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Civil and Political Rights**

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**Human Rights Committee**

**Information received from Mexico on follow-up to the  
concluding observations on its sixth periodic report<sup>\*</sup>, <sup>\*\*</sup>**

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\* The present document is being issued without formal editing.  
\*\* The annexes to the present document are available on the Committee's website.



## **I. Introduction**

1. In its concluding observations on the sixth periodic report of Mexico (CCPR/C/MEX/CO/6), the Committee, in accordance with rule 71 (5) of its rules of procedure, requested the State party to provide a report on the implementation of the recommendations made by the Committee in paragraphs 19 (right to life and security of person), 23 (impunity) and 43 (freedom of expression and association) of the concluding observations.
2. Therefore, in accordance with article 40 of the Covenant, the Government of Mexico hereby reports on the progress made in strengthening the country's legal and institutional framework in the light of the Committee's recommendations.

## **II. Follow-up information on paragraph 19 of the concluding observations: right to life and security of person**

3. In paragraph 19 of the concluding observations, the Committee recommended that:

The State party should move away from the militarized approach within the forces of order, move forward in the process of cementing the National Guard as a civilian institution and draw up a plan to ensure the armed forces' progressive and orderly withdrawal from public security operations. In this connection, the State party should ensure that the armed forces are involved in operations of this kind in exceptional circumstances only, for limited periods of time, in accordance with clear, pre-established protocols and subject to the supervision of civilian oversight and accountability mechanisms. It should also continue its efforts to provide all officers of the National Guard with intensive training in international human rights standards and consider introducing break periods for officers transferring from the armed forces to the National Guard. The State party should also ensure that all cases of alleged extrajudicial killings and human rights violations are investigated in a prompt, thorough and impartial manner, that the perpetrators are prosecuted and punished and that the victims receive full reparation. The State party should, as a matter of urgency, adopt policies that are effective in reducing homicides and extrajudicial killings.
4. Information regarding the response of Mexico to these recommendations is provided in the following paragraphs.

### **A. Training the armed forces**

5. The Ministry of Defence has a Training Centre on Human Rights and Gender Equality, which works in coordination with national and international organizations such as the National Human Rights Commission, the Attorney General's Office, the National Council for the Prevention of Discrimination and the International Committee of the Red Cross.
6. The Training Centre organizes classroom-based and online courses, lectures and videoconferences for military personnel on the topics of human rights, international humanitarian law and the use of force.
7. The Attorney General's Office has provided Ministry of Defence personnel with training on the national protocol for judicial officials in cases involving sexual orientation or gender identity.
8. Following the entry into force of the National Act on the Use of Force, published in the Official Gazette on 27 May 2019, the Ministry of Defence is updating its manual on the use of force, which is applicable to all three branches of the armed forces.
9. The Ministry of Defence also has a general cooperation agreement with the National Human Rights Commission under which the Commission teaches courses on human rights to generals, chiefs, officers and troops in the framework of annual programmes for the promotion and strengthening of human rights and international humanitarian law. These programmes are updated annually. Online courses have been delivered on the following

topics: human rights basics; human rights and violence; human rights and health; human rights and gender; sexual diversity and human rights; freedom of expression; human rights of indigenous peoples and communities; constitutional principles of human rights in the civil service; introduction to human rights; persons with disabilities; turning obstacles into opportunities; and torture prevention.

10. In coordination with the International Committee of the Red Cross, training in international humanitarian law was provided for military personnel. This included classroom-based courses on operations law for soldiers and legal advisers, respectively, and videoconferences on international humanitarian law, the use of force, respect for medical services, and operations law.

11. The number of military personnel who received training in 2020 and 2021 and the number of training activities are shown below:

<i>Year</i>	<i>Type of training</i>	<i>Personnel trained</i>	<i>No. of activities</i>
2020	Courses	22 108	59
	Talks	113	1
	Videoconferences	53 454	7
	Regional training centres, military education system and national military service	108 914	1
	<b>Total</b>	<b>184 589</b>	<b>68</b>
2021	Lectures	2 900	46
	Courses	8 398	34
	Talks	59	1
	Videoconferences	48 117	17
	<b>Total</b>	<b>59 470</b>	<b>98</b>

## B. Limits on the activities of the armed forces

12. On 23 May 2018, the First Chamber of the Supreme Court, in its judgment in *amparo* review No. 14/2018, ruled that the offence of homicide must be excluded from the military jurisdiction established under article 13 of the Constitution. Establishing a non-binding precedent, the Supreme Court set out the reasoning that, in view of the protected legal right, military jurisdiction must be restricted in accordance with article 13 of the Constitution; the military status of the perpetrator or victim cannot be considered an essential element for the determination of military jurisdiction. The judgment emphasizes that, for the military courts to be competent, the offence must constitute a breach of military discipline; if it has merely been committed by a member of the military, the case will fall within the ordinary jurisdiction under the terms of article 13 of the Constitution.

13. Furthermore, in February 2021, the Senate introduced a bill to regulate the temporary participation of the standing armed forces in public security tasks. The bill has been sent to the joint committees on the interior, public security and legislative studies.

## C. Investigations and prosecutions

14. Through the Office of the Special Prosecutor for Internal Affairs, the Attorney General's Office has taken a number of actions to investigate crimes in which human rights have been violated and which have allegedly been committed by its officials, with the aim of

strengthening its institutional commitment to building a culture of legality and respect for human rights.

15. One such action is the creation of the Visitel complaints channel, which members of the public can use to anonymously report, to the Federal Prosecution Service, crimes allegedly committed by the civil servants of the Attorney General's Office, including those which involve alleged extrajudicial executions or human rights violations, so that the necessary steps can be taken for their immediate investigation.

16. Once extrajudicial executions or human rights violations that appear to be crimes are reported through the Visitel system, the Office of the Special Prosecutor for Internal Affairs will open an investigation, order that the necessary steps be taken to clarify the facts and bring criminal proceedings before the court, in the case of officials of the Attorney General's Office, or, if appropriate, forward the case file to the competent special prosecutor of the relevant institution or authority, who will proceed with the investigation in accordance with his or her jurisdiction or specialization.

17. The Visitel system operates 24 hours a day, 365 days a year and is staffed by federal prosecutors. The service is accessible via a toll-free telephone number, by email and in person.

18. Furthermore, visits are carried out to oversee, investigate, inspect and monitor the activities of Attorney General's Office employees, including federal prosecutors, officers of the Federal Criminal Investigation Police, experts, analysts and technical personnel, and thus ensure that they act in strict compliance with the Constitution and the law when investigating crimes, with the ultimate goal of strengthening the justice system and respect for human rights. If, during these technical and legal assessments, civil servants are found to have committed administrative offences or engaged in criminal activities, these will be reported to the Internal Oversight Body or the federal prosecutor of the Office of the Special Prosecutor for Internal Affairs, so that an investigation can be carried out and penalties imposed where necessary.

19. Another action taken by the Attorney General's Office was the creation of a one-stop shop designed to improve public trust in its work. The one-stop shop provides users with immediate, high-quality, personalized and user-friendly guidance. It operates 24 hours a day, 365 days a year.

20. The one-stop shop pursues a cross-cutting strategy to identify areas in which services are needed and the time frame for providing them, to measure efficiency, to learn about public perceptions and to detect the incidence of crime. Response times have decreased since its establishment. As the one-stop shop is managed by the Prosecution Service, users are served efficiently and the number of complaints has decreased.

21. Additionally, with the publication of the Act on the Attorney General's Office in the Official Gazette of 20 May 2021, the Office of the Special Prosecutor for Human Rights was empowered to investigate and bring prosecutions in respect of the following federal offences: (i) offences under the General Act on the Prevention, Investigation and Punishment of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the General Act on Enforced Disappearance of Persons, Disappearance Perpetrated by Individuals and the National Missing Persons System; (ii) offences perpetrated against any journalist, person or organization that wilfully undermine, limit or impair the right to information or to freedom of expression; (iii) offences involving violations or serious violations of human rights denounced by the National Human Rights Commission; (iv) federal offences in which the victim or perpetrator is a migrant and the case involves a matter of social importance, as the Office of the Special Prosecutor has an obligation to take over cases when there has been a complaint of a serious human rights violation; and (v) federal offences that involve members of indigenous peoples or communities and that involve a matter of social importance, when the Office of the Special Prosecutor takes over the case.

22. In addition, article 73 of the Act on the Attorney General's Office establishes that civil servants working for the Attorney General's Office may be removed from their position or employment if they violate or fail to comply with the obligations set forth in article 47 (I) and if their conduct results in a serious human rights violation.

## D. Victim support

23. From November 2019 to July 2021, the Executive Commission for Victim Support issued 130 comprehensive reparation orders in favour of victims of human rights violations, always in a timely manner, taking into consideration the procedures, activities and fundamental principles established by the Comprehensive Model of Victim Support.

<i>No.</i>	<i>Human rights violation</i>	<i>Orders issued from November 2019 to July 2021</i>
1	Violations of personal liberty, judicial guarantees, personal integrity, privacy, the principle of equality, the prohibition of discrimination, the right to health, judicial protection, the duty to investigate acts of torture or the duty to adopt provisions in domestic laws, arbitrary detention, unlawful detention and cruel treatment, and violence against women	32
2	Serious, widespread and systematic human rights violations that occurred during the so-called “dirty war”	44
3	Arbitrary execution and excessive use of force	45
4	Violations of the right to truth, the principles of legality and legal certainty, the liberty, security and integrity of the person, or the right to decent treatment	9

24. During the same period, the various directorates of the Executive Commission for Victim Support provided guidance, advice, representation and legal assistance for victims, in accordance with the recommendations of the National Human Rights Commission, as indicated below.

25. The directorate specializing in miscellaneous offences opened 30 files, providing legal representation for 121 victims.

26. The directorate specializing in cases of disappearance and enforced disappearance opened 442 files, providing representation for 1,780 victims.

27. The directorate specializing in cases of torture and extrajudicial execution and prison conditions opened 156 files, providing legal representation for 288 victims.

28. The directorate specializing in human rights and migrants currently has one file open and provides legal assistance to three human rights defenders, although it did not open any files during the period under review.

29. The directorate specializing in cases of torture and extrajudicial execution and prison conditions has two files open on the so-called “dirty war” and provides representation to two victims.

30. The directorate specializing in cases of disappearance and enforced disappearance is providing legal assistance to 77 victims of the “dirty war” in 31 cases.

31. The directorate specializing in human rights and migrants is providing legal assistance to two victims, with one file on human rights violations committed during the “dirty war”.

32. It is also assisting an indigenous person who is the victim of a human rights violation.

33. The directorate specializing in journalists and human rights defenders also has a case in which it is supporting 10 victims from an indigenous community.

34. The directorate specializing in gender and trafficking in persons is providing representation to 309 women victims of sex offences in 244 cases.

35. The directorate specializing in human rights and migrants is legally representing 16 women victims of human rights violations in three cases. Guidance, assistance,

representation and legal support were provided to 12 migrant women victims of violence in 9 cases during the period under review.

### **III. Follow-up information on paragraph 23 of the concluding observations: access to justice**

36. In paragraph 23 of the concluding observations, the Committee recommended that:

The State party should step up its efforts to investigate all violent crimes and other serious offences, including the disappearance of the 43 students in Ayotzinapa in September 2014, in a prompt, thorough and impartial manner, to prosecute and punish those responsible and to ensure that the victims receive comprehensive reparation. To this end, it should increase the investigative capacity and independence of all actors involved in investigations, including prosecutors and experts, reinforce the adversarial system and guarantee the autonomy of the country's judicial institutions. For all these purposes, it should take international human rights standards into consideration, including the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). The State party should also take the necessary steps to protect witnesses, victims, their relatives and all persons involved in investigations from threats, attacks and any form of reprisals.

37. The following steps were taken in response to this recommendation.

#### **A. Strengthening the institutions investigating the disappearance of the 43 students in Ayotzinapa**

38. By a decree of 4 December 2018,<sup>1</sup> the President of Mexico instructed the federal authorities, within their areas of competence, to create the necessary material, legal and human conditions to guarantee the rights of the victims to truth and justice, through the establishment of the Commission for Truth and Access to Justice in the Ayotzinapa Case.

39. The Commission is chaired by the Undersecretary for Human Rights, Population and Migration and is composed of officials from the Ministry of the Interior, the Ministry of Foreign Affairs and the Ministry of Finance and Public Credit, and the parents of the missing students. Other participating institutions include the Attorney General's Office, the Ministry of Health, the Executive Commission for Victim Support, the National Search Commission, human rights organizations representing the victims, the Office of the United Nations High Commissioner for Human Rights (OHCHR) country office in Mexico and the Inter-American Commission on Human Rights.

40. As at August 2021, the Commission for Truth and Access to Justice in the Ayotzinapa Case has held 14 evaluation and follow-up meetings in the presence of the President of Mexico. In these meetings, it was agreed to strengthen institutional cooperation to resolve the Ayotzinapa case and to continue to bring prosecutions and conduct search activities. The Commission has held 10 regular and 26 special meetings, allowing for effective communication between the authorities and the victims and for progress to be made in working towards the clarification of the facts.

41. A meeting between the Commission and the Ministry of Defence led to an inspection visit by the members of the Commission to the Twenty-seventh Infantry Battalion in Iguala and to cooperation in respect of several requests for information, to which replies have been received.

42. To build institutional capacity, the Government strengthened cooperation with the Inter-American Commission on Human Rights and OHCHR and, on 6 May 2020, reinstated the Interdisciplinary Group of Independent Experts.<sup>2</sup> In this regard, the Government signed

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<sup>1</sup> Available at: [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5545622&fecha=04/12/2018](https://www.dof.gob.mx/nota_detalle.php?codigo=5545622&fecha=04/12/2018).

<sup>2</sup> Press release available at <http://www.oas.org/es/cidh/prensa/comunicados/2020/104.asp>.

an agreement with the Inter-American Commission to guarantee the participation of experts Ángela Buitrago and Francisco Cox, and, on 11 June 2020, an agreement with the OHCHR country office concerning that of Claudia Paz y Paz. Carlos Martín Beristain joined the Interdisciplinary Group of Independent Experts in a voluntary capacity.

43. On 1 July 2020, the group of experts commenced a new mandate, working with the Commission for Truth and Access to Justice in the Ayotzinapa Case to assist the Special Unit for Investigation and Litigation in the Ayotzinapa Case, a body attached to the Attorney General's Office that was created on 26 June 2019 by Decision A/010/19.<sup>3</sup> On the same date, Omar Gómez Trejo was appointed chief prosecutor of the Unit, with the broad backing of the family members, and given responsibility for investigating and instituting criminal proceedings in connection with the disappearance of the 43 students.

44. The expert group's activities have included 10 days of consultation at 10 different military archives, as a result of which it was able to review and digitize 17,000 documents from 453 case files for the benefit of the investigation.

45. Research work has also included search operations in the field, in six municipalities in the State of Guerrero, most recently in March 2021. Genetic, dental, anthropological and medical identification work has been carried out since 2014. The Commission also arranged for the transfer of the genetic database from the Science Division of the Federal Police to the forensic medical services of the Attorney General's Office.

46. Interviews are being conducted with key actors to obtain relevant information in the search for the truth. Information has been requested from the various federal government departments that may have played a major role in the investigations conducted under the previous administration.

47. The Scientific Advisory Committee analysed almost 80 million telephone records and identified a primary network of 84,000 priority lines, based on the critical hours following the students' disappearance and relevant subjects.

48. Coordinated search activities resulted in the discovery of skeletal remains, which, after expert analysis, were sent to the University of Innsbruck for genetic identification. The findings, as verified by the Argentine Forensic Anthropology Team, certified that the skeletal remains were those of Christian Alfonso Rodríguez Telumbre, one of the missing trainee teachers. The remains of a second trainee teacher, Jhosivani Guerrero de la Cruz, were subsequently identified.

49. International cooperation with the Inter-American Commission on Human Rights led to the establishment, on 11 March 2019, of a special mechanism for cooperation and technical assistance, which is responsible for verifying and supporting the implementation of recommendations issued by the Interdisciplinary Group of Independent Experts and the Special Follow-up Mechanism for the Ayotzinapa Case in relation to the Commission's precautionary measure No. 409-14, regarding the search, the investigation, victim support and structural and non-repetition measures.

50. Moreover, on 8 April 2019, the Government and the United Nations High Commissioner for Human Rights, Michelle Bachelet, signed an agreement on the provision of guidance and assistance to the Commission for Truth and Access to Justice in the Ayotzinapa Case. This partnership was further strengthened in June 2020 with the signing of a technical assistance agreement by Claudia Paz y Paz, a member of the Interdisciplinary Group of Independent Experts.

51. Notable activities carried out at the President's behest include: a campaign to gather information from the general public; the signing by the President of the Supreme Court and the Attorney General of a commitment to attend to the Ayotzinapa case as a matter of State; the invitation of the Minister of Defence to attend the twelfth session of the Commission for Truth and Access to Justice in the Ayotzinapa Case, at the National Palace; and the reinstatement of the Interdisciplinary Group of Independent Experts for a second mandate.

<sup>3</sup> Available at [https://dof.gob.mx/nota\\_detalle.php?codigo=5564187&date=26/06/2019&print=true](https://dof.gob.mx/nota_detalle.php?codigo=5564187&date=26/06/2019&print=true).

52. On 5 March 2020, the federal executive branch, the Supreme Court and the Attorney General's Office signed a cooperation agreement for the clarification of the facts of the Ayotzinapa case, one of the outcomes of which was the formation of a prosecution group that consistently issues and executes new arrest warrants and search warrants and extends the investigations into key individuals.

53. Additionally, in its judgment in *amparo* review No. 499/2019, the First Chamber of the Supreme Court considered the matter of comprehensive reparation for the harm done to the students of the Rural Teacher Training College of Ayotzinapa and several young football players of the Avispones de Chilpancingo club, whose bus was travelling on the highway to Chilpancingo at the time of the events. One of the plaintiffs in the case was a direct victim of the attack on the bus. The case involved the interpretation and application of the jurisprudence of the Inter-American Court of Human Rights for the purposes of determining the amount of compensation to be awarded to victims of serious human rights violations.

54. The website <http://www.comisionayotzinapa.segob.gob.mx/> has been created so that the public can access information on the work of the Commission for Truth and Access to Justice in the Ayotzinapa Case.

## B. Increasing investigative capacity and independence and reinforcing the adversarial criminal justice system

55. The State has encountered challenges but has made progress in reinforcing the oral adversarial criminal justice system in respect of fuel theft, kidnapping, possession of firearms and related offences, crimes against health and trafficking in persons. According to data from the Unit for the Consolidation of the New Criminal Justice System of the Council of the Federal Judiciary, from 2019 to July 2021, 46,091 people were prosecuted in connection with such offences, as shown in the table below.

Year	Firearms offences	Firearms offences and crimes against health		Fuel theft	Firearms offences and fuel theft	Kidnapping	Firearms offences and kidnapping	Trafficking in persons	Total
		Crimes against health	crimes against health						
2019	13 429	3 824	1 828	825	28	468	29	141	20 634
2020	10 780	3 032	1 666	374	3	373	21	65	16 314
2021	6 190	1 578	871	276	7	167	13	41	9 143

56. As part of its institution-building efforts, the Government is taking steps to harmonize the guidelines on different aspects of criminal prosecution, which are described below.

57. Since September 2019, efforts have been made to develop judicial guides for the conduct of hearings, which seek to ensure the traceability of all hearings provided for – by name or not – in the National Code of Criminal Procedure, identifying essential actions for conducting them in a way that fulfils their specific purpose and respects the logic of adversarial prosecution.

58. For this purpose, three working groups composed of federal and local judges were set up to prepare guides for juvenile justice hearings conducted at the preliminary, intermediate and trial stages. In November 2020, the first drafts were produced. From January to May 2021, they were revised to incorporate the applicable Supreme Court case law and protocols, international treaties and judgments of the Inter-American Court of Human Rights. The guides are currently being analysed to detect areas for improvement.

59. Since the beginning of 2021, planning and coordination activities have been carried out to ensure that, once the working groups have concluded the revision exercise, observations can be gathered from the different criminal jurisdictions of the federal judiciary. A similar exercise will be conducted with other bodies that are part of the justice system. According to the Unit for the Consolidation of the New Criminal Justice System, the final

versions of these documents are expected to be available in paper and digital format in the second half of 2021.

60. At the same time, guides for the judicial examination of scientific evidence have been developed with the aim of establishing a minimum core of elements of certainty. The idea is to guide judges hearing criminal cases in their decisions in relation to aspects of expert testimony such as the admissibility of evidence, the kind of points that might be substantiated by evidence, the relevance and validity of methodologies and results, and the possibilities of cross-examination.

61. These guides cover scientific evidence related to dermatoglyphics, genetics, voice analysis, audio analysis, forensic chemistry, ballistics, forensic dentistry, physical anthropology, land transit, field criminalistics, identification of persons, forensic medicine and the weighting of findings derived from the application of the Istanbul Protocol.

62. The production of the guides entailed: (a) the drafting of a preliminary version by an interdisciplinary team of forensic and legal experts; (b) review of the draft by a group of federal and local judges, who verified its compatibility with applicable legal provisions; (c) a review by the General Office for the Coordination of Expert Witness Services of the Attorney General's Office; and (d) the collection of comments and suggestions from all expert services of the federative entities' prosecution services.

63. In January 2021, the guides on dermatoglyphics, voice analysis, genetics and forensic chemistry were consolidated in a single volume which will be published in the second half of 2021. Planning and coordination activities for the dissemination of these guides are under way.

64. Work has also been done on a judicial guide to individualized sentencing which relies on a virtual assistant. This guide is important because asymmetries have been detected in the penalties imposed for the same and similar offences, owing to the complexity and lack of legal certainty as to the weighting that judges should attach to legal variables during sentencing. Its purpose is to set reference parameters so that the personal characteristics of the accused and the particulars of the crime can be placed and traced on a scale running from the minimum to the maximum penalty provided for by law.

65. In November 2019, a group of federal criminal court judges was formed to examine the matter in the context of the Mexican Constitution, legislation and case law and to conduct a comparative study of the steps taken by other countries in this area. The group decided from the outset that it was appropriate to focus on the offence of fuel theft because: (a) it has a major social impact; (b) an increase in the number of prosecutions coincided with the introduction of the new criminal justice system; (c) a large number of cases have been adjudicated; (d) incidence of the offence is geographically concentrated in some states; and (e) doing so would enhance understanding of how the recent reform of mandatory pretrial detention interacts with prosecution and sentencing.

66. The drafting process included a statistical analysis of the incidence of the offence; the sentences handed down in Mexico, particularly in cases of fuel theft; and the holding of workshops to discuss the format and criteria of the draft. Based on this work, the group considered the possibility of creating a virtual assistant to allow judges to explain their chain of reasoning when handing down specific sentences and to generate a variable penalty range according to the greater or lesser weight given to objective or subjective elements.

67. In May 2021, the developers completed the first draft of the questionnaire that will be displayed automatically by the virtual assistant, the answers to which will be processed in order to determine the duration and/or amount of the penalty. Programming of the prototype commenced in June 2021 and is expected to be completed by the end of the year.

### **C. Institutional capacity for the effective administration of justice**

68. In order to ensure the continuity of, and increase institutional capacity for, the effective administration of justice, the Unit for the Consolidation of the New Criminal Justice System has taken the following steps.

i. *Change in the management system of federal centres for criminal justice*

69. From 1 December 2020, a six-month transitional regime was introduced under which 41 judicial office assistants temporarily assumed the position of administrator. This measure raised the possibility of their being the main candidates considered during a ratification process consisting of three types of evaluation: (a) the submission of a detailed report and an inspection visit; (b) an internal oversight assessment; and (c) the quantification of certain operational features and the results of a questionnaire sent to judges and administration personnel.

70. Meanwhile, the federal centres for criminal justice organized their first internal competitive examination for administrators and selected seven candidates. Subsequently, at a plenary meeting on 26 May 2021, the Council of the Federal Judiciary approved 21 administrators who had undergone the evaluation process, appointed the seven candidates who had passed the competitive examination and ordered that a second competition be held in relation to six federal centres for criminal justice.

ii. *Change in the management system of federal centres for criminal justice*

71. On 11 October 2017, it was decided that the federal centres for criminal justice would be managed in accordance with the “hearing judge rule”, so that judges would be assigned work automatically and at random with the aim of guaranteeing a fair distribution of work and impartiality and objectivity in the hearing and adjudication of each case.

72. On 30 September 2020, the Council of the Federal Judiciary, meeting in plenary, decided to change from a “hearing judge” to a “case judge” management system and ordered the Executive Secretariat for the Creation of New Bodies, the Directorate General of Judicial Management and the Unit for the Consolidation of the New Criminal Justice System to submit amendments to the corresponding general decisions and guidelines to enable the system’s implementation, which took place in April 2021.

iii. *Event: dialogue on the new criminal justice system*

73. From 9 to 13 September 2020, a dialogue on the new criminal justice system, entitled “Shared challenges: Mexico and the United States of America (with an emphasis on extradition)” was held for the second year.

74. The participants in this event included, on behalf of the Council of the Federal Judiciary, 20 federal judges competent to hear extradition and *amparo* proceedings; they discussed various topics related to extradition. The Unit for the Consolidation of the New Criminal Justice System reports that, through this exercise, they learned about international best practices pertaining to extradition proceedings and the substantiation of extraditable offences, thus enabling them to identify areas in which extradition laws might be harmoniously strengthened.

iv. *Specialized search engine for judgments in the adversarial criminal justice system*

75. To ensure that the search system developed by the Unit for the Consolidation of the New Criminal Justice System gives a comprehensive overview of adversarial criminal justice, on 10 March 2021, the plenary Council of the Federal Judiciary adopted guidelines for the registration of judgments in the specialized search engine for judgments in the adversarial system. The guidelines emphasized the need for the timely registration of judgments handed down by district judges specializing in the adversarial system.

76. Since the introduction of the adversarial system, more than 5,000 judgments have been handed down in summary and oral proceedings. The advanced search system has been configured so as to allow searches by various criteria and parameters and combinations thereof, including: time period, federal centre for criminal justice, judge, criminal case, offence, nature of the decision, characteristics of the parties (defendants and victims), international treaties and conventions invoked, gender perspective, relevant topics (impact on human rights; vulnerable groups; new interpretation criteria) and keywords. This search engine will allow the federal judiciary to maintain a database of victims that contains information on the type of human rights violation committed, the reparation granted, the

sentence imposed and whether a gender perspective or the perspective of a priority group was applied in adjudication.

v. *Training*

77. The Unit for the Consolidation of the New Criminal Justice System has carried out the following training activities to improve officials' grasp of the adversarial system and of relevant aspects for the assessment of offences.

78. In October 2019, it organized an exchange of experiences on challenges and opportunities for enforcement under the new criminal justice system, with the participation of 79 adversarial and circuit judges.

79. In November 2019, refresher courses on the case law on acts that might constitute torture were held for judicial authorities and support staff and officials of other institutions, with approximately 200 participants.

80. In October 2020, in cooperation with the Embassy of the United States, the Unit organized the event "Exchange of experiences on criminal justice challenges and opportunities in the context of COVID-19 (Puerto Rico, Colombia, United States and Mexico)". The aim of the event was to get some perspective on the federal judiciary's response to the pandemic and to identify challenges and joint actions to address its impacts. This virtual event was attended by 250 officials from the federal centres for criminal justice.

81. Eleven sessions of the in-service training programme on human rights and criminal procedure have been held since 2020. The programme seeks to generate a space for reflection on critical aspects of judicial decision-making in an adversarial context, based on analysis by renowned speakers. The sessions were aimed at court officials with competence in criminal matters. A total of 2,879 people participated.

82. In the first half of 2020 and the first half of 2021, the first and second editions of a diploma course for court clerks with competence in the new criminal justice system were held virtually, with the participation of 480 people. A further edition was scheduled to take place in September 2021.

83. In September 2020, in coordination with the Federal Judicial Training School, a master's degree in adversarial justice was launched to deepen participants' knowledge of the principles, characteristics and thinking behind the adversarial justice system and to develop the communicative skills needed to adjudicate in forensic oral proceedings and resolve disputes through the effective application of legislation, international treaties and adversarial case law. A total of 100 participants, including judges and magistrates with competence in criminal matters, enrolled.

84. In June 2020, a virtual course on juvenile justice was held for judges of the federal centres for criminal justice, to promote understanding and application of the provisions of the National Act on the Comprehensive Juvenile Justice System and to provide them with tools for the differentiated treatment of adolescents in conflict with the law, in order to determine their responsibility, design support schemes to ensure their effective social reintegration and prevent future conflict. Seventy-one judges from the adversarial system enrolled in the course, whose second edition was expected to take place in September 2021.

85. From August to December 2021, the first edition of a course on the Istanbul Protocol will be held for judges of the federal centres for criminal justice. The course will provide them with knowledge of the Protocol and the principles on which it is based, using theoretical and practical tools related to the adjudication of cases of torture and ill-treatment, particularly with regard to investigation, reasoning and redress. The course will be taught virtually to six groups of approximately 30 people.

86. In November 2020 and July 2021, the first and second editions of an inter-institutional dialogue on "Prospects for preventing, combating and punishing the offence of conducting transactions with illicit proceeds" were held to identify and promote public policy actions that might improve the system. Thirty judges participated in the event.

87. Lastly, in October 2021, a course on human rights and evidence in criminal proceedings will be held for justice officials to update them on the human rights standards

applicable to evidentiary aspects of criminal proceedings. This virtual course will be offered to 300 criminal justice officials.

vi. *Cases relevant to the protection of witnesses and victims*

88. In its judgment on direct *amparo* appeal No. 4069/2018, the First Chamber of the Supreme Court considered sexual offences perpetrated against a number of children by workers at a public-sector kindergarten. During the criminal proceedings, the victims' representatives submitted various expert opinions on the amount of compensation that should be awarded. The judge hearing the case considered that there was insufficient evidence to quantify the harm caused and postponed a decision in that regard until the sentence enforcement stage; this judgment was amended on appeal. Dissatisfied with the decision, the victims' representatives filed a direct *amparo* appeal in which they claimed that the evidence before the court had been sufficient to set the compensation amount on the date of the judgment.

89. The First Chamber of the Supreme Court ruled that the courts must consider several guidelines before deciding to postpone the quantification of harm until the enforcement stage. These guidelines, which take into account the risks of revictimization that such a postponement might entail, and the requirements of the best interests of the child, are as follows: (i) set aside expectations of an "exact figure" and try to define an "appropriate figure", bearing in mind that the elements to be considered when quantifying harm should not be read as requirements that must be exhaustively fulfilled, nor as items on a list to be mechanically checked by the judge, and that courts are expected to rise above any omissions or excesses by the victims when determining what constitutes an appropriate amount; (ii) define the scope of the evidence adduced and, if necessary, explain why it is insufficient; (iii) explore whether the case file contains any additional evidence; (iv) consider whether it is possible to apply the principles of equity and reasonableness to remedy the lack of evidentiary information; (v) examine whether compensation for certain elements might be set in advance or a partial amount awarded that may subsequently be adjusted; (vi) consider whether any reparation measures other than compensation might be granted; and (vii) ensure that the defendant's right to be heard is respected when considering whether (full or partial) reparation should be determined at the time of the judgment.

90. The Supreme Court published two opinions on this subject on 7 May 2021. The first, No. 1a. XX/2021 (10a.), entitled "Compensation in cases where crime victims are minors", establishes that the amount of compensation must be set at the time of the conviction, unless there is insufficient evidence to set an amount. The second, No. 1a. XIX/2021 (10a.), is entitled "Compensation: Guidelines for deciding when the quantification of harm should be postponed until the sentence enforcement stage".

91. In its decision No. 355/2019 on conflicting rulings, however, the First Chamber of the Supreme Court examined whether victims or aggrieved parties might file an appeal against an order not to commit an accused person to trial for lack of evidence. The Supreme Court decided that indeed, victims and aggrieved parties do have standing to appeal against such non-committal orders, since these have an indirect impact on compensation.

92. The consequences of the non-committal order are that the investigation will be discontinued and no trial will take place at which the accused, if convicted, would be ordered to pay compensation.

93. Article 459 (I) of the National Code of Criminal Procedure expressly empowers the victim or aggrieved party to challenge decisions that deal with compensation for harm caused, regardless of whether or not they are officially assisting the Public Prosecution Service. Victims and aggrieved parties thus have standing to appeal against non-committal orders, as these might prevent a proceeding that could lead to an order to pay them compensation.

94. Standing to challenge non-committal orders ensures victims' and aggrieved parties' right of access to justice. Given the consequences of such orders, it is extremely important that their legality should be overseen by a higher court in order to guarantee that they are only issued in cases where there is no evidence to justify the continuation of the investigation.

95. Accordingly, on 4 December 2020, the Supreme Court published opinion No. 1a./J. 54/2020 (10a.), entitled “Non-committal orders”, in which it found that victims and aggrieved parties have standing to appeal against non-committal orders because these indirectly affect their right to compensation, where applicable, and because such standing ensures their right of access to justice.

96. Another matter related to the protection of victims was addressed in conflicting ruling No. 291/2019, in which the First Chamber of the Supreme Court ruled on the scope of the right to due process. The Supreme Court decided that, where the *Amparo* Act states that “the plaintiff may file a remedy of *amparo* through his defence counsel when the contested act derives from a criminal proceeding”, this cannot be limited solely to the defence counsel of the accused, but must necessarily include the legal counsel acting on behalf of the victim, so that victims are not left in a state of vulnerability before the punitive power of the State or the decisions of the Prosecution Service or judges during the criminal proceedings.

97. Therefore, the counsel of the victim or aggrieved party in criminal proceedings may file an application for *amparo* on the client’s behalf. This is because victims and aggrieved parties have the right to be represented by counsel – a qualified lawyer – at any stage of criminal proceedings, in any court and in any proceeding or trial in which they are a party; otherwise plaintiffs could face an imbalance in respect of procedure and the exercise of their rights, especially the right of access to justice under article 20 of the Constitution, the National Code of Criminal Procedure and the General Victims Act.

98. Finally, in its judgment in *amparo* review No. 1077/2019, the First Chamber of the Supreme Court examined the scope of the obligation of the authorities, within their respective areas of competence, to implement the urgent actions requested by the Committee on Enforced Disappearances, in exercise of the powers conferred by the International Convention for the Protection of All Persons from Enforced Disappearance. 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 missing person is an unavoidable obligation of the State, which must be undertaken without unjustified obstacles and with all available institutional force.

99. The Supreme Court noted that international and national standards agree that the search for missing persons requires States to employ all useful national and international legal tools to establish their fate or whereabouts. Urgent actions requested by the Committee on Enforced Disappearances have an obligatory character, since the priority accorded to this mechanism ensures immediate and effective compliance with treaty commitments and allows the Committee to cooperate with the Mexican State and monitor its search activities.

#### **D. Office of the Special Prosecutor for the Investigation of Torture**

100. In the course of its activities, the Office of the Special Prosecutor for the Investigation of Torture gathers all evidence to complete its inquiries in accordance with the relevant international treaties, the Constitution, the General Act on the Prevention, Investigation and Punishment of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the harmonized protocol for the investigation of offences of torture. It opens preliminary investigations and case files, exhausts lines of inquiry in order to determine probable responsibility, lays charges and brings prosecutions before the courts.

101. The Office has participated in training activities delivered by the Directorate General for the Promotion of a Human Rights Culture, seminars organized by the German Agency for International Cooperation and refresher courses organized by the United States Agency for International Development.

102. It also performs statistical analyses, including in respect of the number of cases of torture and ill-treatment, the number of prosecutions brought and the number of convictions and sentences handed down.

### **E. Office of the Special Prosecutor for the Investigation of Enforced Disappearance and Disappearance Perpetrated by Individuals**

103. Since 2018, the Office of the Special Prosecutor for the Investigation of Enforced Disappearance and Disappearance Perpetrated by Individuals, part of the Attorney General's Office, has been drawing up a harmonized protocol consisting of a specific, differentiated and specialized technique to identify offences within its jurisdiction, to determine the fate and whereabouts of victims, to shed light on the motive or motives for the disappearance, to determine the responsibility of the perpetrators and to guarantee the victims' rights to truth and justice.

104. This work reflects a specialized approach under which officials are issued with appropriate guidelines to apply the General Act on Enforced Disappearance of Persons, Disappearance Perpetrated by Individuals and the National Missing Persons System,<sup>4</sup> thus ensuring that they examine the different motives for such offences and the condition and situation of the victims.

105. The Office of the Special Prosecutor and the Attorney General's Office have each certified 97 public servants who have received training in this regard. In 2021, the training certificates of 37 public servants will be renewed, and a further 37 officials of the Federal Prosecution Service will participate in the third generation of the certification programme.

## **IV. Follow-up information on paragraph 43 of the concluding observations: freedom of expression and association**

106. In paragraph 43 of the concluding observations, the Committee urged the State party to:

- (a) Strengthen the mechanism for the protection of human rights defenders and journalists and the state-level protection units by allocating sufficient financial and human resources for their work, incorporating a gender perspective into their activities, taking action to address structural risk factors on both a reactive and preventive basis and organizing activities that increase public awareness of the legitimacy of the mechanism's work;
- (b) Strengthen the institutions responsible for law enforcement and the administration of justice, and also the administrative bodies responsible for internal oversight, so as to ensure that all attacks are investigated promptly, thoroughly, independently and impartially, that the perpetrators are brought to justice and that victims receive adequate assistance and comprehensive reparation;
- (c) Ensure that guarantees of due process are upheld in cases in which human rights defenders and journalists stand accused of committing offences; and
- (d) Ensure that any restrictions on the right to freedom of opinion and expression and the right to freedom of assembly and association comply fully with the strict requirements set out in articles 19 (3), 21 and 22 (2) of the Covenant.

107. The response to these recommendations is described in the following paragraphs.

### **A. Strengthening the mechanism for the protection of human rights defenders and journalists**

108. On 8 October 2020, following the publication in the Official Gazette of 2 April 2020 of the decree ordering the dissolution or termination of public trust funds, public mandates and suchlike, the National Human Rights Commission, the Mexican Federation of Public Human Rights Organizations and the OHCHR country office issued a statement in which they regretted the decision to abolish such trust funds without ensuring alternatives for the protection of human rights. The Human Rights Defenders and Journalists Protection Act, drafted with the participation of civil society, has been the main institutional response to violence against human rights defenders and journalists and provides a legislative framework

<sup>4</sup> Available at [http://www.diputados.gob.mx/LeyesBiblio/pdf/LGMDFP\\_200521.pdf](http://www.diputados.gob.mx/LeyesBiblio/pdf/LGMDFP_200521.pdf).

for the State to comply with its obligations to protect, promote and guarantee freedom of expression and the right to defend human rights in Mexico. In their public statements, the National Human Rights Commission and the OHCHR country office have highlighted the need to decide upon and implement protection measures in a manner that is prompt, flexible and adapted to the circumstances of each case. They consider that the current Trust Fund for the Protection of Human Rights Defenders and Journalists has proved to be a useful tool for the rapid implementation of protection measures in cases of extreme urgency throughout the country. Accordingly, the Mexican Federation of Public Human Rights Organizations, the National Human Rights Commission and the OHCHR country office have called for the rights of journalists and human rights defenders to be guaranteed to the maximum of available resources, and for the effectiveness of the Fund to be maintained or strengthened in any reform of the legal framework.

109. Regarding the incorporation of a gender perspective into the work of the National Protection Mechanism for Human Rights Defenders and Journalists and action taken to address structural risk factors, on 31 December 2019 the National Protection Mechanism published its 2019 annual report, in accordance with general recommendations No. 24 and No. 25 of the National Human Rights Commission. This report includes a section on gender violence which, although it contains a breakdown of attacks on female journalists and human rights defenders, does not include statistics with a gender perspective. The National Human Rights Commission recalls that the Economic Commission for Latin America and the Caribbean has emphasized that “incorporating a gender perspective into statistical production means questioning how certain phenomena have a differential impact on men and women, that is, by revealing situations of inequality in different areas of people’s lives. The gender perspective must be systematically mainstreamed in all stages of statistical production, including by using gender-sensitive concepts and broadening information sources, to shed light on phenomena which are currently statistically invisible”. In its document “Criterios para el uso de información estadística” (Criteria for the use of statistical information), the National Women’s Institute states that “by including a gender perspective, statistics can be generated or produced in a way that considers the different socioeconomic and cultural contexts in which women and men live. The first step towards achieving this is to collect data disaggregated by sex, and then to emphasize the description of gender relations, clearly identifying the socioeconomic condition of women and highlighting existing gender inequalities – how certain situations affect women and men differently – so as to be able to address these contexts or circumstances in order to achieve equality”. In the case of the National Protection Mechanism, gender indicators are limited to data on violence against women and men, but they should also reflect details of the lives of these men and women as a tool for risk analysis.

## **B. Judgments relevant to respect for freedom of opinion and expression**

110. In the application for constitutional review No. 72/2019, the Supreme Court, sitting in plenary, examined the right to freedom of expression and the right to due process and decided to repeal article 28 (III) of the Mexico City Civic Culture Act, which defined the unauthorized use of public space as an offence against public security. The provision was considered to violate the rights to freedom of expression, assembly and association, since any requirement to request authorization for the use of public space would constitute prior censorship of the messages expressed and would make their dissemination contingent upon a decision of the authorities.

## **C. Office of the Special Prosecutor for Crimes against Freedom of Expression**

111. The Office of the Special Prosecutor for Crimes against Freedom of Expression, attached to the Attorney General’s Office, handles all complaints in this area.

112. In 2016, it commenced activities within the adversarial criminal justice system, which was strengthened in 2018 with the issuance of the harmonized protocol on the investigation of crimes against freedom of expression. This protocol is intended to ensure the provision of

support, guidance, legal advice and protection measures to safeguard the lives, well-being, freedom and safety of persons who are at risk as a result of their exercise of the right to freedom of expression, and of victims' family members.

113. Participants in the drafting of this protocol included the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights, the OHCHR country office in Mexico, the National Human Rights Commission and civil society organizations.

114. The Office of the Special Prosecutor for Crimes against Freedom of Expression has carried out a review of its work between February 2016 and June 2021, a period in which it opened 592 investigations. Figures in this regard are provided in annex 2.

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