the sections that follow, Mexico complies with this international obligation by reporting on significant developments in the legal and institutional framework as regards the investigation of cases and the search for missing and disappeared persons and in the fight against offences related to enforced disappearance and disappearance perpetrated by individuals.

## **II. Implementation of the General Act on Enforced Disappearance**

4. The General Act on Enforced Disappearance of Persons, Disappearance Perpetrated by Individuals and the National Missing Persons System sets out 27 implementing measures that are to be taken by various authorities within the National Missing Persons System.

5. As at 17 December 2021, 11 of these measures have been implemented, 7 are in the process of being implemented and 9 are pending. As regards those that fall within the exclusive competence of the Prosecutor General's Office, seven are being implemented and there are four on which work has not yet begun.

### **A. Measures taken**

#### **1. Establishment of special prosecutors' offices**

6. As regards the establishment of an autonomous and independent prosecutor's office, the Prosecutor General's Office was granted constitutional autonomy through an amendment to article 102 (A) of the Constitution on 10 February 2014. This was confirmed by the Declaration of Constitutional Autonomy that was published on 20 December 2018, six days after the promulgation of the Organic Act on the Prosecutor General's Office, which provided for changes to the Office's institutional structure and investigative powers. This institutional transition led to the promulgation of the Act on the Prosecutor General's Office, the repeal of the Organic Act on the Prosecutor General's Office and the amendment of various laws, on 20 May 2021.

7. Decision A/013/18, establishing the Office of the Special Prosecutor for the Investigation of Offences of Enforced Disappearance and defining its responsibilities relating to the initiation, direction, coordination and oversight of investigations concerning the offences mentioned in the General Act, was issued on 16 February 2018.

#### **2. Guidelines on training and certification**

8. On 28 June 2018, guidelines on the training, assessment, certification and recertification of public servants working in the Office of the Attorney General of the Republic and local prosecutors' offices were published in the Official Gazette, pursuant to the General Act.

#### **3. Specialization programme**

9. A total of 120 public servants have been certified through the specialization programme on enforced disappearance, disappearance perpetrated by individuals and the national missing persons system (63 public servants were certified in 2018, 34 in 2019 and 23 in 2021). The participants completed 150 hours of theoretical and practical training and

were issued with certificates, in accordance with the guidelines on the training, assessment, certification and recertification of public servants working in the Office of the Attorney General of the Republic and local prosecutors' offices, issued by the National Conference of State Attorneys General.

10. Across the country, 505 public officials from the special prosecutors' offices of the federative entities have been certified, including investigative police officers, prosecutors, experts and personnel specializing in psychosocial care. According to the registers of certified officials provided to the National Conference of State Attorneys General, the breakdown by entity is as follows: Baja California Sur (17), Campeche (33), Chihuahua (29), Coahuila (88), Colima (31), Guanajuato (58), Michoacán (49), Morelos (31), Puebla (17), Querétaro (25), Tamaulipas (60), Tlaxcala (31) and Veracruz (36).<sup>1</sup>

#### **4. Standardized Protocol for the Investigation of Offences of Enforced Disappearance**

11. The Standardized Protocol for the Investigation of Offences of Enforced Disappearance of Persons and Disappearance Perpetrated by Individuals was published on 16 July 2018. As part of a verification and improvement process, the Prosecutor General's Office held three working meetings with special prosecutors and search commissioners from all over the country, experts and members of the National Citizens' Council of the National Missing Persons System, and relatives of disappeared persons. Based on the outcomes of these meetings, 12 improvements to the Standardized Protocol were agreed upon and were submitted to the National Conference of State Attorneys General for consideration in October 2018. As a result of this process, a second version of the Standardized Protocol was published on 7 December 2018. It is applicable to all prosecution services throughout the country. The Standardized Protocol describes and modifies the criminal investigation stage in accordance with the National Code of Criminal Procedure and the General Act. It is also designed to help prosecutors to conduct investigations into offences of enforced disappearance and disappearance perpetrated by individuals, on the basis of a specialized and differentiated approach. The Standardized Protocol is annexed to the present document.

#### **5. Technological guidelines for the development of the systems mentioned in the General Act**

12. On 13 August 2018, the members of the National Conference of State Attorneys General approved, by electronic vote, the technological guidelines for the National Forensic Databank and the National Register of Unidentified and Unclaimed Deceased Persons, which had been drawn up pursuant to the General Act and on the basis of the technical requirements specified by the National Search Commission.

#### **6. Establishment of the National Missing Persons System**

13. On 24 March 2019, the Ministry of the Interior presided at the launch of the work on the National Missing Persons System, which was attended by representatives of the Office of the President, as well as state governors and secretaries of state governments from throughout the country.

### **B. Measures being implemented**

#### **1. National Forensic Databank**

14. The Prosecutor General's Office is responsible for designing, building and managing an interoperable national computerized system, which is to be maintained in collaboration with the state prosecutors' offices, for the purpose of sharing information on investigations, criminal activities and markets, relevant characteristics of crimes, incidence, recidivism, relevant decisions and standards, penalties, reparation and success stories. This computerized system must also include all information relating to genetic profile records and analysis,

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<sup>1</sup> <http://www.cnpj.gob.mx/Paginas/Funcionarios.aspx>.

biological remains, fingerprints, ballistic fingerprints, voice analysis, biometric systems and vehicle systems and other crime-related data, for investigation purposes.

15. The Criminal Investigation Agency of the Prosecutor General's Office has signed an agreement with the Federal Bureau of Investigation of the United States of America concerning the installation of the Combined DNA Index System (CODIS) in state prosecutors' offices throughout the country, as part of the development of the National Genetic Database. A plan for the donation and nationwide installation of CODIS software has been drawn up. The plan sets out strategic measures for the operationalization of the National Genetic Database, which will be updated and used by staff in the genetics laboratories of the state prosecutors' offices.

16. The establishment of the National Forensic Databank within this framework will involve the development of registers that ensure the traceability of people's records. The process of incorporating the database for the traceability of persons is based on the relational principle of the personal information ecosystem and comprises six stages: (i) creating a traceability database; (ii) identifying data sets (registers and systems) that can be added to the database; (iii) standardizing the data sets; (iv) adding the data sets to the database; (v) automating and systematizing information flows; and (vi) applying information security and safeguarding methods.

17. As a result of the standardization, systematization and automation work carried out, there is currently an annual information flow of 11.8 million personal data units. Within the framework of the information ecosystem, it is proposed that the traceability database should process approximately 4 million units of data on detention, homicides, kidnappings and trafficking in persons annually, not taking into account the flow of forensic data.

18. There are also plans to develop a series of tools to assist with data management and analysis, such as databases and administrative registers. Most of these are designed to systematize and improve the exchange and verification of information among the various authorities involved in searching for missing and disappeared persons and in investigating related offences. Emphasis is placed on the requirement for these authorities to systematize and share information and to carry out analyses with scientific and methodological rigour. The purpose of the National Forensic Databank is to systematize this information in order to assist with forensic identification.

19. The main sources of data for the National Forensic Databank are expert reports, the findings of the integrated forensic identification report or "basic file", and the verification of hypotheses regarding the identity of the body based on objective and irrefutable scientific evidence. Although this process is usually carried out by the expert witness services, it is fragmented insofar as the various authorities involved, namely, the investigative police, experts in different fields and prosecutors, are governed by different regulatory instruments, depending on their powers and functions. As a result, even though the procedure as a whole is managed and led by the prosecution service, it is made up of a series of disjointed actions that are carried out at different times. This inevitably has an impact on the timeliness with which the information is available and on the quality and accuracy of the records.

20. The National Forensic Databank should be a technological tool that can ensure the traceability of the body of the deceased person from the moment when it is removed from the crime scene until it is handed over to the person's relatives. The Databank should therefore contain: (i) information about the crime scene and details of any items that were collected and the place where they are being kept; (ii) all relevant forensic information that may be used to formulate and confirm a hypothesis regarding the identity of the body; (iii) the information must be made available to the relevant specialists to enable them to prepare reports and carry out studies; (iv) details of where the body is being kept and its final destination; and (v) the documentation relating to the orders issued by the federal prosecutor.

21. The technological tools mentioned in the relevant Act are intended, on the one hand, to assist with searching for, locating and identifying disappeared persons and, on the other hand, to generate context analysis information and intelligence for the investigation of the offence. The information systems must therefore be designed as complementary tools that not only allow for the cross-checking of information between systems but also give a

comprehensive overview of the activities and information flows of the actors involved, thus providing a complete picture of the situation as regards disappearances in Mexico.

22. To this end, it is necessary to issue protocols setting out the procedures to be followed by substantive staff; define clearly the sources of information that will be used to update the register; identify the type of information that should be included in each of the registers; and organize this information using variables and modules, indicating which information may be exchanged with or added to other information systems and registers.

## **2. National Exhumation and Forensic Identification Programme**

23. In April 2019, the Prosecutor General's Office and the Ministry of the Interior carried out a joint assessment of the forensic and expert witness services, which is in the process of being reviewed and approved. The Prosecutor General's Office will submit a draft national programme to the members of the National Conference of State Attorneys General for consideration and adoption by consensus, in the hope of securing enough support to ensure the implementation of the programme. The programme will be published as soon as the conditions set forth in article 135 of the General Act have been met and it has been aligned with the regulations of the Prosecutor General's Office and the National Conference of State Attorneys General.

## **3. Guidelines on the Mechanism for Mexican Support Abroad**

24. The Mechanism for Mexican Support Abroad in Search and Investigation Activities is provided for in the General Act. Its purpose is to provide access to Mexican institutions through the Mexican diplomatic and consular network for the families of persons reported disappeared in Mexico (especially disappeared migrants) in cases where the families live abroad. It must be regulated by an inter-agency agreement, so a technical committee, made up of representatives of the Prosecutor General's Office, the Ministry of Foreign Affairs, the Ministry of the Interior and the National Search Commission, was set up in 2020 to work towards an agreement. In August 2021, the technical committee produced a draft agreement and submitted it to international bodies, civil society organizations, committees and community organizations of relatives of persons reported disappeared in Mexico and Central America, for feedback. In addition, a meeting with families and representatives of relevant organizations, during which the members of the technical committee explained the mechanism and listened to the participants, was held on 2 September 2021, with representatives of international bodies attending as observers. The draft agreement was revised and improved based on the feedback provided. The revised version is being discussed by the technical committee, which will also seek the views of the members of the National Conference of State Attorneys General.

## **4. Forensic Processing and Identification Protocol**

25. A protocol on supporting victims during the return of bodies has been drawn up by the Office of the Deputy Director General for Psychosocial Support, which is part of the Office of the Special Prosecutor for Human Rights within the Prosecutor General's Office. During a meeting with the National Citizens' Council of the National Missing Persons System, it was agreed that the draft protocol should be reviewed. The National Citizens' Council pointed out the need for this instrument in its Recommendation No. 01/2018. The Prosecutor General's Office is working on the development of an integrated multidisciplinary report, with reference to the index proposed in official letter No. 1807/04 of 26 July 2018.

## **5. National Register of Unidentified and Unclaimed Deceased Persons and Federal Forensic Register**

26. The Criminal Investigation Agency is working on the "national database of persons" component of the Information and Strategic Analysis System that is being developed under Strategy I03. The workplan for the development of this system between 2021 and 2024 covers the Ante-Mortem/Post-Mortem Database, the National Genetic Database, the National Register of Unidentified and Unclaimed Deceased Persons and the National Register of Graves.

27. The Ante-Mortem/Post-Mortem Database is a software tool for managing information on disappeared persons, the circumstances of cases of disappearance, the recovery of bodies and the features of sites where bodies are discovered. This software was developed by the International Committee of the Red Cross and donated to the Office of the Attorney General of the Republic. The aim was to merge the Information Management System and the Ante-Mortem/Post-Mortem Database into a single national database. The process of developing and implementing a new and more efficient, online version of the Ante-Mortem/Post-Mortem Database, called the Resolve Platform, was recently launched.

#### **6. Regulations implementing the General Act on Enforced Disappearance**

28. The regulations implementing the General Act must be formulated and approved by all members of the National Missing Persons System, since, according to the plan adopted on 9 November 2021, they are to be developed collectively, with the participation of families, civil society organizations and authorities.

#### **7. Regulations governing the National Search Commission**

29. The draft regulations on the National Search Commission are being reviewed and approved by the Ministry of the Interior. These regulations, which are in line with the Standardized Protocol for the Search for Missing and Disappeared Persons, will ensure that the structure and powers of the institution correspond to its needs.

### **C. Pending measures**

30. The following measures remain pending: (i) the issuance of model governing instruments relating to the functioning of and coordination with the special prosecutors' offices; (ii) the issuance of guidelines on the preservation of bodies and remains of persons, a draft of which was presented at the plenary session of the National Conference of State Attorneys General in June 2018 and is pending approval (it is necessary to amend the provisions of the General Health Act regarding the treatment of bodies, to draw up specific regulations on the treatment of bodies in the context of criminal investigations and to develop technical standards and official government standards in the area of forensics to supplement those regulations); (iii) the issuance of guidelines or a protocol for the real-time updating of the National Register of Unidentified and Unclaimed Deceased Persons; and (iv) the issuance of guidelines on the National Register of Graves.

## **III. Definition and classification of the offence of enforced disappearance**

### **A. General Act on Enforced Disappearance of Persons, Disappearance Perpetrated by Individuals and the National Missing Persons System**

31. The offence of enforced disappearance is defined in the General Act as follows:

Article 13. The offences of enforced disappearance of persons and disappearance perpetrated by individuals are to be prosecuted *ex officio* and are to be considered ongoing or continuous in nature, as long as the fate and whereabouts of the disappeared person have not been determined or his or her remains have not been located and fully identified.

Article 14. The prosecution of the offences of enforced disappearance of persons and disappearance perpetrated by individuals and the execution of criminal sentences for these offences are not subject to a statute of limitations. Moreover, in cases involving these offences, the principle of prosecutorial discretion does not apply and alternatives to trial and other similar measures are not available.

Article 19. The offences established in this Act shall be investigated, prosecuted and punished in accordance with the rules on responsibility, participation and multiple

offences set out in the applicable criminal legislation and the rules on consolidation of proceedings set out in the National Code of Criminal Procedure.

Article 27. The offence of enforced disappearance of persons is considered to be any form of deprivation of liberty by a public official or an individual acting with the authorization, support or acquiescence of a public official, followed by a failure or refusal to acknowledge the deprivation of liberty or to provide information about the person concerned or his or her fate or whereabouts.

Article 28. A public official or an individual acting with the authorization, support or acquiescence of a public official who conceals or refuses to provide information on the deprivation of a person's liberty or the whereabouts of a detained person or conceals a detained person in any way shall be liable to the penalty set out in article 30.

Article 29. Superiors shall be regarded as perpetrators of the offence of enforced disappearance of persons in accordance with the applicable criminal legislation.

32. When it comes to the investigation of such offences, it is important to establish that the fact that a person is absent does not necessarily mean that he or she has been the victim of a crime. In the General Act, a distinction is therefore drawn between missing persons and disappeared persons. The fact that a person is considered missing does not mean that the State does not have an obligation to act with enhanced due diligence but rather that the efforts of the State apparatus should be focused on finding the person as quickly as possible, using all the available resources.

33. The General Act defines a disappeared person as someone "whose whereabouts are unknown and whose absence may be presumed, on the basis of any indication, to be related to the commission of an offence". Since offences of enforced disappearance are considered ongoing and continuous from the moment of the disappearance until the victim is located, for the purposes of the criminal investigation, it is assumed that the disappeared person is alive (principle of the presumption of life) and has been deprived of liberty and therefore has no control over his or her own fate or whereabouts, that is to say, that the disappeared person is at the mercy of the perpetrator, who wishes to keep him or her hidden by any means necessary. The victim therefore faces a real and immediate risk to his or her physical integrity and personal safety. The pertinence and relevance of the investigative and search measures and the rigour, immediacy and due diligence with which they are decided upon and carried out will determine whether the relevant authorities are able to obtain in a timely manner the information that they need in order to locate the victim and establish responsibility for the offences committed.

34. These elements are of no small importance, since the prosecuting authorities cannot take action in exercise of their powers unless there is a presumption that an apparent offence has been committed. The General Act contains two provisions that clearly define the role of the search commissions as bodies that assist the Public Prosecution Service, while the special prosecutors' offices "shall coordinate and continually advance the search for disappeared persons" (General Act, art. 68). The search commissions also have an obligation to "immediately notify the competent special prosecutor's office of any relevant information and facts that may be useful for the investigation of the offences covered by this and other Acts" (General Act, art. 53 (XX)) and to "cooperate with the prosecution services in the investigation and prosecution of other offences".

35. The search commissions are fully empowered to carry out such work. The "search groups" are set up by the commissions themselves and may be assisted by special police forces (General Act, art. 65), that is to say, authorities with full first responder capabilities. It should be noted that article 66 (II) of the General Act empowers these search groups to request, in coordination with the Public Prosecution Service, that investigative measures be taken.

36. The sole purpose of the distinction between missing persons and disappeared persons in the General Act is to lay the foundation for coordination between the various authorities involved, by defining different strategies for searching for and locating individuals and

investigating offences. These strategies make it possible to maximize the available resources and to channel the State's resources towards swiftly locating the person.

37. When it comes to determining whether an investigation falls under local or federal jurisdiction, the State is organized as a federal republic comprising 32 autonomous federative entities with the power to establish their own regulatory frameworks. For the investigation of offences, each entity has an Attorney General's Office or a Prosecutor General's Office that is responsible for investigating offences committed within its territorial jurisdiction and for applying the regulations pertaining to its area of competence in accordance with the National Code of Criminal Procedure, under an accusatorial system, and its own Code of Criminal Procedure, under a mixed inquisitorial system.

38. As regards the Office of the Prosecutor General of the Republic, article 102 (A) states that "the Federal Prosecution Service is responsible for the prosecution, before the courts, of all federal offences". It is also responsible for the prosecution of offences within its jurisdiction before the federal courts, under article 5 of the Act on the Prosecutor General's Office and article 50 of the Organic Act on the Federal Judicial Branch. As regards cases of disappearance, article 40 (XV) of the Act on the Prosecutor General's Office states that the Federal Prosecution Service has the power to "issue without delay the order to search for and locate disappeared persons when it receives a report of the probable commission of an offence related to these facts". All federal prosecutors have the power and the obligation to do this.

## **B. Position of the Supreme Court**

39. When adjudicating on direct *amparo* appeal No. 3165/2016, the First Chamber of the Supreme Court analysed the constitutionality of the definition of the offence of enforced disappearance (which was set out in article 215-A of the Federal Criminal Code and repealed by a decree of 17 November 2017, which was published in the Official Gazette), according to which a person may be considered to have committed the offence of enforced disappearance even if he or she did not participate in the detention of the victim. The Supreme Court ruled that the provision does not violate the principle of legal certainty, since it is worded clearly enough for the persons subject to the law to be able to distinguish between punishable and non-punishable conduct and thus to be able to anticipate the consequences of their actions. Furthermore, the definition does not allow the authority to act arbitrarily and thus guarantees equal treatment before the law.

40. In the case in question, the Supreme Court also ruled that the contested definition is compatible with the relevant international treaties, since none of those treaties state that, in order to be found guilty of the offence of enforced disappearance, it is necessary to have participated in the detention of the victim.

41. This position is consistent with the recommendation that Mexico should ensure that its national legislation provides for the assignment of criminal responsibility to superiors who are linked to the commission of an offence of enforced disappearance, in accordance with article 6 of the Convention.

## **IV. Criminal responsibility and judicial cooperation in cases of enforced disappearance**

### **A. Exclusion from military jurisdiction of cases of enforced disappearance**

42. The Supreme Court has established clear limits on military jurisdiction. When adjudicating on *amparo* appeal No. 14/2018, the Supreme Court held that military courts are competent only to try offences and infractions that, by their very nature, directly breach military discipline, when such acts are committed by active military personnel, are carried out on active duty and do not involve civilians or human rights violations. The Court clarified that, although not all irregular conduct by military personnel undermines military discipline, the breach of military discipline is a precondition for all military offences. This is because, in order for such conduct to constitute a military offence, there must be a direct, objectively

assessed connection between the conduct and military discipline, which is the organizational principle of the armed forces.

## **B. Operationalization of the National Missing Persons System**

43. The aim of the National Missing Persons System is to develop and evaluate the resources of the Government of Mexico in order to establish frameworks, public policies and procedures to be followed by the authorities of all branches of Government for searching, locating and identifying persons and for preventing, investigating and punishing the offences established in the General Act. It is a collegiate body made up of 38 heads of federal or state institutions and agencies, a representative of the National Conference of State Attorneys General and 3 members of the National Citizens' Council.

44. Between 2019 and 2021, the National Missing Persons System held five ordinary sessions and three extraordinary sessions and adopted various agreements, which have contributed to building a comprehensive policy on the matter. The topics addressed include: (i) the establishment of the Special Forensic Identification Mechanism; (ii) the issuance of the Standardized Protocol for the Search for Missing and Disappeared Persons and the Additional Protocol for the Search for Children and Adolescents; (iii) calls and requests for broad participation in the discussion of amendments to the Organic Act on the Prosecutor General's Office; (iv) the establishment of the Bureau for the Search for Missing Migrants; and (v) standards for the training, specialization, certification and recertification of the personnel of the National Search Commission.

## **C. Register of Disappeared and Missing Persons and coordination tools**

### **1. Background, development and implementation**

45. An essential aspect of all search operations, which the State is bound to carry out, is the gathering of information on persons who have been disappeared, persons who have been located, whether dead or alive, and related background information, not only for the purposes of adopting search and investigation measures, but also for the purposes of developing relevant public policies. By law, the National Search Commission is responsible for managing and coordinating the National Register of Missing and Disappeared Persons, which is a fundamental tool in this area.

46. Since 2019, the Government of Mexico has been formulating, designing, developing and implementing a technological strategy to incorporate information into the National Register of Missing and Disappeared Persons and thus allow for coordination between federal and state authorities and ensure the availability and consistency of data on disappeared and missing persons. To this end, a single registration, web service and mass upload system was developed and made available to the above-mentioned authorities, in addition to three technological tools allowing them to record their data in the Register and through which, as at 31 December 2021, a total of 136,897 reports of disappeared or missing persons had been registered and 110,473 case files had been updated.

47. Another newly developed tool allows the public and other authorities to report or inform the National Search Commission of disappeared or missing persons without having to file a report with the prosecution service. Information may even be provided anonymously, given that many people do not report disappearances out of fear or distrust of the authorities. This public reporting service is available 24 hours a day, seven days a week, at the following weblink: <https://cnbreportadesaparecidos.segob.gob.mx/>. As at 12 November 2021, a total of 5,222 reports had been received through the service, of which 4,226, or 80 per cent, had been filed by individual members of the public, while the remaining 996 had been filed by other authorities.

48. The first iteration of the public-facing version of the Register was made available at <https://versionpublicarnpdno.segob.gob.mx/Dashboard/Index>. It provides general information on disappearances in the country, including the number of disappeared and missing persons, the number of persons who have been located, the year and place (state and

municipality) of disappearance and the sex and age of the disappeared persons. The Register is updated on a daily basis, mainly by prosecutors' offices (82 per cent of cases), but also by search commissions (14.7 per cent), other authorities (2.7 per cent) and other persons (0.6 per cent).

49. The guidelines on the Register are currently being revised and a section on access profiles is being added to cover, *inter alia*, open data (not only statistical data), in accordance with the findings and opinions of the National Institute for Transparency, Access to Information and Personal Data Protection.

50. In addition, two technological tools related to the Register and provided for in the General Act are under development – a public consultation tool and a mailbox. The first will allow the general public to gain online access to data related to the disappeared and missing persons in the Register, in accordance with the provisions of the General Act on the Protection of Personal Data Held by Public Sector Bodies, the General Act and the guidelines on the Register. The mailbox will allow the general public to submit information.

51. Lastly, the National Search Commission has developed technological tools to facilitate the internal and/or inter-agency use of information contained in the Register, including an analysis tool, a single, customized log of search measures (for local search commissions and prosecutors' offices), a tool for cross-referencing different sources of information with the Register and a tool for calculating the Register's information capture percentages.

## **2. Unified information technology system**

52. The National Missing Persons System is required to develop and implement a unified information technology system that allows for access to and the processing and use of all information that may be relevant to searching for, locating and identifying disappeared and missing persons and investigating and prosecuting the offences established in the General Act. Accordingly, the Standardized Protocol for the Search for Missing and Disappeared Persons provides for the establishment of a unified information technology system committee tasked with developing guidelines on coordination between public and private authorities and institutions, at the national and international levels, with a view to developing and implementing a unified system.

53. The National Search Commission submitted to the National Missing Persons System a preliminary draft of the rules of procedure of the unified information technology system committee and a proposal for the establishment of thematic working groups, drafted on the basis of the observations and comments made by 13 state prosecutors' offices and a local search commission. The rules were adopted on 9 November 2021.

## **3. Cross-referencing of the information held by the National Search Commission and the National Population Registry**

54. For the purposes of cross-checking the information contained in the National Register of Missing and Disappeared Persons against the database of the National Population Registry, in 2019, the National Search Commission adopted an agreement establishing a monitoring and evaluation committee, which enables cross-checking through the web service used to consult the National Population Registry's Single Population Register Key. Using the given name, date of birth, gender and state of birth of a person who has been reported disappeared or missing, it is possible to obtain his or her Single Population Register Key and to verify his or her identity.

55. In 2020, the information contained in the National Register of Missing and Disappeared Persons was cross-checked against the national civil status database managed by the National Population Registry, resulting in 537 possible matches related to data extracted from death certificates, which were provided to local search commissions so that they could confirm, as necessary, the identity of the persons concerned, in coordination with the prosecution authorities.

#### **4. Inter-agency coordination**

56. In 2020, the National Search Commission increased cooperation with more than 20 federal agencies, with which it held working meetings to establish inter-agency coordination procedures for sharing information that may be relevant to searching for, locating and/or identifying disappeared and missing persons – a necessary first step that lays the foundation for future information-sharing agreements.

### **D. Strengthening the National Search Commission**

57. In March 2019, when the National Missing Persons System was established, the National Search Commission had only a small staff, there were only eight local search commissions, the subsidiary legislation and regulations provided for in the General Act had not been adopted and none of the computer systems or databases currently in use had been set up.

58. Now, all local search commissions have been formed and have been awarded federal subsidies totalling more than 1.2 billion pesos, which is the equivalent of almost 60.5 million dollars (US\$ 60,462,951.29). Moreover, the staff of the National Search Commission has doubled in size and the institution now employs 89 people (of whom 52 per cent are women and 48 per cent are men).

### **E. National Search and Location Programme**

59. The National Search and Location Programme guides the development of national policy on searching for and locating disappeared persons by designing strategies, operating models and structured operational tools, with a view to generating the synergy and unity required to achieve measurable objectives and results. Its purpose is to coordinate and operationalize the measures taken by the Government, families and civil society.

60. In 2019, in accordance with the Planning Act and budgetary provisions, and in collaboration with the families of disappeared persons, the National Search Commission developed the first part of the National Search and Location Programme 2020–2024.

61. The development process for the Programme is divided into nine phases, which will be implemented by working groups in collaboration with families and civil society organizations, the companions of disappeared persons and experts. Currently, as part of the first phase, information is being gathered from key actors for the purposes of the assessment provided for under the General Act. A self-assessment tool will be sent to the local search commissions and a set of indicators is being prepared. This information was submitted to the National Missing Persons System on 9 November 2021.

#### **1. Regional search programmes**

62. The General Act provides for the implementation of special search programmes and strategies in certain contexts. Building on its previous efforts, the National Search Commission has promoted the development of a regional search programme for the north-east of the country and is currently planning a regional programme for the north-west.

63. The aim of the North-East Regional Search Plan is to guide the joint activities of the various agencies involved in the search process in order to facilitate effective and coordinated strategies for searching for and locating disappeared or missing persons in the north-east region, which comprises the states of Coahuila, Durango, Nuevo León and Tamaulipas. In 2019, a preliminary draft was prepared by means of a participatory process involving the authorities, family members and civil society organizations. In 2020, work was undertaken on the Standardized Protocol for the Search for Missing and Disappeared Persons and the Additional Protocol for the Search for Children and Adolescents, the application of which entails updating the aforementioned plan. This update will be presented to family members and the authorities.

64. Based on the experience gained from the development of the North-East Regional Search Plan, work is under way on a north-west regional plan, which will cover the states of Baja California, Baja California Sur, Sonora and Sinaloa. The development process is divided into various phases, namely, planning, document review, consultation with family members and local authorities, development and presentation.

## **F. Recovery, identification, reporting and return of the remains of deceased persons**

### **1. National Exhumation and Forensic Identification Programme**

65. The General Act requires the Government of Mexico to carry out a national exhumation and forensic identification programme. According to an assessment conducted by the Prosecutor General's Office, the death certificates of at least 47,678 deceased persons whose bodies were discovered between 2006 and 2020 do not specify whether an autopsy was carried out, and there are at least 14,523 in the country.

66. A useful indicator for understanding the issues affecting the processing and identification of human remains is the number of autopsies performed on homicide victims. This indicator is a measure of the capacity of the forensic and expert witness services, since their intervention is a precondition for the issuance of a declaration of death and the corresponding death certificate.

67. Given that a complete autopsy takes on average three to four hours to perform, and that the material and human resources available to the forensic and expert witness services are limited, the increase in the number of homicides has had an impact on the number of bodies that can be processed in a working day, resulting in a backlog in the bodies processed per day. This situation was further complicated in 2020, as the spread of the coronavirus disease (COVID-19) resulted in these services having to deal with a greater number of bodies.

68. Moreover, in 2020, Mexico had a total of 3,628 experts available to perform body recovery and identification procedures, most of whom (64 per cent) are trained in criminalistics and forensic medicine. The areas with the fewest specialists are forensic genetics, odontology, anthropology and forensic archaeology.

69. In view of the above, the National Exhumation and Forensic Identification Programme was developed to facilitate the identification of exhumed human remains by means of planned, programmed and successive exhumations carried out in a controlled environment, the recovery and analysis of evidence to establish a hypothesis regarding identity and, where possible, the dignified handover of the remains to the next of kin. Achieving this goal requires the training of experts to perform these tasks; the establishment of special funds and budgets for the processing of burial sites, the recovery of bodies, their identification and their return to the victims' families; the development of infrastructure for the processing of bodies and the conduct of autopsies; the gathering of samples; the reburial or safekeeping of bodies, where appropriate; and the development of computer systems to assist in the identification process.

70. There was therefore a need for clear budgetary and operational guidelines regarding human resources (forensic specialists, archaeologists, physical anthropologists, forensic doctors), materials (for conducting the multidisciplinary analyses required for the processing and identification of deceased persons) and infrastructure (such as laboratories and temporary storage areas for corpses and skeletal remains). These guidelines would complement the efforts of the National Conference of State Attorneys General to strengthen existing forensic and expert witness services and are fundamental to the overall implementation of the Programme.

71. In keeping with its responsibility under the General Act to return the remains of unidentified deceased persons, the Prosecutor General's Office is spearheading the development of a national plan, which will be presented to the members of the National Conference of State Attorneys General. Pursuant to article 135 of the General Act, the families or companions of deceased persons, civil society and subject-matter experts must be

invited to participate in the development of the plan. The progress made in this regard from September to December 2021 is summarized in the table below:

<i>Information gathering and development of the National Exhumation and Forensic Identification Programme</i>	<i>Feedback from the prosecutors' offices</i>	<i>Amendments and submission to the National Conference of State Attorneys General</i>	
September	October	November	December
Conceptualization, design and development of the methodology of the Programme:	Review of additional shared information	Presentation of the draft national programme to the regional conferences for feedback	Editing and final revision of the draft
Identification and compilation of necessary information and fulfilment of other technical requirements	Update of stakeholder and issue analysis	Editing of the draft based on the feedback received	Presentation of the National Programme to the National Conference of State Attorneys General for adoption
<b>Review and analysis of the issue using available information</b>	Analysis of objectives		
	Presentation of the draft national programme to the technical working group of the Prosecutor General's Office for feedback		
	Editing of the preliminary draft based on the feedback received		
	<b>Preparation of the draft national programme</b>		

## 2. Federal subsidies to strengthen forensic capacities

72. Between 2019 and 2021, the National Search Commission awarded a total of 1,247 million pesos (US\$ 60,462,951.29) in subsidies to the local search commissions. Of that total, 656 million pesos (US\$ 31,807,294.34) are earmarked for strengthening forensic capacities and include funds intended for three identification centres located in Coahuila (fully equipped), San Luis Potosí (in the process of acquiring equipment) and Tamaulipas (under construction); five body storage centres located in Tamaulipas, Michoacán, Jalisco and Veracruz; two mobile forensic laboratories in Sonora; and the provision of forensic identification equipment in 15 other states.

73. The Regional Centre for Human Identification, located in Saltillo, Coahuila, is a State-run project and a joint effort – in terms of both material and human resources – between the Federal Government and state governments, the national and state search commissions and state-level prosecutor's offices, with input from and the support of victims' families. The Centre handles requests from families of disappeared persons and is the only one of its kind in Latin America. It specializes in the identification of persons whose remains have been found in mass graves, receiving technical assistance from the Guatemalan Forensic Anthropology Foundation.

74. The Regional Centre for Human Identification has a genetic databank that allows for the large-scale cross-referencing of information on discovered remains and the families of disappeared persons, not only in Coahuila, but also in neighbouring states, regardless of whether a corresponding disappearance report has been filed. The necessary follow-up action is taken, and families are duly informed. In Coahuila, local capacities are being built using this new forensic analysis method and the dignified treatment of the bodies discovered and the families of the deceased is ensured.

75. The Regional Centre for Human Identification has a temporary body storage area, a vertical forensic cemetery with 720 individual niches and two refrigeration chambers with the capacity to hold 200 bodies.

76. Thanks to a joint state and federal investment of more than 250 million pesos, the Centre is able to provide forensic services in the areas of archaeology, anthropology, forensic medicine, radiology, forensic genetics and victim documentation. It has received international support in the form of a \$536,000 grant to fund the exhumation of mass graves and the processing of bodily remains to obtain genetic profiles. It currently has a staff of 34 forensic specialists and administrative personnel.

77. Between March and November 2021, mass graves located in five municipal cemeteries (two in Torreón and three in Matamoros, Saltillo and Ramos Arizpe, in the state of Coahuila) were exhumed and at least 730 bodies were recovered.

78. By 8 November 2021, 300 bodies recovered from the first cemeteries where exhumations had taken place (the two cemeteries in Torreón) had undergone post mortem analysis comprising radiological, anthropological, odontological and forensic tests, and more than 900 bone samples had been taken in order to obtain genetic profiles, which are currently being processed. Post mortem analysis of the bodies recovered following the fourth and fifth exhumations is under way.

79. Between March and November 2021, the Regional Centre for Human Identification took 1,250 reference samples from the families of disappeared persons in Coahuila, Nuevo León and Durango, and processed information regarding disappeared persons and their families. As at 8 November 2021, the Centre had achieved its first 7 positive identity matches and 10 potential matches were under review.

80. Based on the experience of operating the Regional Centre for Human Identification in Coahuila, a joint initiative to build a human identification centre in Jalisco has been launched by the government of Jalisco and the Federal Government, represented by the National Search Commission, for the purpose of identifying bodily remains recovered from mass graves.

### **3. Special Forensic Identification Mechanism**

81. In May 2019, at a public hearing before the Inter-American Commission on Human Rights, relatives of victims and representatives of civil society organizations requested the Government of Mexico to establish a special forensic identification mechanism. At the hearing, the Government of Mexico presented the first results of a forensic analysis and made a commitment to establishing the requested mechanism.

82. Following the hearing, several meetings and discussions were held between the families of disappeared persons, representatives of civil society organizations and federal and state authorities, with the support of international organizations, resulting in the approval by the National Missing Persons System on 5 December 2019 of an agreement establishing the Special Forensic Identification Mechanism.

83. Pursuant to this agreement, the Special Forensic Identification Mechanism follow-up committee was established. This committee held more than 40 face-to-face and virtual meetings, at which it agreed on, inter alia, the profiles of the experts to be appointed to the Mechanism's coordinating group and the relevant selection and recruitment procedures, with the support of the United Nations Population Fund and the Office of the United Nations High Commissioner for Human Rights and federal funding. In the first half of 2021, the selection process was carried out. The candidacies of more than 200 Mexican and foreign nationals were considered.

84. The following forensics experts were appointed to the coordinating group: Jairo Vivas Díaz (Colombia), Yadira Reyna Hernández (Mexico), Alan Robinson Caicedo (England) and Magner Rincón Soto (Colombia). Three other experts in psychosocial support, law and international cooperation were appointed, namely, Ximena Antillón Najlis (Costa Rica/Nicaragua), Edgar Cortez (Mexico) and Sharon Bissell (United States of America/Mexico), respectively. The composition of the coordinating group was presented publicly on 30 August 2021.

85. At the second ordinary session of the National Missing Persons System, held on 9 November 2021, it was decided that the Special Forensic Identification Mechanism coordinating group should be periodically invited to the System's sessions to report back on its work.

#### **4. Internal register of clandestine graves of the National Search Commission**

86. In 2019, the National Search Commission began to document all discoveries as a first step towards assessing the number of clandestine graves found and bodies and remains exhumed throughout the country, primarily on the basis of information obtained as a result of its search measures or provided by the 32 state prosecutors' offices or the Prosecutor General's Office.

87. According to this information, between 2006 and 4 November 2021, 4,839 clandestine graves were found and 8,278 bodies were exhumed. The five states in which the highest number of clandestine graves were discovered during this period were: Veracruz (620 graves, or 12.81 per cent of the total), Tamaulipas (528 graves, or 10.91 per cent), Guerrero (459 graves, or 9.49 per cent), Sinaloa (446 graves, or 9.22 per cent) and Chihuahua (346 graves, or 7.15 per cent).

88. The authorities of four states and the Prosecutor General's Office oversaw the exhumation of the highest number of bodies (4,175 bodies, or 50.43 per cent of the total): Jalisco (1,399 bodies, or 16.9 per cent), Sinaloa (728 bodies, or 8.79 per cent), Guerrero (646 bodies, or 7.8 per cent) and Chihuahua (605 bodies, or 7.31 per cent).

89. Between 1 December 2018 and 4 November 2021, 2,004 clandestine graves were located and 3,335 bodies were exhumed. Of those, 1,336 have been identified and 1,019 have been handed over to the victims' families. The five states in which the highest number of clandestine graves (1,064 graves, or 53.09 per cent of the total) were discovered during this period were: Veracruz (246 graves, or 14.77 per cent), Sinaloa (245 graves, or 12.23 per cent), Guerrero (199 graves, or 9.93 per cent), Colima (190 graves, or 9.48 per cent) and Guanajuato (134 graves, or 6.69 per cent).

90. The five states in which the highest number of bodies were exhumed during this period were: Jalisco (1,107 bodies, or 33.19 per cent of the total), Sinaloa (368 bodies, or 11.03 per cent), Colima (270 bodies, or 8.1 per cent), Guanajuato (236 bodies, or 7.08 per cent) and Veracruz (207 bodies, or 6.21 per cent).

#### **5. Assessment of cemeteries containing mass graves**

91. The National Institute of Statistics, Geography and Informatics carried out two information-gathering missions to public cemeteries in the country's metropolitan areas. The first mission, carried out in 2020, was motivated by the need to assess cemetery capacity in the face of increased mortality caused by the COVID 19 pandemic. After several feedback meetings between the National Search Commission and the National Institute of Statistics, Geography and Informatics, the data-collection tool was adjusted to gather information on aspects of interest in the search for missing and disappeared persons and the mission was repeated.

92. A compilation of the results of the second mission reveals that 216 municipal cemeteries in metropolitan areas have mass graves (active or inactive) and indicates the total number of persons buried in such graves, including the bodies of unidentified persons and the unclaimed remains of persons who have been identified. This information is essential for designing and planning public policy on the institutional safekeeping of human remains, the centralization of information in a national register and the development of the national exhumation programme being spearheaded by the Prosecutor General's Office and pending publication. The National Search Commission is working to systematize the information it holds on 5 of the 15 cemeteries that reported the highest number of burials, as explained in the following section.

## **6. Generalized data searches in records on burials in mass graves**

93. The National Search Commission believes that the information contained in cemetery registers includes data that are relevant to searching for and locating disappeared persons and has therefore begun to systematize, in coordination with certain local search commissions, the records of burials in mass graves in municipal cemeteries in a standardized national database, known as the Mass Graves Module. As at 31 August 2021, the Commission had systematized the records of burials in mass graves in five cemeteries. Work on the mass grave located in Mexico City has been completed and work on the cemeteries located in Puebla, Sonora and Veracruz has begun. The Mass Graves Module currently contains information related to five cemeteries located in the three states mentioned above and will continue to be updated.

94. These records are cross-referenced with the National Register of Missing and Disappeared Persons. When there is a possible match, a further investigation is conducted by the prosecutor's office responsible for investigating the death, the authorities responsible for investigating the disappearance and the local commissions responsible for the search. If the match is confirmed, the family is notified and arrangements are made for exhumation, completion of the identification process and the dignified handover of the remains.

95. As at 5 November 2021, there were 16,540 entries in the Mass Graves Module, including entries on the bodies and remains of identified deceased persons (7,380), the bodies and remains of unidentified deceased persons (6,216), fetuses (1,180) and biological material (e.g., amputated legs) belonging to living persons (1,697).

96. The cross-referencing process and the follow-up procedure have resulted in five confirmed identifications; so far, two families have been notified and arrangements are being made for the exhumation of the remains of their loved ones. There have been an additional 68 possible matches, of which 28 are under further investigation in the context of the follow-up procedure. These possible matches correspond to persons who disappeared in Chihuahua, Chiapas, Puebla, Mexico City, Mexico state, Jalisco, Sonora, Nayarit, Nuevo León, Querétaro, Sinaloa, Tamaulipas and Veracruz, and bodies buried in Mexico City, Puebla and Sonora.

## **7. Cross-referencing of fingerprints**

97. In September 2018, the National Electoral Institute and the National Search Commission signed a cooperation agreement on the search for and identification of disappeared persons and the identification of bodies and human remains.

98. According to publicly available information, as at November 2018, the National Search Commission had reportedly conducted a number of cross-referencing exercises using fingerprint records from the National Electoral Institute's Automated Fingerprint Identification System. Between February 2019 and 30 September 2021, the National Search Commission submitted requests for the cross-referencing of individual fingerprint records, resulting in 360 positive matches, 52 cases of no match and 2 cases of insufficient data. One hundred requests remain open. Such requests are submitted directly by the prosecutors' offices to the National Search Commission.

99. To automate the submission of queries to the National Electoral Institute, the National Search Commission is currently developing a cooperation-enabling computer system to facilitate the flow of information relevant to the search for disappeared persons.

## **8. Measures taken in relation to COVID-19**

100. On 17 April 2020, the Ministry of the Interior and the Ministry of Health issued an agreement prohibiting the cremation of the unidentified or unclaimed identified bodies of persons who had died as a result of COVID-19. It was also established that such bodies could not be buried in existing mass graves.

101. Moreover, since search operations remain a priority, the Ministry of Health issued guidelines on the conduct of search operations in the field during the COVID-19 pandemic, which establish the health and safety measures that must be observed during all physical search operations.

102. In addition, a system was developed for the registration of the unidentified or unclaimed identified bodies of persons who had died as a result of COVID-19. The system currently has 96 users, but only one local search commission and the National Search Commission are among them.

**9. Towards a national centre for the identification of human remains recovered from mass graves**

103. The magnitude and complexity of the processes involved in searching for and identifying disappeared persons carry with them certain difficulties, which are only exacerbated by the conditions in which investigations must be carried out, the diversity of the stakeholders involved and the mutual collaboration required of them. The large-scale nature of most of these cases simply overwhelms existing forensic capacities.

104. The approach taken to forensic investigations is different in large-scale disappearance cases. One of the most common misconceptions is the assumption that the same forensic investigation practices used in criminal cases can be applied to the search for and identification of disappeared persons and that the lack of results is simply a consequence of a lack of material resources.

105. The identification of bodies discovered in mass graves relies on a multidisciplinary identification system whose objective is to analyse all available relevant forensic information while prioritizing the use of technical procedures that offer a greater probability of successful identification. This forensic system is dedicated exclusively to the investigation of cases of disappeared persons.

106. In view of the disappearances crisis, there has been a push to establish a series of similar centres throughout the country and to establish a national centre dedicated exclusively to the identification of human remains recovered from mass graves for the purposes of locating disappeared persons.

**10. Assistance for victims and psychosocial support**

107. The assistance for victims and psychological support protocol establishes rules applicable to prosecution proceedings, according to which the public prosecutor must inform the indirect victims of the results of any expert assessments confirming that their relative has been found dead and must arrange for the return of the body/remains of the direct victim and any personal belongings discovered.

108. At the request of the federal public prosecutor, the Psychosocial Support Unit of the Special Prosecutor's Office for Human Rights provides psychosocial care and support to victims, in coordination with the Executive Commission for Victim Support. Psychosocial support is provided at different stages during prosecution proceedings, including during the taking of statements and additional statements, receiving reports on the progress of the investigation, the collecting of DNA samples and the conduct of search activities in the field to recover human or skeletal remains. These measures are part of a cross-cutting assistance scheme, in which indirect victims receive support at the various stages of the investigation process in order to mitigate the emotional impact that it may have on them. The aim is also to enhance the reparative aspects of the proceedings by attending to victims' psychosocial needs, safeguarding their psychological and emotional stability and providing them with any specialized care they may require in a timely manner.

109. Psychosocial support services are also provided, including emergency response services, specialized psychological care, psycho-pedagogical support, homework assistance workshops, the assessment of psychosocial needs, referral to specialized care services and assistance with social support. The range of psychosocial support services available to the families of disappeared persons includes various support mechanisms whose deployment is tailored to the particular case and which are intended to address harm at the individual, family and community levels.

## **G. Participation of victims, their representatives and civil society in the implementation of the General Act**

110. In terms of public policy impact, families have played an active role in the development of protocols, the Special Forensic Identification Mechanism and programmes and plans, among others. In order to acquire the instruments necessary to search for missing and disappeared persons, the Government of Mexico initiated a process by which relatives of disappeared persons could actively participate in drafting the Standardized Protocol for the Search for Missing and Disappeared Persons and the Additional Protocol for the Search for Children and Adolescents. These documents were widely disseminated among the general public and civil society, who submitted their observations via email and text and voice messages to assist in refining these tools. Online forums were also set up to receive views and comments. In the case of the Additional Protocol, a closed forum including children and adolescents was also set up.

111. As part of the process of developing the Special Forensic Identification Mechanism, nearly 50 working sessions were held between 2019 and 2021, both face-to-face and online, which were attended by families and representatives of civil society, federal and state authorities and international organizations.

112. Families have also played a role in developing the North-East Regional Search Plan. During the process of developing the first part of the National Search Programme, a meeting was held with family members to allow them to submit their comments and inputs.

113. The search activities carried out by the Government of Mexico are planned, coordinated and implemented with the assistance of the families concerned. They are also kept informed of developments and receive assistance through face-to-face and/or online meetings, telephone calls or electronic means. The families of disappeared persons and survivors of the “dirty war” receive newsletters containing information on any progress made and general news of the work being done. A feedback system is also in place.

114. In order to raise public awareness of the disappearances crisis in the country, the Government of Mexico has conducted two nationwide information campaigns (in 2019 and in 2021), in print and electronic media. In recognition of the work done by mothers, sisters, daughters, wives and female friends, on 27 August 2021, the Ministry of the Interior launched a photographic exhibition entitled *Estos rostros que ves, mujeres que buscan* [These faces you see are of women who are searching], where photographs of female relatives of disappeared persons who are involved in search activities in different parts of the country were put on display.

## **H. Implementation of the General Act using a special and differentiated approach for cases involving migrants**

115. The search for missing migrants entails specific challenges and the use of differentiated methods. Persons who enter Mexican territory in an irregular fashion leave no record that can be used to identify them and it is occasionally necessary to approach institutions in their countries of origin to obtain information. Families living abroad face additional difficulties in reporting disappearances, transmitting information to the authorities, following up on searches and investigations and exercising their rights, for example, their right to participate. Overcoming these obstacles requires a very high level of coordination between Mexican authorities from the three levels of government, authorities from other countries, non-governmental organizations that assist and support migrants, international bodies and the families of missing migrants themselves.

116. According to the National Register of Missing and Disappeared Persons, as at 12 November 2021, more than 87 per cent of persons reported disappeared were Mexican, 1,730 persons, or 1.83 per cent, were foreign nationals and no information was available on the nationality of the remaining 10.52 per cent. Of the foreign nationals reported disappeared, nationals of the United States of America accounted for 0.45 per cent (425 persons) and nationals from Central American countries (Guatemala, Belize, El Salvador, Honduras, Nicaragua, Costa Rica and Panama) accounted for 0.91 per cent (855 persons).

117. The Government of Mexico has introduced three coordination mechanisms that are expected not only to facilitate communication in the search for each missing migrant, but also to help solve cross-cutting problems related to the disappearance of migrants, which often do not fall within the remit of individual actors.

### **1. Bureau for the Search for Missing Migrants**

118. Established by the National Missing Persons System on 9 November 2021, the Bureau provides a broad space for dialogue, coordination, the exchange of information and collaboration between Mexican authorities, institutions from other countries, civil society organizations, international bodies and relatives of missing migrants. Its purpose is to coordinate efforts to advance the search for missing migrants, particularly migrants who have gone missing while transiting the Mesoamerican migration corridor.

### **2. Inter-Agency Working Group**

119. The Working Group is composed of permanent liaisons designated by each of the Mexican authorities involved in the search for migrants or in the investigation of crimes committed against them. The originally appointed members of the Working Group have met three times. The Working Group's operational guidelines have been approved, and the process of designating permanent liaisons is moving forward.

### **3. Mechanism for Mexican Support Abroad in Search and Investigation Activities**

120. The General Act provides for the creation of a mechanism for support abroad in search and investigation activities, in which the staff of consulates and embassies also participate, and states that, in addition to the incumbent staff of the Prosecutor General's Office, all authorities involved in the search for missing migrants or in the investigation of crimes committed against them may activate the mechanism. Consequently, in March 2021, the National Search Commission, the Prosecutor General's Office, the Ministry of the Interior and the Ministry of Foreign Affairs formed a technical committee to draft an agreement. The text of the draft agreement has been shared with the other institutions and with families and organizations prior to its submission to the National Missing Persons System.

## **I. Process for strengthening the Standardized Protocol for the Search for Persons**

121. In 2020, the National Search Commission drafted the Standardized Protocol for the Search for Missing and Disappeared Persons by means of a broad, participatory process involving relatives of disappeared persons, their representatives, national and international experts and representatives of various federal and state authorities. The draft was adopted in August 2020 and the Protocol entered into force in January 2021.

122. The Standardized Protocol for the Search for Missing and Disappeared Persons requires all relevant authorities to participate in the search for persons whose whereabouts are unknown, regardless of whether there is evidence to suggest that their absence may be connected to the commission of a crime, and establishes what measures the authorities must take to search for those persons, a process for which close inter-agency coordination is necessary.

123. Taking into account the different contexts in which disappearances may occur, the Protocol uses a differentiated approach under which search activities and inter-agency coordination must be carried out in a differentiated manner. The Protocol provides for five types of search: immediate, individual, general, pattern-based and family-related. It also lists the authorities involved in search processes and their degree of responsibility:

- Primary authorities: search commissions, prosecution authorities, public security institutions and courts. Their general function is to proactively take measures to locate persons.

- Transmitting authorities: human rights commissions, embassies and consulates and municipal authorities. Their main functions are to draft reports and support communication between families and primary authorities.
- Broadcasting authorities: public radio and television. Their general functions are to transmit messages from primary authorities to the public.
- Reporting authorities: archives, shelters, cemeteries, the National Institute of Migration and others. Their main functions are to provide information to primary authorities.

124. The committee responsible for implementing, monitoring, evaluating and updating the Standardized Protocol for the Search for Missing and Disappeared Persons has been meeting constantly to promote its implementation. In addition, training has been provided to the staff of local search commissions, family members of disappeared persons and their representatives, police officers and the staff of prosecutors' offices. In addition, a summary of the Protocol for family members was prepared, approved, published and presented to them.

125. It is important to point out that, in accordance with the Standardized Protocol for the Search for Missing and Disappeared Persons, the committee responsible for its implementation is to carry out a comprehensive evaluation of the Protocol two years after its adoption.

126. Another of task of the implementation committee is to oversee the application of the Standardized Protocol for the Search for Missing and Disappeared Persons. Any unjustified failure to comply with the Protocol or negligent conduct by the authorities responsible for carrying out the processes prescribed by it will be considered a serious matter under article 43 of the General Act. If such a situation is brought to its attention, the implementation committee must refer the matter to the competent internal supervisory bodies or to the authorities responsible for investigating and deciding the case.

## **J. Judicial decision guaranteeing an immediate, exhaustive and impartial investigation**

127. The Supreme Court, in adjudicating on conflicting holdings decision No. 261/2018, determined that the *amparo* judge competent to hear a lawsuit claiming an act of enforced disappearance is the one with whom the lawsuit is filed, since it is not feasible to require the complainant to specify with complete certainty, when filing the *amparo* application, who the authorities responsible are or the place where the crime is being committed.

128. This is because one of the characteristics of the enforced disappearance of persons is the lack of information regarding the whereabouts or fate of the victim. It is therefore possible that an act of enforced disappearance, being of a continuous nature, is being perpetrated in more than one judicial district or that the perpetration of the act began in one district and continues in another.

## **K. Awareness-raising campaign**

129. As a prevention strategy, the Federal Government, in December 2021, launched a national campaign to dignify, spotlight and recognize the work of human rights defenders and journalists. The Government of Mexico is also working on an information and prevention campaign on disappearances among children and adolescents specifically for this population group.

## V. Measures to prevent the enforced disappearance of persons

### A. Preventive measures taken by the armed forces

#### 1. Training

130. The Ministry of Defence has taken steps to disseminate a culture of human rights among its members and a culture of transparency and accountability as fundamental pillars of the conduct of military personnel. Accordingly, it has taken measures to strengthen institutional capacity and to deliver training in human rights.

131. From 2019 to date, 602,712 military personnel have received training in human rights and international humanitarian law while 26,672 members of the armed forces have received training on the national gender equality programme. Furthermore, between 2019 and 2021, gender awareness workshops were held for 10,220 military personnel.

132. With regard to international training, between 2019 and 2020, 36 members of the armed forces were sent abroad to receive training on various human rights issues.

133. In addition to the above, mention should be made of the following:

- Training agreements were signed with the National Human Rights Commission, the International Committee of the Red Cross, the National Autonomous University of Mexico, the Executive Commission for Victim Support, the National Council for the Prevention of Discrimination, the National Institute for Women and the National Institute for Indigenous Peoples.
- The curricula of the military education system have been broadened to include human rights and international humanitarian law.
- A human rights and international humanitarian law training pathway was introduced.
- The subject of human rights was included in competitive examinations for promotion.
- A booklet on human rights was prepared in collaboration with the National Human Rights Commission and was distributed to all staff.
- The manual on human rights and international humanitarian law was updated.
- A general human rights directive entitled “Orders and instructions to ensure that members of the Mexican army and Mexican air force act at all times with integrity, orderliness and in strict compliance with human rights standards in the performance of their duties and services” was prepared and disseminated.
- Greater use was made of video cameras as part of the equipment of military personnel.
- Instructions on ensuring unconditional respect for human rights and the use of force were included in all operational orders.

#### 2. Participation of the armed forces in public security tasks

134. The Supreme Court, in adjudicating on application for constitutional review No. 6/2018 and joined cases No. 8/2018, No. 9/2018, No. 10/2018 and No. 11/2018, established that, while, under articles 21, 89 and 129 of the Constitution, the armed forces may intervene in public security matters in certain cases, they could do so only on an exceptional basis to provide temporary assistance to civilian authorities. The Supreme Court has taken the same position as the Inter-American Court of Human Rights that the use of military force is permitted to address citizen security problems as long as it is the method of last resort and is limited by certain parameters.

135. Accordingly, the Supreme Court held that such interventions must be extraordinary in nature, subordinate and complementary to the work of civilian security forces, regulated by law and by protocols for the use of force, and supervised by civilian bodies.

136. As for the regulations on the use of force, in considering application for constitutional review No. 25/2016, the Supreme Court has determined the guiding principles that should

govern the use of force: legality, legitimate aim, absolute necessity, proportionality and precaution. In order for the use of force by State agents to be considered legitimate, these principles must be fully respected. In addition, the legitimacy of the use of force must be assessed taking into account all the applicable circumstances and the context of the events.

137. The Supreme Court likewise determined that these principles have been applied in a specific way in the context of social protests. This is because there is a general positive presumption in favour of the exercise of the right to participate in public demonstrations. The Supreme Court has held that a clear formula for establishing the legitimacy of the use of force is that it should not be the common denominator in the dispersal of demonstrations, but the exception and last resort.

## **B. Preventive measures taken within the federal judiciary**

138. The Committee has recommended that the State party take the measures necessary to ensure that all law enforcement personnel, including judges and other officials responsible for the administration of justice, receive adequate and regular training on the provisions of the Convention.

139. The Supreme Court has undertaken initiatives to provide training and information on this topic within the federal judiciary. The most important initiatives include:

- An online course on urgent action requests from the United Nations Committee on Enforced Disappearances. The course was held on 29 January 2021 with the aim of raising awareness of the Committee's mandate and its power to issue urgent action requests. It was delivered by Gabriella Citroni, legal adviser to the Latin American Federation of Associations of Relatives of Disappeared Detainees and its target audience was the judicial staff of the Supreme Court.
- A series of talks on the place of Mexico within the United Nations system: Mexico before the Committee on Enforced Disappearances. These talks were held on 23 August 2021.
- A series of discussions on human rights rulings. One such discussion, which took place on 27 September 2021, centred on the reasoning of the Supreme Court regarding the binding nature for Mexican authorities of urgent action requests issued by the United Nations Committee on Enforced Disappearances.

140. Moreover, these training activities have been supplemented by the following publications on the subject:

- A chapter on the United Nations Committee on Enforced Disappearances and its role in the human right crisis in Mexico, written by Humberto Guerrero Rosales and featured in the 2021 report by the Directorate General of Human Rights of the Supreme Court on the place of Mexico within the universal human rights system. This chapter reflects on the incorporation of Mexico into the international system for protection against enforced disappearance.
- Chapter XI on the right to truth and truth-promoting criminal proceedings, written by Edgar Aguilera García and featured in the Supreme Court's 2021 Manual on Human Rights and Evidence in Criminal Proceedings, coordinated by Pablo Rovatti. The chapter highlights the centrality of the right to truth in cases of enforced disappearance in accordance with the jurisprudence of the Inter-American human rights system.
- A manual on cases of disappearance and enforced disappearance of persons, which is coordinated by Luis Tapia and to be published in 2022. The manual will review the international standards on disappearance and enforced disappearance of persons, as well as the way in which these standards have been applied in domestic law by the Supreme Court.

141. The manual will also review the legal framework underpinning the rights of victims of disappearance, with a focus on the rights to truth, justice and full reparation. Next, the manual will review the judicial obligations applicable in cases of disappearance and enforced

disappearance using three well-defined approaches. The first approach will entail referring to the protection against enforced disappearance provided for in article 15 of the Amparo Act. Under the second approach, the criminal offences applicable in cases of disappearance will be reviewed, as will the judicial obligations related to search activities. As part of the third approach, the manual will address the legal concept of the special declaration of absence, which is very important in providing the relatives of disappeared persons with legal certainty. Lastly, the manual will review Latin American experiences regarding enforced disappearance in relation to both the investigation of cases and the search for disappeared persons in order to draw lessons learned that may be relevant to the regular work of federal judges.

142. In parallel, from 1 January 2019 to 30 September 2021, the Federal Training School for Judges carried out 77 training activities on topics related to the protection of human rights for judges, public defenders, court clerks, the staff of the Specialized Preventive Custody Centre and federal criminal justice centres. Twenty-six of these activities covered topics related to serious human rights violations (see CJF annex).

### **C. Judicial decisions guaranteeing access to detention registers and persons deprived of their liberty**

143. The Supreme Court, in adjudicating on *amparo* appeal No. 934/2016, determined that, in the case of serious human rights violations, such as enforced disappearance, the principle of maximum disclosure must be applied in preliminary investigations, which extends to naming the victims.

144. This is because enforced disappearance is an act that constitutes a serious violation of human rights, the investigation of which must be accessible to the victims. Thus, the application of the principle of disclosure in relation to the names of the victims in such cases must be seen as an integral part of the right to the truth. Moreover, the application of this principle benefits not only the victims' relatives but society as a whole. In addition, the Supreme Court held that replacing a mere statistic with a name or a face makes it possible to truly understand what the victims experienced, thereby dignifying their memory.

## **VI. Measures to provide reparation to victims and to protect children and adolescents against enforced disappearance**

145. The General Act requires a differentiated approach to be taken in respect of children and adolescents and a specific search protocol, which has been in force since April 2021, to be followed.

146. A total of 15,603 children and adolescents were reported disappeared between 1964 and 12 November 2021, of whom 12,580 were reported disappeared from 2007 onwards. It is important to note that 55 per cent of these individuals are girls and female adolescents and that 44.79 per cent are boys or male adolescents. In addition, most girls and female adolescents reported disappeared fall into the 13 to 17 age bracket.

147. Disappearance may be related to different contexts and/or crimes such as child abduction, human trafficking (illegal adoptions for the purpose of sexual or labour exploitation), organ removal, femicides and homicides, forced recruitment, contexts of human mobility (migrants, forced displacement), but also flight from contexts of violence (within the family, in schools or owing to the presence of organized crime groups).

148. Searching for children and adolescents is more challenging than searching for adults because, generally speaking, they are vulnerable and the lack of a national population registry makes it impossible to obtain fingerprints or biometric information.

149. In 2021, the National Search Commission, by means of a participatory process and with the support of organizations specialized in children's issues and the participation of children and adolescents, prepared the draft additional protocol for the search for children and adolescents, which was adopted by the National Missing Persons System in April and published in August 2021.

150. The Additional Protocol recognizes children and adolescents as rights holders, based on respect for their dignity, life, survival, well-being, health, development, participation and the principle of non-discrimination, thus guaranteeing the full enjoyment of their rights. In case of uncertainty about their age, they should always be considered to be under 18 years of age. Searching for them involves complementary measures such as activating the AMBER Alert system (for children and adolescents) and the Alba Protocol (investigation protocol for missing or disappeared adolescent girls and women).

151. When it comes to monitoring, evaluating and updating the Additional Protocol for the Search for Children and Adolescents, the mechanism provided for in the Standardized Protocol for the Search for Missing and Disappeared Persons should be applied. In addition, the implementation committee is required to develop a tool by which the Additional Protocol may be evaluated.

#### **A. Mainstreaming a gender perspective in the investigation of disappearances of women and girls**

152. The Standardized Protocol for the Search for Missing and Disappeared Persons sets out a differentiated approach for searching for girls, adolescent girls and women. The approach requires a systematic examination of the behaviours, roles and power relations attributed to individuals based on their sexual identity, sexual orientation and gender identity.

153. Between 1964 and 12 November 2021, 23,302 girls, female adolescents and women were reported disappeared, of whom 18,113 were reported disappeared from 2007 onwards. It is important to note that most women reported disappeared fall into the 15 to 19 age bracket, as do most women who are located.

154. The Standardized Protocol for the Search for Missing and Disappeared Persons also provides that all authorities have an enhanced duty of diligence when gender-based violence is a factor in cases where persons are disappeared because of their gender or gender identity, specifically women (girls, female adolescents or adult women) and persons belonging to the LGBT+ population. Just as femicide should always be a line of inquiry in the violent death of any woman, the possibility that the disappearance of women, girls or persons belonging to the sexually diverse population may be linked to expressions of gender-based violence or any other crime that may have specific effects owing to the gender of the victim should always be taken into account in any search activities.

155. Against the current backdrop of violence against women, under the Standardized Protocol for the Search for Missing and Disappeared Persons, there are no women who are simply unaccounted for, rather all women should be considered disappeared from the outset, even if there is no evidence of a crime having been committed against them, and an investigation should be opened immediately.

156. In 2021, the process of implementing the national programme for the harmonization and application of the Alba Protocol began. The programme's purpose is to align the immediate action and coordination mechanism for investigating cases of disappearance involving women, girls and female adolescents and for searching for them with international standards on human rights violations. The aim is to have a document that lays down the minimum criteria that should govern the creation or updating of this mechanism in the different federative entities in order to make it more effective and to simplify the procedure for activating it. In August 2021, a national technical coordination office for the harmonization of the Alba Protocol was set up. Composed of liaisons from the country's 32 states, its purpose is to work on the minimum criteria document. This process is supported by UN-Women.

157. An information campaign on the authorities' obligations in cases involving the disappearance of girls, female adolescents, women or persons belonging to the LGBT+ population has also been conducted in cooperation with UN-Women. The relatives of disappeared persons are mostly women. The Standardized Protocol for the Search for Missing and Disappeared Persons sets out the authorities' obligations towards these groups, which include a gender perspective.

## VII. Urgent action procedure

### A. Mechanism for implementation, follow-up and evaluation

158. As of 2021, urgent action requests are coordinated by the Ministry of the Interior. They are dealt with under the following procedure:

- (i) Referral of the urgent action request by the Ministry of Foreign Affairs to the Ministry of the Interior;
- (ii) The Ministry of the Interior requests information on the search and investigation activities carried out to date and on any protection measures granted;
- (iii) An inter-agency meeting is convened with the relatives of the disappeared persons and, if applicable, their representatives. At this meeting, information is provided on any developments in the investigation and search activities, and follow-up action is agreed. At these meetings, families and their representatives have the opportunity to provide information, exchange views and take part in all proceedings. These meetings are held once every two months; and,
- (iv) Lastly, information on the measures taken is sent to the Ministry of Foreign Affairs so that it can transmit it to the Committee.

159. This mechanism has made it possible to better respond to the legitimate demands of families and to move forward with implementing the Committee's recommendations. Mention may be made of the following good practices:

- (i) Context analysis (for example: urgent action requests for disappeared persons in Nayarit during Edgar Veytia's tenure as prosecutor, urgent action request for Felipe Díaz Castro in Guanajuato);
- (ii) Searches using a collective approach (for example: urgent action requests for disappeared persons from the Yaqui community in Sonora);
- (iii) Independent identification expertise: (for example: urgent action requests for disappeared persons from the Yaqui community in Sonora; urgent action request for Felipe Díaz Castro in Guanajuato);
- (iv) Joint participation in search and investigation activities by prosecutor's offices and search commissions (for example: urgent action request for Grisell Pérez Rivera in the state of Mexico);
- (v) Technical opinions of the Prosecutor General's Office or the latter's taking on the case.

160. For searches in the field, the normal procedure is to draw up a search plan and to deploy a sufficient number of security personnel to guarantee the physical safety of the persons participating in the search. Families may take part in searches upon request, as long as their doing so does not place them in jeopardy.

161. When the disappeared persons are human rights defenders or journalists, if necessary, protection measures are applied in respect of their relatives through the National Protection Mechanism for Human Rights Defenders and Journalists. The detailed mode of operation of the Mechanism may be consulted in the documents annexed to the present report.

162. In cases where this condition is not met, protection measures are granted by the prosecutor's office in charge of the investigation. In this connection, the following good practices have been identified:

- The granting of escorts
- Logged patrols by the different public security forces
- Extraction from place of residence

- Panic buttons
- Emergency contacts

## **B. Mechanism for communicating the Committee's recommendations to the authorities**

163. In 2019, the Committee expressed concern about the lack of awareness of the procedure and its recommendations among the State authorities responsible for search and investigation activities. As previously mentioned, a mechanism has been established to ensure that all state and federal authorities that are required to take part in search and investigation activities are aware of what urgent action requests are and the related procedure. In 2021, in order to systematize the information available on urgent action requests, each state was notified of the total number of urgent action requests registered in respect of its jurisdiction.

164. Lastly, the report submitted by the National Institute of Migration, which mentions the placing of the issue of enforced disappearance on the Institute's agenda and includes details on strategies implemented and results achieved, is annexed to the present report.

## **C. Judicial decision determining the binding nature of urgent action requests**

165. The Committee has invited the State to continue cooperating in the framework of its urgent action procedure and to ensure immediate processing of, and regular follow-up to, all urgent action requests and requests for interim and protection measures transmitted to it by the Committee.

166. The Government of Mexico highlights the opinion upheld by the Supreme Court in *amparo* appeal No. 1077/2019, in which it confirmed the binding nature of the urgent action requests issued by the Committee. The First Chamber based its analysis on the premise that enforced disappearance is a serious violation and hence an immediate and diligent search for the disappeared person is an unavoidable obligation of the State, which must be undertaken without unjustified obstacles and with all available institutional force.

167. Thus, it was established that urgent action requests are binding for Mexico by virtue of the fact that, upon ratifying the International Convention for the Protection of All Persons from Enforced Disappearance, Mexico also accepted the monitoring mechanism established by the Convention, that is, the Committee on Enforced Disappearances. Therefore, refuting the binding nature of urgent action requests would imply undermining the Convention and, therefore, the Constitution. This means that the Mexican authorities are obliged to act upon the urgent action requests issued by the Committee and, if necessary, to challenge any failure to investigate the acts in question.

## VIII. Annexes

1. During its visit in November 2021, the Committee requested additional information from the authorities. This information is annexed to the present report as follows:

- Additional information from the Council of the Federal Judiciary (annexes 1 and 2).
  - Additional information from the National Search Commission (annex 3).
  - Additional information from the Prosecutor General's Office (annexes 4 to 10).
  - Additional information from the Ministry of Naval Affairs (annex 11).
  - Additional information from the Supreme Court (annex 12).
  - Additional information from the Ministry of Defence (annex 13).
  - Additional information from the Ministry of the Interior (annexes 14 to 16).
  - Act on the Federal District Human Rights Programme (annex 17). The Federal District Human Rights Programme was mentioned by the Minister for Foreign Affairs, Marcelo Ebrard, at the meeting that was held during the Committee's visit. It set an important precedent and served as a model for the gradual updating of state human rights programmes. Since the establishment of the Programme, participatory exercises have been carried out and lessons learned have been incorporated in order to improve the implementation of public measures aimed at fulfilling the State's human rights obligations and to facilitate the monitoring and effective evaluation of the Programme.
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