



## SITUATION REPORT

# Special Follow-up Mechanism to the Ayotzinapa Case of the IACHR



OEA/Ser.L/V/II.

Doc. 82

5 June 2018

Original: Spanish

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

**Situation Report.**  
**Special Follow-up Mechanism**  
**to the Ayotzinapa Case**  
**of the IACHR**

### **OAS Cataloging-in-Publication Data**

Inter-American Commission on Human Rights. Special Follow-Up Mechanism to the Ayotzinapa Case.

Situation report : Special Follow-Up Mechanism to the Ayotzinapa Case of the IACHR : Approved by the Inter-American Commission on Human Rights on June 5, 2018.

p. ; cm. (OAS. Official records ; OEA/Ser.L/V/II)

ISBN 978-0-8270-6767-7

1. Escuela Normal Rural de Ayotzinapa--Students--Crimes against. 2. Students--Crimes against--Mexico--Guerrero (State). 3. Disappeared persons--Mexico--Guerrero (State).

I. Interdisciplinary Group of Independent Experts. II. Special Follow-Up Mechanism to the Ayotzinapa Case of the IACHR. III. Title. IV. Series.

OEA/Ser.L/V/II. Doc. 82/18

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Approved by the Inter-American Commission on Human Rights on June 5, 2018.

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## **A. Introduction**

1. The Special Follow-Up Mechanism to the Ayotzinapa Case (hereinafter the “Mechanism” or “Special Mechanism”) of the Inter-American Commission on Human Rights (IACHR) presents the following situation report from its monitoring of Precautionary Measure 409-14 granted to the students of the Raúl Isidro Burgos rural school in Ayotzinapa, in accordance with Article 42 of the Commission's Rules of Procedure. The monitoring of the existence of a continued justification for the precautionary measure is being conducted in light of the exceptional nature of the situation, which subsequently warranted the creation of the Interdisciplinary Group of Independent Experts (IGIE) and of the Special Mechanism. The request for precautionary measures was based on the forced disappearance of 43 students, whose whereabouts or fate have still not been determined by the competent authorities more than three and a half years after the events occurred. In turn, the request was made in a grave context of disappearances in the state of Guerrero in recent years that has been clearly documented both by the Commission in its reports, and by other international agencies and civil society organizations. This report provides an update as to whether or not the regulatory requirements that initially supported the granting of the precautionary measure are still in place.
  
2. The purpose of the report is to follow up on the existence of continued justification for Precautionary Measure MC 409-14 in order to ensure its implementation and, therefore, that of the recommendations of the IGIE. The IACHR presents this document for the purpose of monitoring compliance with respect to the search for the missing Ayotzinapa students and the investigation of the events, as well as to assist the State and the families. To that end, the report takes as its starting point the recommendations contained in the two reports of the IGIE and in other documents presented to the State, the schedule of investigative procedures submitted by the State to the Mechanism in 2017 (detailed elsewhere in this report), and other priority procedures identified by the Mechanism in the course of its work.<sup>1</sup>

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<sup>1</sup> After submitting its second report, the IGIE passed on to the Mexican State a document with its main recommendations for continuing the investigation. Those recommendations were as follows: (1) Join together the different criminal proceedings; (2) avoid fragmentation; (3) comprehensive investigation; (4) take into account other human rights violations and crimes; (5) take the witness statements that are pending; (6) follow up on the telephone data; (7) ballistics tests; (8) DNA tests; (9) documents and videos; (10) investigate possible drug trafficking; (11) full identification of the fifth bus and of documents and statements on the case; (12) investigate allegations of mistreatment or torture with due guarantees; (13) determine other responsibilities in the crimes and in the investigation; (14) make new arrests; (15)

3. This document was prepared on the basis of information collected by the IACHR through its various mechanisms: technical visits, official visits, working meetings and public hearings held during its sessions, questionnaires, and information received from the State and the applicants. This situation report also draws on the record of Preliminary Investigation PGR/SDHPDSC/OI/001/2015 being carried out by the Iguala Case Office of the Office of the Attorney General of the Republic (PGR) and its analysis by the Mechanism up to volume 400. This report is divided into three parts: The first part covers the Mechanism's background and the activities carried out thus far; the second part takes stock of the follow-up on the precautionary measure and the recommendations of the IGIE; the third part contains the main conclusions.
4. On April 24, 2018, the IACHR forwarded to the parties a copy of this report and requested their observations within seven calendar days. On April 30, the Mexican State requested a seven-day extension, which was granted by the IACHR. The State forwarded its observations on May 8, 2018. For their part, the representatives of the relatives forwarded their comments on the draft of this report on May 1, 2018. On May 14, 2018, the Mexican State forwarded additional information. The observations of both parties, as pertinent, were incorporated in this report approved by the Commission on June 5, 2018.
5. The IACHR would like to thank the Mexican State for the facilities and support provided in carrying out its mandate. It would also like to thank the families, the victims, and their representatives for the information provided and their openness to dialogue.

## ***B. Background***

6. On October 3, 2014, the IACHR requested the adoption of precautionary measures for 43 missing students from Raúl Isidro Burgos rural teacher college,<sup>2</sup> as well as for injured students, as a result of events that occurred on September 26 and 27 in Guerrero State, Mexico. In the initial request, the applicants alleged that serious acts of violence had occurred on the night between September 26 and 27, 2014, in which the disappearance of

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investigate the wealth of alleged culprits; (16) investigate possible obstruction of the investigation; (17) change the narrative of the case; (18) continue the search and the investigation of new information; (19) maintain the spaces for dialogue and communication with the relatives; (20) prevent the victimization of the victims and promote their security.

Cf. Interdisciplinary Group of Independent Experts (IGIE)), Entrega el GIEI ruta de seguimiento sobre su trabajo en la investigación del caso Ayotzinapa, May 1, 2016.

<sup>2</sup> IACHR, Resolution 28/2014, Precautionary Measure No. 409-14, Students of Raúl Isidro Burgos Rural School regarding the State of Mexico, October 3, 2014.

the aforementioned 43 students was reported as were alleged acts of torture, homicides, assaults with firearms, disproportionate use of force by the security forces, harassment, and persecution in the context of events that were notable for their unusually high level of violence. In that context, the applicants also provided information about a lack of results, in spite of a series of complaints lodged with different state officials for the specific purpose of obtaining information about the whereabouts or fate of the missing students.

7. In accordance with Article 25 of the IACHR Rules of Procedure, the Commission requested that the State of Mexico: a) Adopt the necessary measures to determine the status and whereabouts of the 43 students identified, in order to protect their rights to life and personal integrity; b) Adopt the necessary measures to protect the life and personal integrity of the injured students identified in the proceeding, who had reportedly been admitted to a hospital; c) Consult with the beneficiaries and their representatives on the measures to be adopted; and d) Report on the steps taken to investigate the facts that led to the adoption of the precautionary measure.
8. Under an agreement signed in November 2014 by the IACHR, the State, and representatives of the beneficiaries of the precautionary measures, the Interdisciplinary Group of Independent Experts (IGIE) was created to provide technical follow-up assistance on this case and help draw up plans to search for the missing students that were alive; undertake a technical analysis of the lines of investigation to determine criminal liabilities; perform a technical analysis of the Plan for Integral Attention to the Victims; among other related issues.
9. On September 6, 2015, the Interdisciplinary Group of Independent Experts issued its first report, titled “Ayotzinapa Report: Research and initial conclusions of the disappearances and homicides of the teaching students from Ayotzinapa.”<sup>3</sup> On April 24, 2016, the IGIE published its second report: “Ayotzinapa Report II: Advances and New Conclusions on the Investigation, Search and Attention to Victims.”<sup>4</sup> In those reports, the IGIE set out recommendations relating to the four components of its mandate, which concluded on April 30, 2016. In a press release dated April 15, 2016, the IACHR regretted that the Mexican State had expressed its position not to extend the mandate of the IGIE and to end the agreement, even though the

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<sup>3</sup> Interdisciplinary Group of Independent Experts (IGIE), *Ayotzinapa Report: Research and initial conclusions of the disappearances and homicides of the teaching students from Ayotzinapa*, 2015.

<sup>4</sup> Interdisciplinary Group of Independent Experts (IGIE), *Ayotzinapa Report II: Advances and New Conclusions on the Investigation, Search and Attention to Victims*, 2016.

objectives—primarily, locating the missing students—had not been met.<sup>5</sup> The IACHR said that because of the nature of the technical assistance agreement, in which the State’s consent was indispensable, it believed that the conditions were not in place to extend the mandate of the Group of Experts.<sup>6</sup>

10. Subsequently, after a series of meetings with the State, relatives of the missing students and their representatives, and faced with the termination of the IGIE as well as the need for the IACHR to continue to monitor this matter, on July 29, 2016, the Commission adopted resolution 42/16,<sup>7</sup> in which it considered that the case still met *prima facie* the requirements of seriousness, urgency, and irreparability contained in Article 25 of Its Rules of Procedure. Consequently, bearing in mind the positions of the parties, the IACHR considered it necessary to implement a special follow-up mechanism under the terms of paragraph 12 of that resolution.
11. The Special Follow-Up Mechanism continues to monitor implementation of the precautionary measure granted (PM 409/14) and, in that framework, of the recommendations made by the IGIE in its two reports that stemmed directly from the precautionary measure. The mechanism has the following objectives: (a) Monitor the progress of the investigation; (b) Follow up on the process to search for the disappeared; (c) Monitor progress in providing comprehensive attention to the victims and their relatives; and (d) Promote any structural measures that may be appropriate to resolve this matter and prevent a recurrence.
12. The mechanism acts with the full authority of the IACHR under the American Convention on Human Rights and other applicable human rights instruments that are binding on Mexico. Specifically, the Mechanism will implement the following procedures: (a) Make visits to Mexico in which the Mechanism may hold meetings with victims, civil society, and representatives of the State, and gather relevant information, among other activities; (b) Send requests for information to the Mexican State; (c) Hold working meetings in the context of the precautionary measure and public hearings in the framework of its sessions; and (d) Issue press releases and specific reports. The Mechanism's working procedure is set out in its work plan.<sup>8</sup>

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<sup>5</sup> IACHR, Press Release No. 049/16, [IACHR Wraps Up its 157th Session](#), April 15, 2016.

<sup>6</sup> IACHR, Press Release No. 049/16, [IACHR Wraps up Its 157th Session](#), April 15, 2016; IACHR, [Follow-up of Recommendations Made by the IACHR in Its Report on the Human Rights Situation in Mexico](#), 2016 Annual Report, Chapter V.

<sup>7</sup> IACHR, [Resolution 42/16 on follow-up to Precautionary Measure No. 409-14](#), Students of Raúl Isidro Burgos Rural School regarding the State of Mexico, July 29, 2016.

<sup>8</sup> IACHR, Special Follow-Up Mechanism to the Ayotzinapa Case, [Work Plan](#), November 10, 2016.

13. Since the establishment of the Mechanism, the IACHR has made five official visits<sup>9</sup> and five technical visits.<sup>10</sup> The official visits were led initially by the then-Commissioner and Rapporteur for Mexico, Enrique Gil Botero, and later by Commissioner Esmeralda Arosemena, his successor as Rapporteur for Mexico; Commissioner, Luis Ernesto Vargas, designated by the IACHR; the Executive Secretary, Paulo Abrao, and personnel of the Executive Secretariat. The technical visits, for their part, were conducted by experts from the Executive Secretariat with the aim of gathering information and documents under the aegis of the Mechanism. The IACHR also prepared four requests for information to the Mexican State, held four working meetings and four public hearings,<sup>11</sup> and issued six press releases.<sup>12</sup> The requests for information consisted of four questionnaires for the Mexican State concerning its implementation of the recommendations of the IGIE and the precautionary measure.
14. During the visits, the Mechanism had meetings with State officials, relatives of the 43 missing students and of those who were injured and murdered, their representatives, and other relevant agencies in the case, such as the National Human Rights Commission, the Office of the High Commissioner for Human Rights in Mexico (OHCHR-Mexico), and the Argentine Forensic Anthropology Team (EAAF), which acts as an independent expert for the families. The Mechanism also made two visits to the rural school in Ayotzinapa.
15. The Mechanism has had access to the investigation record. The IACHR has copies of volumes 1 through 540 (which reflect the investigative procedures carried out up to November 2017).

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<sup>9</sup> Official Visits: First Official Visit, November 9-12, 2016; Second Official Visit, April 19-21, 2017; Third Official Visit, August 28-30, 2017; Fourth Official Visit, November 27 – 28, 2017; Fifth Official Visit, February 6-7, 2018.

<sup>10</sup> Technical Visits: First Technical Visit, January 25-26, 2017; Second Technical Visit, March 1-3, 2017; Third Technical Visit, May 31 - June 1, 2017; Fourth Technical Visit, November 6-8, 2017; Fifth Technical Visit, March 20-22, 2018.

<sup>11</sup> IACHR, 161st session, Hearing on the "[Follow-Up Mechanism to the Ayotzinapa Case](#)," March 17, 2017; IACHR, 163rd session, Hearing on the "[Follow-Up Mechanism to the Ayotzinapa Case](#)," July 6, 2017; IACHR, 165th session, Hearing on the "[Follow-Up Mechanism to the Ayotzinapa Case](#)," October 24, 2017; IACHR, 167th session, Hearing on the "[Follow-Up Mechanism to the Ayotzinapa Case](#)," March 2, 2018.

<sup>12</sup> IACHR, Press Release No. 165/16, [IACHR Presents its Work Plan for the Follow-Up Mechanism to the Ayotzinapa Case](#), November 10, 2016; IACHR, Press Release No. 195/16, [Follow-Up Mechanism to Ayotzinapa Case Conducted First Visit to Mexico](#), December 21, 2016; IACHR, Press Release No. 49/17, [Follow-Up Mechanism to Ayotzinapa Case Makes Second Visit to Mexico](#), April 21, 2017; IACHR, Press Release No. 130/17, [Follow-Up Mechanism to Ayotzinapa Case Makes Third Visit to Mexico](#), August 30, 2017; IACHR, Press Release No. 145/17, [IACHR Expresses Solidarity with Ayotzinapa Families and Urges Mexico to Avoid Impunity](#), September 27, 2017; IACHR, Press Release No. 206/17, [Special Follow-Up Mechanism to Ayotzinapa Case Makes Fourth Official Visit to Mexico](#), December 12, 2017.

16. The Commission observes that the Mechanism's follow-up of the case and its presence in Mexico have helped to provide impetus in three main areas of implementation of the precautionary measure: the search, the investigation, and assistance to victims. This has been the result of the openness and willingness of the parties covered by the precautionary measure. The Mechanism acknowledges the willingness of the Mexican State to heed suggestions and requests from the Special Mechanism and to provide information on the case. It also acknowledges the willingness it has encountered in meetings held with relatives of the 43 missing students and of those who were injured and murdered and their legal representatives, who have provided the Mechanism with information on progress and challenges identified in relation to the search, investigation, and assistance measures for victims.

### ***C. Current Situation***

17. In the following situation report, the IACHR analyzes whether the objective of protection of Precautionary Measure PM 409-14 has been met, in order to follow up on the recommendations of the IGIE<sup>13</sup>.

#### **1. Dialogue between the Parties**

18. The Mechanism observes that since its inception, relations between the relatives and the State have been adversely affected by a lack of confidence, mainly because of the lack of progress in the investigation and in establishing the students' whereabouts. In that regard, the presence of the Mechanism on the ground through its official visits, served to create avenues for all the parties involved to talk to each other, particularly the relatives, which facilitated the exchange of information. Those meetings were spaces for respectful, candid, and open discussion.
19. A relationship of trust between victims and State based on a fluid exchange of information through transparent, respectful dialogue is vital for ensuring access to the right to the truth and justice and, where appropriate, the right to reparation.<sup>14</sup> The Mechanism has found during the monitoring period

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<sup>13</sup> In their observations on the draft of this report, the representatives commended the efforts of the IACHR to prepare this report which, as they indicated, is all-encompassing and comprehensive in a case as complex as this. Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Observations on the draft "Situation Report," May 1, 2018, p. 1.

<sup>14</sup> IACHR, The Right to the Truth in the Americas, OEA/Ser.L/V/II.152 doc. 2, August 13<sup>th</sup>, 2014.

that relations between the victims—especially the families of the 43 missing students—and State institutions have been tense and on occasion conflictive. At times they have even been broken off altogether.<sup>15</sup> The main factors that aggravated tensions in those relations were the resolution adopted by the PGR Internal Oversight Office (*Visitaduría*) on the investigation of irregularities at the San Juan River; the State's persistence in pursuing the hypothesis that the students were incinerated at the Cocula garbage dump,<sup>16</sup> despite the evidence presented by the IGIE and the EAAF to the contrary; the public announcement by the PGR of the findings in the case without first informing the families and their representatives; lack of promptness in the investigation or failure to follow up certain lines of inquiry; concealment of information from the IGIE; alleged spying by the State on members of the IGIE and the representatives of the relatives; and leadership changes in the PGR.<sup>17</sup> In its observations on the draft of this report, the State indicated that it would continue to promote the investigations, always encouraging dialogue and openness with the families of the students and their representatives.<sup>18</sup> It further indicated that “the Mechanism’s presence, monitoring, and function are of great value in

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<sup>15</sup> Such as in early 2017, when the relatives were dissatisfied with the fact that the PGR Internal Oversight Office failed to hold accountable State officials who had acted unlawfully at the San Juan River. Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Report sent to the Special Follow-Up Mechanism to the Ayotzinapa Case (in Spanish), January 21, 2017, p. 17.

On February 9, 2017, the families met for the first time with the then new Attorney General of the Republic, Raúl Cervantes Andrade, and other senior government officials. It was the first time since the withdrawal of the IGIE that the family members met with what was to become known as the Tripartite Commission for addressing the precautionary measures. At that meeting, the families expressed their misgivings upon learning that information was concealed from the IGIE, and they discussed expanding the use of LiDAR technology, among other things. It was agreed that, going forward, a monthly follow-up meeting would be held. Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Report sent to the Special Follow-Up Mechanism to the Ayotzinapa Case (in Spanish), March 9, 2017, pp. 1-2. Those meetings were not held monthly.

<sup>16</sup> On this subject, a senior official made public statements validating that hypothesis, referred to as the “historical truth”, in February and August 2017. The relatives were greatly dismayed by and disagreed with those statements. Noticieros Televisa, [Sigo soportando la verdad histórica, afirma Tomás Zerón](#), February 24, 2017; El Universal, [Tomás Zerón sostiene “verdad histórica” al 100%; se dice tranquilo](#), February 24, 2017; Excélsior, [‘Verdad histórica no cambiará’: Zerón sobre caso Ayotzinapa](#), August 31, 2017.

<sup>17</sup> Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Report sent to the Special Follow-Up Mechanism to the Ayotzinapa Case (in Spanish), November 24, 2017, pp. 16-17.

<sup>18</sup> Mexican State, Situation Report: Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 4.

furthering the PGR's investigations and in rebuilding dialogue with the parents of the students and their representatives.”<sup>19</sup>

20. The Commission regards the relatives as the main focal point of the Mechanism. Therefore, it calls on the State to consolidate its reporting mechanisms and look for ways to build a relationship with the relatives.

## 2. Preparation of a Timeline

21. During the Special Mechanism's second official visit to Mexico from April 19 to 21, 2017, the State presented an 11-point working timeline that mostly related to the investigation and committed to fulfilling it over the next six months. The timeline addressed the concerns of the relatives and their legal representatives.
22. The timeline consisted of the following steps: “(1) Determine whether or not the Federal Police bears any responsibilities; (2) Clarify the role of the Army in the events; (3) Establish what agencies were in charge of the Iguala Control, Command, and Computer Center (C-4) and from there isolate responsibilities; (4) Settle the matter as to whether or not Guerrero State authorities bear any responsibilities; (5) Complete an exhaustive technical analysis of the students' telephone data; (6) Complete the overall examination of telephone data; (7) Establish the identities of “Caminante” and “Patrón”; (8) Obtain the information on drug trafficking from Guerrero to Chicago, Illinois that was sought through an international legal assistance request; (9) Clarify everything necessary in relation to the so-called “fifth bus”; (10) Search an area of approximately 60 square kilometers for hidden graves using LIDAR technology; and (11) Take direct action in relation to the Huitzuco police (pretrial detention/indictment).
23. Although this report does not cover all recommendations made by the IGIE, it does cover many of the main focuses of the investigation. For the Commission, the establishment of a timeline was important for monitoring both the progress made and challenges in the case. In its observations on the draft of this report, the State indicated that the timeline “sought to establish the matters considered most important, but on the understanding that as long as the investigation remained open, no limitation whatsoever existed on the consideration or investigation of any line or subject.”<sup>20</sup>

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<sup>19</sup> Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 4.

<sup>20</sup> Mexican State. Situation Report: Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 5.

### 3. Consolidation of the Record, Fragmentation, and Lack of Promptness

24. According to the IGIE's reports, the fragmentation of the proceedings prevents the consolidation of investigations and criminal cases, slowing down the investigation and preventing comprehensive investigation of the case. The IACHR is aware that the investigation file included prior investigations of other Assistant Attorney General's Offices of the PGR, whose inclusion the IGIE had requested at the time. It also includes information from the Office of the Guerrero State Prosecutor and from the U.S. Department of Justice.
25. In its observations on the draft of this report, the State indicated that it had sought to include in the main file the documentation on the prior investigations conducted by other Assistant Attorney General's Offices of the PGR and the criminal proceedings brought in the ordinary courts related to the case, so as to have all possible information for comprehensive analysis and better evaluation of the case.<sup>21</sup> However, from an analysis of different volumes of the case file, the IACHR considers that despite all the inquiries contained in the over 540-volume file, the investigations remain fragmented and require a comprehensive analysis.
26. The Commission is concerned that many of the investigative procedures appear to go unfinished, are discarded, or cease to be advanced in the proceedings. That is the case, for instance, with the investigations concerning the Iguala transit police, municipal police from Iguala's neighboring municipalities, and state officials. In particular, in the case of the federal police, three policemen are known to have been indicted, but the reasons for which the investigation apparently ruled out the other personnel who were working on September 26 and 27, 2014 are unknown. There are also investigative procedures in the record that did not yield any new evidence, such as the repeated requests for information from various state authorities regarding the whereabouts of the 43 Ayotzinapa students. The IACHR will closely monitor the consolidation and accumulation of information in the investigation record.
27. In the framework of the Mechanism, the IACHR has requested that the State explain, given the amount and quality of the information contained in the file, the change of narrative that resulted from implementation of the recommendations drawn up by the IGIE, but has received no specific reply. In its observations on the draft of this report, the State indicated that "its

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<sup>21</sup> Mexican State. Situation Report: Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 5.

position remained one of total receptiveness to any theory, and such theories will be developed as the results of the corresponding inquiries emerge.”<sup>22</sup>

28. By the same token, despite the addition by the Federal Police of 90 team members to the telephone investigation and inquiries in the field, which the Commission values,<sup>23</sup> the investigation continues to move slowly. By way of illustration, none of the 11 priorities contained in the timeline presented by the State met its deadline. The IACHR will continue to monitor implementation of the procedures contained in the timeline as well as any possible relevant lines of inquiry that emerge for clarification of the case.

#### **4. Investigative Procedures Carried out at the Suggestion of the Mechanism**

29. During its meetings with state officials, the Mechanism presented a number of concerns with respect to various aspects of the investigation based on the information observed in the record. The IACHR acknowledges and values the fact that on many occasions the Mexican State has initiated investigative procedures suggested by the Mechanism for moving the inquiries forward. Examples include, in response to the request of the IACHR to have a map of graves and crematorium ovens in the region, to take steps to investigate firearms possibly used on the night of the events, or interviews with other police forces that were needed. The IACHR also participated on one occasion as a listener in a declaration relevant to the investigation.

#### **5. Non-indictment for the Crime of Forced Disappearance**

30. The IGIE requested the PGR to take the necessary steps to ensure that the events of the night of September 26-27 are classified as enforced disappearance, not as kidnapping. It said that, regardless of the penalty provided for the crime in law, the criminal charge of enforced disappearance is appropriate to encompass all of the offenses perpetrated that night. The Commission observes that, more than three years after the occurrence of the events and since the Mechanism began functioning in December 2016, just two individuals have been detained—alleged

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<sup>22</sup> Mexican State. Situation Report: Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 6.

<sup>23</sup> IACHR, Press Release No. 130/17, [Follow-Up Mechanism to Ayotzinapa Case Makes Third Visit to Mexico](#), August 30, 2017.

members of Guerreros Unidos—for the crimes of kidnapping and organized crime, and not for enforced disappearance. The misapplication of the elements of the criminal classification required by the Mexican Criminal Code is seriously impairing the investigation.

31. In their observations on the draft of this report, the representatives indicated that “now over three years since the facts occurred, the Mexican courts have not issued a single judgment that would impose punishment for the crimes committed against the students, and that therefore, there is not a single conviction of those responsible for forced disappearance, which is duly substantiated in this case.”<sup>24</sup> For its part, in its observations on the draft of this report, the State indicated that in different working meetings and reports provided, the IACHR has been informed of the indictment brought for the crime of forced disappearance and the court ruling in that regard. However, it indicated that “the State is entirely willing to review and, if appropriate, reintroduce that indictment in the criminal proceedings now under way.”<sup>25</sup>
32. Furthermore, there have yet to be any new arrests for acts or omissions by state actors who may have had some level of involvement on the night of the events in Iguala. The IACHR notes that the charges contained in the indictments presented to the federal courts relate to organized crime offenses, unlawful misconduct in public office, offenses against the administration of justice, and abduction, but not forced disappearance. In that regard, the State has argued that the important criterion is the number of years to which the accused may be sentenced, and pointed out that the penalty for the crime of abduction is higher than for forced disappearance. The IACHR will continue to follow up with a view to ensuring that the investigations are reoriented toward the crime of forced disappearance as envisaged in federal law and Guerrero state law.

## 6. Search for the Missing Students

33. The steps taken by the State in relation to the search have consisted, first, of implementing LIDAR technology, a tool mentioned by the IGIE in its recommendations that identifies disturbances in the terrain and allows

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<sup>24</sup> Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Observations on the draft “Situation Report,” May 1, 2018, p. 2.

<sup>25</sup> Mexican State. Situation Report: Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 6.

potential graves containing skeletal remains to be located.<sup>26</sup> The Commission regards the contracting of that technology as an important step, despite the fact that its implementation only materialized after more than six months of administrative formalities. Second, the State has conducted searches with relatives and their representatives, and with the Argentine Forensic Anthropology Team (EAAF), which acts on the relatives' behalf.<sup>27</sup> In its observations on the draft of this report, the State indicated that although the State's interest had always been to act expeditiously in connection with all aspects of the case, a series of steps would also have to be taken, first to explore the market of services of that type, identify the company that could provide the best possible service, and follow the legally established procedures for both hiring and bringing the system into operation.<sup>28</sup> It further indicated that the use of LiDAR technology involved various considerations such that, despite the desire to achieve celerity, carrying out the work has taken longer than desired or planned.<sup>29</sup>

34. The information provided to the Mechanism indicates that ground searches were conducted in December 2016 and February 2017 (based on an initial topographic survey using LIDAR technology) with the participation of EAAF experts, relatives, and their representatives. The region explored was the northwest zone of Iguala, specifically an area known as "Pueblo Viejo." Subsequently, in response to the findings of the EAAF—which indicated that the aforementioned part of Iguala was much used for the clandestine burial of murder victims—and requests from the relatives and their representatives, the State widened the LIDAR search area and hired a company for that purpose.<sup>30</sup>
35. A second photogrammetric topographic survey using LIDAR technology was done to analyze a polygonal area of 60 square kilometers northwest of Iguala.<sup>31</sup> Based on those analyses, hundreds of points of interest were marked and ground searches were planned. The searches were carried out

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<sup>26</sup> Interdisciplinary Group of Independent Experts (IGIE), *Ayotzinapa Report II: Advances and New Conclusions on the Investigation, Search and Care for Victims*, 2016, p. 599.

<sup>27</sup> The EAAF is a nongovernmental, nonprofit, scientific organization that applies forensic science—mainly forensic anthropology and archeology—to the investigation of human rights violations worldwide. The EAAF was set up in 1984 to investigate the cases of people who disappeared in Argentina under the last military dictatorship (1976-1983). Cf. <http://www.eaaf.org/>

<sup>28</sup> Mexican State. Situation Report: Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 8.

<sup>29</sup> Mexican State. Situation Report: Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 8.

<sup>30</sup> Mexican State, State Report to the Special Follow-Up Mechanism to the Ayotzinapa Case (in Spanish), April 11, 2017, pp. 15-16.

<sup>31</sup> The LiDAR imaging of the requested polygon concluded on July 29, 2017. The information gathered was processed and passed to the State on August 9, 2017. From August to November, all 5,060 images were analyzed by the Expert Services Coordination Office (CGSP for the Spanish) of the PGR and by the EAAF.

in November and December 2017 and February and April 2018. So far, the results of the searches in that polygon have been negative.<sup>32</sup> The State said that when the analysis of that polygon was complete, the search would continue in 2018. To that end, they will consult with the relatives' representatives with a view to exploring new polygons and preparing a schedule of areas to explore. The State also said that based on the telephone information and statements of accused persons and witnesses contained in the record, it could be appropriate to focus the search on the northeast of Iguala.<sup>33</sup> The Commission values the fact that the State is planning further searches. It also recognizes the importance in this exercise of increasing the cross-matching of information in the case, particularly that collected in statements, from the telephone analysis, and recently through the international legal assistance requests.

36. At the same time, a number of challenges arose in the ground searches. The IACHR was informed about difficulties encountered in two ground searches conducted for the students in December 2016 and February 2017. The difficulties had to do with the lack of information about discoveries and excavations already carried out in the explored areas.<sup>34</sup> For example, in December 2016 excavations were conducted at three points on which there was no information as to whether or not they had already been analyzed.<sup>35</sup> En dos de esos puntos no se hallaron indicios, pero en uno de ellos se halló una cinta perimetral de Criminalística de la PGR. En la salida en terreno de febrero de 2017 and April 2018, también se encontró una cinta perimetral de Criminalística de la PGR<sup>36</sup>. The IACHR reiterates the importance of making a clear, comprehensive, and targeted search without duplicating institutional efforts led by the State in consultation with the victims.

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<sup>32</sup> Mexican State, Response of the Mexican State to the fourth questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, February 23, 2018, p. 94.

<sup>33</sup> Mexican State, Response of the Mexican State to the fourth questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, February 23, 2018, p. 96.

<sup>34</sup> "In the search carried out in this stage a number of traces were found on the ground for which there is no information as to whether exhumations of remains and other items were carried out confirming that bodies were recovered by the Office of the Attorney General (PGJ) of Guerrero and the PGR." EAAF, Report on searches carried out in December 2016, included in AP/PGR/SDHPDSC/OI/001/2015, February 23, 2017, p. 2.

"In light of the incomplete information on discoveries and excavations already carried out, and given the soundings conducted to date, we were able to corroborate that there are locations on which we do not have information." EAAF, Report on searches carried out in February 2017, included in AP/PGR/SDHPDSC/OI/001/2015, February 23, 2017, p. 6.

<sup>35</sup> EAAF, Report on searches carried out in December 2016, included in AP/PGR/SDHPDSC/OI/001/2015, February 23, 2017, p. 3.

<sup>36</sup> Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Observaciones sobre la propuesta de "Informe de Balance" remitido por la CIDH a las partes, 1 de mayo de 2018, p. 2.

37. The IACHR was also informed about a database on graves in the state of Guerrero established by the State in line with the recommendations of the IGIE. This tool is essential for ensuring a comprehensive search system for disappeared persons. The mechanism also emphasizes the importance of consolidating the information gathered by different Guerrero state institutions involved in the search effort.<sup>37</sup> The IACHR believes that this will contribute to a fuller understanding of the context of disappearances and the *modus operandi*, as well as advancing the analysis of burial patterns in order to inform searches. It will also serve to avoid duplication of institutional effort, as indicated in the preceding paragraph. Likewise, the consolidation of the Guerrero State graves database could serve as an example to be replicated in other states. The IACHR was also informed of efforts to create a national graves database.
38. The IACHR also notes a lack of progress in securing the collaboration of persons detained in the case through initiatives to encourage their cooperation, despite the fact that this has been one of the main requests of the relatives and their representatives. For example, article 35 of the Federal Law against Organized Crime contemplates statutory benefits,<sup>38</sup> and several of the individuals accused in this case are being tried for crimes associated with that law. The response from the State in that regard is that a package of incentive measures is being put together for implementation. In their observations on the draft of this report, the representatives indicated that currently, and to the extent that this would not imply a *post hoc* application of the law, as it would be to the benefit of the individuals, the State could apply Article 33 of the General Law on Crimes of Forced Disappearance, Disappearance Perpetrated by Private Parties, and the National Missing Person Search System, published in the *Diario Oficial de la Federación* of November 17, 2017, especially if the events were investigated as forced disappearance.<sup>39</sup>
39. The State, in its observations on the draft of this report, indicated that to move forward in this area, the representatives had agreed to provide the

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<sup>37</sup> The representatives have told the Mechanism that “there is a widespread information disconnect between the Office of the Attorney General of the State of Guerrero, on one hand, and various federal entities, on the other, such as SEIDO, the Specialized Prosecutor for Searching for Disappeared Persons, the Iguuala Case Investigation Office, and even the Expert Services Coordination Office ....” Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Report sent to the Special Follow-Up Mechanism to the Ayotzinapa Case (in Spanish), January 21, 2017, p. 15.

<sup>38</sup> Chamber of Deputies of the General Congress of the United Mexican States, Federal Law against Organized Crime, Published in the Official Gazette of the Federation on November 7<sup>th</sup>, 1996. See below: [http://www.dof.gob.mx/nota\\_detalle.php?codigo=4905021&fecha=07/11/1996-](http://www.dof.gob.mx/nota_detalle.php?codigo=4905021&fecha=07/11/1996-).

<sup>39</sup> Chamber of Deputies of the General Congress of the United Mexican States, General Law on Crimes on Enforced Disappearance of by Particulars and the National System of Searching People. Published in the Official Gazette of the Federation on November 17<sup>th</sup>, 2017.

list of persons who could be eligible for these benefits. Once it has been provided, the State would proceed as provided in law.<sup>40</sup> In this regard, and in accordance with its international obligations, the IACHR calls on the State to initiate the necessary actions to promote possible cooperation measures based on the analysis that is in its possession as a result of the investigations carried out in consultation with the representatives.

40. At the same time, the Commission notes that despite the fact that it has been more than three years since the events occurred and well after the IGIE recommended the investigation of the possible use of cremation ovens in the municipality of Iguala to look for a potential link with the crimes,<sup>41</sup> it has taken the State until 2018 to complete a census of crematorium ovens in the concerned region,<sup>42</sup> which, it indicated, were under investigation.<sup>43</sup>
41. Finally, the Committee observes that more than three years after the events, the whereabouts of the students remain unknown.<sup>44</sup> The IACHR will continue to monitor the searches carried out, both on the ground and those conducted using LIDAR technology. It will also follow up on the implementation of initiatives to encourage cooperation by detainees by means of statutory benefits.

## 7. Assistance to Victims

42. The IACHR laments the death of Mrs. Minerva Bello, mother of Everardo Rodríguez Bello, on February 4, 2018, and of Irene Mora Venancio, son of Mr. Ezequiel Mora Checa, on April 16, 2018, who were unable to see their missing family members. These unfortunate events underscore the importance of clarification by the State of the facts as soon as possible, before another such situation occurs.<sup>45</sup>

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<sup>40</sup> Mexican State. Situation Report: Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 8.

<sup>41</sup> The IGIE recommended the investigation of other locations compatible with the cremated remains in its first report owing to "the discovery of cremated remains identified as belonging to one of the disappeared students, as well as the need to consider every possible fate that may have befallen the students." Interdisciplinary Group of Independent Experts (IGIE), Advances and New Conclusions on the Investigation, Search and Attention to Victims, 2016, pp. 322-324.

<sup>42</sup> Mexican State, Response of the Mexican State to the fourth questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, February 23, 2018, p. 98.

<sup>43</sup> Mexican State. Situation Report: Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 9.

<sup>44</sup> Only the remains of one of the students, Alexander Mora Venancio, have been identified.

<sup>45</sup> Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos,

43. The Commission values the attention provided to the injured students Édgar Andrés Vargas and Aldo Gutiérrez Solano, whose health was severely impaired by the attacks on their lives. The IACHR also acknowledges the specialized medical care that the State has provided to the relatives of the missing students that have requested it. In the case of Édgar Vargas, who sustained a gunshot wound in the jaw, the State arranged various necessary surgical procedures, which were performed by the public health service<sup>46</sup>. As regards Aldo Gutiérrez, who was struck by a bullet in the head and remains in a vegetative state, the State has been providing the necessary medical care.
44. The Commission notes that Aldo Gutiérrez has been in the National Rehabilitation Institute since April 2016 following a medical evaluation by specialists contacted by the IGIE. In his case, a series of institutional arrangements were agreed upon to enable Aldo to return to his home community in the near future and live with his family in a newly constructed house tailored to his needs<sup>47</sup>. In the case of Edgar Vargas, an arrangement needs to be guaranteed that ensures the renewal and maintenance of his prosthesis<sup>48</sup>.

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Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Observations on the draft "Situation Report," May 1, 2018.

<sup>46</sup> Mexican State. Situation Report: Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, pp. 10-13.

<sup>47</sup> In its observations on the draft of this report, the Mexican State indicated, regarding Aldo Gutiérrez Solano that on June 29, 2017, an agreement was signed establishing a commitment and measures to provide medical care and assistance to Aldo Gutiérrez Solano. The agreement was signed by authorities of the Secretariat of the Interior, Secretariat of Health, the Comisión Ejecutiva de Atención a Víctimas [Executive Committee for Victim Care] (CEAV), the Guerrero state government, the National Human Rights Commission, and the Centro de Derechos Humanos "Miguel Agustín Pro Juárez", A.C., to provide Aldo Gutiérrez Solano and his family with assistance resources needed such as food, housing, health, monitoring, and evaluation. The resources were transferred as agreed. Additionally, in accordance with the commitments and measures established in the agreement, the Government of Guerrero state covered the notary costs of the land purchased. As for the construction of the house, approval is pending of the plan and medical protocols by the Secretariat of Health and the state Secretariat of Health. In fulfillment of the commitments of the agreement, CEAV is working in coordination with the authorities involved and the representatives of the victim and his family. The Mexican State. Follow-up on the Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission on Human Rights, May 11, 2018, p. 8.

<sup>48</sup> Regarding the case of Edgar Andrés Vargas, the State indicated that in 2014, Edgar Andrés Vargas first received medical care in General Dr. Jorge Soberón Acevedo Hospital, in Guerrero state. On October 8, 2014, he was admitted to General Dr. Manuel Gea González Hospital. Reconstructive surgery was performed on his palate, gums, and upper lip. Since his discharge from the hospital, he has received home visits and consultations, as well as nursing supervision and therapy. Since he left the hospital, he has received drug treatment and therapy provided by CEAV, as have Mrs. Marbella Vargas Martínez (mother) and Mr. Nicolás Andrés Juan (father). Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission on Human Rights, May 4, 2018, pp. 10 -13.

45. Also pending are the recommendations of the psychosocial report. In its second report, the IGIE recommended that an independent team be set up to conduct a study or diagnostic assessment of the psychosocial and health-related effects on the victims in the case. In that connection, an independent group was assembled that in 2017 completed the report titled “*Yo sólo quería que amaneciera. Impactos psicosociales del Caso Ayotzinapa*”<sup>49</sup> (I Just Wanted Dawn to Come. Psychosocial Impacts of the Ayotzinapa Case). The report analyzes the psychosocial effects—including the psychological and health-related harm—on the victims of the attacks of September 26 and 27 in Iguala. The report establishes a framework for care and potential comprehensive reparation for the harm from the perspective of the different groups of victims. The document, which was handed to the State in September 2017, contains recommendations for the proper implementation of the care and potential comprehensive reparation.
46. At the public hearing held in the framework of the 167th session in Bogota, in February 2018, the State said that “it did not yet have a position” on the implementation of the report's recommendations. In this regard, the IACHR recalls that the State should implement all the recommendations contained in resolution 28/14, including “adopt[ing] the necessary measures to protect the life and personal integrity of the injured students ....” The IACHR hopes that the parties can meet as soon as possible to reach an agreement on implementing the recommendations contained in the report. The Mechanism will monitor this issue closely.

## 8. Investigation

47. In its second report, the IGIE recommended an investigation plan with a series of lines of inquiry. In addition, as was mentioned, it handed the Mexican State a document with its main recommendations for continuing the investigation.
48. During the Mechanism's first year of operation, the State presented information on its implementation of procedures in various areas of the investigation proposed in the schedule. The above enabled progress with a number of lines of inquiry, such as: (a) the presentation of three indictments against officials from various police forces; (b) information yielded by the analysis of the telephone data of the missing students, members of Guerreros Unidos, and officials who participated by either act

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<sup>49</sup> Fundar, Centro de Análisis e Investigación A.C., [Yo sólo quería que amaneciera. Impactos psicosociales del Caso Ayotzinapa](#), 2017.

or omission in the events of the night of September 26-27, 2014; (c) investigation into the fifth bus and drug trafficking using other bus companies; (d) information obtained through international assistance from the United States; and (e) possible identification of the individuals who go by the aliases “Caminante” and “Patrón.”

49. In January 2017, the State reported through the PGR that it had turned over a total of 128 people to the competent judicial authorities. Of those, 70 were allegedly connected with what happened to the students; the rest, though connected to other crimes, were linked to the criminal organization that was probably involved in what was done to the students. It also said that there were seven outstanding arrest warrants.<sup>50</sup> It also reported that an Iguala police chief was detained in October 2016 and that the arrest was pending of a member of the Iguala municipal police who was considered a key actor based on the telephone analysis done by the PGR. In April 2017, authorities arrested Walter Alonso De Loya Tomás, who provided information essential to the investigation. This testimony provides information on lines of investigation involving Guerrero officials and Mexican Army members that need to be probed further.<sup>51</sup> In March 2018, authorities arrested Erick Uriel Sandoval Rodríguez, alias “La Rana,” for whom an arrest warrant had been outstanding since 2015.<sup>52</sup> In statements to judicial authorities, Sandoval Rodríguez indicated that he was not the person wanted by the authorities and that they had mistaken him for the wanted man because of his tattoos.<sup>53</sup> For their part, the representatives indicated to the Commission that there are five additional fugitives, one of whom does not have an arrest warrant but does have a judicial summons outstanding.<sup>54</sup> In their observations on the draft of this report, the representatives also indicated that the arrest warrants that had been outstanding since 2014 and the failure to probe further into the lines of

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<sup>50</sup> Mexican State, Response of the Mexican State to the first questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, January 23, 2017, p. 5.

<sup>51</sup> In their observations on the draft of this report, the representatives of the family members indicated that it would be desirable for the IACHR to refer specifically to the importance of exhausting all lines of investigation arising from this testimony, including those related to the macrocrime encompassing politicians of Guerrero State and elements of the 27th Infantry Battalion Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Observations on the draft “Situation Report,” May 1, 2018, p. 3.

<sup>52</sup> Mexican State. Información del expediente proporcionada por el Mexican State en el marco del 167 periodo de sesiones, marzo de 2018.

<sup>53</sup> Judiciary of the Federation. Draft statement by Erick Sandoval Rodríguez alias “La rana”. Matamoros, Tamaulipas. March 15, 2018. Documents provided by the Mexican State to the Special Follow-Up Mechanism to the Ayotzinapa Case during its technical visit of March 21, 2018.

<sup>54</sup> Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Informe enviado al Mecanismo Especial de Seguimiento al Asunto Ayotzinapa, 24 de noviembre de 2017, p. 9.

investigation had prevented the PGR from at least locating and ordering the appearance of persons who could provide relevant information in the case.<sup>55</sup> For its part, the State, in its observation on the draft of this report indicated that “we agree that it is important to arrest and bring before the courts all those accused or summonsed by the PGR [...] however, external factors are present that are making it impossible to set a firm deadline.”<sup>56</sup>

### ***Indictments***

50. According to information provided by the State, the Iguala Case Investigation Office made progress by presenting indictments with federal courts against five police and ministerial officials for offenses that involve them directly or indirectly in the events of September 26 and 27, 2014. The charges include organized crime in the modality of crimes against health, unlawful misconduct in public office, abuse of power, and offenses against the administration of justice. While it values the progress that the presentation of those indictments represents, the IACHR notes that they have not been executed because they are “under appeal before the appellate court, awaiting the decision of that authority on the challenge presented against the refusal of the arrest warrants requested.”<sup>57</sup> In its observations on the draft of this report, the Mexican State reported that the judiciary, through the court that had heard the Attorney General’s Office’s appeal against the refusal to issue arrest warrants, had upheld that ruling. The State indicated that it did not agree with the considerations and operative paragraphs issued by that authority, since it considered that the necessary legal and evidentiary elements were present for issuing the arrest warrants requested. Since no further appeal has been lodged by the Attorney General’s Office to reassert position regarding that judicial decision, the State indicated that it was considering its next legal steps in connection with that decision.<sup>58</sup> The IACHR will follow up on compliance with the pending indictments in the event that they are issued by the ministerial authorities.

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<sup>55</sup> Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Observations on the draft “Situation Report,” May 1, 2018, p. 3.

<sup>56</sup> Mexican State. Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 14.

<sup>57</sup> Mexican State, Response of the Mexican State to the fourth questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, February 23, 2018, pp. 5-6.

<sup>58</sup> Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 14.

51. Similarly, the State made progress through the presentation of an indictment by the PGR in July 2017 against nine members of the Huitzuco municipal police on charges of abduction, organized crime in the modality of crimes against health, abduction and aggravated homicide to the detriment of Blanca Montiel Sánchez, David Josué García Evangelista, and Víctor Manuel Lugo Ortiz. All of them were murdered at the Santa Teresa crime scene, where the bus in which the Avispones soccer team was attacked. According to information received by the Commission, that indictment was the subject of a six-month jurisdictional dispute to determine the appropriate system for hearing the case: the accusatory or inquisitorial system. Ultimately, the court decided that it should be heard in the accusatory system. In their observations on the draft of this report, the representatives underscored the fact that the director of that police force had not been indicted, despite the accusations allegedly made against him.”<sup>59</sup>
52. In its response to the fourth questionnaire from the IACHR, the Mexican state said: "In light of those circumstances, in the near future the indictment against those policemen will be reframed and presented to the judge who is hearing the four main criminal suits in the case, in which the evidence obtained in the investigation will be brought to good effect, including the telephone information and ballistics evidence that establish the presence of those policemen at the scene of the crime, despite the fact that they denied having left their municipality (Huitzuco) that night, on September 26, 2014.”<sup>60</sup> The IACHR will specifically follow up on the presentation of that indictment and the steps taken by the State to execute it<sup>61</sup>.
53. Finally, on January 17, 2018, an indictment was brought against 31 municipal police officers for kidnapping, organized crime, and aggravated homicide. All those police officers had already been charged in a separate preliminary investigation pursued by the Office of the Special Prosecutor for Investigation of Organized Crime (SEIDO). In that regard, in their observations on the draft of this report, the representatives reported that

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<sup>59</sup> Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Observations on the draft "Situation Report," forwarded by the IACHR to the parties. May 1, 2018 p. 3.

<sup>60</sup> Mexican State, Response of the Mexican State to the first questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, January 23, 2017, pp. 101-102.

<sup>61</sup> In its observations on the draft of this report, the State indicated that "the ministerial actions are under way for presentation in a matter of days of a new charge to the judge of the traditional system – who admitted the indictment of the alleged perpetrators of the events directly detriment to Aldo Gutiérrez Solano. Together with it, indictments will also be brought against other persons considered connected with the disappearance of the students, some of them also subject to criminal proceedings for other crimes." Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 15.

they had not had full prior access to the indictments (charges) to verify that the alleged facts they contained, and especially their factual frameworks, were consistent with the facts thus far clarified by the IGIE in its reports and by the National Human Rights Commission (CNDH) itself. The representatives indicated that during the life of the Mechanism, three new criminal actions had been brought against 45 civil servants (active or retired), 29 of whom were now in custody. According to the representatives, none of these criminal actions had prospered because no formal order of imprisonment had been issued.<sup>62</sup> Those police officers are currently deprived of their liberty for other offenses. The IACHR will continue to monitor any new charges brought as well as the decisions of the authorities on the indictments.

### ***Technical Telephone Analysis***

54. The Mechanism has received information about progress in technical studies, contact networks, and georeferencing videos for the telephone numbers of the students and of accused or suspects in the Iguala case. Those studies have been carried out by the Federal Police Investigation Division and include technical analyses, database consultation, and georeferencing. The IACHR was informed about a considerable number of additional federal police brought in to reinforce this important work for the investigation of the case. The detective work done by the State has succeeded in locating individuals who may have had the students' telephones in their possession following their disappearance.
55. In relation to the investigation of the missing and surviving students' telephones, the Commission notes that an analysis of the international mobile station equipment identity numbers (IMEIs) showing that they were used after the date of the events, has shed light on new lines of inquiry into persons who may have had the telephones and sim cards in their possession, the places where they were used, and their fate. Telephone analyses were also done on a large number of members of Guerreros Unidos and police forces, including telephone data for the individuals known by the aliases "Caminante" and "Patrón."
56. In their observations on the draft of this report, the representatives indicated that the State had agreed that at least nine telephones and/or IMEIs of the students had shown activity after midnight on September 26,

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<sup>62</sup> Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Observations on the draft "Situation Report," forwarded by the IACHR to the parties. May 1, 2018, p. 3.

201; this, although initially, the State itself had alleged during the first stage of the investigation that the telephones had met with the same fate as the victims. The representatives also indicated that at least one of those telephones had been found in the possession of a State public security official, something that should be clarified expeditiously.”<sup>63</sup> For its part, the State, in its observations on the draft of this report, indicated that it would continue its analysis of telephone data, which had involved analysis of thousands of telephone numbers and lines in seeking to obtain relevant data for clarification of the facts.<sup>64</sup> The IACHR will continue to monitor the actions carried out by the State to further its analysis of telephone data related to the case.

### ***Drug Trafficking and International Technical Assistance***

57. The Mechanism received information confirming the existence of cross-border drug trafficking using buses in the area where the events occurred. The IGIE mentioned it as a central hypothesis in the case, despite the fact that the number of investigators denied the existence of investigations in that regard at the time Evidence received through international legal assistance from the United States, as well as a statement by a member of Guerreros Unidos taken in 2017 support that hypothesis. The IACHR notes that the State has recognized that drugs are trafficked from Guerrero to the United States on buses. In addition, it values the fact that the Iguala Case Investigation Office is pursuing its investigation of a number of bus companies that were allegedly used to traffic drugs or money between Mexico and the United States and could be related to the students' disappearance.
58. The IGIE repeatedly requested the Mexican State to seek international legal assistance in order to obtain information that could help in determining the whereabouts of the students. In February 2018, the State informed the IACHR that as a result of an international legal assistance request to the United States Justice Department it had received information concerning an important case being tried in a court in Chicago, Illinois. The IACHR examined that information at the Iguala Case investigation office but was not given copies of those documents. The Commission only had access to transcripts for the telephones of Silver N. and Pablo Vega Cuevas on the dates close to the time that the disappearances occurred.

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<sup>63</sup> Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Observations on the draft “Situation Report,” forwarded by the IACHR to the parties. May 1, 2018, p. 3.

<sup>64</sup> Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 15.

59. In its observations on the draft of this report, the State indicated that the existence of drug trafficking from Mexico – and other countries– to the United States is beyond doubt, the U.S. being the most profitable destination for individuals involved in such illicit activities. The State indicated that cases abound of persons prosecuted in the United States for these types of activities. The State indicated that “the important thing is to establish whether in the strict sense drug trafficking-related activities might be related to the events that occurred to the detriment of the teaching students.” The State indicated that, to that end, attempts had been made to probe as deeply as possible into this aspect, based on the information provided to the inquiry through the direct actions of the Attorney General’s Office, and that obtained through cooperation with national authorities and those of the United States of America.<sup>65</sup>”
60. The IACHR believes this information to be of the utmost importance as it reveals various aspects that had been highlighted by the IGIE, such as cross-border drug trafficking using buses and Guerreros Unidos’ connections in both the United States and Mexico. All of the foregoing helps to understand various aspects of the investigation and the possible link to the events in September 2014. In the opinion of the IACHR, this information provides additional elements on several open lines of inquiry that need to be pursued. It also opens up new lines of inquiry that should be explored in relation to motive for the crimes. In their observations on the draft of this report, the representatives appended additional information, indicating that they had requested the release of 67 evidentiary items in order to complete their use of the information arising from the telephone messages compiled by United State authorities.<sup>66</sup> For its part, the State, in its observations on the draft of this report, indicated that on April 19, 2018, it had requested the Department of Justice to provide background information on any other charge or charges related to the Guerreros Unidos criminal organization in the cities of Houston, Texas and Atlanta, Georgia. It also reported that on April 27, 2018, it had made an additional request for international legal assistance to the Department of Justice related to a person, according to information provided in a PIN, among other acts of assistance.<sup>67</sup>”

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<sup>65</sup> Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 16.

<sup>66</sup> Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Observations on the draft “Situation Report,” forwarded by the IACHR to the parties. May 1, 2018, p. 3.

<sup>67</sup> Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 18.

61. The IACHR will conduct follow-up in order to encourage the Mexican State to request the US Department of Justice for additional information on the case being pursued in Chicago as well as other open cases that are under investigation or being tried in other states involving Guerreros Unidos' drug trafficking or money laundering activities.

### ***The Fifth Bus***

62. In its second report, the IGIE mentioned the importance of verifying possible irregularities relating to the identification and other procedures carried out with respect to the fifth bus. In that regard, the PGR mentioned a variety of efforts made by experts to follow up on those recommendations.
63. The Mexican State informed the IACHR that "among other measures adopted to clarify matters concerning that bus, an inspection was done of the copilot system terminal installed at the offices of the bus company Empresa Transportes Cuernavaca-Cuautla-Axochiapan-Jojutla y anexas Estrella Roja S.A. de C.V. at the bus station in Cuautla, Morelos." PGR experts subsequently conducted that analysis from June 20 to 23, 2017.<sup>68</sup> In addition, the fifth bus' satellite system was recovered and investigations found that the students' statements were consistent with the handwritten document presented by the management of the bus company that owned the fifth bus, but not with the versions provided by the driver in his different ministerial statements.
64. The IACHR requested information as to whether or not a reconstruction of events was done with the driver of the fifth bus on the night of September 26-27, 2014, which could also shed light on the reasons why that night the bus set off from the city of Iguala bound for Jojutla, Morelos. The State argued that the reconstruction was unnecessary because there was other objective evidence that confirmed the driver's statement.<sup>69</sup> The IACHR underscores that a reconstruction of events with the driver of the fifth bus, in conjunction with the surviving students and representatives of their families, is important in order to delve deeper into that line of inquiry on the route taken by the fifth bus and the acts carried out by the driver.
65. The mechanism was informed that the investigation of the fifth bus and the tests carried out on the handwritten document were forwarded to the

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<sup>68</sup> Mexican State, Response of the Mexican State to the second questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, October 13, 2017, p. 248.

<sup>69</sup> Mexican State, Response of the Mexican State to the fourth questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, February 23, 2018, p. 94.

Guerrero Prosecutor's Office on instructions from the PGR Internal Oversight Office, which opened inquiry DGCAP/0050/2016.<sup>70</sup> The Mechanism subsequently received information that the Guerrero Prosecutor's Office had decided that it lacked jurisdiction to do so, whereupon it referred the case to the PGR in Mexico City.<sup>71</sup> In that connection, the IACHR reiterates that the investigation of the fifth bus should be assigned to the Iguala Case Investigation Office in order to avoid fragmentation. In its observations on the draft of this report, the Mexican State indicated that "the Investigation Office has always had responsibility for the investigation into the fifth bus in connection with the events that led the disappearance of the students." It also reported that the notification given to other authorities involved other possible criminal offenses that could be characterized as accessory and did not necessarily imply fragmentation of the main investigation. Nonetheless, monitoring continued of all aspects of what was emerging from all scrutiny given, in the event that some aspect of interest to the case emerges."<sup>72</sup>

### ***Possible Participation of the Federal Police***

66. In its second report, the IGIE recommended that the following be investigated: omission and/or participation of federal police at different crime scenes, the custody of the fifth bus, and the treatment of the survivors of the Avispones soccer team at the Santa Teresa turnoff who were attacked, communications with their superiors, orders, and actions relayed.<sup>73</sup> The IACHR has repeatedly requested information on those aspects from the State. The purpose of the foregoing is to clarify the participation of the police whose duty that night, in accordance with the Federal Police Law, was "to prevent the commission of crimes, safeguard the integrity of people, investigate any offenses assigned to them, and provide assistance to any victims who may need it."<sup>74</sup>
67. The Mexican State informed the Mechanism that on October 19, 2017, criminal charges were brought against three federal police officers. According to the State, the indictment charged them with the offenses

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<sup>70</sup> Mexican State, Response of the Mexican State to the second questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, October 13, 2017, p. 238.

<sup>71</sup> Mexican State, Response of the Mexican State to the fourth questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, February 23, 2018, p. 94.

<sup>72</sup> Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 21.

<sup>73</sup> Interdisciplinary Group of Independent Experts (IGIE), *Ayotzinapa Report II: Advances and New Conclusions on the Investigation, Search and Attention to Victims*, 2016, pp. 114-115.

<sup>74</sup> Mexican State, Mexican State, Response of the Mexican State to the second questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, October 13, 2017, p. 47.

relating to organized crime, unlawful misconduct in public office, and offenses against the administration of justice. However, the indictment was rejected by the federal courts.<sup>75</sup> The most recent information received by the Mechanism indicates that a decision is pending on the challenge presented by the Federal Public Prosecution Service. The IACHR notes that the indictment did not include the charge of forced disappearance, in spite of the fact that, according to information in the record, the three policemen were witnesses to the arrest of the students at the Palace of Justice scene, from where a number of missing students were removed.

68. Similarly, the IACHR considers it important that all the Federal Police personnel on duty at Iguala police station on the dates of the events (September 26 and 27, 2014) be thoroughly investigated. According to information in the record, most of the Federal Police personnel who were working at Iguala Federal Police Station were transferred to other units in the country on instructions received on October 10, 2014.<sup>76</sup> The State undertook to provide more details about this movement of police personnel<sup>77</sup>.
69. It is also important to advance the investigations into the chain of authority that decided to move the personnel from Iguala Police Station at a critical juncture in the investigation, as well as the chain of command in the Federal Police at the time that the events occurred. In its observations on the draft of this report, the Mexican State indicated that this aspect is the subject of investigation.<sup>78</sup> To that end, a thorough comparison still needs to be performed of the information in the record, particularly the information contained in informative notes, with statements given by different people during and after the events.
70. Furthermore, in its second report, the IGIE said that a number of violent incidents occurred in Mezcala in the pre-dawn hours of September 27, 2014. In its observations on the draft of this report, the Mexican State indicated that federal personnel in Mezcala had been ordered to appear to give statements. It indicated that some of them had now appeared and had alleged “that when they arrived at that place, the events had already occurred.”<sup>79</sup> The IACHR considers it important to clarify those facts because

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<sup>75</sup> Mexican State, Response of the Mexican State to the fourth questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, February 23, 2018, p. 6.

<sup>76</sup> Office of the Attorney General of the United Mexican States, AP/PGR/SDHPDSC/OI/001/2015, Volume 217, Page 955 (digitalized format).

<sup>77</sup> Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 22.

<sup>78</sup> Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 22.

<sup>79</sup> Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 23.

doubts persist about what happened there and about the perpetrators of those acts of violence.

### ***Clarify the Role of the Army in the Events***

71. The Special Mechanism has followed up on the recommendations made by the IGIE regarding possible acts or omissions by military personnel from the Mexican Army's 27th Battalion headquartered in Iguala, Guerrero, on the night of September 26-27, 2014. When it submitted its second report, the IGIE left a list of unresolved issues and questions concerning the following: intelligence and surveillance activities in relation to the students; activities of C-4; entry into Iguala Municipal Police Station; scooter of the intelligence agent Mota Esquivel; photographs of the palace of justice; events at Cristina Hospital; information and orders issued that night; deployment of inspection patrols at 00:30 hours on September 27; testimonies regarding the lack of response to the request for protection; passage through the Iguala municipal police roadblock; vehicles and routes on the night of September 26-27, 2014; and arms trafficking by the person with the alias "El Satanico" according to an intelligence document.
72. The mechanism included those topics in the various questionnaires that it sent to the Mexican State. The State reported that it carried out interrogations on all the points raised by the IGIE in its second report.<sup>80</sup> The IACHR observes that the PGR interviewed a number of military personnel from the 27th Battalion, in which it noted inconsistencies and a lack of follow-up questions in that regard. As a result, there are several points pending that need clarification, including the guidelines and directives emphasized by the IGIE in its reports on how the federal attorney general's offices in charge of the investigation would have to interrogate more closely. In its observations on the draft of this report, the Mexican State indicated its willingness to inquire more closely into the contradictions suggested by the Mechanism.<sup>81</sup> The IACHR will continue to follow up on the matter.
73. The IGIE also recommended that videos and photographs made by soldiers of the 27th Battalion be obtained. In particular, photographs were taken by a soldier from the 27th Battalion at the Palace of Justice scene when the students were being detained. The IACHR notes that the record contains

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<sup>80</sup> Cf. Office of the Attorney General of the United Mexican States, AP/PGR/SDHPDSC/OI/001/2015, Volume 217, p. 509 (digitalized format).

<sup>81</sup> Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, pp. 24-28.

contradictory statements in that regard from several of the soldiers involved. In an inspection carried out on August 15, 2017, the PGR examined the computer of the 27th Battalion where the photographs were downloaded but failed to obtain a positive result, according to the ministerial document, because the hard drive had been damaged and replaced.<sup>82</sup> The Mexican State, in its observations on the draft of this report, indicated the actions taken to probe more deeply into this line of investigation.<sup>83</sup> The IACHR considers that the contradictions need to be clarified, as does what happened to the originals of those photographs.

74. As regards alleged arms trafficking to Guerreros Unidos mentioned in the record and the location of the person who goes by the alias “El Satanico,” the PGR said that it interviewed soldiers from the 27th Battalion, members of Guerreros Unidos, and policemen from various agencies who professed not to know such a person. As regards other military personnel (members of the 27th Battalion) allegedly involved in unlawful activities with Guerreros Unidos, the record contains various statements taken by the prosecutor’s office that reference a number of members of the Army being related to organized crime leaders—some even reportedly in the first degree—which should be investigated. They should also be contrasted with other statements, telephone analyses, and information yielded by lines of inquiry into banners left by drug cartels (*narcomantas*). In its observations on the draft of this report, the Mexican State indicated that it had never ignored substantive elements when investigating the aspects of the role of the Army in the events of Iguala. It further reported that all aspects related to drug cartels had been included in the general investigation of the case.<sup>84</sup>
75. The Mechanism has followed up on the command structure, coordination, and information issued by the Iguala Control, Command, and Computer Center (C-4) on September 26-27, 2014.<sup>85</sup> The IACHR was informed by the State that this entity is part of the Secretariat for Security of the state of Guerrero and, therefore, coordinated by that authority. Nonetheless, more details are needed about the information that C-4 issued that night, particularly to which state entities and levels of government it was sent. That is because there are persisting contradictions in relation to various issues raised with respect to the generation, transmission, and command of

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<sup>82</sup> Cf. Office of the Attorney General of the United Mexican States, AP/PGR/SDHPDSC/OI/001/2015, Volume 498, p. 611 (digitalized format).

<sup>83</sup> Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, pp. 24-25.

<sup>84</sup> Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 27.

<sup>85</sup> Mexican State, Response of the Mexican State to the fourth questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, February 23, 2018, p. 28.

the information that comes out of C-4. In its observations on the draft of this report, the Mexican State indicated that all statements by military personnel were being analyzed.<sup>86</sup> It is important that the contradictions of military personnel belonging to the 27th Battalion headquartered in the city of Iguala be clarified. For example, one of them who said that nothing out of the ordinary happened that night, told another soldier something to the contrary the next day.<sup>87</sup>

76. Finally, an investigation is pending of all the meetings that were held at C-4. For example, a meeting was reportedly held at the C-4 premises on September 26, 2014, from 1:00 p.m to 3:00 p.m. there was apparently attended by various officials.<sup>88</sup> The IACHR notes that this information has not been contrasted with existing information or separately investigated by the PGR, and therefore it is a pending matter<sup>89</sup>.

### ***Possible Participation of Municipal Police Personnel***

77. In its first report, the IGIE recommended investigating whether the security agencies present at the events all acted lawfully and complied with their respective operational protocols, particularly their obligation to protect members of the public. The Commission has followed up on the investigations of the PGR in that regard and highlights two of them: Pilcaya and Tepecoacuilco. In their observations on the draft of this report, the representatives also underscored the need for more in-depth investigation of other police forces whose involvement had now been established (Iguala, Cocula, Huitzuco),<sup>90</sup> and others for which evidence existed that should be investigated (Taxco, Apaxtla).<sup>91</sup>

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<sup>86</sup> Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, pp. 27 and 28.

<sup>87</sup> Cf. Office of the Attorney General of the United Mexican States, AP/PGR/SDHPDSC/OI/001/2015, Volume 202, p. 909 (digitalized format), Expanded statement to the prosecutor's office of David Aldegundo González Cabrera, given on April 20, 2016.

Office of the Attorney General of the United Mexican States, AP/PGR/SDHPDSC/OI/001/2015, Volume 235, p. 637(digitalized format), Statement to the prosecutor's office by Private Juan Andrés Santos Carranza, given on July 20, 2016.

<sup>88</sup> Office of the Attorney General of the United Mexican States, AP/PGR/SDHPDSC/OI/001/2015, Volume 195, p. 913 (digitalized format), Statement to the prosecutor's office of José Adame Bautista, given on April 18, 2016.

<sup>89</sup> In its observations on the draft of this report, the Mexican State indicated that this matter was under investigation. Mexican State, Situation Report: Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, pp. 28-29.

<sup>90</sup> In their observations on the draft of this report, the representatives of the families indicated the importance of continuing the investigation of the Huitzuco Police, since, they indicate, their location through telephone

78. The Commission takes note of the progress made in the investigation of the Tepeacoacuilco Municipal Police, which, according to information in the record, was involved in guarding a location near Sábana Grande, where violent incidents mentioned by the IGIE occurred. In particular, the progress consists of inspections of the police station premises, interviews with most of the personnel who were on duty on both shifts on September 26 and 27, 2014, a request for the staffing rosters, sweep logs, ballistics tests, and telephone cross-match data provided by the policemen themselves.
79. According to information in the record, on the night of September 26-27, the Tepeacoacuilco Municipal Police conducted four sweeps. The IACHR notes that there was apparently no investigation of the sweep of Colonia Lázaro Cárdenas, which is very near Sábana Grande, where the violence occurred. In its observations on the draft of this report, the State indicated that this matter was under investigation.<sup>92</sup> Accordingly, the IACHR calls upon the State to continue that line of inquiry.
80. As regards the Pilcaya Municipal Police, the IACHR considers it important to obtain clarification concerning the participation of the Director of the Pilcaya Police in the meeting held in the city of Iguala on September 26, 2014. That information was not mentioned in the statement that he gave in the months following the events. In its observations on the draft of this report, the State indicated that this matter was under investigation.<sup>93</sup> In addition, the Commission notes that a number of statements have yet to be taken from Pilcaya Municipal Police personnel, including those of two officers who resigned days after the events.

### ***Possible Participation of Guerrero State Authorities***

81. The IGIE recommended to the Mexican State that it determine the degree of participation of Guerrero authorities on the night of September 26-27,

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data analysis at some scenes of the events resulted directly from the insistence of the IGIE, and therefore of the IACHR. Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Observations on the draft "Situation Report," May 1, 2018, p. 4.

<sup>91</sup> Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Observations on the draft "Situation Report," May 1, 2018, p. 4.

<sup>92</sup> Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 29.

<sup>93</sup> Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 29.

2014. According to information provided by the Mexican State, about 100 Guerrero State Police personnel gave statements to the PGR; it also said that it was gathering more evidence.<sup>94</sup> According to the police statements, they did nothing that night because they were either garrisoned at the Regional Police Training Center (CRAPOL) or guarding Iguala Social Rehabilitation Center (CERESO). That was because of a risk that a criminal group might try to break out members of an organized crime cartel from the jail using violence.<sup>95</sup> The IACHR considers that that information should be probed further. The IACHR also notes that one Guerrero state policeman said in his statement that the state police began guarding Cocula garbage dump at the beginning of October 2014.<sup>96</sup> This important piece of information apparently has not been cross-referenced or further probed by the authorities, despite the fact that since the night of September 26, 2014, the PGR and the Guerrero State Public Prosecutor's Office (Fiscalía) have open investigations files. The Commission considers it important to clarify this point, since the Cocula garbage dump was officially discovered through an October 26, 2014 anonymous phone call at 11:15 p.m.<sup>97</sup> In its observations on the draft of this report, the Mexican State indicated that "we indicate that this, like other aspects, is part of the investigation, while not failing to emphasize that the reference here is to events that took place on dates following the events in Iguala."<sup>98</sup>

82. By the same token, according to information that the State provided to the IACHR, arrest warrants have been requested for two ministerial officials for offenses relating to organized crime and against the administration of justice. At the date of publication of this document, a decision from the judicial authorities was pending on that request.<sup>99</sup>
83. The IACHR notes that there is nothing in the record to suggest any steps taken to determine possible responsibilities on the part of state authorities who had a significant role by reason of their possible knowledge of the events. In its observations on the draft of this report, the State indicated

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<sup>94</sup> Mexican State, Response of the Mexican State to the fourth questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, February 23, 2018, p. 37.

<sup>95</sup> See statements by state police personnel to the Iguala Case Investigation Office, Volumes 193-195, 229, 291, 292, 294, 312, 336, and 339, among others.

<sup>96</sup> Office of the Attorney General of the United Mexican States, AP/PGR/SDHPDSC/OI/001/2015, Volume 193, Page 1116 (digitalized format), Statement to the prosecutor's office given on April 14, 2016.

<sup>97</sup> Grupo Interdisciplinario de Expertos Independientes (GIEI), Informe Ayotzinapa II: Avances y nuevas conclusiones sobre la investigación, búsqueda y atención a las víctimas, 2016, 2016, p. 272.

<sup>98</sup> Mexican State. Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 29.

<sup>99</sup> Mexican State, Response of the Mexican State to the fourth questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, February 23, 2018, p. 38.

that investigations into this matter are ongoing.<sup>100</sup> In order to establish responsibilities it is important to conduct an in-depth investigation into the possible participation of all police, ministerial, and political authorities in the events that occurred that night in Iguala.

### ***The Identities of the Persons with the Aliases “Patrón” and “Caminante”***

84. In its report, the IGIE mentioned the importance of identifying the persons with the aliases “Patrón” and “Caminante.” The reason for that is that those individuals were identified as being among those who oversaw the students' disappearance. According to information that the Mexican State provided to the IACHR, their identities would appear to have been established by means of statements and cross-matching of telephone data.
85. The Commission will continue to follow up on the results of any new information that strengthens the full identification of those two individuals. With respect to “Caminante,” although the Investigation Office said that numerous statements were taken from agents of the Iguala Municipal Police and Public Prosecution Service Police, particularly policemen who communicated with the telephone number of “Caminante,” most of the policemen said that they did not know him or recall that number.<sup>101</sup> As regards the identity of “Patrón,” although the Iguala Case Office has gathered a number of items of evidence, including telephone network analyses and statements to corroborate his identity, the investigation of Sidronio Casarrubias—a member of Guerrero Unidos—contains a prosecution service attestation of documents containing information that mentions “a 9 centimeter by 13 centimeter coffee-colored agenda,”<sup>102</sup> and the name “patrón” as well as a telephone number completely different from the ones that the PGR reported to the Commission.<sup>103</sup> The IACHR will continue its follow-up until those two individuals are fully identified. In that regard, the representatives indicated in their observations on the draft of this report that “in addition to the relevant IACHR considerations, it is important to indicate that the inquiry itself contains contradictions regarding the identity of these individuals.”<sup>104</sup> For its part, in its

<sup>100</sup> Mexican State. Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 29.

<sup>101</sup> Mexican State, Response of the Mexican State to the fourth questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, February 23, 2018, p. 64.

<sup>102</sup> Office of the Attorney General of the United Mexican States, AP/PGR/SDHPDSC/OI/001/2015, Volume 295, p. 97 (digitalized format), Prosecution service attestation of documents, October 16, 2014.

<sup>103</sup> Mexican State, Response of the Mexican State to the fourth questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, February 23, 2018, p. 66.

<sup>104</sup> Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos,

observation on the draft of this report, the States indicated that the investigation of the case remained open, so that if more noteworthy information existed or arose in that regard, it would be evaluated.<sup>105</sup>

### **Ballistics**

86. The IGIE recommended performing a ballistics comparison of every firearm of the police agencies involved on the night of September 26-27, 2014. In its observations on the draft of this report, the State indicated that different types of ballistics work had been done, and that some was still ongoing. From its examination of the record, the IACHR noted that it contains an official letter from the Secretariat for National Defense (SEDENA) which indicates that the Iguala Case Investigation Office inquired if after September 26 and 27, 2014, SEDENA had changed any of the firearms allocated to the municipal police agencies of Iguala, Cocula, and Huitzuco, Guerrero State. In response, SEDENA said that it exchanged 16 Heckler & Koch G36 5.56 x 45 mm assault rifles that had been in the possession of the Iguala Municipal Police.
87. The Investigation Office was also asked what was done with the withdrawn weapons and where they were located. In response, it was mentioned that a total of 3000 firearms that had been turned over to SEDENA were destroyed by the 1st War Materiel Battalion (Sta. Lucía, State of Mexico), including the 16 assault rifles in question.<sup>106</sup>
88. According to the information reviewed by the IACHR, there is reportedly one firearm that was assigned to Iguala municipal policewoman Verónica Bahena Cruz. The IACHR hopes to receive news about what happened to those firearms and to corroborate if they were used in the events of February 26 and 27, 2014. The IACHR looks forward to receiving the information requested in its third questionnaire and will specifically follow up on this issue, given that the destruction of ballistic evidence<sup>107</sup> relating to individuals deprived of their liberty in connection with the Iguala case

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Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Observations on the draft "Situation Report," May 1, 2018, p. 4.

<sup>105</sup> Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 31.

<sup>106</sup> Office of the Attorney General of the United Mexican States, AP/PGR/SDHPDSC/OI/001/2015, Volume 339, Page 1221 (digitalized format).

<sup>107</sup> The State, in its observation on the draft Situation Report, regarding the destruction of evidence asked the IACHR to provide it with more specific information, which would be valuable to the IACHR in clarifying this section. Mexican State. Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 31.

could amount to a gross failure in the custody of evidence and proof implicating the culprits.

### ***Investigations of Alleged Torture and Mistreatment***

89. In its first report, the IGIE noted that of 80 detainees who underwent a medical examination, 61 (77 percent) reportedly sustained injuries that should have been investigated.<sup>108</sup> In its second report, the IGIE presented 17 cases in which it documented serious signs of torture.<sup>109</sup> The IGIE also concluded that the Istanbul Protocol and the most advanced international standards of practice in this area indicate the importance of the independence of forensic or legal medicine services so that they are able to carry out their professional work freely and in accordance with the usual scientific criteria. All 17 cases noted by the IGIE are part of the universe of 54 cases whose analysis by the PGR is ongoing or has been concluded. However, according to information from the State, only two of those cases came back positive, while 12 were negative. In addition, the analysis of one case remains pending, while in two cases the individuals have withdrawn. The State also informed the IACHR that it was investigating 128 instances of people who were allegedly subjected to torture and mistreatment in the context of the case. According to information provided to the Commission in February 2018, only 53 of those cases are being, or have been, analyzed. In particular, according to the State, 2 of those cases produced positive results under the Istanbul Protocol; 28 cases came back negative and 9 cases are still being analyzed.<sup>110</sup> In addition, 4 people withdrew and 10 refused examination.
90. The Commission is surprised that in 12 of the 17 cases in which the IGIE determined that there had been serious signs of torture, the PGR concluded to the contrary. At the same time, the IACHR observes that the report *Double Injustice* recently released by the Mexico Office of the United Nations High Commissioner for Human Rights (OHCHR-Mexico), concerning human rights violations in the investigations of the Ayotzinapa case, found strong evidence of torture in 34 of the 51 cases

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<sup>108</sup> A total of 1,178 injuries were reported. Interdisciplinary Group of Independent Experts (IGIE), [Ayotzinapa Report: Research and initial conclusions of the disappearances and homicides of the teaching students from Ayotzinapa](#), 2015, p. 201.

<sup>109</sup> The case selection was done based on the criteria of greatest amount of documentation and record and greatest relevance to the different groups of defendants. The cases include defendants believed to be members of Guerreros Unidos connected with the Cocula garbage dump hypothesis and a group of Cocula and Iguala police officers detained almost a month after the events. Interdisciplinary Group of Independent Experts (IGIE), [Ayotzinapa Report II: Advances and New Conclusions on the Investigation, Search and Attention to Victims](#), 2016, p. 397.

<sup>110</sup> Mexican State, Response of the Mexican State to the fourth questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, February 23, 2018, pp. 111-119.

analyzed.<sup>111</sup> There is a startling difference between the positive cases of torture established by the PGR, on one hand, and OHCHR-Mexico and the IGIE<sup>112</sup>, on the other. Such a discrepancy in findings warrants a thorough analysis. Furthermore, the Commission is also troubled by the fact that in both confirmed cases of torture the PGR has not taken criminal action against anyone responsible.

91. In its observations on the draft of this report, the State indicated that in the two cases referenced in the draft of this report, the opinions had been sought at the request of the First District Judge of Federal Criminal Proceedings, based on which, on two occasions, they even refused to give statements to ministerial personnel of the Office of the Prosecutor for *Human Rights and to personnel of the former Unit Specializing in the Investigation of the Crime of Torture*. *This negatively impacted the investigations since no information at all was provided regarding the alleged events involving torture. The State reported that an investigation existed arising from the notification given by said judicial authority, for which that authority has in its possession the Specialized Opinions that were to be forwarded to the Investigating Prosecutor to be added to the inquiry's existing body of evidence. The State further indicated that in the coming days, it would again attempt to obtain the corresponding statement, informing the alleged victims of the legal importance of that testimony.*<sup>113</sup>
92. Another matter that the Commission found shocking was the death of Emmanuel Alejandro Blas Platiño, “[...] who appears to have died as a result of torture inflicted by elements of the Secretariat of the Navy (Semar) who reportedly took part in his arrest.”<sup>114</sup> According to the report of the OHCHR-Mexico, Blas Platiño died from asphyxiation with a plastic bag and multiple blows.<sup>115</sup> The Mechanism consulted the State about this

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<sup>111</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR), [Double Injustice – Human rights violations in the investigation of the Ayotzinapa case](#), 15 March 2018, p. 60.

<sup>112</sup> In its observations on the draft of this Situation Report, the Mexican State indicated that one of the main elements of the investigation was the use of the Specialized Psychological Medical Opinion in Cases of Possible Torture or other Cruel, Inhuman, or Degrading Treatment (the Opinion), which is a group study involving experts in psychology and forensic medicine, for the identification of signs consistent with any of these practices. The Report is prepared in accordance with the Istanbul Protocol and strict international standards. Mexican State. Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, pp. 31- 32.

<sup>113</sup> Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 34.

<sup>114</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR), [Double Injustice – Human rights violations in the investigation of the Ayotzinapa case](#), 15 March 2018, p. 32.

<sup>115</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR), [Double Injustice – Human rights violations in the investigation of the Ayotzinapa case](#), 15 March 2018, p. 33.

particular case on two occasions. The State's initial response was that the case was being investigated by the Office of the Prosecutor General of Morelos; later, the State said that the PGR did not have access to the investigation of the case.<sup>116</sup> These contradictions exemplify the fragmentation of the case. In its observations on the draft of this report, the Mexican State indicated that the events in which that person died were being investigated by the Office of the Prosecutor General of Morelos. Nevertheless, it indicated that, at the time, the Investigation Office had notified the PGR's Office of the Special Prosecutor for Investigation of Federal Crimes to determine any type of criminal responsibility on the part of federal civil servants.<sup>117</sup>

93. It is crucial for the investigation that the complaints of torture in this case be resolved. The evidence of torture undermines any sense of progress in the investigations while the cases go unresolved. Moreover, if the torture is proven, that could be grounds to close the criminal proceedings under way. The mechanism has requested access to the torture investigation files on a number of occasions. Initially, the State said that the documentation would be turned over at the earliest opportunity.<sup>118</sup> Later, the State replied that the information was confidential and that providing copies would entail a breach of that confidentiality, but that it was exploring ways to meet the request.<sup>119</sup> In March 2018, the State offered the Mechanism access to those documents during the working visits. In the months following the release of this report, the Mechanism will review that documentation and issue the relevant opinion.

### ***Investigations of Possible Obstruction of the Investigation***

#### *The events at the River San Juan*

94. In the course of the investigation allegations have emerged of investigative irregularities that have been verified by the Internal Oversight Office of the PGR. In its second report, the IGIE recorded several irregularities in

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<sup>116</sup> Mexican State, Response of the Mexican State to the second questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, October 13, 2017, p. 43.

Mexican State, Response of the Mexican State to the fourth questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, February 23, 2018, p. 64.

<sup>117</sup> Mexican State, Respuesta del Mexican State al cuarto cuestionario formulado por el Mecanismo Especial de Seguimiento al Asunto Ayotzinapa, 23 de febrero de 2018, p. 120.

<sup>118</sup> Mexican State, Response of the Mexican State to the second questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, October 13, 2017, p. 43.

<sup>119</sup> Mexican State, Response of the Mexican State to the fourth questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, February 23, 2018, p. 111.

procedures carried out at the River San Juan, where the discovery was reported of a bag containing a bone fragment belonging to the only student identified to date. The IGIE demonstrated that the discovery of the bag on one of the banks of the San Juan River was preceded by a procedure carried out on October 20, 2014, by the then-head of the Criminal Investigation Agency (AIC)<sup>120</sup> of the PGR. The IGIE also identified a series of irregularities in that procedure, including the unlawful movement of a detainee who was questioned without his defense lawyer present, signs that that detainee was tortured while in custody, superficial discarding of evidence, and failure to record that activity in the case file.<sup>121</sup> The PGR opened an investigation into those irregularities through its Internal Oversight Office.<sup>122</sup>

95. The then-head of the Internal Oversight Office prepared a draft resolution in relation to those irregularities. Although that document never became official because the head of the internal oversight office left his position, his analysis found at least 11 human rights violations and probable administrative responsibilities, and notified the Department for Offenses Committed by Civil Servants (*Dirección General de Delitos Cometidos por Servidores Públicos*) of the PGR to investigate probable criminal responsibility for various conducts. The main conclusions included the unlawful detention of seven people; responsibility of the SEIDO for unlawful removal and violation of the right to defense of a detainee by transferring them without the presence and assistance of their lawyer; the responsibility of the then-director of the Criminal Investigation Agency of the PGR for engaging in investigative acts without the supervision of the Public Prosecution Service; breaking of the chain of custody, and failure to formalize proceedings in violation of the right to the truth.
96. In December 2016, the Internal Oversight Office, by then under new leadership, issued a concluding decision and a concluding opinion that were substantially different from the draft resolution of her predecessor. The resolution only recognizes seven irregularities, all of the misdemeanors. The resolution found that the SEIDO acted lawfully in the arrests; with respect to the right to defense of the defendant; in protecting the scene, and in terms of the supervision of the Public Prosecution Service of the procedure carried out on October 28, 2014.

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<sup>120</sup> Interdisciplinary Group of Independent Experts (IGIE), *Ayotzinapa Report II: Advances and New Conclusions on the Investigation, Search and Attention to Victims*, p. 300.

<sup>121</sup> Interdisciplinary Group of Independent Experts (IGIE), *Ayotzinapa Report II: Advances and New Conclusions on the Investigation, Search and Attention to Victims*, 2016, p. 285-304; and GIEI, *Análisis del GIEI sobre la escena del Río San Juan y las explicaciones del Sr. Zerón* (Analysis of the River San Juan Scene and Mr. Zerón's Explanations), April 28, 2016.

<sup>122</sup> Case DGAI/510/CDMX/2016.

97. OHCHR-Mexico criticized resolution in the following terms: "Initially the investigation of the Internal Oversight Office was being conducted in accordance with the highest international standards in the area of human rights; however, the shift that has occurred is regrettable."<sup>123</sup> The former head of the Internal Oversight Office, for his part, explained in a public interview that "the amount of irregular conduct that I detected and included in that resolution was going to have a serious effect on the potential course of that investigation." He also said that he was asked to reconsider his resolution.<sup>124</sup> In addition, OHCHR-Mexico mentioned that it had "knowledge of possible threats against officials from the Internal Oversight Office of the PGR" who carried out the first internal inquiry.<sup>125</sup>
98. Unhappy with the resolution, on February 13, 2017, the relatives filed an application for constitutional relief (*amparo*) so that the courts might determine if the resolution of the Internal Oversight Office was exhaustive and conformed to the highest standards.<sup>126</sup> As of the presentation of this document, a judicial decision was still pending on the application for constitutional relief and the proceedings on the resolution have been suspended until the courts reach their final decision. The Mechanism was informed that the Office of the Special Prosecutor for Investigation of Organized Crime (SEIDO) brought an action disputing the relatives' standing to challenge the decision of the Internal Oversight Office.<sup>127</sup> The IACHR will continue to follow up on the matter. In its observations on the draft of this report, the State indicated that the preliminary conclusions referred to in the report of the former head of the Internal Oversight Office were drafts and working documents at the preparation stage. The State also reiterated that said documents were not binding because they never been formally included in the file. It further emphasized that although it was true that different irregularities were evident in the initial reports, it was also true that following the investigation, in the final results, only seven of these had been demonstrated and legally established. Lastly, it indicated that the action of the Oversight Office had always been consistent

<sup>123</sup> Office of the United Nations High Commissioner for Human Rights – Mexico, [La ONU-DH expresa preocupación por las conclusiones de la investigación interna de la PGR sobre el caso Ayotzinapa](#), March 1, 2017.

<sup>124</sup> Aristegui Noticias, [Reconoce ex visitador de PGR que le pidieron reconsiderar resultados de investigación contra Zerón](#), March 9, 2017. An extract of that video was presented by the applicants at the hearing on the Mechanism at the 161st session. IACHR, 161st session, Hearing on the "[Follow-Up Mechanism to the Ayotzinapa Case](#)," March 17, 2017.

<sup>125</sup> Office of the United Nations High Commissioner for Human Rights, [Double Injustice – Human rights violations in the investigation of the Ayotzinapa case](#), 15 March 2018, p. 59.

<sup>126</sup> Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Report sent to the Special Follow-Up Mechanism to the Ayotzinapa Case (in Spanish), November 24, 2017, p. 13.

<sup>127</sup> PGR, Office of the Special Prosecutor for Investigation of Organized Crime (SEIDO), Complaint Appeal, Amparo Proceeding 195/2017, Official letter PGR/SEIDO/DGAJCMDO/10911/2017, September 7, 2017.

with the national legal framework, and with respect for the internationally recognized human rights.<sup>128</sup>

### *Investigation concerning Sidronio Casarrubias' Notebook*

99. The IGIE had insisted that it was necessary to investigate the hypothesis that the violence that occurred on September 26 and 27 may have been related to drug trafficking using buses, and it requested the State for information on investigations concerning the use of buses for drug trafficking. The reply was always to the effect that there had been no investigations of that kind. On November 12, 2016, the existence was revealed in the media of a notebook with an important bearing on the investigation that belonged to Sidronio Casarrubias Salgado, one of the suspected leaders of Guerreros Unidos in the state of Guerrero. Among its entries, the notebook referenced the then-Secretary for Public Security of the state of Guerrero, a former Federal Police official, a person referred to as “Patrón,” and “El Uruguayo,” a presumed member of Guerreros Unidos who was detained in July 2014.<sup>129</sup> It is thought that the latter trafficked drugs using buses.<sup>130</sup> The notebook was apparently concealed from the IGIE during its mandate.
100. Accordingly, the relatives and their representatives requested the authorities to investigate this alleged concealment of irregularities that PGR personnel may have committed by having concealed the existence of the notebook from the Iguala office and the IGIE, and, in particular, that the Internal Oversight Office be notified.<sup>131</sup> According to information received by the Mechanism, the PGR opened an investigation which remains ongoing.<sup>132</sup> In its observations on the draft of this report, the State reported

<sup>128</sup> Mexican State. Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, pp. 34-37.

<sup>129</sup> Excélsior, Cae jefe regional de grupo delictivo en operativo en Puebla, July 10, 2014; Milenio, Detiene en Puebla a jefe de ‘Guerreros Unidos’, July 10, 2014.

<sup>130</sup> Secretariat of the Interior, Newsletter Boletín 351/14, SEDENA y PGR detienen a presunto líder de grupo delictivo que operaba en Puebla, July 10, 2014.

<sup>131</sup> Cf. Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Report sent to the Special Follow-Up Mechanism to the Ayotzinapa Case (in Spanish), November 16, 2016; and Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Report sent to the Special Follow-Up Mechanism to the Ayotzinapa Case (in Spanish), January 5, 2017.

<sup>132</sup> FED/VG/UNAI-MEX/0000650/2016. Mexican State, Response of the Mexican State to the second questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, November 29, 2017, p. 8.

that on November 16, 2016, the Iguala Case Investigation Office notified the General Oversight Office of the PGR, which opened the corresponding investigations.<sup>133</sup>

101. In addition, the IACHR consulted the State about the existence of an investigation into the alleged concealment from the IGIE of the existence of investigations concerning drug trafficking by means of buses. The Mexican State said that it had no information of past complaints or reports relating to the alleged events referred to by the IACHR.<sup>134</sup> In its observations on the draft of this report, the State “reiterated its institutional commitment to contribute to strengthening a culture of lawfulness and respect for human rights. Therefore, if necessary, the corresponding actions and investigations would be carried out [...] once the events or conduct attributable to the personnel of the institution involved were known, through the corresponding report.”<sup>135</sup> Given the existing evidence of an investigation into drug trafficking on buses that predates the request of the IGIE to the authorities, the IACHR will follow up on the steps that the State takes to investigate reasons for the alleged concealment of that information from the IGIE.

### *Alleged Attempted Malware Attack against IGIE Members and the Applicants*

102. On June 19, 2017, the news broke about an alleged attack using the Pegasus malware on human rights defenders and journalists, including members of the IGIE and representatives of the relatives.<sup>136</sup> In the case of the members of the IGIE and the applicants, those acts apparently occurred during the Group's mandate, between March and June 2016. Some of those affected filed a formal complaint with the Office of the Special Prosecutor for Crimes against Freedom of Expression (FEADLE) and requested precautionary measures from the CNDH, which were granted on June 13, 2017.<sup>137</sup> The IGIE reported to the IACHR on the malware in two of IGIE members' cell

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<sup>133</sup> Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, pp. 37 and 38.

<sup>134</sup> Mexican State, Response of the Mexican State to the fourth questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, February 23, 2018, p. 124.

<sup>135</sup> Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 38.

<sup>136</sup> New York Times, ‘Somos los nuevos enemigos del Estado’: el espionaje a activistas y periodistas en México, June 19, 2017. New York Times, [Using Texts as Lures, Government Spyware Targets Mexican Journalists and Their Families](#), June 19, 2017.

<sup>137</sup> Centro de Derechos Humanos de la Montaña Tlachinollan, Centro Regional de Defensa de los Derechos Humanos José María Morelos y Pavón, A.C., Red Guerrerense de Organismos Civiles de Derechos Humanos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (Centro Prodh), Report sent to the Special Follow-Up Mechanism to the Ayotzinapa Case (in Spanish), June 22, 2017, p. 1.

phones. In that regard, the Office of the Special Rapporteur for Freedom of Expression of the IACHR expressed “concern over allegations that journalists and human rights defenders in Mexico would have been the targets of illegal spying and urge[d] the State to perform an independent and thorough investigation.”<sup>138</sup>

103. According to the information received, the PGR opened an investigation through the FEADLE.<sup>139</sup> In its observations on the draft of this report, the State indicated that an inquiry was being opened and staffed in connection with the “Pegasus” program for the crimes of interception of private communications and unlawful access to computer systems and equipment.<sup>140</sup> That investigation does not involve members of the IGIE because, according to information provided by the State, they did not present complaint.<sup>141</sup> The Mechanism expresses its concern at the fact that in this case the representatives of the relatives and members of the IGIE, a group set up by the IACHR, should have been targets of spying. In particular, the Commission urges the State to investigate any possible links that state entities may have to the facts. The IACHR will continue to follow the investigations carried out by the State into these serious allegations and hopes that they will be resolved in a timely manner. The State reiterated its commitment and intent to do everything necessary, in strict conformity with law, to clarify all aspects related to the “serious events that took place to the detriment of the young Ayotzinapa students and to take the corresponding legal steps so that all those responsible for them are brought to justice.”<sup>142</sup>

## 9. Recommendations for structural changes

104. The Commission commended the entry into force in June 2017 of the General Law for the Prevention, Investigation, and Punishment of Torture and Other Cruel, Inhuman, and Degrading Treatment and Punishment, which embodies the efforts by the Mexican State as a whole to end this practice that violates human rights. The IACHR also commended the entry

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<sup>138</sup> IACHR, Office of the Special Rapporteur for Freedom of Expression, Press Release R96/17, [Office of the Special Rapporteur expresses concern over alleged spying targeting journalists and human rights defenders in Mexico and urges the State to conduct a thorough and independent investigation](#), July 12, 2017.

<sup>139</sup> Mexican State, State Report to the Special Follow-Up Mechanism to the Ayotzinapa Case (in Spanish), August 9, 2017, p. 18.

<sup>140</sup> Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 39.

<sup>141</sup> Mexican State, Response of the Mexican State to the fourth questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, February 23, 2018, p. 124.

<sup>142</sup> Mexican State, Situation Report. Follow-up on the Ayotzinapa Case, prepared by the Special Follow-Up Mechanism to the Ayotzinapa Case of the Inter-American Commission of Human Rights, May 4, 2018, p. 39.

into force in January 2018, of the General Law on the Disappearance of Persons in Mexico. This law is consistent with the international standards on human rights in this area in that it provides for the creation of a National Missing Persons Search Mechanism, the non-applicability of statutory limitations in cases of torture and other cruel, inhuman, and degrading treatment and punishment, the certificate of absence by reason of forced disappearance, and mechanisms for special care of victims and their families, among other aspects. In the framework of its authorities, the Commission will follow-up on the implementation of these laws.

## ***D. Conclusions***

105. This situation report prepared by the IACHR takes stock of steps taken by the State that could yield important elements for clarifying the facts—such as in relation to the search for the missing students, for example—as well as the measures adopted to provide assistance to victims and relatives. As regards the investigation, there has been progress in a variety of areas, including the presentation of indictments against police officials; telephone analyses that included the telephones of the missing students; information obtained through international legal assistance from the United States; and the investigation into the fifth bus and drug trafficking through other bus companies. Likewise, the State has adopted structural measures, such as the General Law on Torture and the General Law on Forced Disappearance.
106. Over three years since the events occurred, the students' whereabouts remains unknown. No new arrests have been made of State actors who might have participated on the night the events in Iguala. It is important to determine the extent of federal police participation in the events, as well as that of the Army, municipal police forces, and state authorities. At the same time, persisting serious challenges and obstacles need to be overcome in order to obtain the truth, justice, and reparation; to implement Precautionary Measure PM 409-14; and to implement the recommendations of the IGIE.
107. Below, the IACHR reiterates some of the main considerations relating to the principal matters addressed in this document: the search for the missing students, assistance to victims, and the investigation.
108. With respect to the search for the missing students, use of LIDAR technology should continue. In that connection, the IACHR reiterates the importance of cross-matching information particularly that collected in statements and in the telephone analyses, in order to narrow down search areas.

109. As for assistance to victims, the State should continue to ensure all the support that Edgar Vargas and Aldo Gutiérrez need. In addition, the IACHR hopes that the parties can meet as soon as possible to reach an agreement on implementing the recommendations contained in the report *“Yo sólo quería que amaneciera: Impactos psicosociales del Caso Ayotzinapa”* (I Just Wanted Dawn to Come. Psychosocial Impacts of the Ayotzinapa Case).
110. In terms of the investigation, the IACHR values the work done by the Investigation Office and encourages it to continue those efforts. The presence of the Mechanism succeeded in prioritizing lines of inquiry that were established in a timeline with set deadlines. Implementation of that timeline remains pending and continues to be monitored. The IACHR emphasizes the importance of using the effective mechanisms to secure collaboration agreements that the State has its disposal and should be implemented, given the high number of people detained. It also calls for the outstanding arrest warrants to be executed and for more international legal assistance requests to be made to the United States. In particular, the IACHR will closely monitor the procedures carried out on the basis of information obtained through international legal assistance, which throws up more elements for analysis in existing lines of inquiry and open up new lines that will have to be pursued over the coming months.
111. As for the internal investigations, the IACHR will continue to follow-up on investigations into serious reports of torture, reports of suppression of evidence, and the alleged attempt to install malware into the computers of IGIE members.
112. Del mismo modo, es importante que se reconduzcan las investigaciones bajo el tipo penal de desaparición forzada, y que se analice la magnitud de los hechos ocurridos de manera integral y unificada. Lo anterior, a fin de fortalecer una nueva hipótesis sustentada con pruebas objetivas y una nueva narrativa claves para la verdad y justicia. The IACHR reminds the Mexican State that in cases of forced disappearance, the authorities have a duty to presume that those who have disappeared are alive until their fate has been determined, and that “the foremost important right of a missing person is that of search and recovery.”
113. Finally, the IACHR would like to pay tribute to the resilience and fortitude of the relatives and the victims in the search for truth and justice, and it urges the State to implement all its recommendations as well as those of the IGIE. Over the coming year, the Commission will continue, through its Follow-Up Mechanism, to monitor the search, the investigation, and the comprehensive assistance provided to the victims and relatives, within a framework of transparent and constructive dialogue.