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International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

Comments submitted by Colombia on the Committee's report on its visit under article 33 of the Convention*

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* The present document is being issued without formal editing.

Introduction

1. This report was prepared in response to the final report (documents CED/C/COL/VR/R1 (Findings) and CED/C/COL/VR/R1 (Recommendations)), dated 30 April 2025 and presented by the Committee after its visit to Colombia last year, 2024, which it undertook in accordance with article 33 of the Convention.

2. Herewith, then, are substantive comments and a reiterated request to make changes to the report and the annexes thereto that have previously been suggested by the Colombian State. The Committee should consider taking these comments into account when publishing the final version of this report.

Background

3. Article 33 of the Convention sets out the procedure for Committee members to undertake a visit and communicate recommendations to the State Party. According to the Committee's rules of procedure and its website, once the visit has been completed, a report is examined, discussed, adopted and then transmitted to the State Party for its comments, which, together with the report, are published on the Committee's website.

4. Colombia thus received a visit from the Committee from 21 November to 5 December 2024. In its report, the Committee notes that it had 55 high-level meetings in Bogotá with more than 80 authorities from the three branches of government, including meetings with entities from the Public Legal Service and the Comprehensive System for Peace. Similarly, the Committee had 61 meetings with victims, victims' groups and civil society organizations from Antioquia, Atlántico, Arauca, Caldas, Caquetá, Cauca, Cesar, Chocó, La Guajira, Huila, Magdalena, Meta, Nariño, Norte de Santander, Putumayo, Tolima and Valle del Cauca, as well as other individuals who are actively seeking recognition of their role as defenders of search rights.

5. Likewise, the Committee reports that it visited different parts of the country, including Cali (Valle del Cauca), Cúcuta and Villa del Rosario (Norte de Santander), Medellín (Antioquia), Santa Marta (Magdalena) and Villavicencio (Meta), where it met with local authorities. It visited four places of deprivation of liberty: La Modelo and the Puente Aranda Immediate Reaction Unit, both in Bogotá, the Candelaria police station in Medellín and the Medellín Protection Transfer Centre, as well as the migrant reception centre in Villa del Rosario (Cúcuta), the Cúcuta cemetery and the Juan Frío crematoria.

6. The Colombian Government's reception of the delegation from the Committee was another token of its full willingness to combat enforced disappearance and accept the Committee's recommendations for improving efforts to prevent, address and eliminate the practice of enforced disappearance in the country.

7. The Committee's official visit to Colombia was a valuable and important opportunity to address the serious problem of enforced disappearance in Colombia. During the visit, the Committee reiterated its readiness to cooperate with the State to combat this problem, and the Colombian State expressed its gratitude for the exhaustive work done by the Committee and reiterated its full willingness to tackle this crime and accept the recommendations as guidelines for improving efforts to prevent, address and eliminate the practice of enforced disappearance.

8. The report contains a series of statements that, in the Colombian Government's opinion, should be reviewed and corrected by the Committee before the final version is published.

9. Lastly, the Colombian Government reiterates its commitment to promoting a human rights policy based on transparency and international scrutiny and stresses that rigorous verification of information is essential to preserving trust and the effectiveness of United Nations mechanisms.

Method and consultation process

10. This report, submitted in reply to the report on the visit to Colombia by the Committee (see CED/C/COL/VR/1 (Findings) and CED/C/COL/VR/1 (Recommendations)) was prepared by the Directorate of Human Rights and International Humanitarian Law of the Ministry of Foreign Affairs.

11. To prepare this report, information was requested from the following State entities: Office of the Counsellor Commissioner for Peace, Office of the Presidential Adviser on Human Rights and International Humanitarian Law, National Planning Department, Ministry of Defence – National Police – Joint Chiefs of Staff of the Armed Forces – National Army, Ministry of Justice and Law, National Prisons Institute, National Centre for Historical Memory, National Protection Unit, Congress of the Republic, Supreme Court, High Council of the Judiciary, Council of State, Attorney General's Office, National Institute of Forensic Medicine and Science, Counsel General's Office, Office of the Ombudsman (also acting as President of the Disappeared Persons Investigative Commission), Unit for the Search for Persons Deemed Missing in the context of and due to the armed conflict (Search Unit), Special Jurisdiction for Peace.

12. Presented below are the comments and corrections submitted by the following entities and agencies: Counsel General's Office, National Institute of Forensic Medicine and Science, High Council of the Judiciary, Presidential Council for Human Rights and International Humanitarian Law, Supreme Court, Ombudsman's Office, Special Jurisdiction for Peace, Search Unit and Ministry of Justice and Law.

Replies of Colombia to the Committee's report on its visit to Colombia

13. The report has two parts: (1) document CED/C/COL/VR/1 (Findings) and (2) document CED/C/COL/VR/1 (Recommendations), as well as the annexes.

14. In this regard, the observations of each entity that appear below follow the organization and sections of the report.

15. General comment by the Attorney General's Office on the version of the report submitted to it:

> On the whole, the Special Directorate on Human Rights Violations welcomes the recommendations made in the Committee's report. It should be noted, however, that the recommendations made by the Committee are very much in line with the diagnosis made at the time by the National Search System, in which the Attorney General's Office, including the Special Directorate, participates, and which gave rise to the System's four technical committees: (i) the Technical Committee for Searches Identification, Reunification or Dignified Handover of Remains, (ii) the Technical Committee for Access to and Exchanges of Information, (iii) the Technical Committee for Assistance and (iv) the Technical Committee for Prevention and Non-Repetition. In addition, they are similar to recommendations made by the Commission for the Clarification of Truth, Coexistence and Non-Repetition in its report on enforced disappearance in Colombia.
>
> It can thus be seen that the Special Directorate on Human Rights Violations has, in the measures it takes to address the phenomenon of enforced disappearance, taken into account the implementation of strategies and activities designed to (the Committee's general recommendations are listed below):
>
> - Strengthen investigation and prosecution processes: the aim of an analysis of the caseload, taking into account factors such as regional variations, characterization of the victims of enforced disappearance, characterization of the alleged perpetrators and chronological variables, in addition to specific territorial dynamics, evidence, compliance with international norms and national, regional and local search plans, is to facilitate the development of a strategy to link cases and further the search for

disappeared persons, as well as to promote investigations designed to clarify the truth. The foregoing is to be done in compliance with due diligence standards.

- Strengthen search and identification processes: in this context, the Special Directorate, together with the Exhumations and Human Identification Group, which is made up of members of the Technical Investigations Corps, has helped promote the identification and dignified return of unclaimed bodies of persons found to be victims of enforced disappearance.
- Since the development of technical committees, significant progress has been made, together with the judicial offices and Technical Investigations Corps, towards overcoming the obstacles to the identification and dignified handover of remains and thus to ensuring that the family members of disappeared persons can exercise their rights.
- Address the specific circumstances of disappearance in the context of migration and not only in that context: the adoption of differentiated and intersectional approaches, as well as contextual approaches, has made possible an understanding of the phenomenon of disappearance against the backdrop of illicit recruitment and use of minors, gender-based violence, trafficking in persons and other associated criminal phenomena.
- Address the needs of victims and fully respect their rights: the Special Directorate is in the process of approving a document containing guidance on due diligence in respect of guaranteeing the rights of family members, women and persons searching for victims of enforced disappearance. Rights guarantees for victims in respect of investigations and searches in connection with disappeared persons in the country are thus strengthened.
- Protect public officials involved in searches and investigations.
- Address shortcomings in registers as a strategy for preventing and eliminating enforced disappearance: the Special Directorate has been progressively following up on cases involving enforced disappearance, updating mission-critical systems and Disappeared Persons and Recovered Bodies Information Network. The aim is to help create a comprehensive record of all the victims of enforced disappearance in Colombia. Similarly, there has been awareness-raising, involving academic seminars and support, for teams of prosecutors and investigators at the central and regional levels on the importance of keeping the Network and mission-critical systems up to date with information on victims and the members of their families.

A. CED/C/COL/VR/1 (Findings)

16. General comment made by the Ministry of Justice and Law:

> Using the expression “private individual” in the first part of the definition of enforced disappearance in article 165 of the Criminal Code and subsequently using the expression “public servant or private individual acting under the orders or with the acquiescence of the former” is consistent with the State’s obligation to clarify the concept of enforced disappearance, in particular as the article also includes the three subcategories of acts committed by human beings.
>
> Moreover, the definition of the crime of enforced disappearance in Colombia was analysed by the Constitutional Court in ruling C-317 of 2002 after a challenge to the constitutionality of article 165 of Act No. 599 of 2000. This article reproduced the definition set forth in article 268A of the Criminal Code of 1980 (established pursuant to Act No. 589 of 2000):
>
> “Article 165. Enforced disappearance. Any private individual who, as a member of an illegal armed group, deprives another person of his or her liberty in any manner whatsoever, followed by the concealment of the person and refusal to acknowledge said deprivation or to provide information on the person’s whereabouts, thereby removing him or her from the protection of the law, shall be punished with

imprisonment for 20 to 30 years, a fine of 1,000 to 3,000 times the current legal monthly minimum wage and deprivation of civil rights and ineligibility for public office for a period from 10 to 20 years. The same penalty shall be imposed on any public servant or private individual acting under the orders or with the acquiescence of such a public servant who engages in the conduct described in the preceding paragraph."

The argument in the constitutional challenge was that the phrase "member of an illegal armed group" was a violation of the principles of fairness, equality and logic, since it excluded cases in which the crime was committed by an unarmed organized group, by a private individual who was not acting as a member of a group or by a legal armed group, leaving members of the armed forces as the only perpetrators.

The Court was of the opinion that, in international instruments, enforced disappearance is a crime committed by organized power structures, usually attributable to agents of the State or private individuals acting with the acquiescence of the State; it held, however, that this was not always the case in Colombia, since Colombian society has multiple actors who are potential perpetrators of disappearance, such as the misnamed "social cleansing groups," common criminals, guerrillas, members of paramilitary groups and drug traffickers, a situation that requires a broader understanding of who can be a perpetrator.

Similarly, the Court held that this broadened scope was consistent with the general protection afforded in article 12 of the Constitution, which contains no specific definition of the perpetrator of the crime of enforced disappearance.

In conclusion, the Court found the expression "member of an illegal armed group" unenforceable, making all types of individual potential perpetrators and arguing that this change provided greater guarantees and exceeded the minimum international standard. In addition, it found the term "private individual" enforceable, as the second paragraph of article 165, in which reference is made to private individuals who commit the crime of enforced disappearance with the acquiescence of a public servant, would otherwise be inoperative.

This expanded understanding of potential perpetrators is fully compatible with article 3 of the Convention.

In this context, while concern about highlighting State responsibility for enforced disappearance is legitimate, any change to the definition of the crime makes it difficult to reconcile compliance with international norms and the maintenance of legal consistency. The creation of a separate criminal offence could lead to conceptual and operational dispersion, while not guaranteeing greater effectiveness in the prevention, investigation and punishment of the offence. Any change must therefore be informed not only by the Committee's recommendations but also by the risks of legal fragmentation and the need to maintain a criminal justice system that allows for the distinction of responsibilities without diluting the seriousness of the crime or hindering the prosecution thereof.

1. Facilitation of the visit and cooperation by the State Party

17. Observation made by the Office of the Presidential Adviser on Human Rights and International Humanitarian Law: "That the findings include greater recognition of the progress that the Colombian State has made towards the prevention of enforced disappearance, as well as in the search for disappeared persons, is appreciated. That recognition, however, does not imply that the significant challenges and obstacles to combating this scourge have been overcome."

2. Context and trends

18. Observation made by the Office of the Presidential Adviser on Human Rights and International Humanitarian Law: "References to statistical data or figures included in the report should be reviewed to ensure that they come from official sources, either from the State or from civil society organizations, and that the information is as accurate as possible."

19. Observation made by the Ministry of Justice and Law:

Under the legal framework currently in place in Colombia, particularly article 198, section V, of Act No. 2294 of 2023, pursuant to which the National System for the Search for Persons Deemed Missing was set up, the phrase “in the context of and due to the armed conflict” is made a condition for recognition as a victim of enforced or other forms of disappearance. This phrase must be interpreted in accordance with the country’s historical, social and legal context and given a broad and protective reading that avoids limiting the rights of victims and their families.

Although it could be assumed that this expression limits enforced disappearance to the period and context of the internal armed conflict, the truth is that the armed conflict in Colombia did not end with the signing of the Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace in 2016. According to Humanitarian Challenges 2025, a report produced by the International Committee of the Red Cross, Colombia is facing at least eight active armed conflicts, with multiple armed actors continuing to cause serious harm to the civilian population.

Against this backdrop, it is essential to recognize that, in a country such as Colombia, which is dealing with several persistent and often intersecting violent conflicts, the distinction between what occurs “in the context of and due to the armed conflict” and what does not is often blurred. This ambiguity has created problems for victims of disappearance and their families, who have repeatedly faced obstacles to protection arising from narrow interpretations. Maintaining a rigid and strictly temporal interpretation can therefore lead to unjustified exclusion in which the real social and political situation of the country is ignored.

In this regard, the phrase “in the context of and due to the armed conflict” has been understood as a condition in which the profound impact of the conflict on the country’s social, institutional and territorial structures is acknowledged. As a consequence, the use of this phrase in the law does not rule out the investigation or consideration of cases of enforced disappearance that occurred outside the hostilities of the armed conflict or after 1 December 2016. All forms of disappearance, regardless of the perpetrator or context, must be addressed with the same diligence and in accordance with the principle of equality before the law and the State’s duty of protection.

As soon as a disappearance is reported, the relevant legal mechanisms, such as the urgent search mechanism, are activated to ensure a timely, effective response intended to protect fundamental rights. The competent authorities later determine how the act is to be characterized, but initial searches do not depend on and are not limited by this legal characterization.

The Colombian legal system incorporates a transitional justice model in which the Search Unit operates under time parameters defined in the Final Agreement. However, the National Search System coordinates the work of permanent judicial and administrative entities, such as the Attorney General’s Office, which ensure that the crime of enforced disappearance is investigated and prosecuted without temporal or contextual limitations.

For its part, the Disappeared Persons Investigative Commission, created under Act No. 589 of 2000, is an inter-institutional coordination body that, although neither autonomous nor part of the National Search System, plays a legal role designed to ensure that all disappeared persons are searched for. Its responsibilities include coordinating the steps taken by the relevant entities, designing and executing national and local search plans, promoting mechanisms for the identification of bodies, consolidating and managing information in the National Register of Disappeared Persons and facilitating cooperation with judicial authorities and international organizations. The aim is to respond to the needs of families, alleviate their suffering and guarantee the restoration of rights, in compliance with national and international norms relating to enforced disappearance.

Consequently, the Colombian State, relying on humanitarian, extrajudicial and ordinary judicial mechanisms, has made efforts, suited to the victims' needs, to address cases of disappearance that occurred before and after the Final Agreement. This institutional architecture ensures that no disappearance is excluded from the scope of public policy, reaffirming the State's commitment to truth, justice and comprehensive reparation, as well as complying with the State's international obligations in this area.

3. Disappearances in Colombia

Comments on paragraph 9

20. Observation made by the Search Unit: "The number of people described as having been subjected to enforced disappearance is larger in the more recently submitted document (257 from 1958 to 1977 rather than 164) than in the document submitted previously. The source should be verified."

Comments on paragraph 10

21. Observation made by the Counsel General's Office on the highlighted text: "Mention should be made of whether these cases have been brought to the attention of the Attorney General's Office."

22. Observation made by the Ministry of Foreign Affairs on the text in bold:

> The Colombian State objects to statements such as those in bold in paragraph 10, which could be interpreted as implying collusion between the Government and illegal groups. The Colombian State requests that the highlighted section not be included in the final report, as these statements, for which there is no evidence, are untrue and are inconsistent with the commitment demonstrated by Colombian institutions to confront and eradicate the abominable crime of enforced disappearance.

4. Disappearances committed in the course of military counter-insurgency operations

23. Observation made by the Counsel General's Office:

> It is important to note that, in several cases of disappearance during military operations that occurred before the signing of the Final Agreement, the victims were not guerrillas, although it was reported otherwise in a bid to substantiate the claim of a military confrontation and subsequent report of death in combat (assassination in conjunction with disappearance).
>
> What is more, the so-called guides could be civilians, former members of the Autodefensas Unidas de Colombia or demobilized members of other groups that were parties to the internal armed conflict that is under the jurisdiction of the transitional justice system.

Comments on paragraph 12

24. Observation made by the Ombudsman's Office:

> There were assertions for which there were no cited sources or references: "The first form [of disappearance] involves local civilians, who were subjected to enforced disappearance after being forced to guide military forces to guerrilla camps. The second, particularly common in the 1980s and 1990s, concerns people who disappeared after being captured or otherwise rendered hors de combat. Often, after their disappearance, they were extrajudicially executed or made to serve as guides for the army or join paramilitary groups." Please include the corresponding sources.

25. Observation made by the Counsel General's Office: "Mention should be made of whether these cases have been brought to the attention of the Attorney General's Office."

Comments on paragraph 13

26. Observation made by the Ombudsman's Office:

Paragraph 13 is unclear and confusing. Therefore, it should be noted that:

- The negotiations mentioned in the paragraph do not guarantee that cases of disappearance can be prevented; this is an issue that must be expressly demanded at the negotiating table
- The disappearances that occurred in the context of the social unrest (indicating whether they have been reported) and the disappearances related to Estado Mayor Central should be differentiated more clearly

27. Observation made by the Counsel General's Office: "Mention should be made of whether these cases have been brought to the attention of the Attorney General's Office."

5. Targeted disappearances as a method of eliminating or destroying the "enemy"

Comments on paragraph 14

28. Observation made by the Ombudsman's Office:

> The document mentions two forms of disappearance attributed to paramilitary groups; a source for this statement should be cited. Moreover, there is a possible contradiction between what is stated in paragraph 13 and what is stated in paragraph 39 (p. 8), so those two paragraphs should be reviewed to ensure internal consistency.
>
> Similarly, the term "burial" should be replaced, wherever it is used, by the term "interment" to maintain the conceptual and legal accuracy of the text.
>
> In several sections of the document, the abbreviation "NN" is used without clarifying its meaning. This abbreviation should be replaced by the expressions "bodies of unidentified persons" or "bodies of identified persons not handed over," as appropriate, and the four annexes should be reviewed to ensure terminological consistency.

Comments on paragraph 15

29. Observation made by the Ombudsman's Office:

> Lastly, there are references to organizations that could be confused with entities, programmes or constitutional bodies responsible for the investigation of cases of enforced disappearance. The clarification below is provided to prevent a mistaken reading of the text.

Entities (with legal personhood and autonomy)
1. Attorney General's Office (the only entity with criminal investigation powers)
Office of the Special Prosecutor for Transitional Justice
National Directorate of Human Rights and Offices of Special Prosecutors
Group for the Search, Identification and Handover of Disappeared Persons
2. National Institute of Forensic Medicine and Science
3. Comprehensive Victim Support and Reparation Unit
4. Unit for the Search for Persons Deemed Missing in the context of and due to the armed conflict
5. Commission for the Clarification of Truth, Coexistence and Non-Repetition – the mandate of this entity concluded in 2022.

Courts/jurisdictions
1. Special Jurisdiction for Peace – judicial body
2. Special Jurisdiction for Justice and Peace. Justice and peace chambers – specialist chambers
Municipal ombudsman's offices – municipal oversight bodies

Coordination systems/arrangements (coordination mechanisms, not entities)
1. Comprehensive System of Truth, Justice, Reparation and Non-Repetition
2. National System for the Search for Persons Deemed Missing in the context of and due to the armed conflict
3. National System for Comprehensive Victim Support and Reparation

Public Legal Service
Made up of the Counsel General's Office, the Ombudsman's Office and the offices of the municipal ombudsmen. According to Constitutional Court ruling C-030 of 2023, the Attorney General's Office, as an autonomous body responsible for conducting disciplinary proceedings, is independent of other State bodies.

Programmes
1. Programme of Psychosocial Assistance and Comprehensive Healthcare for Victims – programme administered by the Victims Unit

The Attorney General's Office is, as previously noted, the only authority with constitutional and legal competence to conduct criminal investigations in Colombia. This point should be made clear in the visit report to avoid ambiguity about the responsibilities of other entities. Likewise, there is some terminological inconsistency: in some sections, the term "disappearance" is used, while in others the term used is "enforced disappearance", and there is no explanation of the difference or for the interchangeable use of those two terms. The terminology used should be harmonized, or there should be a note to specify the meaning of each term.

6. Lack of clarity on the scope of the phenomenon of enforced disappearance

30. Observation made by the High Council of the Judiciary: "The finding is duly noted, but the approach is troubling. The Committee changed the report to include the key figures provided by the judicial authorities but has adopted an approach in which the institutional situation of the entities concerned is not recognized."

Comments on paragraph 42

31. Observation made by the Ombudsman's Office:

The Central Register of Victims and mechanisms for information about disappeared persons are the cornerstones of guarantees of the right to truth and reparation. The Colombian Government's efforts to consolidate registration instruments are acknowledged in the Committee's report, which, however, also notes serious inconsistencies between databases and a lack of interoperability, a situation that directly affects the identification, searches for and comprehensive care of victims.

For the Ombudsman's Office, and the Victim Orientation and Assistance Directorate in particular, registration is not only an administrative tool but also an act

through which the dignity of victims is recognized and a means of exercising fundamental rights. The weakening of registration institutions or the fragmented use of registers therefore perpetuates invisibility and revictimization.

32. Observation made by the Attorney General's Office:

In 2025, the Attorney General's Office proposed a method of cleansing the data on persons who are reported to have disappeared and judicial case files on enforced disappearance in the ordinary and transitional justice systems and set up a working group to use it. As a result, the following activities to continue consolidating the data are under way. There are registers of: (i) individual people by name, victims of enforced disappearance for which the Office has a case file; (ii) unidentified persons and bodies of unidentified persons associated with a case of enforced disappearance; (iii) duplicate registers (for example, multiple reports about the same incident in different places in the country and on different dates about the same incident); and (iv) disappeared persons whose case files may be associated with crimes other than enforced disappearance.

The Attorney General's Office faces major challenges, as it is necessary to verify registers (including names, identification numbers, case numbers, date of events and place of events), as well as the strategies that prosecutors' offices can use to bring the relevant records up to date.

Comments on paragraph 43

33. Observation made by the Ombudsman's Office:

The Committee mentions considerable underreporting of cases of disappearance, especially in rural areas and in areas inhabited by Indigenous and other ethnic minorities. The Victim Orientation and Assistance Directorate has shown that registration fails to reflect the true scale of the phenomenon for reasons such as the:

- Persistence of obstacles to taking or giving statements (distance, fear, lack of support or insufficient online channels)
- Failure to scrub data or bring them up to date
- Limited recording of information on disappeared persons in contexts of recent violence or organized crime

34. Observation made by the National Institute of Forensic Medicine and Science on the highlighted part of the paragraph:

It is not specified how many people are direct victims of the crime of enforced disappearance and how many are indirect victims (family members), a figure that should be clarified in the body of the report. In this section, a distinction should be made between historical figures and figures for specific periods, since the figures from the Attorney General's Office include only the period 2016–2024. Those figures are followed by the historical figures from the Truth Commission and the Special Jurisdiction for Peace.

35. Observation made by the Search Unit:

The figures are higher than those reported in the previous document. They should be double-checked.

Corrections:

- Have the phrase "between 1958 and 2016" replace the phrase "in the context of the armed conflict until 1 December 2016"
- Have the words "armed conflict" replace the words "aforementioned conflict"

7. Fear of reprisals

Comments on paragraph 48

36. Observation made by the Counsel General's Office: "The report does not make a note of the steps taken by institutions in response to threats received by victims, witnesses, respondents and/or public servants for what they do before the Special Jurisdiction for Peace: once it is clear that a person has been threatened, risk assessments are ordered and, if necessary, security measures are taken; orders were even issued for the protection of people who signed the Final Agreement."

8. Legal and institutional framework

Entities and mechanisms responsible for addressing disappearances that occurred before 1 December 2016 during and in the context of the armed conflict

Comments on paragraph 55 (d)

37. Observation made by the Ministry of Justice and Law:

> National System for the Search for Persons Deemed Missing in the context of and due to the armed conflict
>
> 1. Permanent nature and temporal scope of the National Search System
>
> On pages 11 and 12 of the document containing the Committee's findings, it can be seen that the National Search System is listed only in the section entitled "Entities responsible for addressing disappearances that occurred before 1 December 2016 during and in the context of the armed conflict", not in the section on other disappearances. On this point, it should be noted, in view of the explanations above, that the National Search System is mandated to address searches for all disappeared persons, regardless of the cause or time frame of the disappearance, not simply disappearances that occurred before 1 December 2016. The System should also be included, in view of its permanent and comprehensive nature and its role in coordination, in the section on other disappearances.
>
> In addition, and without prejudice to the aforementioned functions and purpose, it is important to clarify that the National Search System is a manifestation of the inter-institutional coordination efforts made by the State to search for disappeared persons; it is not an entity. Its purpose is twofold: (1) to establish the National Plan on the Search for Disappeared Persons as a technical and operational instrument to guide search operations in the country and (2) to develop a comprehensive public policy that covers care, prevention, access to and exchanges of information, searches, identification, reunions and the dignified return of any remains found. The System is designed to ensure that there is a coherent, coordinated and rights-based State response to all forms of disappearance.
>
> It should also be noted that the Disappeared Persons Investigative Commission was established pursuant to article 8 of Act No. 589 of 2000, a step reflecting the Colombian State's ongoing commitment to searching for all disappeared persons, including those whose disappearance is not linked to the armed conflict. The System demonstrates the continuity of the State's efforts to consolidate comprehensive and coordinated search mechanisms that guarantee the rights of victims and their families in the Colombian context.

Entities and mechanisms responsible for addressing "other disappearances"

Comments on paragraph 56 (c)

38. Comment made by the Ministry of Foreign Affairs: "Have the terms 'the Counsel General's Office, the Ombudsman's Office and the offices of the municipal ombudsmen' replace the term 'Public Legal Service.'"

9. Minimum conditions for an efficient and effective national policy to prevent and eradicate disappearances

39. Observation made by the High Council of the Judiciary:

The challenges that the justice system faces in dealing with cases of enforced disappearance, such as impunity, a lack of resources and the need to make inter-agency coordination more robust, are noted in the report. The efforts that the judicial authorities have made to overcome these challenges are not, however, given sufficient recognition, including:

- The creation of specialist offices for the prosecution of cases of enforced disappearance (specialist circuit criminal courts)
- The training of judicial officials in international human rights law and international humanitarian law
- The development of relevant case law
- The adoption of measures to support and protect victims in the context of judicial proceedings

The efforts made by the judicial authorities to overcome the challenges to dealing with cases of enforced disappearance should be recognized more explicitly. Those efforts include:

- The creation of specialist judicial offices to hear these cases
- The implementation of training programmes on human rights and international humanitarian law for judicial officials
- The development of relevant case law for the protection of victims' rights
- The adoption of measures to support and protect victims in the context of judicial proceedings

It is important to set the presentation of challenges against recognition of the progress made by the judicial authorities, as well as their good practices, in order to provide a more complete and objective view of their role in this area.

40. Observation made again by the High Council of the Judiciary:

This observation has not been fully reflected and remains a critical point.

- Mention is made of a "considerable amount of case law", partially addressing point 3
- However, the report contains no acknowledgement whatsoever of the creation of specialist judicial offices (cf. 2170, 2189)
- Similarly, it makes no mention of the measures to support and protect victims that are already taken within the framework of legal proceedings (cf. 2174, 2194)
- The Council finds it troubling that, rather than acknowledging the training efforts that have already been made, the report adopts a purely prescriptive tone, urging the State Party to "develop a comprehensive training programme" and ignoring the progress that has been made in this connection

Conclusion: comment NOT heeded in substance. The report dated 30 April is still characterized by the one-sidedness referred to in letter No. 322. It continues to focus on challenges without acknowledging the proactive institutional efforts made by the judicial authorities.

[...]

It is essential to substantiate the underlying observation; also essential is a change of focus on the nature of the statistical information provided.

10. Define acts of enforced disappearance more clearly and raise awareness thereof

Set up a consolidated and reliable nationwide register of disappearances

Comments on paragraph 90

41. Observation made by the Ombudsman's Office:

The Committee notes that the Central Register of Victims, the Disappeared Persons and Recovered Bodies Information Network, the National Register of Graves, Illegal Cemeteries and Other Burial Sites, the National Search System and the databases of the Special Jurisdiction for Peace or the Attorney General's Office are not linked.

Each entity produces and manages information according to different criteria, leading to duplication, inconsistencies and gaps.

In its work in the field, the Ombudsman's Office has found that, as a result of this fragmentation:

- Some victims are not included in the Central Register of Victims despite being included in the registers of other systems (those of the Search Unit or the Attorney General's Office)
- There are active cases that cannot be traced – that is, in which nothing is done to monitor or provide updates on the process of searching for disappeared persons or identifying and handing over in dignified fashion any remains
- Criminal conduct is mischaracterized, thereby affecting access to reparation

42. Observation made by the Counsel General's Office:

Mention should be made of the need to update the Disappeared Persons and Recovered Bodies Information Network to reflect the cases of persons who have been found alive. In this respect, the Search Unit and the National Institute of Forensic Medicine and Science have noted that steps are being taken to ensure that the Unit's humanitarian investigators are authorized to update these and other such records in the information system.

Comments on paragraph 92

43. Observation made by the Ombudsman's Office:

The Committee notes that the records do not include metadata that would make possible appropriately disaggregated (by gender, ethnicity, age, sexual orientation or disability) impact studies.

The Victim Orientation and Assistance Directorate agrees that, although Act No. 2364 of 2024 will help make it possible to raise the profile of women who are searching for victims and take a differentiated approach to victims, the relevant systems are not yet technologically or methodologically set up to collect this information.

As a result, the formulation of public policies that are responsive to the needs of specific groups, such as Indigenous Peoples or communities of people of African descent in areas of active conflict, is limited.

44. Observation made by the National Institute of Forensic Medicine and Science:

It should be noted that the interoperability working group that covers the registers of disappeared persons is being set up by the Technical Committee on Access to and Exchanges of Information, which has 17 participating State entities and whose aim is to provide technical support for access to and exchanges of information directly or indirectly related to the disappearance of persons in the context of and due to the armed conflict, including enforced disappearance, by all public entities at the local and national levels.

45. Observation made by the Attorney General's Office:

> The efforts that the Ministry of Information Technologies and Communications has made to set up interoperability desks are highlighted in paragraph 92. In this connection, it is, in the opinion of the Attorney General's Office, worth noting that the Technical Committee for Access to and Exchanges of Information is one of the entities making up the National Search System. The Technical Committee's responsibilities include ensuring access to and exchanges of information directly or indirectly related to the disappearance of persons in the context of and due to the armed conflict, including enforced disappearance, by all public entities. On the strength of that mandate, the Technical Committee has been working on issues related to the interoperability of information systems.

11. Strengthen and enforce legal and institutional frameworks

Rationalize the institutional framework and ensure systematic and effective coordination

Comments on paragraphs 102 and 103

46. Observation made by the Attorney General's Office:

> Paragraph 103 states that the Committee is concerned about the "duplication of competencies". With regard to this point, it should be noted that the Attorney General's Office has brought this matter to the attention of the Special Jurisdiction for Peace as part of the implementation of the national precautionary measure on enforced disappearance. In this regard, the section responsible for cases involving the non-acknowledgement of truth and responsibility has issued instructions requiring the various authorities involved in search, identification, investigation and prosecution procedures to redouble their efforts, either to comply with its instructions or with the institutional mechanisms established in the regulations. However, the section was of the view that its instructions are aimed at promoting inter-institutional coordination.

Comments on paragraph 105

47. Observation made by the Attorney General's Office:

> Paragraph 105 states that there were still problems in respect of coordination and the exchange of information between the Comprehensive System for Peace and the ordinary courts. In this regard, two points may be made: firstly, the Disappeared Persons Investigative Commission is a collegiate body composed of a number of non-judicial entities at the national level. It is responsible for supporting and promoting the investigation of the offence of enforced disappearance, with full respect for institutional competences and the prerogatives of the parties to the proceedings.
>
> This means that it does not form part of the ordinary courts and that attention must therefore be drawn to its inclusion within the ordinary justice system. Secondly, the Attorney General's Office has demonstrated that it supports the implementation of the mandate of the Special Jurisdiction for Peace. To this end, there are instruments for facilitating cooperation between the two institutions, such as Inter-Agency Agreement No. 0093 of 2019 and the Cooperation Agreement on Combating Impunity, which are supported by technical committees and other bodies that have enabled their effective implementation.

Comments on paragraph 106

48. Observation made by the Ministry of Justice and Law:

> In response to the statement made in paragraph 106 on page 19 of the Committee's findings, regarding the alleged lack of commitment of the institutions that form part of the National Search System, it can be said, to the contrary, that progress of various kinds has been made in enhancing inter-institutional coordination and fulfilling the commitments made by the entities that comprise this coordination

mechanism. This progress is a reflection of the coordinated and sustained efforts made to strengthen its functioning and ensure a more effective response to the search for disappeared persons. This institutional commitment will be supported by measures taken under the comprehensive public policy, which will coherently guide the State's efforts in the areas of prevention, support, access to and exchange of information, search, identification, reunion and dignified returns.

3. Local committees and round tables on enforced disappearance:

In response to the statement made in paragraph 106 on page 19 of the Committee's findings, it should be noted that, with regard to local committees, Decree No. 532 of 2024 establishes the possibility of choosing between establishing new committees or using existing round tables. The purpose of this provision is to avoid any duplication of effort and to strengthen coordination at the local level, ensuring more efficient implementation of the National Search System. The above provision is set out in paragraph 2 of article 2.2.5.9.2.13 of Decree No. 532 of 2024.

Comments on paragraph 105

49. Observation made by the Attorney General's Office: "Paragraph 110 refers to the poor intra-institutional coordination between offices of the Special Jurisdiction for Peace. With regard to this matter, the Attorney General's Office wishes to draw attention to the recent decisions taken by the Special Jurisdiction for Peace."

Comments on paragraphs 113 and 114

50. Observation made by the Ombudsman's Office.

If the Committee's recommendation is to "take stock of the norms and mechanisms in place to address disappearances, including enforced disappearance, with a view to identifying overlapping competencies and making coordination between the institutions involved more robust", the Committee is invited to reconsider its recommendation to review the mandate of the Search Unit, "while giving consideration to the possibility of pooling the available resources in a single permanent institution", as this may be seen as taking a position prior to the recommended review that fails to refer to the strengthening of non-transitional institutions and forums for coordination such as the Disappeared Persons Investigative Commission.

Comments on paragraph 121

51. Observation made by the Ministry of Foreign Affairs: "In order to ensure the exchange of information, the State shares with the Committee the official letter sent by the High Council of the Judiciary, under file No. 202402033380 of 11 December 2024, by means of which the Special Jurisdiction for Peace provided information on the number of files whose transfer to the ordinary courts had been requested in cases of enforced disappearance."

52. Observation made by the Attorney General's Office:

The paragraph states that there were still problems in respect of coordination and the exchange of information between the Comprehensive System for Peace and the ordinary courts. In this regard, two points may be made: firstly, the Disappeared Persons Investigative Commission is a collegiate body composed of a number of non-judicial entities at the national level. It is responsible for supporting and promoting the investigation of the offence of enforced disappearance, with full respect for institutional competences and the prerogatives of the parties to the proceedings.

This means that it does not form part of the ordinary courts and attention must therefore be drawn to its inclusion within the ordinary justice system. Secondly, the Attorney General's Office has demonstrated that it supports the implementation of the mandate assigned to the Special Jurisdiction for Peace. To this end, there are instruments for facilitating cooperation between the two institutions, such as Inter-Agency Agreement No. 0093 of 2019 and the Cooperation Agreement on Combating

Impunity, which are supported by technical committees and other bodies that have enabled their effective implementation.

Comments on paragraph 126

53. Observation made by the Attorney General's Office:

Paragraph 126 states that "the responsibility of the superior is not clearly included in the legal framework". However, developments in case law have made it possible to apply existing provisions to the different forms of perpetration and participation defined in criminal law. In other words, judicial interpretation allows different categories (instigator, person having command responsibility etc.) to be applied to hierarchical superiors involved in the alleged commission of enforced disappearance.

B. CED/C/COL/VR/1 (Recommendations)

54. General comment made by the Special Jurisdiction for Peace: "The inclusion of all the information submitted in April this year in the Government's consolidated response is appreciated. However, it is a matter of concern that this information is not included in the aforementioned report, as this disregards the work carried out by the Special Jurisdiction for Peace to promote the uptake of public policy on enforced disappearance across all forums."

1. Priorities to be addressed in the State Party's strategy to prevent and eradicate enforced disappearance

Strengthen investigation and prosecution processes in respect of cases of disappearance

55. Observation made by the Attorney General's Office:

In section A, the Committee refers to the strengthening of investigation and prosecution processes in respect of cases of disappearance. In this connection, the Attorney General's Office wishes to point out that, in recent years, it has been designing and implementing strategies to comprehensively address the offence of enforced disappearance and its various institutional commitments. It addresses a number of the recommendations made by the Committee concerning its action lines and cross-cutting themes. With regard to the former – action lines – the strategy includes:

- Coordinating working teams (special prosecutors, investigators and experts); improving the procedures for conducting searches and exhuming, identifying and returning bodies
- Strengthening investigative training in enforced disappearance; adopting an institutional culture that is committed to the criminal prosecution of the offence of enforced disappearance

The cross-cutting themes are as follows: strengthening and improving communication and participation among persons who conduct searches and civil society organizations; updating information systems (under this cross-cutting theme, the Attorney General's Office has been carrying out a number of activities, such as consolidating information on all victims and managing the interoperability of information systems within the relevant areas); and strengthening the management and prosecution of cases allegedly involving the offence of enforced disappearance.

Comments on paragraph 7

56. Observation made by the Attorney General's Office:

With regard to paragraph 7 on page 2 of the document containing the Committee's recommendations, concerning the Office's dependence on the National

Institute of Forensic Medicine and Science, in accordance with the competences of each of the entities, the Attorney General's Office, specifically the Technical Investigations Corps, has a multidisciplinary team comprising anthropologists, doctors, dentists and forensic experts, among other professionals, who carry out field work, complying with standards on the search for, and exhumation of, bodies and skeletal remains, as well as investigations in the field. The agency has six laboratories where bodies and skeletal remains are identified. Therefore, contrary to what is stated in the report, the National Institute of Forensic Medicine and Science is part of the network that supports the agency in carrying out identification work.

Comments on paragraph 8

57. Observation made by the Search Unit:

With regard to this paragraph, the interlocutors' views disregard the fact that the Search Unit is an extrajudicial and humanitarian agency. Owing to its nature, the information that it receives may not be used to attribute responsibility, as doing so would violate its constitutional mandate under Legislative Act No. 01 of 2016 and Decree Law No. 589 of 2017.

In spite of the above, information used in judicial proceedings feeds into humanitarian and extrajudicial investigations conducted by the Search Unit.

The Search Unit would therefore be grateful if these considerations could be amended or clarified, especially since the Committee's recommendation concerns an area of justice in which the Unit lacks jurisdiction.

The Search Unit, in accordance with its mandate, must collect the information necessary for searching for persons deemed missing in the context of and due to the armed conflict; identify and profile all such persons; and develop and implement a national register of graves, illegal cemeteries and other burial sites.

To this end, Decree Law No. 589 of 2017 specifies some of the sources of information that the Search Unit may use, including the following: (i) confidential interviews; and (ii) mechanical, magnetic, and other similar databases, and any information held by individuals, State entities, or social and victims' organizations.

Power to obtain access to information. Transitional articles 3 and 4 of Legislative Act No. 001 of 2017 and title III of Decree Law No. 589 of 2017 establish that the Search Unit, as an extrajudicial and transitional justice mechanism, has broad powers to obtain access to public information, including classified, restricted and confidential information that contributes to the search for disappeared persons, and to enter into agreements with private parties to gain access to information. These powers come with the duty to guarantee the confidentiality and privacy of the information to which the Search Unit gains access, receives and/or produces. Where these powers are concerned, the Constitutional Court ruled that the provisions of Decree Law No. 589 of 2017 were in compliance with the Constitution and that certain sections of articles 12–14 were conditionally constitutional. The information received and collected by the Search Unit may not be used to attribute responsibility in legal proceedings and may not be accorded probative value, with the exception of forensic reports and material evidence associated with corpses.

The interlocutors' views are understandable. However, it is important to bear in mind that they may be unaware of the Search Unit's constitutional and legal mandate.

58. Observation made by the Special Jurisdiction for Peace:

It is necessary to reconsider the statement contained in paragraph 8, since the jurisdiction of the Special Jurisdiction for Peace is clearly defined in Legislative Act No. 01 of 2017 and in the Statutory Act on the Administration of Justice in the Special Jurisdiction for Peace (No. 1957 of 2019). In this regard, the investigative procedure that the Attorney General's Office is mandated to undertake by the Constitution and

the law cannot be affected. In this connection, it is worth recalling the provisions of the aforementioned Acts:

With regard to the jurisdiction of the Special Jurisdiction for Peace, Legislative Act No. 01 of 2017 establishes the following:

> "Transitional article No. 5. Special Jurisdiction for Peace. The Special Jurisdiction for Peace shall be subject to a specific legal regime, with administrative, budgetary and technical autonomy; it shall administer justice on a temporary and autonomous basis and shall have preferential jurisdiction over all other jurisdictions and exclusive jurisdiction over acts committed prior to 1 December 2016, when such conduct was engaged in by reason of, in connection with or in direct or indirect relation to the armed conflict by those who participated in it, especially with regard to acts considered to constitute serious violations of international humanitarian law or serious human rights violations. Its objectives are to realize the victims' right to justice; to offer truth to Colombian society; to protect victims' rights; to contribute to the achievement of stable and lasting peace; and to adopt decisions that grant full legal certainty to those who participated directly or indirectly in the internal armed conflict by committing the aforementioned acts. With regard to combatants belonging to illegal armed groups, the justice component of the System shall apply only to those who sign a final peace agreement with the Government. Membership of a rebel group shall be determined, following the submission of lists by the group in question on arrival at the transitional local zones for normalization and the transitional local points for normalization, by a delegate expressly appointed for this task. These lists shall be received by the Government in good faith, in accordance with the principle of legitimate expectations, without prejudice to the corresponding verifications. The Special Jurisdiction for Peace shall also exercise its jurisdiction over individuals who have been convicted, prosecuted or investigated for belonging to the Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo in court rulings handed down before 1 December 2016, even if they are not on the group's list. With regard to members of organizations that sign peace agreements with the Government, special judicial treatment shall also be applied to conduct closely linked to the process of laying down of arms carried out from 1 December 2016, until the completion of the process of removing weapons conducted by the United Nations in accordance with the Final Agreement. The law shall define the criminal conduct that is to be considered closely linked to the process of laying down of arms, in accordance with section 5.1.2 of the Final Agreement, and the Special Jurisdiction for Peace shall evaluate that link in each case in accordance with the parameters set out in this law.
>
> […]
>
> "Transitional article 16. Jurisdiction over third parties. Individuals who are not members of armed organizations or groups but have contributed directly or indirectly to the commission of offences in connection with the conflict may have recourse to the Special Jurisdiction for Peace and receive the special treatment determined by the regulations, provided that they comply with the established conditions governing the contribution to truth, reparation and non-repetition.
>
> "Transitional article 17. Differentiated treatment for agents of the State. The justice component of the Comprehensive System of Truth, Justice, Reparation and Non-Repetition shall also apply to State agents who have committed offences relating to, or in connection with, the armed conflict. It shall be applied in a differentiated manner, affording equitable, balanced, simultaneous and symmetrical treatment. This treatment must take into account the State's role as the guarantor of rights.
>
> "For the purposes of the Special Jurisdiction for Peace, a State agent is understood to be any person who, at the time of the alleged criminal conduct,

was serving as a member of a public entity or an employee or worker of the State or its local offices and services, and who participated in the planning or execution of criminal conduct directly or indirectly related to the armed conflict. In order for such conduct to be considered eligible for examination by the Special Jurisdiction for Peace, it must have consisted of actions or omissions committed within the framework of, or during, the internal armed conflict, without an illicit personal enrichment motive, or if such motive did exist, without its being the determinant of the criminal conduct. [Emphasis added]

[…]

"Transitional article 23. Jurisdiction of the Special Jurisdiction for Peace. The Special Jurisdiction for Peace shall have jurisdiction over offences committed by reason of, in connection with or in direct or indirect relation to the armed conflict, without an illicit personal enrichment motive, or if such motive did exist, without its being the determinant of the criminal conduct. For this purpose, the following criteria shall be taken into account:

(a) That the armed conflict was the direct or indirect cause of the commission of the punishable conduct; or

(b) That the existence of the armed conflict influenced the perpetrators of, participants in or accessories to the punishable conduct committed by reason of, in connection with or in direct or indirect relation to the armed conflict, in respect of:

- Their capacity to commit it; in other words, as a result of the armed conflict, the perpetrators acquired greater abilities that enabled them to carry out the act
- Their decision to commit it – in other words, their determination or willingness to commit it
- The manner in which it was committed – in other words, as a result of the armed conflict, the perpetrators of the act had access to the means that enabled them to carry it out
- The identification of the goal to be achieved in committing the offence"

Act No. 1957 of 2019 refers to the jurisdiction mentioned above in the following terms:

"Article 62. Material jurisdiction. Without prejudice to the provisions of article 63 on personal jurisdiction, the Special Jurisdiction for Peace has jurisdiction to hear cases involving offences committed by reason of, in connection with or in direct or indirect relation to the armed conflict. Such offences are understood to comprise all punishable conduct where the existence of the armed conflict was the cause of its commission or played a substantial role in the perpetrators' ability to commit the punishable conduct, their decision to commit it, the manner in which it was committed, or the goal to be achieved in committing it, irrespective of the legal characterization previously attributed to the conduct. Conduct considered to relate to the conflict shall include any acts undertaken by members of the armed forces and the national police force with or against any illegal armed group, even if they have not signed the Final Agreement. [Emphasis added]

"Article 63. Personal jurisdiction. The functioning of the Special Jurisdiction for Peace is indivisible and shall be applied simultaneously and comprehensively to all those who participated, directly or indirectly, in the armed conflict, under the terms of this article, and its decisions shall provide guarantees of legal certainty to all such persons.

"It shall apply to persons investigated for, or convicted of, the offence of rebellion or other offences related to the conflict, even if those persons do not belong to armed rebel organizations.

> “With regard to combatants belonging to illegal armed groups, the Special Jurisdiction for Peace shall apply only to those who have been members of organizations that sign a final peace agreement with the Government. It shall also apply to persons who have been charged in accordance with a judicial decision or convicted in any jurisdiction of having links to the group in question, even if the persons concerned do not acknowledge this affiliation.
>
> “In accordance with transitional article 5 of Legislative Act No. 01 of 2017, the Special Jurisdiction for Peace shall have personal jurisdiction over persons included in the lists drawn up by the Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo (FARC-EP) who are accredited as members of that organization by the Office of the High Commissioner for Peace, as well as over persons who, pursuant to a court decision, have been convicted, prosecuted or investigated for belonging to or collaborating with FARC-EP for acts committed before 1 December 2016, even if they are not included in the list of members provided by the group to the Government.
>
> “The Special Jurisdiction for Peace shall also apply to State agents who have committed offences by reason of, in connection with or in direct or indirect relation to the armed conflict. It shall be applied in a differentiated manner, affording equitable, balanced, simultaneous and symmetrical treatment. This treatment must take into account the State’s role as the guarantor of rights. With regard to State agents who are not members of the armed forces or the national police force, the jurisdiction of the Special Jurisdiction for Peace shall apply only to those who have voluntarily expressed their intention to be bound by the Special Jurisdiction for Peace. [Emphasis added]
>
> […]

“Article 65. Scope of temporal jurisdiction. The Special Jurisdiction for Peace shall exercise temporal jurisdiction under the terms established in transitional article 5 of Legislative Act No. 01 of 2017.”

Additionally, article 79 (b) of Statutory Act No. 1957 of 2019 establishes the functions of the Judicial Panel for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct of the Special Jurisdiction for Peace, which are as follows:

> “(b) To receive the reports submitted to it by the Attorney General’s Office, the competent bodies of the military criminal justice system, the competent authorities of the Special Indigenous Jurisdiction, the Counsel General’s Office, the Office of the Comptroller General of the Republic, and any jurisdiction operating in Colombia, on all investigations into conduct occurring up to 1 December 2016 that falls within the jurisdiction of the Special Jurisdiction for Peace, under articles 62 and 63 of this Act, relating to conduct committed in connection with the armed conflict and conduct closely related to the process of laying down of arms, including cases that have already proceeded to trial or been resolved by the Attorney General’s Office, the Office of the Comptroller General of the Republic or any other jurisdiction. The reports shall classify the incidents by the alleged perpetrators and place similar types of conduct in the same category without assigning a legal characterization to them. The Judicial Panel shall also receive a report on the relevant judgments handed down by the courts, sent by the administrative body of the judicial branch or by the convicted persons. The competent military criminal justice authorities shall also send information on the judgments handed down. Any administrative body that has handed down sanctions for conduct related to the conflict shall also send the decisions in which they are recorded. In all the above cases, copies of the judgments or decisions shall be enclosed.”
>
> Subparagraph (j) states the following:

> “The Attorney General’s Office, or the investigating body of any other jurisdiction operating in Colombia, shall continue to conduct investigations relating to the reports mentioned in subparagraph (b) until such time as the Judicial Panel, following the completion of the aforementioned stages, publicly announces that it will submit its decision setting out its conclusions to the Special Tribunal for Peace within three months, at which time the Attorney General’s Office or the investigating body in question shall transmit to the Panel information on all its investigations into these incidents and conduct. At this point, the Office or the investigating body in question shall no longer have jurisdiction to continue investigating acts or conduct falling within the jurisdiction of the Special Jurisdiction for Peace. An exception to the above is to be made for the receipt of acknowledgements of truth and responsibility, which must always be received subsequent to the receipt by the Judicial Panel of information on all the investigations carried out into the alleged conduct.
>
> “In view of the exclusive competence of the Special Jurisdiction for Peace over acts committed before 1 December 2016, as established in transitional article 5 of Legislative Act No. 01 of 2017, the public bodies and servants that conduct the aforementioned investigations may perform acts of inquiry and investigation only in accordance with the procedure in question and must refrain from pronouncing judgments, imposing security measures, ordering arrests or carrying out those that may previously have been ordered, concerning persons whose conduct falls within the jurisdiction of the Special Jurisdiction for Peace.
>
> “In the event that the Attorney General’s Office or the investigating body in question identifies a case that should have been addressed in the report referred to in subparagraph (b) of this article, it must immediately refer it to the Judicial Panel for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct. This does not prevent the Attorney General’s Office or the investigating body in question from continuing to investigate acts and conduct that do not fall within the jurisdiction of the Special Jurisdiction for Peace or from providing support to its agencies when requested.”

Ruling C-080 of 2018 of the Constitutional Court established a restriction on the application of the third paragraph of subparagraph (j) of article 79 by providing that “public bodies and officials continuing to undertake the investigations referred to in the provision may not order the summoning of persons for judicial proceedings.”

As a result, it cannot be said that the mandates of the Special Jurisdiction for Peace affect the investigations conducted by the Attorney General’s Office since, as explained above, the latter institution may conduct investigations into cases falling within the jurisdiction of the Special Jurisdiction until the issuance of the decision setting out its conclusions is announced. In other words, the activities of the Attorney General’s Office should not and cannot be halted while the Special Jurisdiction for Peace conducts its investigations.

With regard to the statement that “persons appearing before the Special Jurisdiction for Peace are not obliged to respond to the summonses that we send; we then have to call the same victims back to interview them”, it is not possible to discern the context in which it is made since the investigative activities of the Attorney General’s Office must respect the constitutional right enshrined in article 33 of the Constitution regarding protection against self-incrimination. In this regard, even if the persons investigated by the Attorney General’s Office do not have the status of respondents, they are not obliged to cooperate with investigations against them. In any case, in exercising its competences, the Attorney General’s Office may summon anyone it deems necessary to appear before it and use the relevant procedural mechanisms to ensure the person’s appearance, without affecting his or her right not to incriminate him- or herself. This being the case, there is no connection between the mandates of the agencies and the obstacles identified.

Nor is it possible to establish any link between the fact that respondents are not required to respond to summonses from the Attorney General's Office and the need to call victims for interviews, as these are two different situations: one involves information that an accused person may provide in a case in which he or she is under investigation and the other involves information that a victim may provide. In any case, none of this amounts to an obstacle determined by constitutional powers or by the way that the Jurisdiction operates.

Lastly, with regard to the same statement, the prohibition on summoning individuals to court proceedings was decided by the Constitutional Court in the aforementioned ruling C-080 of 2018, which is binding on the Attorney General's Office by virtue of its erga omnes effect.

59. Observation made by the Attorney General's Office: "With regard to the confidential and extrajudicial information handled by the Search Unit, a number of approaches are being taken and meetings are being held to enable the Search Unit and the Attorney General's Office to coordinate as closely as possible on the information collected by the Unit, without prejudice to the search and investigation processes for which the Attorney General's Office is responsible."

Comments on paragraph 9

60. Observation made by the Special Jurisdiction for Peace: "The prohibition in question was introduced under the Statutory Act on the Special Jurisdiction for Peace and ruling C-080 of 2018, in the terms specified above."

61. Observation made by the National Institute of Forensic Medicine and Science: "It is important to amend the paragraph to make it clear that this is not an agreement but a strategy designed and implemented by the National Institute of Forensic Medicine and Science, the Search Unit and the Special Jurisdiction for Peace."

Comments on paragraph 10

62. Observation made by the Special Jurisdiction for Peace:

The decision to make the investigation of enforced disappearance a cross-cutting issue is fully in line with the Committee's concerns: (i) the fact that the phenomenon is being investigated in all cases and in all parts of the country attests to the extent of the victimization and its impact; and (ii) to assert that this investigative approach impedes the necessary analysis, support and clarification is to ignore the scope of the restorative justice methodology, which establishes the truth with the full and active participation of victims, taking account of their calls for veracity and the nature of the harm that they suffered. It is precisely this investigative methodology that has enabled the Special Jurisdiction for Peace to bring charges for the offence of enforced disappearance in respect of persons and events that had never been investigated previously and to adopt interim measures that allow action never before envisaged by the ordinary justice system to be taken to ensure that search, identification and return processes are executed properly. As a result of these measures, places not previously considered sites of forensic interest have been preserved and identifications have been made that would otherwise not have been possible.

The above views are reinforced by arguments already put forward by the Special Jurisdiction as to why it would be impossible to build a macrocase focused exclusively on enforced disappearance, as explained below.

Decision No. 104 of 2022 of the Judicial Panel for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct sets forth the legal and factual grounds underpinning the decision that it would be impossible to build a stand-alone macrocase of enforced disappearance.

In Decision No. 104, the Judicial Panel for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct concludes that it would not be appropriate to initiate a stand-alone macrocase of enforced disappearance since the

conduct involved should be investigated on a cross-cutting basis as part of the other macrocases that have been instituted. From the legal perspective, this decision is based on the need to preserve the integrity and coherence of large-scale criminal phenomena, such that enforced disappearance is not investigated as an isolated offence but as a practice that is intricately linked to other crimes against humanity such as unlawful killing, forced displacement, torture and unlawful deprivation of liberty. The Judicial Panel took the view that creating a stand-alone macrocase for offences of enforced disappearance would compromise the clarification of the truth, as it would fragment the systemic vision that makes it possible to identify the criminal plans and policies that provided the framework for the attacks on the civilian population.

With regard to the facts, the Judicial Panel established that enforced disappearance shares patterns of commission and operational logistics with other crimes committed by various actors in the armed conflict, particularly members of the armed forces or the national police force, other State agents and members of paramilitary groups. Disappearances were not perpetrated in isolation, but rather as part of far-reaching, coordinated attacks intended to eliminate, punish or displace specific segments of society on the pretext of counter-insurgency imperatives. In this context, enforced disappearance was used as a means of social and political repression, to cover up unlawful killings and consolidate territorial control. Accordingly, the Judicial Panel took the view that cases of enforced disappearance should be examined as part of the ongoing macrocases – namely, macrocases No. 1, No. 3, No. 4, No. 5 and No. 6 – within which events involving disappearances are already being investigated, in order to ensure a more comprehensive understanding of their systemic nature.

A second central element of the Judicial Panel's argument was the link between enforced disappearance and economic interests and territorial control. Decision No. 104 reveals that, in large areas of the country, crimes involving disappearance and displacement were perpetrated as part of territorial dispossession strategies that facilitated land appropriation and control over natural resources. The disappearance of campesino leaders, land claimants and human rights defenders was a tool used to facilitate dispossession, consolidate the presence of paramilitary groups and benefit civilian third parties and State agents with links to business or political interests. Enforced disappearance thus became an operational strategy of the large-scale criminal networks pursuing simultaneously the goals of repression and economic control – a circumstance that reinforces the necessity of addressing enforced disappearance as a cross-cutting phenomenon within the macrocases as part of which those links are being investigated.

The diverse range of responsible actors is another of the factual bases on which the possibility of building a macrocase exclusively involving enforced disappearance was ruled out. Decision No. 104 reveals that individuals of various profiles were involved in the commission of these offences, including former guerrillas, members of the armed forces or the national police force, non-uniformed State agents, paramilitaries and civilian third parties who acted either in concert or with mutual tolerance. The diverse range of responsible actors precludes any possibility of defining a discrete universe of cases using a unique criterion based on the profile of the perpetrators and/or their motives. Furthermore, the Judicial Panel recognizes that acts of enforced disappearance were committed in operations justified both on counter-insurgency grounds and in a bid to promote particular economic interests or the control of public office and that for this reason such acts must be investigated as part of the thematic or region-specific macrocases involving the same criminal motives rather than as a separate case.

When assessing the legal and procedural aspects, the Judicial Panel also considered the constraints on time, resources and mandate that circumscribe the Special Jurisdiction's operations. With a phenomenon as widespread and complex as enforced disappearance, creating an additional macrocase would have entailed a dilution of effort that would have jeopardized the efficacy of the system of prioritization. The Judicial Panel therefore opted for a strategy of investigative

integration that allows progress to be made in attributing responsibilities within the cases already open while simultaneously ensuring consistency in the identification of large-scale criminal patterns and optimizing available resources. The decision also reflects the principle of procedural economy and the Special Jurisdiction's constitutional mandate to ensure concrete results before the end of its term of operation.

Lastly, Decision No. 104 emphasizes that enforced disappearance has a differentiated and prolonged impact on victims, meaning that it must be addressed comprehensively within the different clarification scenarios. The Judicial Panel recognizes that enforced disappearance not only deprives the direct victims of their life and freedom but also exposes their families to ongoing suffering, characterized by uncertainty and stigmatization, and denies them due mourning. Accordingly, integrated investigation in macrocases, which makes it possible to identify the multiple dimensions of injury, whether individual, collective or territorial, and provide guarantees of truth, justice and non-repetition consistent with the context of structural violence within which the events occurred, is a more effective means to ensure comprehensive reparation.

Interrelation between enforced disappearance and other crimes

The report emphasizes that enforced disappearance has been a systemic practice used by both State actors and paramilitary groups. This form of violence was not used in isolation; rather, it was linked to other crimes against humanity, including assassination, massacres and forced displacement. Opting to treat enforced disappearance as an isolated offence could detract from understanding of the structural nature of the armed conflict and the territorial control policies that sustained it. The logic for cross-cutting investigations into large-scale criminality is incompatible with the methods used in ordinary justice, which have been the subject of profuse criticism from victims on the grounds that they prevent them from ascertaining the full truth. Investigating a single incident or a single form of victimization without understanding its context, the different actors involved, its interrelation with the different power dynamics (whether political, economic, armed or territorial) and all its effects is an obstacle to any genuine guarantee of victims' rights.

In short, the Special Jurisdiction is of the view that treating enforced disappearance as a stand-alone offence could fragment the investigation and make it harder to establish the common patterns that cut through all these crimes. Enforced disappearance is closely linked to other crimes that affect both the victims and their communities. Addressing offences of enforced disappearance separately from these other crimes could impede analysis of the motives, including those related to counter-insurgency efforts and the fight for territorial control, underlying such acts of violence.

The strategy of conducting cross-cutting investigations in respect of certain crimes does not minimize their severity; rather, it recognizes their mass nature and makes it possible to analyse them in specific contexts and in connection with other forms of criminal conduct, such as extrajudicial killings, unlawful detention, forced recruitment and attacks on ethnic groups, and thus to understand the magnitude of the underlying large-scale criminal dynamics and to move forward in establishing the truth. In other words, the cross-cutting approach to investigating enforced disappearance does not mean that efforts to address the phenomenon are diluted or diminished. Rather, the approach is an investigative methodology aimed at gaining a comprehensive, interdependent and multi-causal understanding of the dynamics of enforced disappearance, as this crime was committed in the context of the armed conflict, that is predicated on recognition of the systemic nature of the crime and the need to establish the factors that contributed to its commission.

In the context of the transition in Colombia, it is necessary to understand the overlapping nature of the duty to guarantee the criminal investigation of cases of enforced disappearance, the obligation of those being held to account to provide information on disappeared persons and the mandate of the Search Unit. Consequently, access to mitigated sentencing for those being held to account is conditional, among

other things, on their providing exhaustive and truthful information about enforced disappearance before the Comprehensive System for Peace.

Connection with economic interests and territorial control

The report mentions that enforced disappearance was used as a means to promote economic interests and appropriate territory by dispossessing people of their land and seizing control of strategic areas. These economic and territorial interests were one of the main motives for such crimes, whether committed by State or paramilitary actors.

The Special Jurisdiction for Peace has concluded that separating acts of enforced disappearance into a stand-alone macrocase could cause the economic and territorial interests at play in these crimes to be overlooked. Enforced disappearance was not only an act of direct violence against individuals but also a means to facilitate the theft of land and control of natural resources. For this reason, investigations must encompass not only enforced disappearance itself but also the economic interests behind the crimes.

Diverse range of perpetrators

The report highlights that the perpetrators of enforced disappearance, whether State or paramilitary, operated in an interconnected manner, often collaborating with each other in the commission of the crime. Fragmenting investigations could make it difficult to identify key relationships and key actors, especially where the crimes were perpetrated by groups working together or in contexts of dereliction of duty by the authorities.

In the opinion of the Special Jurisdiction, and as previously stated, acts of enforced disappearance cannot be viewed in isolation, as they are linked to a network of complicity and collaboration between various actors. Creating a macrocase that focuses exclusively on enforced disappearance could make it difficult to identify key actors and the relationships between them, so limiting the Jurisdiction's ability to shed light on the network of complicity that enabled these crimes.

Impact on victims and comprehensive reparation

Lastly, the Committee highlights the necessity of ensuring that victims of enforced disappearance receive justice and comprehensive reparation. If enforced disappearance is investigated separately, victims may not obtain a comprehensive response to all the human rights violations they suffered, especially if related crimes, such as forced displacement, assassinations and massacres, are not addressed simultaneously.

The Special Jurisdiction takes the view that addressing enforced disappearance in a fragmented manner would be a strategic error that could result in the revictimization of affected families and communities. The investigation must encompass all violations committed in the same context in order to ensure that victims can obtain full justice and reparation that includes not only acknowledgement of the facts but also reparation for the material and emotional injury caused.

It is thus clear that enforced disappearance cannot be investigated as a stand-alone macrocase. Addressing enforced disappearance separately from interrelated crimes could cause the strategy of repression that sustained the Colombian armed conflict to be disregarded or downplayed. To ensure that the truth is established, the key actors are identified and victims receive comprehensive reparation, it is essential that enforced disappearance be investigated within a broader framework that addresses all the crimes that occurred in an interconnected manner.

It should be noted in this regard that, in response to a request from the Directorate for Human Rights and International Humanitarian Law of the Ministry of Foreign Affairs, various actions have been initiated within the framework of the Comprehensive System for Peace with a view to protecting communities at risk and

strengthening human rights safeguards, with a special emphasis on enforced disappearance.

For example, as part of investigations linked to the Costa Caribe subsidiary case forming part of macrocase No. 3, and acting in accordance with the victim-centred approach that underpins the fundamental duty of the Special Jurisdiction and the State to ensure that efforts to locate and identify persons deemed to have disappeared result in their dignified return, the Special Jurisdiction decreed three interim measures aimed at protecting the sites where persons linked to this subsidiary case were thought to be buried. The measures covered (i) the "overflow" cemetery in El Copey, Cesar Department, (ii) a section of the cemetery in Sucre and (iii) the cemetery in San Juan del Cesar, La Guajira Department.

Work to implement interim measures has accounted for a good part of the judicial activities of the section of the Special Jurisdiction responsible for cases in which there has been no acknowledgement of truth. This section is implementing 30 interim measures aimed at protecting the process of searching for, identifying and returning persons deemed disappeared. Its efforts have yielded significant advances in interinstitutional coordination and consultation, the protection of sites and archives, the formulation of guidelines and protocols for the search, identification and return process, the dignified return to their families of more than 100 victims of enforced disappearance and, perhaps most importantly, the building of a strong bond with victims, organizations, communities and territories, who have repeatedly and publicly expressed their satisfaction with and support for the Special Jurisdiction's work.

Interim measures are judicial acts of a preventive nature that are by definition provisional and temporary. In the context of transitional justice, the measures are intended to serve as safeguards for the objectives assigned within the Comprehensive System for Peace, which include, most importantly, the protection of victims' rights to truth, justice, reparation and non-repetition. The coordinated work carried out within the Comprehensive System for Peace thus entails effective collaboration that allows constitutional goals to be achieved without duplication of effort or usurpation of the functions of other mechanisms within the System.

At every stage of the proceedings in macrocases No. 1, No. 10 and No. 11, officials insist that information provided must serve to clarify the truth with regard to disappeared persons. When voluntary statements are taken, questions are always asked about the whereabouts of disappeared persons, the reasons for their disappearance, the persons responsible and the action taken by those being held to account to help to resolve the specific case. During the hearings in which victims are able to make observations on the statements of those who have testified voluntarily, the families of the disappeared can provide additional information about the events and either confirm, contradict or supplement the statements of those who have testified. In its Orders for Determination of Facts and Conduct, the Judicial Panel reiterates that, in order for disappeared persons to be found, it is essential that those being held to account give truthful testimony and reminds them that this is part of their conditionality regime.

At the stage at which the truth is acknowledged, the hearing office puts victims who have loved ones registered as disappeared in contact with the Search Unit and joint support sessions are organized. This collaboration has enabled victims to ascertain the status of the search process and to connect with the Search Unit, the body responsible for search-related activities. A technical committee formed within the hearing office ensures the real-time exchange of information: a focal point has been assigned within the Search Unit to manage access to case files and the technical committee shares this information in real time through its various contacts.

All the above ensures that the cross-cutting approach is effective in practice, as the search for disappeared persons is prioritized throughout the Judicial Panel's investigative procedure and the Search Unit and the Special Jurisdiction work in coordination with each other at every stage of the process.

Acts of enforced disappearance, like other serious crimes, are part of the pattern of large-scale victimization that reflects the territorial, temporal and organizational dynamics associated with a specific armed actor. Consequently, these acts are not investigated in isolation or on the basis of the specific criminal offence, but rather as part of an integrated, contextual approach that makes it possible for the criminal policies and dynamics of victimization adopted by the specific armed actor to be identified and understood.

Comments on paragraph 12 (f)

63. Observation made by the Special Jurisdiction for Peace: "The section of the Special Jurisdiction responsible for cases in respect of which there has been no acknowledgement of truth has taken interim measures to protect information held in public and private archives related to the non-international armed conflict in Colombia. For example, interim measure No. MPI-004 safeguarded the intelligence and counter-intelligence files of the now defunct XX Brigade of the National Army."

Comments on paragraph 13

64. Observation made by the Search Unit:

It should be highlighted that, while we understand the assertions made by victims, it is important not to disregard the fact that, when making their statements, victims may be unaware of the constitutional and legal mandate with which the Unit has been entrusted.

From this perspective, we request that the Search Unit not be mentioned in this recommendation, as it would be impossible for the Unit to fulfil, given that Decree Law No. 589 of 2017 provides that the Search Unit is an extrajudicial, humanitarian mechanism, meaning that "in order to guarantee the effectiveness of its work [...] and realize victims' rights to truth and reparation to the maximum extent possible, and, above all, to alleviate their suffering, information received or issued by the Unit may not be used for the purpose of attributing responsibility in legal proceedings and shall have no probative value".

From this perspective, and in order to comply with Guiding Principle No. 13, both Congress and ruling No. C-067 of 2017 have established that the Search Unit is not to prevent the competent judicial authorities from conducting the investigations they deem necessary to establish the circumstances of and responsibility for the acts of victimization associated with the cases taken on by the Unit but that in all cases, the expert forensic reports and material evidence associated with the corpse may be requested by the competent judicial authorities and will have probative value.

In that light, we reiterate the importance of reconsidering the proposed recommendation.

65. Observation made by the Attorney General's Office:

Efforts to strengthen dialogue between the Attorney General's Office and the Search Unit are under way, as evidenced by Agreement No. 030 of 2019 and the related technical annex that has been developed, which currently allow for reciprocal sharing by the Office and the Search Unit of the following information:

1. Support from the Search Unit for the transportation of skeletal remains to highly specialized State facilities in order to ensure their dignified return.

2. Monthly exhumation schedules.

3. Monthly schedule of dignified returns.

4. Up-to-date directory of staff of the Disappeared Persons Search, Identification and Return Group, with reference to the restructuring.

5. Reciprocal sharing of the "returned victims" (dignified returns) archive, which will allow information from the two entities to be cross-referenced and thus for duplication in search and investigation activities to be prevented, is still pending.

This information exchange ensures mutual real-time knowledge of where and in what way each entity is working with its respective investigative and forensic teams.

Strengthen search and identification processes

Ensure enforcement of existing laws

Comments on paragraph 15

66. Observation made by the Attorney General's Office:

The Attorney General's Office, in conjunction with the Directorate of Advanced Studies, has organized nationwide training sessions on the urgent search mechanism, and the Territorial Security Office has been working to raise awareness among officers of the Technical Investigations Corps and the National Police of the content of Act No. 971 of 2005. With support from the Deputy Attorney General's Office, work to standardize the urgent search mechanism nationwide is ongoing.

It should be noted, too, that the implementation of Act No. 589 of 2000 is regulated in Act No. 971 of 2005.

Comments on paragraph 16

67. Observation made by the Ministry of Justice and Law:

2. Regulations implementing Act No. 2364 of 2023 (women searching for victims)

As of the date of issue of this document, which contains observations on the report of the Committee on Enforced Disappearances, the regulations to implement Act No. 2364 of 2024 are being signed by the competent authorities, the final stage of the process of adopting them. The regulatory decree is expected to have been adopted by the time this report to the Committee is published.

The implementing regulations incorporate several of the recommendations made by the Committee and include provisions to guarantee that women searching for victims have effective access to fundamental rights, including housing, healthcare, education and employment, within the protective framework safeguarding their economic, social and cultural rights.

The regulatory decree also provides for the creation of a central register of women searching for victims that will allow information about them and their families to be systematized. This register, which will not be linked to the Central Register of Victims, will make it easier for women conducting searches to obtain access to the rights and benefits established by law.

Lastly, the Directorate of Transitional Justice reiterates the Ministry's commitment to strengthening the National System for the Search for Persons Deemed Missing, driving forward legislative advances and continuing to cooperate with the Committee on Enforced Disappearances. Additionally, it highlights that the Committee's recommendations and observations were taken into account in the assessment of the Comprehensive Public Policy for Searches and the determination of the alternative solutions currently being developed, so reaffirming the Government's readiness to move forward in a coordinated and sustained manner in guaranteeing the rights of victims and their families.

2. Tailor methods, practices and resources to the context

Searches in mass graves and cemeteries

Comments on paragraph 23 (c)

68. Observation made by the National Institute of Forensic Medicine and Science: "It is important to specify that the common ossuaries in Cúcuta cemetery are not 'pools.'"

Comments on paragraph 23 (f)

69. Observation made by the Search Unit: “It would be helpful to specify that these statements were received from a civilian source.”

Comments on paragraph 27

70. Observation made by the Special Jurisdiction for Peace: “The interim measures decreed by the Special Jurisdiction for Peace included an order to update the analyses of the Ministry of the Interior and finalize the public policy for cemeteries with a view to resolving the problems identified by the Committee.”

Comments on paragraph 28

71. Observation made by the Special Jurisdiction for Peace:

> The statement contained in paragraph 28 does not reflect the factual reality of how work has been progressing and does not recognize the interinstitutional efforts that have been made in this area. Currently, the role of each institution and the procedures for the recovery of unidentified and unclaimed identified bodies buried in the cemeteries in respect of which interim measures have been taken are defined in various documents drawn up in the context of the precautionary proceedings conducted by the Special Jurisdiction for Peace.
>
> These documents include (i) the Guide to Forensic Anthropological Search, Excavation and Recovery Processes and (ii) a procedural document entitled “Search, Recovery of Bodies and Physical Evidence”, both of which regulate forensic activities and are strictly adhered to by the professional teams. The search activities carried out by these teams also adhere to the Model Protocol for a Legal Investigation of Extra-legal, Arbitrary and Summary Executions (the Minnesota Protocol) of 2016, the guidelines set out in the Investigation and Prosecution Unit’s Harmonized Manual for Criminal Investigation Police Officers, and the Minimum Forensic Standards for the Search for Disappeared Persons and the Recovery and Identification of Corpses, which were developed with input from all institutions with responsibilities in the search for persons who have disappeared and describe the different phrases in the search process – namely, information gathering and analysis, exhumation and recovery, forensic autopsy, identification, and dignified return and reunion with family members.
>
> In addition, based on the recovery situations in which the Forensic Technical Support Group of the Investigation and Prosecution Unit works, a set of technical criteria have been drawn up for authorization of the recovery of evidence found and its preliminary analysis in the field, in application of the forensic autopsy protocol and other protocols associated with specific points within the place of intervention. If the evidence found does not meet these criteria, it is not recovered, but a documentary (topographical, photographic and anthropological) record is kept to ensure its traceability.
>
> It should also be highlighted that there are various forensic procedures applicable to interventions in cemeteries, including a precautionary measure that has been applied on an interinstitutional basis without causing problems or prompting questions about the responsibilities of each institution. It is thus untrue to claim that there is a lack of coordination and that it is impossible to prevent duplication of effort in interventions. In fact, prior to any intervention in a protected cemetery, all previous forensic activities at the site are examined precisely to prevent duplication of effort.
>
> It is worth mentioning that the Special Jurisdiction for Peace has worked closely with the Search Unit in technical round tables and interinstitutional meetings during which information has been analysed and exchanged. Furthermore, joint interventions agreed upon in advance have been carried out in specific cases to help to achieve the stated objective.
>
> The case of Rafael Enrique Núñez Tapia, whose body was found during activities associated with the interim measures decreed at the “overflow” cemetery in

El Copey, is an example of the critical, coordinated work being carried out in conjunction with the Search Unit. The observations made in relation to Mr. Núñez Tapia in Order No. SUB D 018 of 2025, the Order for Determination of Facts and Conduct in the second phase of the Costa Caribe subsidiary case, are transcribed below.

"In May 2007, his daughters, Alba and Enilda Núñez, travelled to El Copey to visit their father after several months of not hearing from him. Upon arrival, certain persons informed them that Rafael Enrique had drowned in a nearby pond without giving any details. Two years after his disappearance, a person close to Mr. Núñez Tapia, who worked as a security guard at the town hall in El Copey, approached Alba and Enilda and confirmed to them that their father had been executed by an armed group, which had then thrown him into the pond where he was subsequently found. This person also advised them to abandon the proceedings they had initiated because their lives were in danger. Rafael Enrique was returned to his family by the Special Jurisdiction for Peace and the Search Unit on 27 June 2024, in Plato, Magdalena Department, after the Investigation and Prosecution Unit recovered his skeletal remains during the judicial inspection at the 'overflow' cemetery in El Copey that was ordered and carried out by investigative officers attached to the Special Jurisdiction on 1 March 2021."

From the above, it is concluded that Mr. Núñez Tapia was disappeared and that he was not falsely reported killed in action. It is unclear whether his execution occurred in the context of events related to the armed conflict. However, although his case does not fall within the scope of the macrocases investigated by the Special Jurisdiction, as indicated in the paragraph of the report transcribed above, his body was not reburied. Rather, his body was handed over to the Search Unit and returned to his family.

That being so, the Committee should consider the possibility that the people it interviewed may not constitute a representative sample and may be unaware of the documents mentioned, including the manuals and protocols of the Special Jurisdiction, and of the advances that have been achieved in general. In this connection, the Special Jurisdiction undertakes to step up its awareness-raising and information-sharing efforts in order to ensure that victims and society in general are aware of the significant advances that have been achieved in search processes.

Comments on paragraph 29

72. Observation made by the Special Jurisdiction for Peace: "It is important to recognize that the 'reverse search' strategy is the result of orders issued by the section responsible for cases in which there has been no acknowledgement of truth, based on the experience of victims' organizations and human rights defenders. The strategy was launched as part of the precautionary measures in Guaviare and Neiva, in which the formulation of such a strategy and the launch of an interinstitutional portal were ordered."

73. Observation made by the Search Unit:

The Search Unit has an agreement with the Ministry of the Interior to facilitate access to the analytical information and annexes covering the country's cemeteries. However, this agreement is unrelated to the reverse search strategy, so the Search Unit requests that this paragraph be amended.

In line with the foregoing, the information provided about the reverse search strategy should read as follows:

"The 'reverse search' strategy is a mass outreach campaign to find searching families after the recovery and identification of bodies in cemeteries and places of forensic interest protected as a result of precautionary measures requested by the Special Jurisdiction for Peace.

"Using a digital tool, the Search Unit, the Special Jurisdiction and the National Institute of Forensic Medicine and Science disseminate a set of previously analysed and reviewed data on persons who disappeared during the conflict.

> “Their aim, in disseminating this information, is to find the families and loved ones of victims of enforced disappearance in Colombia whose bodies have been found and identified by the State so that they can be returned.”

74. Observation made by the National Institute of Forensic Medicine and Science: “It is important to correct the paragraph to clarify that this is not an agreement with the Ministry of the Interior but a strategy designed and implemented by the National Institute of Forensic Medicine and Science, the Search Unit and the Special Jurisdiction.”

3. Searches in bodies of water

Comments on paragraph 31

75. Observation made by the Attorney General’s Office:

> The statement is unclear. Have any reports been made (e.g., through the Territorial Security Office or Search Unit) and, if so, from how many people? We ask this in order to ascertain the current status of the proceedings and how the search for the disappeared persons is progressing, and thus provide a response for the families and give them access to justice, or, alternatively, so that we can check whether a report including the basic information provided by the Committee might be filed.

Comments on paragraph 33

76. Observation made by the Special Jurisdiction for Peace:

> Reference should be made to the fact that the section responsible for cases in which there has been no acknowledgement of truth has adopted precautionary measures that are currently in force in the San Antonio estuary, where the use of new search techniques has been ordered. In the La Miel River, the forensic archaeological protocol has been implemented within the framework of energy projects and on the order of the technical committee established in application of the national precautionary measure to ensure the application of preventive protocols in mining and energy projects.

Comments on paragraph 35

77. Observation made by the Special Jurisdiction for Peace:

> It should be noted that, by Order No. AT 174 of 2024 issued by the section responsible for cases without acknowledgement of truth, a proposal to publish an operations manual on cooperation in the search for persons reported missing in areas close to the border between the Bolivarian Republic of Venezuela and Colombia, to provide guidance within the framework of the Agreement on Cooperation and Legal Assistance in Criminal Matters between the Government of the Republic of Colombia and the Government of the Bolivarian Republic of Venezuela signed on 20 February 1998, has been adopted. The manual sets out the procedures to be followed by investigative units on either side of the border for search, recovery, repatriation and identification operations and for the dignified return of bodies to their country of origin.

Comments on paragraph 37

78. Observation made by the Special Jurisdiction for Peace: “It should be noted that, by order of the section responsible for cases without acknowledgement of truth, efforts to strengthen the National Institute of Forensic Medicine and Science are under way. The Institute is now supported by Integrated Identification Centres, and work is under way to strengthen its capacities in the municipalities of Cúcuta, Pereira and Soacha.”

4. Identification challenges

Comments on paragraph 40 (b)

79. Observation made by the National Institute of Forensic Medicine and Science: “Again, the annexed photographs show the morgue at Cúcuta cemetery and not the facilities of the National Institute of Forensic Medicine and Science, which were being refurbished at the time of the Committee’s visit.”

Comments on paragraph 41

80. Observation made by the Ministry of Foreign Affairs:

> The Government of Colombia would be grateful if the Committee could kindly disclose the identity of the authorities referred to in this paragraph, who, according to the Committee, reported that 20,000 bodies were being stored in hangars at El Dorado airport in Bogotá.
>
> The Committee does not provide any factual or other details that might make it possible to confirm whether bodies were being stored in this location. Furthermore, the information has been refuted by a number of government entities and independent oversight bodies, including the National Institute of Forensic Medicine and Science, the Counsel General’s Office, the Attorney General’s Office, the Special Jurisdiction for Peace and the Disappeared Persons Investigative Commission.
>
> Given that entities from various branches of government and both government and independent bodies checked the information and found that there was no factual basis for the reference to the 20,000 bodies in storage in hangars at the airport in Bogotá, we respectfully request that the Committee consider not including the aforementioned reference in the visit report.
>
> The observations of the aforementioned entities are given below.

81. Observation made by the National Institute of Forensic Medicine and Science: “The information about the storage of 20,000 bodies in a hangar at El Dorado airport was refuted by the competent authorities at the end of the Committee’s visit to Colombia. The Institute nonetheless reiterates that it is unaware of the existence of any storage facility of a size sufficient to store the number of bodies mentioned in the preliminary report, either in the location mentioned in the report or elsewhere in the country.”

82. Observation made by the Counsel General’s Office: “It should be noted that the 27 hangars leased to OPAIN, the operator of El Dorado airport, were visited and were found to be being used for airport activities.”

83. Observation made by the Special Jurisdiction for Peace:

> It is important to mention that one of the lines of action under the national precautionary measure on enforced disappearance adopted by the section responsible for cases without acknowledgement of truth is to increase the budget of the National Institute of Forensic Medicine and Science. Since the implementation of this measure, the Institute has managed to increase the resources it has available for investment, and this has enabled it to improve identification processes related to enforced disappearance and to set up new human remains identification centres.

Comments on paragraph 42

84. Observation made by the Ministry of Foreign Affairs:

> Paragraph 42 is ambiguous, as it contradicts what is stated in paragraph 41, in which “the Committee welcomes the immediate action that the competent authorities took to verify these allegations and notes that, according to the officials who intervened, no bodies were found in the hangars at El Dorado, one of the Bogotá airports, and that the Special Jurisdiction for Peace decided to lift the precautionary measure that had been taken in response to the allegation”.

As mentioned above, the claims made in paragraph 41 are not substantiated in the report.

85. Observation made by the National Institute of Forensic Medicine and Science:

Although the information reported by the Committee can be traced and has been refuted, it is noted that, in paragraph 42, the Committee states that it is "troubled by the lack of clarity around the current location of all unidentified human bodies and other remains in Colombia". This is an ongoing concern of the State of Colombia and the reason for which it has been pushing ahead with the search for and recovery and exhumation of thousands of bodies for the past 20 years.

Comments on paragraph 46

86. Observation made by the Search Unit: "As indicated during the visit, the Search Unit continues to operate with a considerable budget deficit, and we therefore request that this be mentioned in the recommendation."

Comments on paragraph 49

87. Observation made by the National Institute of Forensic Medicine and Science: "The information given in paragraph 23 about the donation of corpses to medical universities for teaching purposes should be mentioned here."

5. Attend to the needs of victims and fully respect their right

Ensure that reparation processes do not lead to revictimization

Comments on paragraph 76

88. Observation made by the Special Jurisdiction for Peace:

It should be noted, in this regard, that article 27 of Act No. 1922 of 2018 establishes that:

"The Judicial Panel for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct shall include in its Concluding Resolution the proposed sentences and the nature of the reparations and restorative measures to be defined in consultation with the victims. Under no circumstances shall the person being held to account obtain financial benefit as a result of the sentence or reparation."

Likewise, article 92 of Act No. 1957 of 2019 establishes that one of the functions of the section responsible for cases in which truth and responsibility has been acknowledged is "to impose the sentence respectively provided for in the list of sentences, in accordance with the proposed sentence set forth in the Concluding Resolution of the Judicial Panel for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct".

In that light, and with a view to expounding on the statement made in paragraph 76 of the report, it should be clarified that the Concluding Resolutions issued by the Judicial Panel assess both the sentences proposed by the persons being held to account and those proposed by the victims, and, furthermore, that the respective resolutions, when setting out the proposed sentences, also include the observations of the victims, special witnesses and the Public Legal Service in respect of these sentences.

Accordingly, the Committee's assertion lacks any normative or factual basis. It is inaccurate to state that the sentences proposed by the victims are not given consideration, as they are certainly assessed. Furthermore, consideration is also given to victims' observations on the sentences proposed by the persons being held to account. It should likewise be emphasized that, in accordance with the aforementioned Act, in the Concluding Resolutions the proposed sentences are described and analysed only, and that ultimate responsibility for imposing the respective sentences lies with the section, not with the Judicial Panel.

It should be reiterated that the Special Jurisdiction has made an immense effort to design and implement methodologies that allow for joint consideration of the restorative initiatives, plans, programmes and proposals that provide the framework for these sentences. Their consideration necessarily entails listening to victims' voices, monitoring the impact of victimization on their lives, obtaining recognition of the harm caused from the persons being held to account and assessing the restorative initiatives, plans, programmes and proposals within the context of the State's public policies. The proposals that form the basis of the sentences are not those drawn up by the persons being held to account.

Comments on paragraph 78

89. Observation made by the Special Jurisdiction for Peace:

The regulatory framework of the Special Jurisdiction stipulates that the sentences it imposes must correspond to the needs of victims and reflect the differentiated, severe and disproportionate nature of the harm suffered, thereby ensuring their restorative capacity. In accordance with its mandate, the Special Jurisdiction has complied with all constitutional and international standards in order to fully guarantee victims' rights to participation, truth, justice and restoration.

Additional information

1. Legal framework applicable to cases of disappearance, including enforced disappearance as defined in article 2 of the Convention

90. Observation made by the National Institute of Forensic Medicine and Science:

Reference should be made to the National Plan on the Search for Disappeared Persons drawn up by the Disappeared Persons Investigative Commission, which was disseminated to the competent authorities and society in general on 15 February 2007, given legal status in accordance with articles 3, 9 and 11 of Act No. 1408 of 2010 and Regulatory Decree No. 0303 of 2015 and expressly identified as of mandatory application pursuant to article 178 (|9) of Act No. 1448 of 2011.

[…]

The National Register of Disappeared Persons – the only interinstitutional record-keeping system, which was created in 2000 to provide support for the search for disappeared persons and is defined in in-force legislation as an information-gathering system to be used for the purpose of searching for and identifying all disappeared persons, including victims of the armed conflict – and the Disappeared Persons Genetic Profile Bank should be mentioned in the report as mechanisms designed for use in the search for disappeared persons, given their interinstitutional nature and their importance in the identification of the bodies of disappeared persons.

91. Observation made by the Search Unit:

Add as paragraph 5: Decree No. 4218 of 2005 regulating the National Register of Disappeared Persons.

[…]

Add as paragraph 10: Decree Law No. 589 of 2017 ordering that the Search Unit be established for a period of 20 years, extendable by law, as a humanitarian and extrajudicial body responsible for overseeing, coordinating and contributing to the actions taken to search for and locate persons deemed missing in the context of and due to the armed conflict.

2. Institutional framework

Authorities competent to address disappearances that occurred before 1 December 2016 in the context of and due to the armed conflict

The Unit for the Search for Persons Deemed Missing in the context of and due to the armed conflict

92. Observation made by the Search Unit: “We suggest including a reference to the fact that Decree Law No. 589 of 2017 stipulates that the remit of the Unit is to oversee, coordinate and contribute.”

3. Photographs

93. Observation made by the National Institute of Forensic Medicine and Science:

> Regarding annex 3, it is important to note that the photographs identified as being facilities of the National Institute of Forensic Medicine and Science in Cúcuta in fact show the morgue attached to the city’s cemetery, which was being renovated at the time, as the Institute was using these premises on a temporary basis while its headquarters were being refurbished. Please include this clarification in the report. At the time the photographs were taken, the Institute was operating from another location.

D. Concluding remarks

94. Lastly, in the light of the foregoing and in view of the terrible suffering that the practice has caused, the Government of Colombia reiterates its firm commitment to continue working to eradicate enforced disappearance and to take the action necessary to find those who have been disappeared.

95. In its work to achieve these goals, the Government recognizes the considerable support that the Committee on Enforced Disappearances provides. It is hoped that, when published, the report will reflect the observations set out in this document and the attached annexes and will include evidence to substantiate all claims made and thus facilitate the implementation of the recommendations, offering clear contexts and approaches. The State of Colombia reiterates that it attaches the utmost importance to information relating to the location of unidentified human remains.