



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

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Consideration of reports of States parties to the Convention

**List of issues in relation to the report submitted by Mexico
under article 29, paragraph 1, of the Convention**

Addendum

Replies of Mexico to the list of issues*

[Date received: 23 January 2015]

* The present document is being issued without formal editing.



Contents

	<i>Paragraphs</i>	<i>Page</i>
I. General information	1–6	4
Reply to paragraph 1 of the list of issues	1–4	4
Reply to paragraph 2 of the list of issues	5–6	4
II. Definition of the criminal offence of enforced disappearance (arts. 1–7)	7–73	5
Reply to paragraph 3 of the list of issues	7–16	5
Reply to paragraph 4 of the list of issues	17–23	6
Reply to paragraph 5 of the list of issues	24–47	8
Reply to paragraph 6 of the list of issues	48–56	12
Reply to paragraph 7 of the list of issues	57–73	13
III. Judicial procedure and cooperation in criminal matters (arts. 8–15).....	74–122	17
Reply to paragraph 8 of the list of issues	74–76	17
Reply to paragraph 9 of the list of issues	77–80	17
Reply to paragraph 10 of the list of issues	81–89	18
Reply to paragraph 11 of the list of issues	90–96	20
Reply to paragraph 12 of the list of issues	97–102	21
Reply to paragraph 13 of the list of issues	103–190	22
Reply to paragraph 14 of the list of issues	120–122	27
IV. Measures to prevent enforced disappearances (arts. 16–23)	123–156	27
Reply to paragraph 15 of the list of issues	123–128	27
Reply to paragraph 16 of the list of issues	129–134	28
Reply to paragraph 17 of the list of issues	135–143	29
Reply to paragraph 18 of the list of issues	144	30
Reply to paragraph 19 of the list of issues	145–149	30
Reply to paragraph 20 of the list of issues	150–156	31
V. Reparation and protection of children from enforced disappearance (arts. 24 and 25).....	157–194	32
Reply to paragraph 21 of the list of issues	157–170	32
Reply to paragraph 22 of the list of issues	171–173	35
Reply to paragraph 23 of the list of issues	174–187	36
Reply to paragraph 24 of the list of issues	188–191	38
Reply to paragraph 25 of the list of issues	192–194	38

Annex**

Single annex to the replies by Mexico to the list of issues of the United Nations
Committee on Enforced Disappearance

** The annex may be consulted at the offices of the secretariat.

I. General information

Reply to paragraph 1 of the list of issues

1. In accordance with article 29, section X, of the Rules of Procedure of the Ministry of Foreign Affairs, the Directorate for Human Rights and Democracy is tasked, in coordination with national units and international organizations, with following up the implementation of the interim and provisional measures called for by international and regional human rights mechanisms. To that end, when the Mexican State receives a request from the Committee on Enforced Disappearances to implement interim measures, the Ministry of Foreign Affairs transmits the request to the Human Rights Unit attached to the Office of the Under-Secretary for Human Rights in the Ministry of the Interior. Pursuant to article 24 IX, the Human Rights Unit is tasked with coordinating with the federal and local authorities action on requests for precautionary or interim measures to prevent human rights violations, and with implementing such measures.
2. Subsequently, upon implementation of the measures called for in the request from the Committee or other international bodies, the Ministry of the Interior transmits to the Ministry of Foreign Affairs information concerning all the action taken in order for it to prepare and forward a report on the case in question to the United Nations Committee on Enforced Disappearances.
3. In the case of urgent action, the Office of the Attorney General of the Republic requests information from the substantive services concerned in order to ascertain whether there is any detailed record or preliminary inquiry relating to the disappeared person. Requests for implementing interim and protection measures within the Office of the Attorney General are forwarded to the Committee for the Determination, Follow-up and Evaluation of Measures for the Security and Protection of Persons.
4. To date, the Committee on Enforced Disappearances has requested interim measures from Mexico on four occasions; in three, security escorts were provided; in one case, the person concerned did not agree to be protected.

Reply to paragraph 2 of the list of issues

5. Up to 2013, the National Human Rights Commission had carried out 524 field operations (inquiries) concerning missing persons or persons reported to have disappeared.
6. In the same year (2013), the Commission transmitted 11,768 requests for information to various federal and state authorities (592 and 11,176 respectively) and opened files on 37 complaints, 87 requests for direct assistance and 17 referrals concerning the absence or presumed disappearance of 499 persons (2013 report of the National Human Rights Commission). This information is provided subject to any information that may be provided directly to the Committee by the Commission.

II. Definition of the criminal offence of enforced disappearance (arts. 1–7)

Reply to paragraph 3 of the list of issues

7. The proposed amendment was one of a number of human rights initiatives submitted to the Senate in October 2013. It has not yet been discussed as the advisory commissions have deemed it preferable to work on a general law on the subject.

8. The criminal offence of enforced disappearance of persons is currently provided for in the criminal codes of 23 federal entities (Aguascalientes, Baja California, Campeche, Chihuahua, Coahuila de Zaragoza, Colima, Distrito Federal, Durango, Guanajuato, Hidalgo, Jalisco, Michoacán, Morelos, Nayarit, Nuevo León, Oaxaca, Puebla, San Luis Potosí, Sinaloa, Sonora, Tlaxcala, Veracruz and Zacatecas). Three others have special laws (Chiapas, Guerrero and Querétaro), while six lack a specific definition of it as a criminal offence (Baja California Sur, *Estado de México*, *Quintana Roo*, *Tabasco*, *Tamaulipas* and *Yucatán*). (See annex, section 1.)

9. In addition, at the forty-seventh ordinary meeting of the National Conference of Governors, the executive branch of the federal Government and the heads of the 32 state governments reached an agreement on human rights, in part six of which the state governors undertake to set in motion the necessary amendments to the criminal codes with a view to harmonizing the criminal offence of enforced disappearance, in line with international standards.

10. It should be noted that, on 26 November 2014, the governor of the Federal District (Distrito Federal) submitted to the Federal District legislative assembly a bill on the prevention, elimination and punishment of enforced disappearance and disappearances through acts by individuals and the waiving of article 168 of the Federal Criminal Code in the Federal District.

11. Furthermore, the Congress of the Union is currently studying various proposed constitutional and legal reforms that will lead to the inclusion and uniform definition of the criminal offence of enforced disappearance of persons in all the federal entities and the promulgation of a general law on the subject.

12. In both the Senate and the Chamber of Deputies various draft decrees, submitted on 21 April, 9 September and 19 November 2014, seek to amend articles 19, 20 and 73 of the Constitution so as to empower Congress to legislate on matters of enforced disappearance. Moreover, a draft decree has been submitted in the Chamber of Deputies that would have the effect of waiving articles 215-A, 215-B, 215-C and 215-D of the Federal Criminal Code and enacting a general law on the prevention, identification, investigation and punishment of enforced disappearances of persons; and on 2 December 2014, in the Chamber of Deputies, a draft decree was submitted to enact a general law on the prevention, investigation, punishment and reparation of enforced disappearances of persons. These initiatives have been supplemented by a draft decree submitted by the President of the Republic aimed at empowering Congress to enact general laws, in particular on torture and enforced disappearance.

13. The Congress of the Union is currently studying a number of proposed amendments to the Constitution that would enable Congress to enact a general law on the enforced disappearance of persons. In keeping with the constitutional rule for the assignment of jurisdiction in Mexico, Congress is required to be empowered by the Constitution to enact a general law on the subject that would duly affect all branches of government through the uniform criminalization of enforced disappearance throughout the country.

14. The President of the Republic accordingly submitted on 2 December 2014 a draft constitutional amendment designed inter alia to empower Congress to enact general laws with a view to:

(a) Determining the respective roles of the Federation and the federal entities in matters of public security and developing uniform criteria and procedures in that area;

(b) Freely defining what types of behaviour should be classified as offences in those general laws and, in such cases, assigning jurisdiction for their investigation, prosecution and punishment so that the Constituent Assembly delegates to the Congress of the Union the authority to determine the types of criminal offence to be regulated in the general laws rather than this being so determined by the Constituent Assembly on a case-by-case basis, as has been the practice up to now. Needless to say, any behaviour that is not an offence against the Federation and behaviour not covered by general laws will be regulated by local legislative authorities;

(c) Assigning criminal jurisdiction for the investigation, prosecution and punishment of offences irrespective of territorial divisions, with scope at least for the joinder of cases, extension and delegation of jurisdiction and coordination. The aim is to change the system of coordination in order to develop a cooperative arrangement governed by clearly defined but still flexible rules so that local authorities can try federal offences and federal authorities can try local offences, avoiding the current rigidity of the system of criminal jurisdiction which does no more than allow, for specific offences set out in general laws, assignment as concurrent offences and the joinder of federal and local offences. The aim is to develop new arrangements for cooperation, and not just for coordination, that can accommodate multiple scenarios best suited to social needs.

15. Under this third rubric of criminal jurisdiction, the Congress of the Union may envisage the possibility of enacting general laws that duly affect all branches of government in matters concerning the enforced disappearance of persons and torture, as well indeed as other offences covered by the Rome Statute.

16. These initiatives were discussed by government officials, academics and civil society in different forums organized by the Senate on 20, 21 and 22 January 2015 with the aim of being able to adopt a position in February 2016.

Reply to paragraph 4 of the list of issues

17. With regard to point (a) of the question and in respect of federal measures, article 13 of the Federal Criminal Code sets out the different ways in which individuals may be considered to have committed or participated in any offence. The act of ordering is covered by subsection I (Persons who agree or prepare to commit an offence) and subsection IV (Persons who commit an offence through the agency of another). The act of inducing the commission of an offence is covered by subsection V (Persons who wilfully induce another person to commit it). The act of attempting to commit an enforced disappearance is covered at the federal level by article 12 of the Federal Criminal Code.

18. In addition, article 215-A of the Code recognizes that abetting or participating in an enforced disappearance is an offence for which a public servant may be punished, “regardless of whether he or she has been involved in the legal or illegal detention of a person or persons, abets or wrongfully maintains his or her concealment under any form of detention”. Furthermore, article 215-D of the Code makes it a punishable offence “to block or refuse free and immediate access by the competent authority to a place where there are grounds for believing that a missing person may be found”.

19. For information at the state level, the Committee is referred to paragraphs 8 to 11 above (annex, section 1).

20. The proposed amendment to article 215-A of the Federal Criminal Code seeks to punish “any public servant who, regardless of whether he or she has been involved in the legal or illegal detention of a person, abets or wrongfully maintains his or her concealment under any form, or refuses to acknowledge the deprivation of liberty of the person or provide information regarding his or her whereabouts in order to continue his or her concealment”. While this wording does not explicitly recognize the criminal responsibility of superior officials, such responsibility is attributable to them if they “abet(s) or wrongfully maintain(s) his or her concealment under any form, or refuse(s) to acknowledge the deprivation of liberty of the person or provide information regarding his or her whereabouts in order to continue his or her concealment”.

21. Moreover, Congress has on record two proposals in the Chamber of Deputies concerning the criminal responsibility of superior officials. From one, the following stands out:

(a) Article 8. The following shall be subject to a prison term of between 4 and 12 years and a fine of between 300 and 500 times the minimum wage applicable in the region and disqualification from public office for the same period of time as the sentence to be served in prison:

(i) Whosoever having knowledge of the commission of the offence of enforced disappearance of persons contributes to the evasion of justice or obstructs investigation of enforced disappearance; and

(ii) Whosoever having knowledge of plans to commit the offence of enforced disappearance, without being involved, does not notify the authorities.

The penalty of disqualification from public office is non-commutable.

(b) Article 10. A superior official who, by function and by law, has the legal duty to take action to prevent enforced disappearance and who nevertheless does not do so, allowing the offence to be perpetrated through absence of a command order, shall be punishable by 3 to 6 years’ imprisonment and a fine of 200 to 400 times the minimum wage applicable in the region.

22. The other proposal emphasizes in article 18 that when the behaviour described in the chapter occurs under the following circumstances, the penalties provided for therein shall be increased by up to one half, without prejudice to a concurrence of offences: “When a public servant, in his or her capacity as a superior official, knowing of the involvement of his or her subordinates in the commission of the offence, does not exercise his or her authority to prevent that offence.”

23. Notwithstanding the foregoing, it should be stressed that article 13, section IV, of the Federal Criminal Code (Persons who commit an offence through the agency of another) can be used to assign criminal responsibility for the commission of an offence to the superior official, pursuant to article 7 of that Code. “Article 7. A criminal offence is an act of commission or omission punishable under criminal law. Where an offence produces a material result, the characteristic result produced shall also be imputable to any person who fails to prevent it, if that person was legally bound to do so. In such cases, the result shall be regarded as the consequence of an act of omission, where it is determined that the person failing to prevent it was required by law, a contract or his or her own previous action to act accordingly.”

Reply to paragraph 5 of the list of issues

24. The Mexican State has taken various steps towards designing and implementing a comprehensive public policy to search for and locate persons whose whereabouts are unknown. One of these, in response to national and international recommendations for the establishment of best practices, is to maintain a consolidated, updated register that will indeed serve for the development of public policy.

25. A person's whereabouts may be unknown for a variety of reasons. The most common include the following: absence by intent, absence due to domestic problems, unlawful deprivation of liberty, migration within or outside the national territory, detention in a prison facility, death, or through being a victim of some other offence.

26. Following an agreement by the National Conference of State Attorneys General, adopted in 2011, it was therefore decided to set up a database that would incorporate information provided by the attorney generals' offices and public prosecution services of the 32 federal entities concerning missing persons, subsequently built up and consolidated following promulgation of the Act on the National Registry of Missing and Disappeared Persons, published in the Official Gazette on 17 April 2012.

27. Since being set up and developed, the database had not been purged or updated in any way. In other words, the names of persons subsequently located had not been removed from the list and no cross-checking had been carried out to identify persons with the same names or double entries. It was based on reports from attorney generals' offices and public prosecution services of the federal entities, recorded in the database without any subsequent review or update.

28. To remedy this, it was decided by the National Conference of State Attorneys General at its XXIXth plenary assembly, held on 30 May 2013, to set up working groups in each of the attorney generals' offices and public prosecution services of the federal entities in order for them, on the basis of uniform criteria, to undertake a process of reviewing, updating and purging their registers and to transmit the resulting information for incorporation into a national database under the responsibility of the Office of the Attorney General of the Republic.

29. The working groups in the federal entities have accordingly been taking the following action:

- Updating complaints, preliminary inquiries, case files or detailed records held in attorney generals' offices and public prosecution services of the federal entities;
- Making contact with family members through telephone calls and home visits in order to update information on reports of missing persons;
- Identifying possible cases of namesakes or duplicates contained in the registers of two or more attorney generals' offices or public prosecution services of the federal entities; and
- Cross-checking with the databases of other units or institutions.

30. This database has been constituted chronologically as follows:

- At 30 November 2012, a total of 26,121 reports had been received from the time it had been started in 2011, following an agreement reached within the National Conference of State Attorneys General, which had expressed its satisfaction with the information provided by the attorney generals' offices and public prosecution services of the federal entities;

- In 2013, following the update agreed with the attorney generals' offices and public prosecution services of the federal entities, this figure grew to 29,707 persons as the local data-reporting bodies transferred to the database all information available up to that time in their state and Federal District registers;
- At 31 July 2014, as a result of the action taken by the federal entities to locate persons and clean up the registers, 17,175 persons on the list were reported to have been located, of whom 16,274 had been found to be alive, and searches were continuing for 12,532 persons;
- As regards the registers entered from 1 December 2012 to the cut-off date of 31 July 2014, the attorney generals' offices and public prosecution services of the federal entities reported at that date that 13,444 persons had been located, of whom 12,821 had been found to be alive, or 95 per cent. Efforts are therefore continuing to locate 9,790 persons.

31. It should be noted that this database is constantly updated and regularly purged.

32. Information on the National Registry of Missing and Disappeared Persons can be consulted at the website of the executive secretariat of the National Public Security System (www.secretariadosejecutivo.gob.mx), which manages a single database covering all missing persons for both the periods before and after 2012. This database is developed by the Attorney General's Office on the basis of information supplied by attorney generals' offices and public prosecution services of the federal entities.

33. This database can be consulted for data on missing persons by sex, age, nationality, ethnic group, distinctive signs and disability, as well as by federal entity, and the date or place at which the disappearance was reported.

34. The National Registry serves as a single database covering all missing persons for both periods. This database is developed by the Attorney General's Office on the basis of information supplied by attorney generals' offices and public prosecution services of the federal entities.

35. On 30 September 2014, an agreement was concluded between the Office of the Attorney General of the Republic and the International Committee of the Red Cross for the use of the ante-mortem/post-mortem database software license. Training in the operation of this database began on 17 February 2014 under a programme that was completed at the end of that year. Attorney generals' offices and/or public prosecution services of the state of Mexico, Puebla, Tlaxcala, Veracruz and the Federal District benefited from the entire programme together with personnel of the Office of the Attorney General of the Republic. As part of the programme, meetings were held with personnel of the attorney generals' offices and public prosecution services of the federal entities to introduce the ante-mortem/post-mortem database and explain its usefulness.

36. The database contains solid information to be entered into the ante-mortem module, obtained through a questionnaire (annex, section 2), which collects highly sensitive personal data (information about the family member interviewed and the persons present during the interview, contact information of each of the persons willing to give or receive information about the missing person; family tree of the person being sought; personal data and basic information, such as age, marital status, sex, gender, whether or not a migrant, and occupation; information on the facts of the disappearance and the last time that the person was seen; physical description, including tattoos, scars or any distinctive sign; any of the person's habits that might help to distinguish him or her from other persons; medical record, surgical operations and dental information; information about clothing, personal items and documents that the person will have probably used or taken with him or her at the time of his or her disappearance; any physical copy of documents that may have been

carried by the person at the time of his or her disappearance and images of the reported person, such as photos or videos; information on any sample obtained from the person before his or her disappearance, such as fingerprints, or gene samples obtained from family members for genetic profiles). This information allows living persons to be located by more effective legal searches and the checking of various databases (hospitals, detention facilities, social networks).

37. The post-mortem module draws on forensic information on unidentified deceased persons collected through the Processing and Forensic Identification Protocol (annex, section 3), which can be cross-checked with ante-mortem information stored in this digital cross-referencing system.

38. The Attorney General's Office has begun operating the ante-mortem/post-mortem database by entering information into the two modules. Since September, it has installed the software system in 150 computers in its offices in the Federal District and has been training operators and putting in place the technical tools (digital platform) needed for the software to be used in all its branches in the federal entities.

39. The National Conference of State Attorneys General has adopted a number of decisions concerning the implementation and operation of the ante-mortem/post-mortem database:

- At the XXXIst National Conference of State Attorneys General, held in November 2013, it was decided to establish a special search network for missing persons as an operational tool for the Conference. This network will draw on a database designed and configured by the Office of the Assistant Attorney General for Human Rights, Crime Prevention and Community Services of the Office of the Attorney General (ante-mortem/post-mortem database), which will be used and updated by all attorney generals' offices and public prosecution services in the country. The network currently consists of 157 federal and state focal points possessing a search response capacity, coordinated with each other within the framework of a comprehensive public policy on searches for persons (annex, section 4);
- At the XXXIInd National Conference of State Attorneys General, held in May 2014, it was agreed to promote the implementation of the ante-mortem/post-mortem database in the attorney generals' offices and public prosecution services of the federal entities;
- At the XXXIIIrd National Conference of State Attorneys General, held in November 2014, it was decided: (a) through the high courts of justice throughout the country to set in motion and follow up the National Forensic Medicine Training and Support Programme as a national priority programme; (b) to publish in the Official Gazette the Forensic Processing and Identification Protocol to make it mandatory in all forensic medicine services in the country; (c) to sign the addendum proposed by the International Committee of the Red Cross to the agreement it had concluded with the Office of the Attorney General on the ante-mortem/post-mortem software license;
- At the forty-seventh ordinary meeting of the National Conference of Governors, on 10 October 2014, the executive branch of the federal Government and the heads of the 32 state governments adopted as its twenty-first agreement a series of actions for the defence of human rights. In the sixth section of the agreement it is noted that those vested with executive power in the federal entities shall, through local attorney generals' offices and public prosecution services, and with the support of institutions responsible for public security, continue to cooperate in searches for missing persons, in particular through the development of a legal search protocol, the national network for searching for missing persons, the ante-mortem/post-mortem database for the collection of sensitive information relevant to searches for persons

alive and forensic information for the identification of deceased persons through the use of the Forensic Processing and Identification Protocol in all the forensic services of the country, sharing information on genetic profiles, building investigative, forensic and expert capacity, and special schemes for victims.¹

40. Furthermore, as part of the functions connected with the operation of the ante-mortem/post-mortem database, the Office of the Attorney General has put in place 95 mobile laboratories which provide support to the judicial institutions of the federal entities in their work of investigation; of these, 30 are genetic laboratories.

41. As noted earlier, one of the merits of the ante-mortem/post-mortem database is the possibility of cross-checking information in its own ante-mortem and post-mortem digital modules and thereby of being kept constantly up to date. Mention has likewise been made of the need and possibility to cross-check with other databases, including the National Registry of Missing and Disappeared Persons, to which end computer experts and experts from the International Committee of the Red Cross have been seeking to determine what digital means would serve to establish communication and dialogue between the various software tools that are being designed as part of a comprehensive policy to search for and locate missing persons.

42. It should be stressed that all the progress made in all the aforementioned areas has been monitored on both an ad hoc and a regular basis within the framework of regional meetings of the Government's Security Cabinet with the state governors and the head of government of the Federal District.

43. Information concerning the National Registry of Missing and Disappeared Persons is accessible to everyone through the Internet site of the executive secretariat of the National System of Public Security (<http://secretariadoejecutivo.gob.mx/rnped/consulta-publica.php>).

44. In accordance with the provisions of the Federal Act on Transparency and Access to Public Government Information, such particulars as name and address are not revealed when registers are consulted.

45. The genetic database of the Office of the Attorney General was set up as a Combined DNA Index System (CODIS) pursuant to Agreement 03/XXXIII/12 of the National Conference of State Attorneys General providing for a national priority programme on forensic genetics, the purpose of which was to establish, build up and consolidate such a database. Attorney generals' offices and public prosecution services of the federal entities have in turn been setting up their own databases and genetic profiles since the end of 2012. As has been noted (paras. 35 to 42 above), computer experts and experts from the International Committee of the Red Cross are seeking to determine what digital means would allow communication and dialogue between the various software tools that are being designed as part of a comprehensive policy to search for and locate missing persons.

46. Two years ago, the agreement providing for a Combined DNA Index System was supplemented by the signing of a cooperation agreement between public prosecution services. These provide information, including genetic profiles, concerning relatives of missing persons, unidentified deceased persons and detained persons, in particular. Agreements have been entered into with 12 federal entities² and information provided by

¹ Declaration of the XLVIIth ordinary meeting of the National Conference of Governors, Twenty-first Agreement, Section 6, <http://conago.org.mx/reuniones/2014-10-10.aspx>.

² Baja California, Baja California Sur, Campeche, Chiapas, Colima, Morelos, Jalisco, Oaxaca, Puebla, Sinaloa, Tabasco and Tlaxcala.

other attorney generals' offices and public prosecution services with a view to the conclusion of such agreements has been processed.

47. In December 2014, the database contained 1,821 genetic profiles. This genetic database is one of the tools being used for the purposes of the aforementioned agreement between the Office of the Attorney General and the International Committee of the Red Cross and allows information and genetic profiles to be sifted so as to provide disaggregated information on persons reported missing and unidentified deceased persons.

Reply to paragraph 6 of the list of issues

48. On 25 September 2013, the Criminal Investigation Agency of the Office of the Attorney General was set up under Agreement A/101/13 to plan, coordinate, implement, supervise and evaluate tactical action against crime through intelligence findings and scientific and forensic services in support of criminal investigation. This agency is composed of: (a) the Federal Judicial Police; (b) the Office for the Coordination of Expert Services; and (c) the National Centre for Planning, Analysis and Information to fight Crime. As part of the new approach to investigation based on the establishment of this Agency, enhanced coordination has been achieved with authorities in the three branches of government and foreign counterparts and cross-cutting methods of investigation have been developed.

49. The Criminal Investigation Agency has redesigned the ways and means whereby information is analysed and intelligence produced. This will make it possible to respond more effectively to crime and to widen the scope of criminal prosecution, aimed in particular at high-impact offences. The new approach lends itself to the dismantling of criminal networks, which has been achieved through more science-based investigation.

50. The Agency has carried out various activities designed to build institutional capacity and implement a process of technological modernization. Special mention may be made of the programme to modernize and equip the central laboratory and the state laboratories of Jalisco, Michoacán, Nuevo León and Sonora and the fielding in the 31 states and the Federal District of 95 mobile laboratories specializing in the investigation of rural crime, environmental offences, unmarked graves and clandestine laboratories.

51. In addition to the Criminal Investigation Agency there is an Office of the Assistant Attorney General for the Investigation of Organized Crime, which includes the following administrative units particularly concerned with the offence of enforced disappearance:

(a) The Kidnapping Investigations Unit, responsible for investigating and prosecuting offences covered by the Act for the Prevention and Punishment of Kidnapping Offences, pursuant to section XXI of article 73 of the Constitution, as well as for coordinating with the administrative units and decentralized bodies of the institution, without prejudice to the capacity of local offices to take cognizance of such offences, and for referring to local offices preliminary investigations related to offences within its competence, for their prosecution in accordance with institutional rules and policies or as determined by the Attorney General or Assistant Attorney General;

(b) The Special Unit for the Investigation of Trafficking in Children, Persons and Organs, responsible for investigating and prosecuting the offence covered by article 2 of the Federal Act against Organized Crime, in relation to the offence of trafficking in children, covered by article 366 ter of the Federal Criminal Code or by corresponding provisions in the criminal legislation of the federal entities; trafficking in persons, covered by article 159 of the Migration Act, trafficking in organs, covered by articles 461, 462 and 462 bis of the General Health Act, and offences related to trafficking in persons, punishable under Title 2 of the General Act for the Prevention, Punishment and Eradication of Crimes of Trafficking

in Persons and for the Protection and Assistance of Victims, in coordination with administrative units and decentralized bodies of the institution, without prejudice to the capacity of local offices to take cognizance of such offences, in keeping with criteria established by the Attorney General, and for referring to local offices preliminary investigations related to offences within its competence, for their prosecution in accordance with institutional rules and policies or as determined by the Attorney General or Assistant Attorney General.

52. The criminal prosecution of such offences comes under the responsibility of the Office of the Assistant Attorney General for Human Rights, Crime Prevention and Community Services, assisted by:

(a) The Missing Persons Search Unit, whose prime responsibility is to conduct investigations to search for and locate missing persons. Subject to fuller substantiated information being provided under question 11, at 31 December, 102 persons, 72 alive and 32 deceased, had been located following investigations by this Unit;

(b) The Office of the Special Prosecutor for Crimes of Violence against Women and Trafficking in Persons, responsible for investigating and prosecuting crimes of violence against women, trafficking in persons and crimes committed against children and adolescents through electronic media, and for operating the Amber Alert system in Mexico, a mechanism for searching for and swiftly locating missing children and adolescents;

(c) The Office of the Special Prosecutor for Offences Committed against Freedom of Expression, whose field of competence may be extended to cover offences under ordinary law when they are linked to federal crimes or offences committed against journalists, other persons or facilities that affect, limit or impair the right to information, freedom of expression or freedom of the press.

53. Lastly, it should be noted that the Office of the Assistant Attorney General for Regional Oversight, Criminal Procedure and Amparo is competent to handle federal crimes for which none of the aforementioned units or public prosecution services has special responsibility.

54. With regard to statistical information on measures to investigate and prosecute such offences, section 6 of the single annex shows preliminary inquiries and indictments for the offences of procuring, kidnapping, deprivation of liberty, sex tourism, people-smuggling and trafficking in children.

55. As for offences committed by organized crime groups, these fall within the exclusive purview of the Office of the Attorney General of the Republic under the terms laid down in the Federal Act against Organized Crime, based on article 73, section XXI, of the Constitution.

56. Furthermore, national legislation provides that where public officials have knowledge of the commission of an unlawful act they must report it, the aim being to guard against possible cases of acquiescence of the State, including in cases of organized crime.

Reply to paragraph 7 of the list of issues

57. The criminal disappearance of migrants is prosecuted by the federal and state authorities, taking into account the context in which the offence has been committed and the understanding that needs to be shown towards victims who, because of their own situation, often end up by testifying to their own commission of an offence. The Office of the Attorney General has exclusive responsibility for the prosecution of the offences of trafficking in undocumented persons, trafficking in persons and abduction within the framework of organized criminal activity, as well as of the offence of enforced

disappearance if imputed to the federal authorities. Moreover, each of the 32 federal entities has an office of attorney general or public prosecution service to prosecute such crimes as abduction, trafficking in persons or enforced disappearance of persons, provided that such acts are defined as offences in their regulations.

58. Within the Office of the Attorney General, according to a number of factors, including the particular character of the offence and the authority to which the offence has been reported, several bodies count among their responsibilities the prosecution of offences against migrants (Missing Persons Search Unit, Special Unit for the Investigation of Trafficking in Children, Persons and Organs, Office of the Special Prosecutor for Crimes of Violence against Women and Trafficking in Persons, and the Kidnapping Investigations Unit).

59. Federal prosecutors assigned to those bodies have been made aware that in their dealings with victims they should be mindful of rescue and avoid criminalization; they should bring a humanitarian approach to how they question and treat the persons concerned, recognizing their status as victims/witnesses, and fully respect their human rights. Moreover, fluid communication lines are maintained with international counterparts (especially United States and Central American authorities) in order to coordinate action taken in relation to cases of interest to those nations.

60. As regards access to information on investigations granted to family and friends and their representatives when they live outside the State party, article 20 of the Constitution recognizes that victims or aggrieved parties have the right to be informed of their rights, including the right to be informed of the course of criminal proceedings and to collaborate with the Federal Prosecution Service in the investigation and criminal procedure, in particular.³

61. Articles 141 of the Federal Code of Criminal Procedure and 109 of the National Code of Criminal Procedure, together with article 107 of the General Victims Act, give effect to this constitutional right.⁴

62. As part of the measures being taken by the Office of the Attorney General in conjunction with the organizations parties to the Agreement on Cooperation in the Identification of Remains located in San Fernando, Tamaulipas and in Cadereyta, Nuevo León through the agency of a Forensic Commission, an agreement has been reached on designing a transnational search and access-to-justice mechanism in response to the recommendation of the Inter-American Commission of Human Rights that effective and regionally coordinated mechanisms of investigation should be developed to allow injured migrants and their families to have effective access to justice, irrespective of their migration status and whereabouts. This mechanism will allow families to be assisted and informed in regard to searches for migrants in the event of disappearance through the Mexican Embassy in Guatemala, with authority to act throughout the Central American area; it will allow light to be shed on the facts so as to ensure both the effectiveness of investigations and the right to truth; and it will allow reparation of damage and prejudice suffered by direct and indirect victims, as well as full access and capacity to act in all stages in the investigation and trial of perpetrators.

³ Article 20 of the Constitution of Mexico as amended on 18 June 2008 provides that, for cases predating its entry into force, the applicable paragraph is B, sections I and II, while for those occurring subsequent to the entry into force of the amendment, the applicable paragraph is C, sections I and II.

⁴ The Federal Code of Criminal Procedure remains in force for cases for which the National Code of Criminal Procedure has not entered into force. The National Code of Criminal Procedure was published in the Official Gazette on 5 March 2014 and will enter into force gradually.

63. To help ensure the effective scope of the transnational mechanism, an international seminar was held in December, with an opening address by the Attorney General. Participants included internationally recognized experts, such as Dr. Yvan Velázquez Gomez, member of the International Commission against Impunity in Guatemala, and Helen Mack, director of the Myrna Mack Foundation. It was also attended by substantive staff (judicial and law enforcement personnel) of the Office of the Attorney General of the Republic and attorney generals' offices of Nuevo León and Tamaulipas, together with representatives of the national and Central American organizations involved in designing the transnational mechanism.

64. Furthermore, direct links are maintained with migrants' human rights organizations for immediate action in the event of migrants being illegally deprived of their liberty and for following up cases of threats and searches for missing migrants.

65. Lastly, it is reported that from 2006 to the present date, the Office of the Attorney General carried out activities connected with extradition requests to the Ministry of Foreign Affairs in 336 cases, of which 4 concerned the offence of illegal deprivation of liberty, 8 the offence of abduction, 3 the offence of trafficking in undocumented persons, and 7 the offence of trafficking in children. In addition, official requests for extradition were made to the federal courts in 928 cases, of which 24 concerned the offence of abduction, 9 the offence of trafficking in undocumented persons, 7 the offence of trafficking in persons and 2 the offence of people smuggling. During this period of time, Mexico extradited 813 persons, 18 for the offence of abduction, 3 for the offence of trafficking in undocumented persons, 4 for the offence of trafficking in persons and 10 for people smuggling. In the same period, Mexico, for its part, sought the extradition of 181 persons, 1 for the offence of trafficking in undocumented persons, 3 for the offence of abduction and 1 for the offence of trafficking in children.

66. As regards the care of victims, the Migration Act provides in its article 71 for the establishment of migrant protection groups and, in its article 112, describes the procedure for assisting persons in situations of vulnerability, chiefly children, but also victims or witnesses of serious offences. Through the National Migration Institute, the Government of Mexico is supported by the Beta Groups for migrant protection, designed to protect and defend the rights of migrants who pass through Mexico, regardless of their nationality or migration status, in particular through the provision of guidance, humanitarian assistance, rescue operations and legal advice. There currently exist 22 Beta Groups composed of 148 members in the three branches of government (110 federal, 11 state and 27 municipal).

67. Furthermore, for the purposes of child protection, there are Child Protection Officers who are required to take care of and assist unaccompanied Mexican and foreign migrant children and adolescents and whose role consists in protecting their physical and mental integrity; promptly providing basic health services, food, clothing and rest; helping them to contact members of their families through free telephone calls; keeping them informed about their migration status in a kindly way, using age-appropriate language; and accompanying them in their process of repatriation. The National Migration Institute currently has 461 Child Protection Officers distributed among its 32 federal branch offices.

68. In the Office of the Attorney General of the Republic, the Office of the Special Prosecutor for Offences of Violence against Women and Trafficking in Persons runs a shelter where care and protection is offered to victims of trafficking, many of them migrant women from such countries as Honduras, Costa Rica and Guatemala.

69. In addition, the Office of the Attorney General has put in place in the offices of its representatives in the states of Chiapas and Tabasco, located at key points along the northward route taken by migrant persons from Central American countries, special forums for migrant persons who are victims of unlawful acts.

70. Following the terrible events that occurred in San Fernando Tamaulipas in 2010 and 2011 and in Cadereyta, Nuevo León, in 2012 assistance was provided to organizations of family members of Central America migrants who disappeared in Mexico with a view to advancing the process of identification of the bodies found in those places. To that end, the Office of the Attorney General signed with the Argentine Forensic Anthropology Team and national and Central American organizations of members of families of disappeared persons⁵ a Cooperation Agreement for the Identification of Remains located in San Fernando, Tamaulipas and Cadereyta, San León, through the agency of a forensic commission. The Agreement was published in the Official Gazette on 4 September 2013, and the addendum, which extends the Agreement to include the offices of the attorneys general of Tamaulipas and Nuevo León, in order for it to achieve its objective, was published, again in the Official Gazette, on 23 October 2014.

71. Under this Agreement, institutional expert and forensic capacity-building has been developed and international best practices have been shared with a view to incorporating them into the daily work of the Office of the Attorney General. Progress has been made in elaborating and implementing a protocol that enables the families of missing migrants to learn the truth through notification and handing over of the remains of persons of foreign origin, as a mechanism for guaranteeing human rights and providing full redress for victims, while ensuring that they are treated with respect and dignity. (See annex, section 7.)

72. Mention should also be made of the regional initiative for cooperation with the attorney generals' offices and public prosecution services of El Salvador, United States of America, Guatemala and Honduras, developed by the Office of the Attorney General, focusing on the problem of offences committed against migrants from a perspective of shared responsibility and in a humanitarian spirit. To that end, a mechanism has been introduced with a view to framing a strategy to protect the security and integrity of migrants, especially unaccompanied children, and to prosecute effectively criminal organizations that profit from the commission of various offences associated with trafficking in persons and people-smuggling. Measures taken have included the development of close cooperation, the establishment of thematic groups on issues relating to international legal assistance, regulatory policy harmonization and the investigation of the offence of trafficking in children, as well as fighting organized crime where it involves trafficking in undocumented persons, in accordance with Mexican law.

73. Lastly, on 7 July 2014, the President of the Republic announced the launch of the Coordinating Office for a Comprehensive Approach to Migration on the Southern Border, as part of the Comprehensive Strategy for the Southern Border, aimed at increasing the presence of national authorities in the area and coordinating action with Central American countries in order to overcome shared challenges in regard to migrant flow and respect for human rights, security and economic and social development, with the goal of establishing a more modern, effective, prosperous and secure border and reducing the number of offences committed against migrants. (See also paragraphs 57 to 65 above.)

⁵ El Salvador Committee of Families of Deceased and Missing Migrants; Committee of Families of Migrants of El Progreso, Fundación Para la Justicia y el Estado Democrático de Derecho; Casa del Migrante de Saltillo, Coahuila; Centro Diocesano de Derechos Humanos Fray Juan de Larios A.C.; Asociación Civil Voces Mesoamericanas; Mesa Nacional para las Migraciones en Guatemala; Asociación Misioneros de San Carlos Scalabrinianos en Guatemala, Centro De Derechos Humanos Victoria Diez, A.C., and Foro Nacional para La Migración en Honduras.

III. Judicial procedure and cooperation in criminal matters (arts. 8–15)

Reply to paragraph 8 of the list of issues

74. With regard to the scope of the requirement that enforced disappearance must be a criminal offence in the country in which it was committed, article 4, section III, of the Federal Criminal Code establishes only the requirement that any alleged offence must be defined as such, so that if an offence is defined as such in the country in which it was committed, irrespective of whether there is a specific criminal offence of enforced disappearance, the Mexican authorities can prosecute.

75. As to whether article 9 of the Convention constitutes a sufficient basis for the exercise of jurisdiction by Mexican courts, even in cases of enforced disappearance that may have taken place in States that are not parties to the Convention, articles 2, 3 and 4 of the Federal Criminal Code do indeed recognize the jurisdiction of the Mexican authorities, irrespective of whether or not the countries concerned are parties to the Convention, in any of the following hypotheses. In the first, an offence is initiated, prepared or committed in another country and produces effects in the national territory or gives rise to the obligation to extradite or prosecute under an international treaty. This also includes offences committed in Mexican consulates or against Mexican consular personnel, provided that they are not prosecuted in the country where the offence was committed (art. 2). In the second hypothesis, an offence is initiated in another country and continues to be committed in Mexico (art. 3). In the third, an offence is committed in another country against a Mexican national or by a Mexican national and the accused person is in Mexican territory, has not been tried in the country where the offence was committed and the offence is defined as an offence in the place where it was perpetrated (art. 4).

76. Lastly, the cases of jurisdiction provided for in article 9 of the Convention are given effect in articles 1 to 5 of the Federal Criminal Code, although they may still be supplemented by that treaty provision under article 6 of the Federal Criminal Code.

Reply to paragraph 9 of the list of issues

77. Amendments to various provisions of the Code of Military Justice,⁶ the Federal Code of Criminal Procedure and the Act on Minimum Rules for the Social Rehabilitation of

⁶ Article 1. Amendments to articles 1, first paragraph, section IV; 2, section II; 14; 18; 22; 34; 42; 43; 47, first paragraph, section III; 48; 49, first paragraph, sections II and IV; 55; 57, sections I and II; 62, first and second paragraphs; 76, first paragraph, section II; 80, first, third and fourth paragraphs; 81, sections III, IV, V, X, XII, XV, XVI, XVIII and XIX; 83, section XV; 85, sections VII and XV; 86, section VI; 92; 102, first paragraph; 125; 126; 129; 134; 139; 141; 1143; 145, first paragraph, section II; 150; 151, first paragraph; 153; 154; 158; 164, second paragraph; 175; 179; 180; 184; 191, second paragraph; 196; 197, section III; 198; 204; 236; 239, section II; 241, last paragraph; 243; 247, last paragraph; 264, section II; 268; 275, last paragraph; 402, second paragraph; 408, section IV; 429, second paragraph; 413; 434, section X, subparagraph 1 and second paragraph; 435, first paragraph; 444, first paragraph; 450, first paragraph; 465, first paragraph; 482; 484, first paragraph, section III; 510; 516; 521; 572, first paragraph; 603, section II; 637; 638; 680; 688; 690; 693; 694; 698; 709; 715; 732; 737; 808; 809, section IV; 810, section II; 811; 814; 826, third paragraph, section III; 833; 847; 849; 853; 854; 856; 857, section I; 858, first paragraph; 859; 862; 864; 868; 871; 875; 876; 877; 882, second paragraph; 887; 909; and 922, section III. Waivers to subparagraph (c), section II, of article 57; sections VI, VII and VIII of article 67; sections I to VII of the last paragraph of article 102, and article 865. Additions of section V, article 1; articles 30 bis, with a second paragraph; 49 bis; 57, second and third paragraphs; 62, last paragraph; 76 bis; 76 ter; 80, last paragraph; 83, sections XVI and XVII; 86,

Sentenced Persons were published in the Official Gazette of 13 June 2014. Following the amendment of article 57, section II, of the Code of Military Justice, military jurisdiction is applicable only to offences in which both the perpetrator and the victim are members of the military; other cases involving members of the Armed Forces are referred to the civilian courts. Whenever a civilian is involved, it will be up to the civilian authorities to take over the investigation and the remainder of the proceedings. That was actually the principle applied as from the middle of 2012, following the decisions of the Supreme Court of Justice in the Rosendo Radilla case, when the administrative and military courts started to decline to exercise jurisdiction and to refer cases to civilian courts.

78. Following the amendment of the Code of Military Justice, the military courts ceased to be competent to investigate and punish alleged acts committed by military personnel, classified under the offence of enforced disappearance of persons, with the result that when such acts are known to have been committed, the case is referred on the ground of lack of jurisdiction to the Office of the Attorney General, to which the Ministry of National Defence provides any information that may be requested.

79. Following the opinion issued by the Supreme Court of Justice on 13 September 2012, in relation to a number of issues of military jurisdiction, it was determined that section II, subparagraph (a), of article 57 of the Code of Military Justice was not in accordance with the Constitution. This opinion was accepted by the Office of the Military Attorney General and the military courts, to the effect that all preliminary inquiries and criminal cases of alleged violations of human rights against civilian victims imputed to military personnel are to be referred, on the ground of lack of jurisdiction, to the appropriate civilian authorities. Out of a total of 1,211 preliminary inquiries assigned to the courts between 2012 and 13 November 2014, 19 concerned this kind of offence (11 from the Ministry of National Defence and 8 from the Ministry of the Navy) and 286 were criminal actions, 14 of which were brought for the offence of enforced disappearance.

80. Following the amendment of the Code of Military Justice of 13 June 2014, the military courts have ceased to hear cases of human rights violations committed against civilians. Preliminary inquiries stemming from this charge are referred on the ground of lack of jurisdiction to the Office of the Attorney General.

Reply to paragraph 10 of the list of issues

81. Chapter V, “The right to truth”, of the second part of the Victims Act stipulates that authorities must take immediate action following any report of cases of missing persons, particularly article 21, which lays down a number of measures in line with international best practices. The State is required to initiate immediately, through the appropriate authorities (Office of the Attorney General of the Republic and offices of state attorneys general), every possible action to search for such persons. This includes the implementation of search protocols in accordance with applicable legislation and international treaties to which Mexico is a party.

82. The Office of the Attorney General has been developing a uniform search protocol for attorney generals’ offices and public prosecution services throughout the country which sets out judicial, expert and police search procedures for increasing the chances of locating missing persons within the first 72 hours of their disappearance by carrying out searches in prison facilities, hospitals, migrant holding centres, forensic services, refuges, shelters and rehabilitation facilities; obtaining from telephone companies records of incoming and

last paragraph of section VI; 122 bis; 129, second and third paragraphs; 337 bis; 444, asked paragraph; 450, second, third, fourth and fifth paragraphs; 482, second paragraph.

outgoing calls that serve to pinpoint geolocation and interlocutor by the victim's telephone; requesting financial institutions to identify banking movements, automatic cash withdrawals and bank card purchases; and clearly setting out guidelines for action according to the circumstances of the victim's disappearance. In this effort, the priority task of the Missing Persons Search Unit is to search for and locate the victim; its working methods, which are being incorporated into the procedures defined with the attorney generals' offices and public prosecution services, include the participation of relatives of the victim in the design and implementation of search strategies. (See also paragraphs 35 to 47 above.)

83. Particular mention should be made of Agreement 08/XXXVII/14, approved on 19 December 2014 by the National Council on Public Security, chaired by the head of the federal executive and with the participation of the 31 governors and the head of government of the Federal District. That Agreement, published in the Official Gazette on Tuesday, 13 January 2015, reads as follows:

“The National Council on Public Security requests that, within the framework of the National Conference of State Attorneys General, work be undertaken to develop nationally applicable protocols for the investigation of enforced disappearance and torture, having regard to international best practices, and that the necessary programmes be developed and carried out to train officials of the country's judicial institutions in the implementation of such protocols, which should be submitted to the Council at its next session.”

84. The Office of the Attorney General of the Republic has started work on developing the aforementioned protocols, which will also call for the participation of organizations of families of missing persons, human rights organizations specially concerned with disappearance and torture, experts in this field and specialized personnel of the attorney generals' offices and public prosecution services within the framework of the National Conference of State Attorneys General.

85. Offices of state attorneys general and state public prosecution services have also taken various measures to improve their procedures for searching for and locating people. For example, the office of attorney general of the state of Nuevo León set up an Immediate Search Group, composed of one official and six representatives of the Federal Prosecution Service and three clerks. In 2014, it located 1,179 of the 1,310 persons reported missing, having responded to such reports within the first 72 hours.

86. In addition, the same office of attorney general of Nuevo León holds monthly working meetings with relatives of missing persons in order to follow up investigations and search operations in each case. These meetings are also attended by representatives of civil society, such as the Citizens in Support of Human Rights group. In the spirit of this initiative, the office has developed a missing persons search and investigation procedure with a view to establishing a standard urgent search procedure and ensuring effective inter-agency coordination, particularly with the Immediate Search Group (section 8 of annex).

87. Similar advances are being made by the office of attorney general of the state of Coahuila, which has set a good precedent in working with the organization “Families United by Disappearances” in Coahuila/Mexico, including through meetings with the state governor to monitor compliance with undertakings given by judicial officers in respect of investigations. Participants in these meetings include federal public servants who collaborate in investigations conducted by the local authority.

88. The Amparo Act provides for greater safeguards in cases of enforced disappearance, in addition to the effective protection of any human right covered by an international treaty ratified by Mexico (art. 1, section I, Amparo Act), as in the case of the International Convention for the Protection of All Persons from Enforced Disappearance.

89. Article 15 of the aforementioned Act stipulates that an application may accordingly be submitted by anyone in cases of enforced disappearance for assistance in commencing such judicial and related proceedings as may be required. It is important to note the following:

(a) In cases of enforced disappearance, the *amparo* court cannot set a period of time for presentation of the missing persons, since its purpose is, through the *amparo* suit, to seek to establish their whereabouts. For that purpose, paragraph 6 of the aforementioned article provides that when the *amparo* court rules upon application for *amparo* that such an offence may have been committed, it will have no more than 24 hours to process the application (isolated ruling I.9º.P.60 P(10ª) of collegiate circuit courts, September 2014);

(b) No authority can set a maximum period of time for presentation of the aggrieved party, nor can the authorities refuse to take the steps requested or ordered on the ground that there are legal time limits for considering cases of disappearance of persons (isolated ruling I.9º.P.60 P(10ª) of collegiate circuit courts, September 2014).

Reply to paragraph 11 of the list of issues

90. From 2006 to the present time, 239 preliminary inquiries have been opened in the Office of the Attorney General for cases of enforced disappearance of persons. Of this number, 58 have been referred to the Missing Persons Search Unit (section 9 of annex).

91. The budget available to the Missing Persons Search Unit for 2014 was 52,863,206.46 pesos (Mex\$). It has a total staff of 170, broken up as follows: officials of the Federal Prosecution Service (29), junior officials of the Federal Prosecution Service (34), analysts (13), investigation support personnel (17), federal judicial police (40), federal police (15) and administrative personnel (22).

92. With regard to the number of complaints and their results, as at January 2015, 435 search files had been opened (169 detailed records and 452 preliminary inquiries), which meant that 621 persons were searched for; of these, 102 persons were located, 72 alive and 30 deceased.

93. Concerning the investigation of disappearances under the jurisdiction of the state authorities, the Missing Persons Search Unit has the following functions:

(a) Receiving complaints relating to the disappearance of persons and implementation of the measures required to search for and locate them;

(b) Collaborating with the ordinary legal authorities;

(c) Designing, implementing, overseeing and evaluating compliance with protocols on the search for missing persons and forensic identification, in accordance with international standards;

(d) Setting up working groups to investigate specific cases of missing persons, for example those occurring in a particular area or region or those alleged to have resulted from acts committed by some particular criminal group;

(e) Requesting exhumations in cemeteries and unmarked graves when there are good reasons to believe that they contain bodies;

(f) Having the authority to request as a matter of urgency from police, technological, scientific and expert investigation services the information needed to search for and locate missing persons;

(g) Having institutional authority to coordinate action by officials of the Federal Prosecution Service with other administrative units or decentralized bodies of the Office of

the Attorney General in searching for and locating missing persons, including by centralizing investigations and being empowered to deal with ordinary or federal offences;

(h) Discharging the important responsibility of serving the families of missing persons and informing them of the lines along which the investigation is proceeding with a view to searching for and locating missing persons and involving them in the search process.

94. Within the Office of the Attorney General, the Missing Persons Search Unit collaborates with a number of special prosecution services and investigation units, in particular those attached to the Office of the Assistant Attorney General for Organized Crime Investigations. Coordination is ensured institutionally among officials of the Federal Prosecution Service through the exchange of information on joint investigations between the two administrative units, thereby assisting in the respective investigations of each. The Office of the Assistant Attorney General for Organized Crime Investigations is responsible for guiding preliminary inquiries into organized crime with a view to bringing alleged perpetrators before prosecution services, while the Missing Persons Search Unit carries out the necessary search operations to locate persons reported missing.

95. The work that this Unit performs in relation to the Executive Commission for Victim Support involves helping to provide access to judicial investigations being carried out, with a view to ensuring that the Executive Commission can offer full support in the form of legal advice and economic, medical, psychological and social assistance.

96. Lastly, the Strategic General Directorate for Human Rights of the Ministry of the Interior is provided with information to enable it to assist relatives of victims who have recourse to it in order to address the various issues involved in safeguarding and protecting human rights.

Reply to paragraph 12 of the list of issues

97. Concerning the number of preliminary inquiries into enforced disappearances currently being handled by the General Coordinating Office for Investigations of the Office of the Attorney General, a total of 268 accused persons have made statements to date, of which 252 in the context of preliminary inquiries into the disappearance of 492 persons and the remainder in regard to a number of other offences including homicide, abuse of authority and illegal deprivation of liberty. All these statements are being processed by federal prosecutors attached to the General Coordinating Office for Investigations. These 252 preliminary inquiries into enforced disappearances do not form part of the total number of preliminary inquiries reported in the reply to paragraph 11 as they were begun in the period before 2006, nor are they linked to preliminary inquiries opened in the Missing Persons Search Unit.

98. Preliminary inquiries conducted by the former Office of the Special Prosecutor for Social and Political Movements of the Past were taken over as from 2007. As no statements have been taken in connection with the offence of enforced disappearance, there are no accused persons who have been convicted on that account.

99. The statute of limitations has not been applied to any case of enforced disappearance, pursuant to a decision of the Supreme Court of Justice which stipulates that the statute of limitations for the offence of enforced disappearance does not begin to run until the missing person or his or her skeletal remains have been located.

100. For the 252 preliminary inquiries into enforced disappearance to be duly processed, the Federal Prosecution Service has taken the following measures:

- It assigns specific responsibilities to various federal, state and municipal authorities;

- Prosecutors obtain statements from members of victims' families and witnesses;
- Blood samples are collected from family members to obtain their genetic profile and compare with skeletal remains;
- Documents held in the National Archive related to the records of the Ministry of National Defence, the former Federal Directorate of Security and the Division of Investigations for Crime Prevention concerning actions taken in places where the events under investigation occurred are analysed and photographed;
- 22 statements have been obtained from high-ranking members of the military;
- Excavations are carried out, particularly in the facilities occupied by State public security services, which were previously the Atoyac de Álvarez military barracks, in accordance with the model protocol for the forensic investigation of deaths alleged to have occurred as a result of human rights violations;
- Subsoil scanning has been carried out in the area known as the "City of Services" in the township of Atoyac de Álvarez, Guerrero;
- Subsoil prospecting has been conducted in the area to the north-east of the shooting range of what was then the 27th Military Zone, on the outskirts of the former barracks in the township of Atoyac de Álvarez.

101. Two persons were located as a result of these measures.

102. In compliance with the judgement of the Inter-American Court of Human Rights in the case of Rosendo Radilla, an independent expert was appointed in November 2014 to analyse the records and recommend lines of approach to be followed in searching for the missing person and identifying those responsible. The expert will also be required to propose to the Office of the Attorney General a comprehensive national training programme for searching for and locating missing persons.

Reply to paragraph 13 of the list of issues

103. Article 19, second paragraph, of the Constitution requires the Federal Prosecution Service to request pretrial detention when other precautionary measures do not suffice, *inter alia*, to guarantee the victim's protection; article 20 requires the court and the Federal Prosecution Service to apply protective measures to persons who are parties to criminal proceedings.

104. The Federal Code of Criminal Procedure, still in force, includes the following provisions:

(a) Article 2, section V. Obligation of the Federal Prosecution Service to request police support to provide protection to the victim, in particular because of his or her involvement in criminal proceedings;

(b) Article 3, section X. Obligation of the police when acting under the authority of the Federal Prosecution Service to protect victims, aggrieved parties and witnesses;

(c) In line with the Constitution, article 133 *ter* provides for precautionary measures to be taken by the judicial authority at the request of the Federal Prosecution Service whenever necessary to prevent witnesses from being intimidated or influenced;

(d) Article 141 *bis* includes among such measures placement in care and custody, a permanent or mobile guard service provided by the authority at the home of the victim or aggrieved party, a ban on going to a particular place and a ban on communicating with particular persons; and

(e) Article 253 bis. Possible cases in which protection should be provided in criminal proceedings by the judicial authority, unofficially or at the request of the Federal Prosecution Service.

105. The new National Code of Criminal Procedure provides as follows:

(a) Article 109. Right of the victim to protection when there is a risk to his or her life or personal integrity and to request protective orders and precautionary measures;

(b) Article 123. Obligation of the police to protect legal property and, specifically, to provide protection to victims when acting under the authority of the Federal Prosecution Service;

(c) Article 137. Authority of the Federal Prosecution Service to order the application of protective measures when there is a risk to the security of the victim or aggrieved party. Such measures include: (i) ban on approaching or communicating with the victim or aggrieved party; (ii) restriction on being present at or approaching the home of the victim or aggrieved party or the place where he or she is present; (iii) immediate departure from the home; (iv) immediate handing over of personal items and identity papers of the victim in the possession of the alleged perpetrator; (v) ban on acting in such a way as to intimidate or trouble the victim or aggrieved party or persons connected with them; (vi) guard service at the home of the victim or aggrieved party; (vii) police protection of the victim or aggrieved party; (viii) immediate help from law enforcement services at the place where the victim or aggrieved party resides or is present at the time of requesting such help; (ix) transfer of the victim or aggrieved party and his or her children to temporary refuges or shelters; (x) return of the victim or aggrieved party to his or her place of residence once his or her security has been ensured;

(d) Article 139. Duration of precautionary measures and protective orders;

(e) Article 140. Obligation of the Federal Prosecution Service to issue a warning to accused persons in the event of harassment of victims where preventive imprisonment is not warranted;

(f) Article 155. Establishment of precautionary measures, including: placing the accused under the care or supervision of a particular person or institution or in detention in a particular institution; ban on attending particular meetings or approaching certain places; ban on frequenting, approaching or communicating with particular persons, with victims, aggrieved parties or witnesses, provided that this does not affect the right of defence; immediate departure from the home; temporary suspension from duties in cases of alleged involvement in an offence committed by public servants; temporary suspension from the exercise of a particular professional or occupational activity; electronic tagging; house arrest under conditions determined by the court, or preventive imprisonment;

(g) Article 167. Grounds for preventive imprisonment, including protection of victims;

(h) Article 169. Cases in which it should be considered that the conduct of the investigation may be hindered;

(i) Article 170. Protection to be provided to victims and others;

(j) Article 220. Restriction on providing information to victims on grounds of intimidation or threat;

(k) Article 367. Measures to protect witnesses, including victims.

106. Where the law is concerned, the Federal Act on the Protection of Persons Involved in Criminal Proceedings sets out measures and procedures to ensure their protection and

care when they are at risk or in danger because of their involvement in or as a result of such proceedings.

107. In this connection, various provisions establish criteria for entitlement to the benefits of the protection programme to which the Act refers and determine requirements and responsible authorities.

108. At the national level, in addition to the procedural provisions set out in the National Code of Criminal Procedure, the Victims Act serves to:

(a) Recognize and guarantee the rights of victims of a crime, in particular the right to assistance, protection, care, truth, justice, full reparation, due diligence and all other rights enshrined in the Constitution, international human rights treaties to which Mexico is a party and other human rights instruments;

(b) Establish and coordinate actions and measures required to promote, respect, protect, guarantee and permit effective exercise of victims' rights, and to implement mechanisms for compliance by all authorities within their respective areas of competence with their obligations to prevent, investigate, punish and bring about full reparation;

(c) Establish specific duties and obligations for the authorities and all parties to proceedings of relevance to victims.

109. The measures and orders that may be adopted by the Federal Prosecution Service are set out in the Federal Code of Criminal Procedure, under article 141 bis, which provides as follows:

Upon a well-founded, reasoned request from the Federal Prosecution Service, the court may order one or more of the following protective measures for the victim or aggrieved party:

I. Personal measures of protection:

(a) Placement of a juvenile in the care and custody of a particular person or institution;

(b) Periodic appearance of the perpetrator of the offence before the appointed authority;

(c) Permanent or mobile guard services provided by the authority at the home of the victim or aggrieved party,

(d) Ban on going to a particular place;

(e) Ban on leaving the country, the place of residence or the territorial limits fixed by the court without authorization;

(f) Ban on communicating with particular persons, wherever this does not affect the right of defence; and

II. Property-related precautionary measures:

(a) Insurance of property to compensate for the damage caused by the offence;

(b) Freezing of bank accounts, share certificates and bonds;

(c) Attachment or seizure.

These measures will be open to review when no longer required or at the request of the victim or aggrieved party.

In particular, the court may include as a protective measure in its sentence a ban on the sentenced person approaching victims, relatives, aggrieved parties, guardians or witnesses or maintaining any kind of relationship with them.

110. The National Code of Criminal Procedure provides as follows in its articles 137 and 155:

Article 137. The Federal Prosecution Service shall under the strictest terms issue a well-founded, reasoned order to apply appropriate measures of protection if it considers the accused person to present an imminent risk to the security of the victim or aggrieved party. The following are measures of protection:

- I. Ban on approaching or communicating with the victim or aggrieved party;
- II. Restriction on being present at or approaching the home of the victim or aggrieved party or the place where he or she is present;
- III. Immediate departure from the home;
- IV. Immediate handing over of personal items and identity papers of the victim in the possession of the alleged perpetrator;
- V. Ban on acting in such a way as to intimidate or trouble the victim or aggrieved party or persons connected with them;
- VI. Guard service at the home of the victim or aggrieved party;
- VII. Police protection of the victim or aggrieved party;
- VIII. Immediate help from law enforcement services at the place where the victim or aggrieved party resides or is present at the time of requesting such help;
- IX. Transfer of the victim or aggrieved party and his or her children to temporary refuges or shelters; and
- X. Return of the victim or aggrieved party to his or her place of residence once his or her security has been ensured.

Within five days from the imposition of the protective measures stipulated in sections I, II and III, the court is required to hold a hearing at which it may cancel, confirm or amend them through the imposition of appropriate precautionary measures.

In the event of non-compliance with the protective measures, the Federal Prosecution Service may impose any of the legal measures provided for in this Code.

Where these measures are applied in cases of gender-based offences, they shall be supplemented by application of the General Act on Access by Women to a Life Free of Violence.

[...]

Article 155. At the request of the Federal Prosecution Service or of the victim or aggrieved party, the court may impose on the accused one or more of the following precautionary measures:

- I. Periodic reporting to the court or to another authority appointed by the court;
- II. Production of economic collateral;
- III. Attachment of property;
- IV. Freezing of accounts and other financial assets;

- V. Ban on leaving the country, the accused person's place of residence or the territorial limits fixed by the court without authorization;
- VI. Placing the accused under the care or supervision of a particular person or institution or in detention in a particular institution;
- VII. Ban on attending particular meetings or approaching certain places;
- VIII. Ban on frequenting, approaching or communicating with particular persons, with victims, aggrieved parties or witnesses, provided that this does not affect the right of defence;
- IX. Immediate departure from the home;
- X. Temporary suspension from duties in cases of alleged involvement in an offence committed by public servants;
- XI. Temporary suspension from the exercise of a particular professional or occupational activity;
- XII. Electronic tagging;
- XIII. House arrest under conditions determined by the court; or
- XIV. Preventive imprisonment.

Precautionary measures may not be used as a means of obtaining an acknowledgement of guilt or as advance criminal punishment.

111. The Victims Act stipulates in its article 12, section X, that victims shall have the right to request from the competent authority protective or precautionary measures for their security and protection and for that of the witnesses for the prosecution, for the purpose of investigating and prosecuting the alleged perpetrators of the offence.

112. Article 123, section IV, of the Act provides that the Federal Prosecution Service or its representatives are duty-bound to request such precautionary or protective measures as are required to protect the victim and the victim's family and/or property, whenever necessary.

113. The Human Rights Defenders and Journalists Protection Act, published on 25 June 2012, establishes a specific mechanism to protect human rights defenders from any damage to their physical or psychological integrity, threat, harassment or intimidation that they may sustain through the exercise of their activity.

114. Where there is such a risk, human rights defenders may request urgent preventive protection measures from the governing board of the mechanism. These include guard and escort services, armoured vehicles, panic button, list of emergency telephone numbers, self-protection manual, installation of security protection in the home or place of work (ironwork, metal plating, video surveillance circuits) and even change of residence.

115. In addition, the mechanism assists beneficiaries or applicants in the submission of complaints or reports to the competent legal authorities.

116. At 31 December 2014, 99 requests to join the mechanism had been received from human rights defenders, of whom 83 were found to meet the requirements laid down in the Act. Since, moreover, a single application can be made for two or more persons, a total of 191 human rights defenders benefit from its protection: 85 women, 99 men and 7 civil society organizations. In the case of 11 of the human rights defenders who joined the mechanism, the field of activity related to disappearance of persons.

117. On 30 September 2013, an agreement was signed between the mechanism and the international organization Freedom House for the implementation of a programme to consolidate the mechanism by:

- Reducing the backlog, which was reduced by 90 per cent in 2014;
- Harmonizing and simplifying processes, procedures and methodological tools; and
- Training personnel of the mechanism.

118. In 2015, the second stage of the programme to strengthen the protection mechanism is planned jointly with Freedom House and will consist in designing and providing training in methodology for collective risk analysis, incorporating a gender perspective in the work of the mechanism, and in preparing handbooks and courses on self-protection.

119. The mechanism is served by a technical committee which manages the trust fund for the protection of human rights defenders and journalists; resources available for the provision of protective measures were \$19.7 million at 31 December 2014.

Reply to paragraph 14 of the list of issues

120. The precautionary measures listed in this document under paragraph 13 of the list of issues prevent investigations from being influenced, particularly those that place a ban on going to a particular place or communicating with certain persons. Article 155, section X, of the National Code of Criminal Procedure includes as a precautionary measure temporary suspension from duties in cases of alleged involvement in an offence committed by public servants.

121. It should also be noted that measures like those in question are implemented by various monitoring or oversight bodies, for example the Internal Affairs Unit of the Federal Police. This technically autonomous body, headed by an official appointed by the President of the Republic, is responsible for implementing and updating inspection and investigation procedures to detect irregularities committed by members of the police and to take up complaints and reports, including anonymous complaints and reports, of administrative offences and breaches of discipline committed by them.

122. Monitoring and oversight bodies are also attached to the Office of the Attorney General, most notably the Inspectorate General, responsible for evaluating and monitoring the substantive work of the judicial, police and expert staff of the Office and to investigate and prosecute offences alleged to have been committed by them.

IV. Measures to prevent enforced disappearances (arts. 16–23)

Reply to paragraph 15 of the list of issues

123. The expulsion of foreign citizens from the national territory is regulated by article 33 of the Constitution which, following the human rights amendment of 11 June 2011, clearly provides for a preliminary hearing through a specific procedure.

124. On 22 October 2013, the executive branch of the federal Government submitted a legislative bill setting out clear rules for the expulsion procedure established under article 33, which is pending decision in the Senate.

125. Article 143, third paragraph, of the Migration Act stipulates that decisions issued by administrative authorities may be appealed against through legal challenge and judicial review. The National Institute for Migration has authority to determine the deportation of

foreign nationals in the cases set out in article 144 of the Migration Act (section 10 of annex). Aliens subject to deportation may appeal against the Institute's decision by filing an application for *amparo* proceedings with a federal court.

126. With regard to extradition procedures, under the International Extradition Act the authority with final decision on the handing over of a person whose extradition is requested is the Ministry of Foreign Affairs. An international extradition procedure requires an arrest warrant issued by the judicial authority of the requesting State in cases where the person concerned is sought in order to be tried for a criminal offence or to enforce a conviction. In the present context, this means that the person whose extradition is sought must have been accused in the requesting country of having committed the offence of enforced disappearance and has evaded justice in the country where the offence was committed.

127. Mexico has signed treaties setting out grounds for the inadmissibility of a request for extradition, as for example that it has been made with a view to prosecuting or punishing a person for reasons of race, gender, sexual orientation, religion, nationality, ethnic origin or political opinion; that the person sought has been sentenced or expects to be tried in the requesting party by a court of special jurisdiction; that Mexico has well-founded reasons for believing that, in the requesting party, the person sought has been or will be subjected, through the offence for which extradition has been requested, to a trial that does not guarantee respect for the minimum rights of defence, or to cruel, inhuman or degrading treatment or to any other act of commission or omission that violates his or her fundamental rights.

128. Furthermore, any decision by the Mexican Ministry of Foreign Affairs granting extradition may be challenged through the remedy of *amparo* (article 33 of the International Extradition Act) before a district court (federal jurisdiction) and the Amparo Act provides for suspension of execution of the order to hand over a person for extradition until such time as the judicial authority has reviewed the procedure.

Reply to paragraph 16 of the list of issues

129. Article 20.A, sections II, VII, IX and X (last paragraph), of the Constitution (prior to 2008) stipulates that accused persons have the right to an adequate defence and must from the time of their detention be informed of their rights, including the right not to be held incommunicado. The Federal Code of Criminal Procedure provides for the right of accused persons to communicate with family members or trusted persons from the time of their detention; consequently, members of the police who place such persons under detention are required to inform them of that right. Article 128 of that Code develops these constitutional provisions, including the obligation to inform consular representatives in the event of the person being of foreign origin.

130. Article 20.B, sections II, VI and VIII, of the Constitution (post-2008) reiterates the earlier provisions of the Constitution (article 20.A, sections II, VII, IX, and X) and provides for improved access to investigation records at meetings with detained persons or when statements are to be taken or interviews are to be conducted with such persons. Article 152 of the Federal Code of Criminal Procedure enlarges on this constitutional provision and article 151 specifically establishes the right to receive consular assistance.

131. The Federal Police Act requires authorities placing persons under detention to inform them of their rights under the Constitution and international instruments. Article 109 of the Migration Act protects the right of persons of undefined migration status present in the national territory to communicate with their family members or trusted persons and recognizes their right to receive consular assistance.

132. Article 107 of the Migration Act lays down various requirements to be fulfilled in migrant holding facilities for the benefit of the foreign nationals held in them. The National Institute for Migration helps to arrange for the National Human Rights Commission to monitor compliance with those requirements and to provide access to civil society organizations, in accordance with applicable legal provisions.

133. Article 35 of the Agreement on Operating Standards for migrant holding centres and short-stay facilities of the National Institute for Migration, published in the Official Gazette on 8 November 2012, provides for the establishment of a Directory of Authorized Entry into Migrant Holding Centres and Short-stay Facilities. Article 37 stipulates that, in order to cater to all the persons housed, visits may last no longer than 45 minutes, except where they involve legal representatives, consular representatives and representatives of human rights authorities, whose visits may last as long as is necessary.

134. In addition, article 38 of the same Agreement states that consular representatives, representatives of human rights authorities and representatives of the General Coordinating Office of the Mexican Commission on Assistance to Refugees may make visits outside normal visiting days and hours, provided that they identify themselves and comply with security rules. Article 39 provides that duly accredited legal representatives may visit their clients any day of the week, within normal hours, provided that they comply with the conditions set out in the respective rules.

Reply to paragraph 17 of the list of issues

In relation to the records kept on persons deprived of their liberty (arts. 17 and 22)

135. The SIREDE system only records detentions by the federal judicial police and detentions of persons to be brought before public prosecutors, in accordance with the provisions of Agreement A/126/10 of the Attorney General of the Republic, paragraph 5 of which lists the information to be entered by members of the federal judicial police or of the Federal Prosecution Service, namely, (i) Information concerning the detained person (name and any nickname or alias; physical characteristics or description; approximate age; sex); (ii) ground, general circumstances, place and time of detention, possible offences to be investigated and place where committed, including reasons for arrest based on how, when and where the offences were committed; (iii) name of the person or persons involved in the arrest, together with their service, position or rank and unit of assignment; (iv) name of person entering the information in the record, together with the person's service, position or rank and unit of assignment; (v) authority to whom the detained person will be referred, place where the detained person will be transferred, and the approximate time involved; and (vi) where the circumstances of the detention so permits, personal information concerning the alleged victim or aggrieved party, taking into account the items listed in section I of this article.

136. Officials of the Federal Prosecution Service may for their part obtain: (i) information concerning the detainee (date and place of birth; age; address; nationality and native language; civil status; education; occupation or profession; population registration code; ethnic group; physical description; fingerprints; anthropometric identification and other means of identification); (ii) number of preliminary inquiry and, if a repeat offence, crime for which the person was tried and the sentence handed down; (iii) additional information, general state of health, religion, illnesses or chronic or degenerative diseases; and (iv) name of the official of the Federal Prosecution Service updating the record, together with rank and unit of assignment.

137. The National Code of Criminal Procedure, in its article 227, defines the concept of chain of custody and, in its articles 228 and 229, sets out obligations of those responsible

for the chain of custody and in respect of the insurance of property, instruments, objects and products of the offence, circumstances in which the federal police are required to act and obligations of those involved in the investigation of offences, including where the persons concerned have been deprived of their liberty. It is also noted that in federal detention facilities, registers and files are kept on all detained persons.

138. Another record is provided for in article 19, section XIX, of the Federal Police Act, which stipulates that all members of the federal police who make an arrest are required to record it in the administrative register of detentions. This register is required by article 112 of the General Act on the National Public Security System and is based on standardized police reports which are fed into the database administered by the National Information Centre attached to the Executive Secretariat of the National Public Security System.

139. This information is stored in the Mexico Platform database, which can be accessed online or whenever required by investigative authorities, including within the Office of the Attorney General of the Republic.

140. Paragraphs 13 and 14 of the aforementioned Agreement A/126/10 of the Office of the Attorney General stipulate that, for the proper operation of the SIREN system, the chiefs of administrative units, prosecution services and decentralized bodies shall be empowered to designate public servants under their authority to serve as liaison officers with oversight for the due implementation of the provisions of that Agreement, to which end they shall be responsible for: I. monitoring the required data entry into the SIREN system by officials of the federal judicial police and the Federal Prosecution Service, and II. delivering to the heads of administrative units, prosecution services and decentralized bodies daily reports from SIREN and monitoring the progress and quality of information collected on detained persons so that, where it is incomplete or marked by errors, it can be immediately corrected.

141. For example, in the case of detained persons brought before the Federal Prosecution Service, the federal police registers them in the administrative register of detentions and duly reports thereon through the standardized police report; they are thereby identified and information on them is brought up to date where appropriate.

142. As regards information on persons deprived of their liberty in federal social rehabilitation facilities, whether on trial or sentenced, responsibility for information lies with the Decentralized Administrative Office on Prevention and Social Rehabilitation, which manages and keeps up to date the National Prison Information System and the National Record of Sentenced Persons.

143. Paragraph 18 of Agreement A/126/10 of the Office of the Attorney General provides that public servants involved in arrests pursuant to this Agreement who violate its provisions shall be subject to appropriate administrative or criminal proceedings. At the time of issuing this report, no cases had been reported of officials failing to record an imprisonment or other relevant information in the register of detentions.

Reply to paragraph 18 of the list of issues

144. See reply to paragraph 16.

Reply to paragraph 19 of the list of issues

145. The National Human Rights Commission in its role as the national mechanism for the prevention of torture is authorized to conduct inspections and thereby to follow up and fully investigate complaints within its purview by request or on its own initiative. It is also

empowered to go to any administrative office or detention facility to check how much data is required and for what purpose, while the authorities are obliged to provide them with the necessary facilities to carry out their investigations and allow them access to documents or records.

146. One of the functions of the Third Inspectorate General of the National Human Rights Commission is to monitor respect for human rights in the country's prison and social rehabilitation system.

147. In accordance with the provisions of article 12, section XXV, of the Regulations of the Decentralized Administrative Office on Prevention and Social Rehabilitation, the Federal Facilities General Coordinating Office has responsibility for authorizing requests by the National Human Rights Commission to visit any federal facility.

148. At the local level, it should be noted that autonomous public human rights bodies are empowered to visit detention facilities in order to follow up possible human rights violations committed in such facilities.

149. In accordance with article 63, section IX, of the Regulations implementing the Office of the Attorney General Act, the Directorate General for the Promotion of a Human Rights Culture, Complaints and Inspections of the Office of the Attorney General is authorized, in keeping with applicable rules, to carry out human rights prevention, monitoring and inspection activities in the various administrative units of the Federal Prosecution Service. In the period 1 January 2012 to 30 November 2014, the Directorate General conducted 87 inspections in the institution's branch offices and suboffices.

<i>Item</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>Total</i>
Inspections in detention facilities	21	34	32	87

Reply to paragraph 20 of the list of issues

150. The methodology used by the Ministry of National Defence to prevent behaviour classified under the offence of enforced disappearance is its Programme to Promote and Strengthen Human Rights and International Humanitarian Law. The objective of this programme is to disseminate among military personnel of every rank information on compliance with these standards so as to incorporate them into their training and conduct through the military education and training system. From December 2012 to 15 December 2014, a total of 4,749 events were organized to this end (section 11 of annex).

151. On 10 December 2014, the Ministry of National Defence published in the Official Gazette its "Human Rights Programme for 2014–2018".

152. Data reported by the National Human Rights Commission show a decrease in alleged unlawful behaviour ascribable to military personnel in this connection. According to the statistical indicator for related complaints submitted to that Commission, 6 such complaints were lodged in 2012, 36 in 2013 and 14 in 2014.

153. Of these 56 complaints received, 44 were closed without responsibility being attributed to the Ministry of National Defence, as it was not established that it had committed the alleged acts, and 12 are currently pending, so far without responsibility for the alleged acts being established.

154. The Ministry of the Navy, for its part, provides daily human rights training to naval command staff. Since December 2013, 2,004 staff have received training.

155. In addition, following the agreement concluded in 2014 between that Ministry and the National Human Rights Commission, human rights training modules have been made available through the educational television satellite network (EDUSAT), providing training to 30,793 persons.

156. At the Pacific Naval Operations Training Centre, a 25-hour course was held on the legitimate use of force and torture prevention, attended by 16 staff of the Ministry of the Navy and 15 staff of the Office of the Attorney General.

V. Reparation and protection of children from enforced disappearance (arts. 24 and 25)

Reply to paragraph 21 of the list of issues

157. The definition of a victim under the Victims Act covers the following four kinds of victim:

(a) Direct victims, i.e. physical persons who have suffered some damage or economic, physical, mental or emotional impairment or, in general, anyone whose legal property or rights have been endangered or harmed as a consequence of the commission of an offence or a violation of his or her human rights under the Constitution and international treaties to which Mexico is a party;

(b) Indirect victims, i.e. family members or dependents of the direct victim in immediate relationship with the victim;

(c) Potential victims, i.e. physical persons whose integrity or rights are put at risk through lending assistance to a victim to prevent or stop rights from being violated or an offence from being committed;

(d) Groups, communities or social organizations are regarded as victims when their collective rights, interests or legal property have been affected as the result of the commission of an offence or a violation of rights, whenever the offence specifically removes the protection of the law and institutions and leaves victims totally defenceless.

158. The Victims Act considers that the effects of the offence are not limited to the direct victim but also extend to his or her family members and accordingly establishes the category of “indirect victims”, namely, family members and dependents of the direct victim in immediate relationship with the victim, thereby bringing the definition into line with the definition given in the Convention.

159. The Victims Act is thus consonant with the definition in article 24, paragraph 1, of the Convention, since it regards persons subjected to enforced disappearance to be “direct victims” given that their human rights are damaged or impaired through the commission of the offence. The definition in the law also broadly recognizes the rights of family members of the disappeared person or of physical persons in direct relationship with the disappeared person, who are likewise injured by the offence of enforced disappearance.

160. A person is deemed to be a victim upon it being established that his or her rights have been damaged or impaired through the conduct of another person or other persons. The Victims Act stipulates that a person may be considered a victim regardless of whether the person responsible for the harm has been identified, apprehended or convicted or is involved in any judicial or administrative proceeding. It should be stressed that the Victims Act protects both the victims of the commission of an offence and the victims of human rights violations.

161. The law provides that a person may be considered a victim through the determination of a criminal court in an enforceable judgement; a criminal court or a magistrates' court seized of the case; an *amparo* court; or international judicial bodies for the protection of human rights whose jurisdiction is recognized by Mexico. Moreover, the Executive Commission for Victim Support may take into consideration the determinations of the Federal Prosecution Service, the authority responsible for the human rights violation that recognizes it as such, and public human rights bodies or international human rights bodies whose competence is recognized by Mexico, in accordance with the provisions of article 110 of the aforementioned Act.

162. Being recognized as a victim has the effect of giving entitlement to full reparation, including restitution, rehabilitation, compensation, satisfaction and guarantees of non-repetition, in their individual, collective, material, moral and symbolic dimensions. For the purposes of compensation of victims, resources are available in a fund specially set up for that purpose in a total amount of 989,114,000 pesos to meet obligations to aid, assist and provide full reparation to victims of offences and human rights violations.

163. The National System for Victim Support was established in pursuance of the Victims Act on 15 January 2014, with the fullest representation of the federal authorities of Mexico, the three branches of government and public human rights bodies.

164. It serves as the steering body of the Mexican State responsible for coordinating public policy and action to ensure protection, aid, assistance, care, the defence of human rights, access to justice and truth and full reparation for victims. The operational arm of the System is the Executive Commission for Victim Support (section 12 of annex).

165. The implementing regulations of the Act were published in the Official Gazette on 28 November 2014 and serve to:

- Establish rules for coordinating the various governmental authorities and branches and for operating the National System for Victim Support;
- Define the requirements to be met by the Comprehensive Model for Victim Support;
- Develop procedures and specifications for the care, assistance and immediate protection to which victims are entitled;
- Clarify the responsibilities and functions of the Executive Commission for Victim Support and its administrative units;
- Regulate conditions for establishing and operating the National Registry of Victims;
- Determine the operating procedures, scope and funding criteria of the Fund for Support, Assistance and Full Reparation and the procedure for obtaining victim benefits;
- Define the functions and characteristics of the federal legal advice service for victims.

166. Furthermore, for the effective implementation of the Victims Act, the Executive Commission for Victim Support operates through the following units:

- Immediate Care and First Contact Unit, tasked with providing suitable care to victims of offences and human rights violations who apply to the Executive Commission for Victim Support; this Unit is staffed by specialists responsible for identifying the specific conditions of the victim and taking immediate action to ensure the necessary assistance and protection;
- Federal Legal Advice Service, tasked with coordinating legal counselling services for the victims and relatives of disappeared persons in order to guarantee the rights

of victims under applicable laws, international treaties and other provisions; it is also responsible for coordinating victims' representation and legal counselling services in matters of criminal, civil, industrial, family, administrative and human rights law under federal jurisdiction in order to guarantee access to justice, truth and full reparation;

- National Registry of Victims, tasked with compiling and safeguarding registers of victims nationally and recording data on the victims of crimes and human rights violations; this has an essential role in ensuring that victims have timely and effective access to aid, assistance, care, justice and full reparation in accordance with the law;
- Fund for Aid, Assistance and Full Reparation, whose purpose is to provide the necessary resources to aid, assist and offer full reparation to victims of crimes and human rights violations;
- It should be noted that the federal entities will be required to bring their legislation into line with the provisions of the Victims Act concerning legal advice, a victims registry and a fund for aid, assistance and full reparation.

167. Actions developed by the Executive Commission for Victim Support in pursuance of the Victims Act include the following:

(a) Establishment of the Fund for Aid, Assistance and Full Reparation (art. 137, Victims Act);

(i) A contract concerning a public trust for administration and payment, to be known as the "Fund for Aid, Assistance and Full Reparation" was concluded with the National Savings and Financial Services Bank on 24 November 2014 (art. 137, Victims Act);

(ii) Guidelines were issued for the operation of the Fund for Aid, Assistance and Full Reparation, which were approved by the Executive Commission meeting in plenary at its sixty-third ordinary session on 16 December 2014 and published in the Official Gazette on Thursday, 15 January 2015 (art. 134, Victims Act);

(b) Alignment of local laws concerning victims (provisional art. 7, Victims Act). The Model Victims Support Act for Federal Entities was approved at the fifty-first session on 23 September 2014;

(c) Approval of the Comprehensive Programme for Victims (art. 88, section III, Victims Act). The Victims Act requires the Executive Commission for Victim Support to prepare annually a draft comprehensive programme for victims with a view to framing, realigning, directing, planning, coordinating, implementing and supervising public policy in support of victims and to propose it for the approval of the System. Accordingly, the Executive Commission, at its first ordinary session in 2015, approved the draft annual comprehensive programme for victims, which will be submitted for approval to the National System for Victim Support;

(d) Approval of the Comprehensive Health-care Model (art. 32, Victims Act). The Executive Commission, in accordance with the Victims Act, is required to develop and ensure the establishment of a comprehensive health-care model oriented towards psychosocial support, education and social assistance, which should provide for liaison and coordination mechanisms among the various authorities concerned and public assistance institutions. To that end, the Executive Commission meeting in plenary at its sixth extraordinary session on 5 November 2014 approved the "Comprehensive Health-care Model for Victims of Crimes and Human Rights Violations".

168. Within the framework of the Crime Victims Programme (Províctima), support was provided to family members of disappeared persons in 920 cases which were referred to the Executive Commission for Victims Support for follow-up and care. Certified copies of the 926 case files were also sent to the Special Search Unit of the Office of the Attorney General to conduct the necessary search and investigation operations.

169. Mechanisms have been developed to clarify human rights violations by: (a) preserving the dignity of the victims and restoring historical memory; (b) determining individual or institutional responsibility; (c) discussing the writing of history to enable the victims of these violations to be recognized with humanity and listened to with sensitivity; (d) contributing to efforts to overcome impunity and, ultimately, to recommend reparations; (e) other issues that need to be addressed to eliminate the conditions in which rights could be flouted. Consultations are being conducted with these aims in view, with the participation and input of victims and their relatives.

170. To achieve the goal of guaranteeing the rights to justice, truth and full reparation of victims of crimes or human rights violations, with reference to disappeared persons, the Executive Commission signed a cooperation agreement with the Civil Association for Forensic Governance (Gobenanza Forense Ciudadana A.C.) with a view to developing activities and public policies to address the situation of disappeared persons in Mexico, promote a human rights culture and provide technical forensic assistance for investigations into disappearances and forensic analysis.

Reply to paragraph 22 of the list of issues

171. Mexico has taken the following steps in pursuance of recommendation 26/2011:

- The Ministry of the Interior has granted reparations in 87 of the 275 of the cases referred to. In 2011 and 2012, economic compensation was granted in 55 cases, and in 2014, it was granted in a further 32 cases;
- In 2012, a trust was set up to meet human rights obligations; in 2014, the purpose of the fund was broadened to enable reparations to be granted in accordance with the recommendations of the National Human Rights Commission. The process of providing economic compensation to indirect victims is continuing through this trust;
- Since most of the victims referred to in the recommendation were subjected to enforced disappearance and as there is to date no information of any kind concerning their whereabouts, reparations are granted to indirect victims. The previous administration allocated \$1.7 million for the reparation of 55 cases. Currently, \$2.3 million have been allocated from the trust.

172. Victims have received medical and psychosocial care by virtue of the following measures:

- The Ministry of the Interior, in coordination with the Federal Ministry of Health and the Ministry of Health of the state of Guerrero, has delivered 532 vouchers for preferential care to family members of direct and indirect victims;
- Preferential care vouchers give access to priority, public, free and comprehensive medical care. The Ministry of Health of the state of Guerrero has also hired a general physician on an exclusive basis to provide care to preferential voucher holders. The physician in question has a permanent office at the General Hospital of Atoyac de Álvarez (area where most family members of victims are to be found);

- In its efforts to provide psychosocial support to relatives of persons who disappeared in the 1960s, 1970s and 1980s, the Ministry of the Interior coordinates a psychosocial support scheme with a number of entities, including the Federal Ministry of Health and the Executive Commission for Victim Support, with a view to putting in place a multidisciplinary team of psychologists, psychiatrists and social workers to attend to the needs of victims as required;
- In addition, in order to provide special care to victims in cases of enforced disappearance, the International Committee of the Red Cross is currently giving training to the multidisciplinary group.

173. It has not so far been possible to grant reparations to the remaining 188 cases, mainly through lack of information as to their whereabouts. However, efforts are continuing to search for and locate beneficiaries of direct victims, in accordance with the recommendation. Contact was recently made with groups of mothers of disappeared persons in the states of Jalisco, Sonora and Michoacán, which will be visited by representatives of the Ministry of the Interior in order to confirm their identity and continue the reparation process.

Reply to paragraph 23 of the list of issues

174. See paragraphs 35 to 42 above.

175. Following the agreement between the Ministry of the Interior, the Office of the Attorney General and the International Committee of the Red Cross, the Forensic Subgroup was established, composed of the heads of the forensic services of the states of Chiapas, Chihuahua, Mexico, Puebla, Tlaxcala, Veracruz and the Federal District, the Office of the Assistant Attorney General for Human Rights, Crime Prevention and Community Services of the Office of the Attorney General, the Science Division of the Federal Police, the Committee on Disappeared, Unlocated, Absent or Missing Persons and the International Committee of the Red Cross.

176. The Forensic Subgroup agreed that forensic specialists should be provided with a basic support kit containing the basic instruments and materials needed to carry out autopsies so as to be able to determine the cause of death and take samples to identify unknown bodies. The kit comprises: (a) personal safety items; (b) fingerprinting equipment; (c) genetic sampling equipment; (d) photographic equipment; (e) items of clothing; (f) equipment to carry out legal medical autopsies; (g) dentistry equipment; (h) forensic anthropology equipment; (i) materials for final disposal of bodies; (j) containers for skeletal remains; (k) chain of custody materials; (l) computer equipment.

177. In addition, a model forensic medicine service has been designed that meets international standards of quality and functionality in order to encourage the capital cities of the federal entities to set up their own such services. The aim is for them to have the infrastructure and equipment needed to develop their own activities and thereby to assist prosecution and justice authorities through the scientific identification of persons who have been victims of a violent death. The model forensic medicine service comprises: (a) an administrative unit; (b) a front office; (c) a rest area; (d) an autopsy room; (e) consulting rooms; (f) laboratory facilities (restricted) for the following purposes: (i) genetics; (ii) toxicological chemistry; (iii) histopathology; (iv) entomology; (v) microscopy; (vi) storage of samples; (vii) forensic dentistry; (viii) forensic physical anthropology: preparation and drying area and area for storing skeletal remains; (ix) fingerprinting; (x) automated fingerprint identification system (AFIS); (xi) rural criminology; (xii) computer office; (xiii) evidence unit; (xiv) archive.

178. As was noted earlier, on Friday, 21 November 2014, a national forum on prosecution and justice was held, bringing together heads of attorney generals' offices and general prosecution services, together with presidents of high courts of justice, to address issues relating to the strengthening of forensic medical services. At the meeting, an agreement was reached under Agreement Enpaj/I/2014 on a national programme to equip and support forensic medical services in Mexico.

179. Members of the National Conference of State Attorneys General and the National Commission of High Courts of Justice unanimously approved measures to develop and follow up a national programme to equip and support forensic legal services as a national priority programme, along the same lines as the National Council on Public Security, for the allocation of federal resources, in order to provide forensic medical services in the country with all the equipment needed to carry out autopsies and identify bodies, in accordance with applicable protocols, and with in-service training courses for their operators.

180. Furthermore, at the thirty-seventh meeting of the National Council on Public Security, held in Mexico City on Friday, 19 December 2014, it was agreed that the proposed national programme to equip and support forensic medicine services in Mexico would be submitted to the Committee on National Priority Programmes for due allotment of budget appropriations to federal entities wishing to join the programme.

181. In addition to what is noted in paragraphs 35–42 and 45–47 above, with reference to the measures taken by the National Conference of State Attorneys General, the members of that collegial group adopted agreements concerning:

- (a) New design of death certificates to include fuller information in respect of persons classified as unknown;
- (b) Introduction of a standardized instrument for legal autopsies, facilitating investigations tailored to each case, so as to be able to issue quality medical reports;
- (c) Drafting of a handbook on biosecurity offering guidance on risk control in the conduct of expert activities;
- (d) Procedure for the burial and storage of bodies, including the possibility of establishing and running a forensic cemetery in each federal entity.

182. Following the strengthening of forensic medical services in the country, first-level forensic facilities (forensic medicine service model), as well as second-level and third-level forensic facilities, should be minimally equipped to do the work ideally required of them and should have the basic means to carry out their activities.

183. Among its other tasks, the National Conference of State Attorneys General, coordinated by the Office of the Attorney General, is required to: (a) coordinate the unified development and strengthening of the process of collecting information on disappeared persons through the country's forensic services; (b) make a technical diagnosis of forensic infrastructure and capacity in the country; and (c) implement and apply the Protocol for Forensic Processing and Identification.

184. For the purposes of unified development, work is under way to consolidate the National Single Registry based on the Protocol for Ante-mortem and Post-mortem Forensic Processing and Identification.

185. A technical diagnosis has been made of forensic infrastructure and capacity in the country in order to have information on the situation of each forensic service and promote a basic support kit for forensic staff; a single forensic medicine service model; protocols for forensic identification and unified autopsy procedures; a handbook on biosecurity; and the minimum standards for individual burial.

186. See paragraphs 35 to 42, 45 to 47, 57 to 73 and 180 to 185 above.

187. In addition, to identify unmarked graves that have been found in Mexico, liaison and coordination mechanisms have been put in place with public security and prosecution services, and with other authorities of the Federation and the federal entities. In the search for unmarked graves, organizations of family members of disappeared persons participate, with care being taken to see that they comply with related forensic protocols and good practices so as to guard against the contamination of remains that could impede biological identification.

Reply to paragraph 24 of the list of issues

188. Victims will receive timely assistance, as stipulated in the Victims Act, in line with their immediate needs, in order to see to and ensure the satisfaction of their basic requirements. When a person has suffered the consequences of a crime or a human rights violation, that person's right to full reparation must be recognized; this requires the Mexican State to ensure restitution, rehabilitation, compensation, satisfaction and non-repetition.

189. It is stated in the last paragraph of article 21 of the Victims Act that recognition of the legal personality of victims of enforced disappearance and the procedure to review and resolve legal action to have a person declared absent by disappearance shall be subject to the provisions of applicable laws so that indirect victims promptly exercise the property and family rights of the missing person and can thereby safeguard the essential interests of the family unit. The second provisional article of the decree amending that Act requires the federal entities to legislate so that persons can be declared absent by disappearance.

190. Where the federal entities are concerned, on 20 May 2014 an amendment decree was published in Coahuila providing for the establishment of an Act on declaration of absence by disappearance of the state of Coahuila, with the object of recognizing and guaranteeing the rights to identity and legal personality of victims of disappearance, together with their property rights, and taking approved measures to provide the fullest protection to their family members or any person having immediate and daily emotional ties to the victim. Benefits of this Act, which was prepared with the support of the Office of the High Commissioner for Human Rights in Mexico and organizations representing missing persons, include the following: (a) the Federal Prosecution Service must request a court ruling within 30 days of the report; (b) the declaration of absence does not prevent investigations from continuing; (c) the court appoints an assets manager for the property of the missing person; (d) legal personality, parental authority and family patrimony are protected, as is the right of the relatives of the disappeared person to draw his or her salary and benefits; (e) any loans, including housing loans, are suspended.

191. The state of Querétaro published in turn, on 6 June 2014, the Act on the Prevention, Investigation, Punishment and Reparation of the Disappearance of Persons in the state of Querétaro, which provides for the declaration of absence by disappearance.

Reply to paragraph 25 of the list of issues

192. Article 366 ter of the Federal Criminal Code, covering the offence of trafficking in children, stipulates that it is an offence to remove or hand over unlawfully to a third person a child under the age of 16, within or outside national borders, whether or not for the purpose of thereby obtaining undue economic benefit. The punishment for this offence is 3 to 10 years' imprisonment and a fine of between 400 and 1,000 times the minimum daily wage.

193. Mexico has ratified the Inter-American Convention on Conflict of Laws concerning the Adoption of Minors, article 14 of which provides that adoptions may be annulled under the law by which they were granted. In Mexico, adoptions are currently covered by articles 30 and 31 of the Act on the Rights of Children and Adolescents.

194. Article 31 of this Act also stipulates that, in legal procedures for international adoption, a report on eligibility for adoption is required from the National Scheme for the Comprehensive Development of the Family or similar schemes of the federal entities and, once the competent judicial body has approved adoption, upon the request of the adoptive parents, the Ministry of Foreign Affairs shall issue the appropriate certificate, in accordance with international treaties.
