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# V

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Follow-up of Recommendations  
issued by the IACHR in its  
Country or Thematic Reports

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**Mexico**

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## CHAPTER V

### FOLLOW-UP OF RECOMMENDATIONS MADE BY THE IACHR IN ITS COUNTRY OR THEMATIC REPORTS

#### SIXTH FOLLOW-UP REPORT ON THE RECOMMENDATIONS ISSUED BY THE IACHR IN ITS REPORT ON THE HUMAN RIGHTS SITUATION IN MEXICO<sup>1\*</sup>

##### I. INTRODUCTION

1. The purpose of this chapter is to follow up on the recommendations issued in the report entitled "Situation of Human Rights in Mexico" adopted by the Inter-American Commission on Human Rights (the "Commission," "Inter-American Commission," or "IACHR") on December 31, 2015, in accordance with Article 59 (9) of its Rules of Procedure. According to that provision, in Chapter V of its Annual Report, the Commission shall follow-up on measures adopted to comply with the recommendations issued in the country report. Through such monitoring, the main current human rights problems identified in the United Mexican States ("Mexico", "Mexican State" or "State") are addressed. These are related to citizen insecurity and militarization, disappearances, torture, access to justice and impunity, the situation of freedom of expression, as well as the situation of particular groups in this context.

2. At the invitation of the United Mexican States ("Mexico", "Mexican State" or "State"), the IACHR conducted an *on-site* visit to the country between September 28 and October 3, 2015. The IACHR drew up the Report on the Situation of Human Rights in Mexico, with a series of recommendations to the Mexican State, based on the findings and information obtained before, during, and after the *on-site* visit. It was also based on the investigations carried out *ex officio*, information provided by the State, inputs from the various mechanisms through which the IACHR has kept track of the situation in the country, as well as newspaper articles, and decisions and recommendations of specialized international organizations, among other sources, as established in Article 59 (5) of its Rules of Procedure.

3. In the Country Report, the Commission noted that Mexico had been experiencing a serious crisis of violence and insecurity for several years. The IACHR identified grave situations of violence that have increased since the so-called "war on drugs" began in 2006, reaching alarming levels, including the related deaths of more than 100,000 people since 2006, more than 27,000 disappearances acknowledged by the State, more than two thousand investigations into cases of torture, and a context that has led to the displacement of thousands of people in the country. According to the report, in response to the increase in violence, starting in 2006 the authorities opted to increase the role of the Armed Forces in public security tasks, including a policy of confrontation against organized crime and the deployment of joint operations between the armed forces and state and municipal security institutions. This measure unleashed further violence, as well as serious human rights violations, cases in which the IACHR observed a lack of accountability in accordance with international standards.

4. In a context marked by high levels of violence and security policies that over the years have proven to be ineffective, the IACHR expressed particular concern in its report regarding reports of disappearances; the forced disappearance of 43 young students from the "Raúl Isidro Burgos" rural teacher-training school in the state of Guerrero, on September 26 and 27, 2014; extrajudicial executions and torture; the situation of insecurity of women, children, migrants, human rights defenders and journalists, who are

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<sup>1\*</sup> Pursuant to Article 17(2)(a) of the Commission's Rules of Procedure, Commissioner Joel Hernández, a Mexican national, did not participate in the discussion, investigation, deliberation, or approval of this report.

victims of murders, disappearances, kidnappings, torture, threats, and harassment. The IACHR also emphasized that Mexico is considered one of the most dangerous countries in the world to practice journalism, with the exception of those at war.

5. During the visit, the Commission observed critical levels of impunity and inadequate and insufficient attention to the victims and their families. The lack of access to justice has created a structurally embedded situation of impunity that has the effect of perpetuating and, in some cases, encouraging the repetition of serious human rights violations. Threats, harassment, murders, and disappearances of people seeking truth and justice have generated intimidation in Mexican society, which the IACHR confirmed through repeated testimonies of people who do not report these violations to the authorities for fear of reprisals, generating a serious problem of underreporting in the official figures. Barriers in access to justice and ineffectiveness, resulting in many cases of impunity, have weakened the rule of law and constitute urgent challenges.

6. The Commission appreciated the measures that the State has taken to address the situation presented in the Report. In particular, it recognized the important constitutional and legislative reforms undertaken in Mexico since 2011, including the constitutional reform and the recently approved protocols for the investigation of cases of torture and enforced disappearance, as well as other initiatives noted in the report. Notwithstanding the progress made, the State's response continued to face deficiencies, inadequacies, and obstacles in its implementation. The IACHR found a profound gap between the legislative and judicial framework and the daily reality experienced by millions of people in the country in terms of access to justice, crime prevention, and other government initiatives. The IACHR pointed out that the great challenge facing the Mexican State is to break the prevailing cycle of impunity in order to effectively investigate, prosecute, and punish those responsible for human rights violations.

7. The first, second, third, fourth and fifth Follow-Up Reports on the Recommendations issued in the Country Report corresponding to 2016, 2017, 2018, 2019, and 2020, respectively, included the observations received from the Mexican State and civil society.

8. For this report of September 23, 2021, the IACHR requested the State Mexican to provide information on steps taken in the course of 2021 to implement the recommendations contained in the country report. The response of the State was received on October 22, 2021.<sup>2</sup> The Commission appreciates and is grateful for the information received, which has been included in this report. In addition, the IACHR is grateful for the information furnished by civil society organizations.<sup>3</sup>

9. In its 2021 report on compliance with recommendations, the Mexican State indicated to the IACHR that "in compliance with Mexico's transformative foreign policy, the State presents an update on compliance with the 80 recommendations issued in the [IACHR] Report" and also indicated that it again urged the Commission to consider "the validity and terms under which [the recommendations] were issued, from 5 years ago when that Commission conducted its *on-site* visit to [Mexico] and approved the Report (...), as well as the specific context of Mexico."<sup>4</sup>

10. Furthermore, in accordance with Article 59(10) of its Rules of Procedure, on January 3, 2022, the IACHR transmitted this report to the Mexican State for its comments within a period of three weeks. On

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<sup>2</sup> Communication of the Mexican State. Ninth Report of the Mexican State on compliance with and follow-up to the recommendations of the IACHR. Chapter V, Note OEA3510 / File 4.8.0.1, October 22, 2021.

<sup>3</sup> The IACHR received information submitted by the Miguel Agustín Pro Juárez Human Rights Center (hereinafter the "PRODH Center"); the Mexican Institute for Human Rights and Democracy, A.C., (hereinafter "IMDHD"); and Servicios y Asesoría para la Paz - SERAPAZ (hereinafter "SERAPAZ").

<sup>4</sup> Ninth Report of the Mexican State on compliance with the RECOMMENDATIONS OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS issued in its report on the "Situation of Human Rights in Mexico," arising from its visit to Mexico from September 28 to October 2, 2015, p. 2. [Hereinafter "Ninth Report of the Mexican State on compliance and follow-up of the recommendations contained in the report "Situation of Human Rights in Mexico"].

January 24, 2022, the State sent its observations,<sup>5</sup> the relevant parts of which were incorporated in the final version of this report approved by the IACHR on February 23, 2022.

11. In its observations on the draft of this report, the State reiterated "its full willingness to heed all the recommendations issued by this inter-American body, and to that end takes note of its assessment of the level of compliance." It also reiterated its request to the IACHR "to take into account the specific context of Mexico in order to review the terms in which the recommendations were issued and assess their validity and relevance."<sup>6</sup> Likewise, Mexico renewed "its commitment to strengthen collaboration and dialogue with the Commission for the effective execution of its functions of promotion and protection of human rights, by heeding the recommendations of the report on the "Situation of Human Rights in Mexico", as well as through active participation and extensive submission of information within the framework of the procedures derived from Article 41 of the American Convention on Human Rights, the thematic public hearings in which it participates, the sending of information to the thematic Rapporteurships; attention to petitions, cases, compliance with friendly settlement agreements and reports on the merits, precautionary measures, and requests for information for precautionary measures."<sup>7</sup>

12. This follow-up report is divided into seven sections devoted to the consideration of the measures adopted by the State to comply with the Commission's recommendations and the remaining challenges. The recommendations are evaluated in accordance with the General Guidelines on the Follow-up of IACHR Recommendations and Decisions,<sup>8</sup> following the structure used in the Commission's report that is the subject of this follow-up. Each section addresses the recommendations made by the IACHR in the corresponding chapters and analyzes the main progress and challenges identified by the Commission as a result of the information presented by the State and civil society organizations as well as the information garnered by the Commission during its monitoring of the overall situation of human rights in the country. For that, the Commission has relied on information received from the State during public hearings, ex officio investigations, input from the petitions and cases system, applications for precautionary measures, and requests for information under Article 41 of the American Convention on Human Rights, in addition to information available from other public sources and decisions and recommendations of specialized international agencies, among other sources. Finally, the IACHR presents its conclusions and recommendations.

## II. FOLLOW-UP OF RECOMMENDATIONS

### A. Citizen Security

- Develop a concrete plan for the gradual withdrawal of the Armed Forces from public security tasks and for their recovery by civilian police.
- Strengthen the capacity of the police to carry out public security tasks in accordance with international human rights standards.
- Adopt a General Law on the Use of Force in accordance with international human rights standards.
- Take measures to ensure that federal and state officials refrain from issuing public statements on the legality of the actions of security forces in cases that may constitute an improper use of force before the results of an investigation are available.

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<sup>5</sup> [Observations and comments of the Mexican State on the draft of Chapter V on the follow-up to the recommendations made by the Inter-American Commission on Human Rights in the Report on the "Situation of Human Rights in Mexico". January 25, 2022. \[Hereinafter "State's January 24, 2022 Observations and Comments"\]](#)

<sup>6</sup> Observations and Comments from the State of January 24, 2022, p. 4.

<sup>7</sup> Observations and Comments from the State of January 24, 2022, p. 5.

<sup>8</sup> IACHR, [General Guidelines on the Follow-up of Recommendations and Decisions of the Inter-American Commission on Human Rights, OEA/Ser.L/V/II.173 Doc](#) OEA/Ser.L/V/II.173 Doc. 177, September 30, 2019.

- Adopt and implement accountability measures by a body independent of all security forces in relation to public security operations and tasks where there is loss of life.
- Ensure that, in cases of forced disappearance, extrajudicial executions, and torture, the lines of inquiry not only seek to disclose the actual perpetrators, but also include the responsibility of the chain of command.
- Create information, data collection and analysis systems regarding violence affecting the different groups addressed in this report, such as women, children and adolescents, migrants, human rights defenders, justice operators, LGBT persons, indigenous peoples, and persons deprived of liberty.
- Reorient the approach to the drug issue in Mexico from a focus on militarization and "frontal combat" using the security forces, to one with a comprehensive, human rights, and public health perspective on addictions and consumption not intended for distribution.

13. Next, the IACHR will refer to the first two recommendations in this section: to **develop a concrete plan for the gradual withdrawal of the Armed Forces from public security tasks** and to **strengthen the capacity of the police to carry out public security tasks in accordance with international human rights standards**. In this regard, the State reported on the process of constitutional amendments in the area of citizen security that led to the creation of the National Guard (GN) whose Law was published on May 27, 2019. The State emphasized that "the idea behind creating the GN is to have a civilian and police force to address the security challenges facing the country, gradually replacing the armed forces in this function." However, it did not report specific progress for the 2021 period with respect to implementing, or developing regulations governing, the exercise of the functions of the GN.<sup>9</sup>

14. In relation to the recommendation on strengthening the capacity of the police in the area of citizen security and human rights, the State reported progress with implementation of the Framework Agreement signed with the Office of the United Nations High Commissioner for Human Rights (OHCHR) to provide technical assistance and advice for training the National Guard in human rights and actions conducted in accordance with international human rights standards. According to the information provided, a roadmap for its execution has been in place as of 2021. In this regard, the State reported the creation of two Technical Groups on Training and Case Review under the responsibility of the Secretariat for Citizen Security and Protection (SSPC) to advance with the training of the GN on human rights, the development of training materials, and the construction of compliance indicators to assess the impact of such training.<sup>10</sup>

15. The State also reported that the Technical Training Group is working on a manual on the use of force that will serve as the basis for the development of a series of human rights courses for GN personnel with the assistance of the International Committee of the Red Cross (ICRC). The first pilot course on the use of force for GN personnel was held in June 2021, according to information provided by the State.<sup>11</sup>

16. With respect to the Technical Group on Case Review, the State indicated that it would analyze cases of alleged human rights violations involving GN personnel. This group completed its review of a first case on Migrants at the Siglo XXI Train Station. Finally, the State indicated that it is currently coordinating with human rights organizations to review the current GN curriculum on migration, femicide, and forced disappearance, among other areas offering opportunities for improvement.<sup>12</sup>

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<sup>9</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 4 - 5.

<sup>10</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 5 - 7.

<sup>11</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 5 - 7.

<sup>12</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 5 - 7.

17. The IACHR notes that the OHCHR in Mexico welcomed the decision of the National Institute of Transparency, Access to Information, and Protection of Personal Data (INAI) to require the GN to draft and deliver the public version of the reports on the use of force envisaged in the National Law on the Use of Force. Likewise, the aforementioned UN body acknowledged the readiness of the GN to provide INAI with access to the requested information.<sup>13</sup>

18. For their part, civil society organizations voiced their concern about the actions and measures carried out by the State that have reinforced a militarized approach to security in Mexico. In its report "Poder Militar, la Guardia Nacional y los riesgos del renovado protagonismo castrense" [Military Power, the National Guard, and the risks associated with a revival of military protagonism],<sup>14</sup> the PRODH Center documented that the GN is a predominantly military, not a civilian, institution, since 75% of its personnel is military. It also indicated that, at the Police Captain [*Comisario General*] level, 32 state coordinator positions are in the hands of the Armed Forces, 28 are run by the Secretariat of National Defense (SEDENA), and 4 by the Secretariat of the Navy (SEMAR). The IACHR took note of information received indicating that, since its creation, the GN has been the subject of an increasing number of complaints of serious human rights violations. The National Human Rights Violation Alert System reported 74 complaints between January and mid-April 2021.<sup>15</sup> The PRODH Center also denounced the decision of the President of the Republic to sponsor a reform initiative to make the GN "part of the Secretariat of National Defense,"<sup>16</sup> which would entail an unprecedented scenario of permanent, and no longer temporary, militarization.

19. As it has previously pointed out,<sup>17</sup> the IACHR observes that, even though the constitutional amendments determined that the National Guard is a civilian body with police functions, this corporation continues to act like, and to consolidate itself as, a body made up of military-type personnel with a military structure instead of being an eminently civilian security institution. In addition to the above, the IACHR notes that constitutional controversy 90/2020,<sup>18</sup> which questions the compatibility of the "Agreement whereby the Permanent Armed Forces are used to carry out public security tasks in an extraordinary, regulated, supervised, subordinate and complementary manner" with Mexico's human rights obligations, has not yet been resolved, and there are concerns about the lack of transparency in the processing of this controversy.<sup>19</sup> In this regard, in its observations on the draft of this report, the Mexican State indicated that on June 23, 2020, the aforementioned Constitutional Controversy was referred to the First Chamber of the Supreme Court of Justice of the Nation (SCJN) and, by agreement of November 25, 2021, the Presiding Justice of the First Chamber ordered that it be referred to the Full Court for a decision, as determined by the Ministers of the aforementioned Chamber during the regular public session of November 24, 2021. The case is currently pending and has yet to be resolved.<sup>20</sup>

20. Likewise, there are other unconstitutionality actions filed with respect to the National Guard, Detention Registry, and National Public Security System laws, for their incompatibility with human rights guarantees and for reinforcing militarization in Mexico, which have also not been resolved, and with respect to

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<sup>13</sup> OHCHR, reports September 20, 2021.

<sup>14</sup> PRODH Center, [Military Power. The National Guard and the risks associated with a revival of military protagonism](#), June 2021, pp. 137 - 143 and 155 - 172; PRODH Center, [Two years of the National Guard: military power](#), July 1, 2021.

<sup>15</sup> Arista, L, [The National Guard: the subject of 424 complaints for acts against human rights:20 a month. Expansión política](#), April 19, 2021.

<sup>16</sup> Arista, L, [The National Guard: the subject of 424 complaints for acts against human rights:20 a month. Political Expansion](#), April 19, 2021.

<sup>17</sup> IACHR, [Annual Report. Chapter V. Mexico](#), 2020, para. 22.

<sup>18</sup> SCJN, [Controversia Constitucional \[Constitutional Controversy\] 90/2020](#), June 23, 2020.

<sup>19</sup> Aristegui Noticias, ["Centro Prodh calls on the Court to be a "counterweight to the process of deepening militarization"."](#), November 2, 2021.

<sup>20</sup> Observations and Comments from the State of January 24, 2022, p. 5)

which the IACHR voiced its concern in its 2019 Annual Report. In light of the above considerations, the IACHR finds that the recommendation is pending compliance.

21. With regard to compliance with the recommendation to **strengthen the police force**, the IACHR appreciates the progress made in training police personnel and the independent scrutiny of their actions through international cooperation. However, given that the program is only in its initial stage of implementation, the IACHR finds that compliance with the recommendation remains pending.

22. In relation to the recommendation to **adopt a National Law on the Use of Force in accordance with international human rights standards**, the State reported that the National Law on the Use of Force was adopted on May 27, 2019.<sup>21</sup> The State also reiterated the information on the training program for the GN on human rights issues and the adoption of protocols for action on issues such as the use of force and the prevention of human rights violations, particularly those involving the protection and specific attention to women and groups in vulnerable situations (children and adolescents and indigenous people).

23. As the IACHR reported in its 2019<sup>22</sup> and 2020 reports,<sup>23</sup> the text of the aforementioned Law indicates that the use of force by security agents is governed by the principles of absolute necessity, legality, prevention, proportionality, and accountability, and with full respect for human rights.<sup>24</sup> The Commission also reported that in Chapters IX and X, respectively, the obligation to issue detailed reports on operations involving the use of force and lethal weapons, if applicable, and to institutionalize training and professionalization in the use of force (weapons, methods, and techniques), human rights, non-discrimination, gender perspective, police ethics and doctrine, among other aspects.<sup>25</sup>

24. The Commission notes that in October 2021, the SCJN resolved unconstitutionality action 64/2019 promoted by the National Human Rights Commission, drawing attention to the invalidity of various provisions of the National Law on the Use of Force (LNUF). According to information in the public domain, the SCJN determined that the Congress of the Union committed legislative omissions by failing to make the use of force subject to the principles of rationality and appropriate timing (*oportunidad*).<sup>26</sup> In addition, information from civil society reportedly indicates that the determination of the constitutionality of Articles 27 and 28 of the LNUF would authorize security forces to intervene in demonstrations or public gatherings that could turn violent, and that ambiguities persist regarding the classification of weapons and reporting by agents using firearms, among other concerns.<sup>27</sup>

25. In its observations on the draft of the present report, the State informed that the SCJN resolved to declare the action of unconstitutionality admissible and partially founded in accordance with the following: a. The legislative omissions related to the training of the use of force through the use of non-lethal and lethal incapacitating weapons and the distinction and regulation of such weapons; as well as the systematization and filing of the reports of public servants who use firearms in the performance of their duties contained in the LNUF as minimum provisions, were declared unfounded, b. The validity of articles 27, first paragraph and 28, as well as 36, in its normative portion 'from planning', of the Law was recognized, c. The invalidity of article 6, section VI, in its normative 'epiletal' portion of the Law, was declared, d. The legislative omissions related to the purpose of the use of force were declared founded, as well as the subjection of the use of force to the

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<sup>21</sup> Ninth Report of the Mexican State on compliance and follow-up of the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 5 - 7.

<sup>22</sup> IACHR, [Annual Report, Chapter V, Mexico](#), 2019, par. 28-29.

<sup>23</sup> IACHR, [Annual Report, Chapter V, Mexico](#), 2020, par. 27.

<sup>24</sup> Chamber of Deputies, [National Law on the Use of Force](#), May 27, 2019.

<sup>25</sup> Chamber of Deputies, [National Law on the Use of Force](#), May 27, 2019.

<sup>26</sup> SCJN, Press Release No. 326/2021, [The Supreme Court declares the existence of several legislative omissions, as well as the invalidity of certain norms in the National Law on the Use of Force](#), October 26, 2021.

<sup>27</sup> PRODH Center, [SCJN validates ambiguous norms on use of lethal force and protests](#), October 27, 2021.

principles of rationality and opportunity that, as minimum provisions, must be contained in the LNUF, e. The Congress of the Union was condemned so that, in the next ordinary period of sessions that begins in February 2022, it will legislate to solve the mentioned legislative omissions<sup>28</sup>.

26. In this regard, the PRODH Center indicated its concern about the validation of the use of lethal force in contexts of protest. For that reason, in a public hearing held in the framework of its 181st period of sessions, civil society organizations notified the IACHR of their main concerns regarding the human rights situation of women and girls in connection with protests<sup>29</sup>.

27. Given that the law on the use of force has already been enacted, the IACHR considers that there has been full compliance with recommendation, but it will continue to monitor the implementation of the law<sup>30</sup>.

28. Regarding the recommendation to **take measures to ensure that federal and state officials refrain from issuing public statements on the legality of the actions of the security forces in cases that may constitute an improper use of force before the results of an investigation** are available, the State indicated that in accordance with Article 32 of the National Law on the Use of Force, whenever members of the security institutions use force in the performance of their duties, they must file a detailed report to their immediate superior. Likewise, security institutions must submit annual public reports on activities involving the use of force by their members. The State referred, in this regard, to the CNDH'S (2019) recommendation to SEMAR that its communications to the public on the use of force be confirmed and endorsed by the competent authority.

29. The IACHR expresses its concern about the statements made by the Executive Branch, in advance, to the Armed Forces regarding possible accusations of human rights violations.<sup>31</sup> In a context of criticism of the participation by military entities in civilian tasks, the IACHR considers it necessary that, in following up on the recommendation under review, the State reinforce its discourse on accountability and the fight against impunity. Based on the foregoing, the Committee considers that compliance with the recommendation is still partial.

30. In relation to the recommendation **that a body independent of all security forces adopt and implement accountability measures regarding public security operations and tasks involving loss of life**, the State reported that Article 43 of the National Law on the Use of Force establishes that "violations derived from the improper use of force, committed by members of public security institutions, as well as the permanent Armed Forces, while conducting public security tasks, shall be punished in accordance with the corresponding civil, criminal, or administrative legal provisions; therefore, it shall be the responsibility of the Attorney General's Office (FGR) and the Civil Service Secretariat -- not the public security institutions themselves -- to carry out the respective investigations."<sup>32</sup> The State also referred to the General Law on Administrative Responsibility, which obliges members of security institutions to report any alleged crime to the appropriate authorities.<sup>33</sup>

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<sup>28</sup> Comments and observations of the State of January 24, 2022, pp. 5-6.

<sup>29</sup> IACHR, Public Hearing, [Situation of the Human Rights of Women and Girls in the Context of the Protests in Mexico, 181st Period of Sessions, Washington, D.C., October 2021](#) 181st session, Washington, D.C., October 27, 2021.

<sup>30</sup> The IACHR will continue to monitor implementation of the norm in contexts of social protest, concerns regarding the use of lethal force in contexts of social protest, and accountability mechanisms, as indicated in paragraphs 23 and 24 of this report.

<sup>31</sup> Forbes, [AMLO defends military and announces that they will begin to distribute medicines](#), December 1, 2021.

<sup>32</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 10 - 11.

<sup>33</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 10 - 11.

31. Regarding this recommendation, the PRODH Center has publicly expressed its concern that the internal control body of the National Guard (Internal Affairs Unit) is headed by a retired Brigadier General. Also, according to its study on complaints and denunciations of the work of the GN between May 2019 and March 2021, the PRODH Center found 4,867 investigation files, of which 3483 are still being processed. Of the latter, the IACHR notes that 161 involve events in which force and firearms were used. In none of them, however, did investigators conclude that there was excessive use of force or lethal force. These figures, based on PRODH Center findings, are unconvincing.<sup>34</sup>

32. Likewise, the IACHR reiterates<sup>35</sup> that in the Case of Women Victims of Sexual Torture in Atenco v. Mexico before the Inter-American Court, this body ordered as a measure of reparation that the Mexican State should establish at the federal level an "independent observatory to follow up on the implementation of policies regarding accountability and monitoring of the use of force by the Federal Police and the police of the State of Mexico, with the participation of members of civil society. The observatory should also generate information that will allow for institutional improvements in this area. For such purposes, the State shall generate information systems that make it possible to: (i) evaluate the effectiveness of existing mechanisms for supervision and oversight of police operations before, during, and after the use of force, and (ii) provide feedback on appropriate institutional improvements based on the information obtained through the observatory."<sup>36</sup>

33. Based on the above, the IACHR reports that the State has described the internal process for overseeing the use of lethal force as stipulated in the National Law on the Use of Force but did not provide information on how those accountability mechanisms are working in practice. The IACHR also notes that no information was provided on the status of compliance with the Court's recommendation in the aforementioned case. Given that the content of the IACHR's recommendation is geared not just to establishing appropriate norms, but also to ensuring that a body independent of the security forces is responsible for providing accountability, precisely in order to guarantee impartiality with respect to the processing of the information reported, the Commission concludes that compliance with the recommendation is still partial.

34. Regarding the recommendation on **ensuring that, in cases of forced disappearance, extrajudicial executions, and torture, the lines of inquiry not only seek to disclose the actual perpetrators, but also include the responsibility of the chain of command**, the State indicated that the regulations on the matters covered by the recommendation provide for the responsibility of the chain of command. Thus, it pointed out that in the case of forced disappearances, Article 29 of the General Law on the Forced Disappearance of Persons, Disappearance Committed by Private Parties and the National System for the Search for Persons establishes that hierarchical superiors shall be considered perpetrators of the crime of forced disappearance of persons in accordance with the provisions of the corresponding criminal legislation. Regarding torture, it mentioned that Article 13 of the General Law to Prevent, Investigate, and Punish Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment states the same as the aforementioned article, establishing sanctions for public servants who engage in the conduct defined by law, individuals who intervene at any level in the criminal act, and public servants who, having knowledge of the commission of conduct constituting torture, refrain from immediately denouncing such conduct.<sup>37</sup>

35. Regarding cases of extrajudicial executions, the State reiterated that the National Law on the Use of Force also establishes that hierarchical superiors are responsible when they should have or have

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<sup>34</sup> PRODH Center. [Military Power. The National Guard and the risks associated with a revival of military protagonism](#), June 2021, pp. 166 and 167; Animal Político, [Revés de la Opacidad \(Opacity Back to Front\)](#), September 20, 2021.

<sup>35</sup> IACHR, [Annual Report, Chapter V, Mexico](#), 2020, par. 36.

<sup>36</sup>I/A Court H.R. Case of Women Victims of Sexual Torture in Atenco v. Mexico. Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 28, 2018. Series C No. 371, par. 356.

<sup>37</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 11 - 12.

knowledge that agents under their command have unlawfully used force, instruments, or firearms under their charge and do not prevent it or report it to the authorities.<sup>38</sup>

36. For its part, the PRODH Center indicated that, in the context of the 2014 Tlatlaya massacre case, illustrating the use of lethal force in operations and alleged confrontations between organized crime and the armed forces, seven security agents charged in the case were re-arrested, although the date of their trials and the momentum of the proceedings remain uncertain. In addition, it informed the IACHR that chain of command responsibility is not being investigated in this case.<sup>39</sup>

37. In this regard, the IACHR reiterates that Chapter XI of the National Law on the Use of Force on the Rules Governing Responsibilities establishes advances in the fight against impunity in public security and sets quite tight limits to the use of public force in official operations and by identified agents. However, acts of torture, forced disappearance, and extrajudicial executions can be committed in clandestine operations, and by omission or with the acquiescence of state agents or third parties.<sup>40</sup> On such occasions, the IACHR has also pointed out that, according to applicable regulations on forced disappearance, investigations into this crime must include the chain of command.<sup>41</sup>

38. Based on the foregoing considerations, the IACHR finds the information sent by the State in its last two reports on the regulation that provides for the incorporation of the chain of command in investigations into serious human rights violations to be reiterative. However, the evidence provided does not show progress in the implementation of this practice at the jurisdictional level.<sup>42</sup> Thus, the IACHR considers that compliance with its recommendation has been partial.

39. The IACHR received information from the State in relation to the recommendation on the **creation of information, data collection, and analysis systems regarding violence affecting women, children and adolescents, migrants, human rights defenders, justice operators, LGBT persons, indigenous peoples, and persons deprived of liberty**. With respect to **children and adolescents**, the State pointed out that the National System for the Integral Development of the Family (DIF), through the Federal Attorney General's Office for the Protection of Children and Adolescents (PFPNNA), has devised a number of systems for gathering, analyzing, and storing data on violence. Among them, the State mentioned the registration and monitoring of information on children under 3 years of age who live with their mother deprived of liberty in CEFERESO No.16 "CPS Femenil Morelos"; as well as their adolescent children who are under the care of third parties; records of reports of abuse of children and adolescents; and the creation of a system that stores and manages information on children and adolescents in a context of migration<sup>43</sup>.

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<sup>38</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 11 - 12.

<sup>39</sup> El Universal, [Re-arrest of military personnel in the Tlatlaya case](#), April 1, 2021; El Universal, [Re-arrest of military personnel in Tlatlaya case is relevant: chain of command still needs to be investigated: Prodh Center](#), April 1, 2021.

<sup>40</sup> IACHR, [Annual Report. Chapter V. Mexico](#), 2020, par. IACHR, [Annual Report. Chapter V. Mexico](#), 2019, par. 42.

<sup>41</sup> IACHR, [Annual Report. Chapter V. Mexico](#), 2020, par. IACHR, [Annual Report. Chapter V. Mexico](#), 2019, par. 43.

<sup>42</sup> In its observations on the draft of this report, the State reported that the SCJN has issued a pronouncement on the validity of the rule that provides that the crime of enforced disappearance can be committed by a public servant, regardless of whether he or she has participated in the legal or illegal detention of one or more persons. Comments and observations of the State of January 24, 2022, pp. 5-6.

<sup>43</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. General Comment No. 14., E/C. 12/2000/4, 11 August 2000, para.

40. The State also reported that during 2021 it resumed the monitoring needed to build the "National System of Information on Children and Adolescents," in compliance with the provisions of the General Law on the Rights of Children and Adolescents.<sup>44</sup>

41. Regarding information on violence affecting **human rights defenders**, without prejudice to specific actions undertaken to implement the recommendation on the matter, the State reported that as of April 2021 the Protection Mechanism for human rights defenders and journalists had 1,848<sup>45</sup> beneficiaries, as a result of increased awareness of the special vulnerability to which environmental defenders are exposed.<sup>46</sup>

42. The IACHR also notes that the State reported on the information system of the Executive Commission for Attention to Victims (CEAV), whose database of victims indicates their **age, sex, migratory status, whether they are journalists or human rights defenders, and whether they belong to an indigenous community**, along with other data. It added that, during 2021, steps were taken to improve the databases that compile general data on resolutions issued in favor of persons classified as victims. It pointed out that the CEAV took into account the complications that victims may encounter as a result of the COVID-19 health emergency, in terms of conducting procedures, due diligence, and other issues, in order to avoid unnecessary delays in accessing information. Likewise, the State also reported that, during 2021, the DIF, through the Unit for Social Assistance and Inclusion (UAIS), compiled quarterly statistics on such issues as violence, on **children, adolescents, women, older adults, migrants, and persons with disabilities**, although it did not specify the findings derived from this information.<sup>47</sup>

43. The IACHR welcomes the fact that the State is conducting the National Survey on Sexual and Gender Diversity (ENDESEG) 2021, for which data collection is scheduled to conclude in 2022. Its objective is to identify patterns of discrimination and violence to which this population is exposed on a daily basis.<sup>48</sup> With respect to **LGBTIQ persons**, the IACHR notes that the last survey conducted by the State on discrimination based on sexual orientation and gender identity dates back to 2018.<sup>49</sup>

44. In its comments on the draft of this report, the State pointed out that the periodicity of the ENDOSIG survey, like any other statistical instrument, responds both to its methodological structure and to the complexity of data collection and analysis. The State indicated that the contribution of the ENDOSIG 2018 is valid, since it is an exercise built on the basis of respect for the criteria of free recognition of identity and with an anti-discriminatory approach. Likewise, the State informed that from August 2021 to January 21, 2022, the National Survey on Sexual and Gender Diversity (ENDISEG 2021) will be carried out in households throughout the Mexican Republic. The Ministry of the Interior (SEGOB), through the National Council for the Prevention of Discrimination (CONAPRED), is working jointly with the National Institute of Statistics and Geography (INEGI) to carry out the ENDISEG 2021. The purpose of this survey is to identify the population aged 15 years and older with unconventional (or non-normative) sexual orientations and gender identities, their main

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<sup>44</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. General Comment No. 14., E/C. 12/2000/4, 11 August 2000, para. The State pointed out that the information could already be consulted via a [temporarily enabled web link](#) and that it covers the situation of the rights of children and adolescents, in particular with respect to such issues as child labor, prevalence of crime, insecurity, suicide, homicides of children under 18 years of age, asylum seekers, femicide of girls and adolescents, children and adolescents who do not attend school, illiteracy levels, malnutrition, and mortality.

<sup>45</sup> In its Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", the State reported (pp. 54-55) that it was providing protection to 1,848 beneficiaries. However, this section includes the latest official figure recently published by the State, indicating that the Mechanism has 1,506 beneficiaries.

<sup>46</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 54.

<sup>47</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. General Comment No. 14., E/C. 12/2000/4, 11 August 2000, para.

<sup>48</sup> INEGI, [Press Release No. 492/21](#), Inicia levantamiento de información de la Encuesta Nacional sobre Diversidad Sexual y de Género (ENDISEG) 2021, August 23, 2021.

<sup>49</sup> CONAPRED, [ENDOSIG 2018](#).

sociodemographic data, background information on childhood and adolescence, and to learn about the patterns of discrimination and violence to which they have been exposed throughout their lives.<sup>50</sup>

45. The IACHR also welcomes the fact that, after almost five years, the State has conducted the National Survey of the **Population Deprived of Liberty** (ENPOL 2021). For ENPOL 2021, the State collected information from 203 federal and state penitentiaries, indicating that in Mexico there are around 220 thousand persons deprived of liberty (94.3 % men and 5.7 % women), with Mexico City, the state of Mexico, and Jalisco accounting for 74 % of this population. Likewise, with respect to the variables of vulnerability and exposure to violence, the IACHR notes that 0.5% of the persons surveyed identified themselves as transgender and 3.9% as bisexual, homosexual, or of other sexual orientation.<sup>51</sup>

46. In this regard, the IACHR notes with concern that 49.1% of men and 39.8% of women stated that they suffered some type of physical aggression after detention; 42% of the prison population was beaten or mistreated in order to get them to incriminate themselves or accept the charges against them, and 51.8% reported having been held incommunicado or in solitary confinement in facilities run by the Public Prosecutors' Office (Ministerio Público). In addition, 11% of the women reported having been sexually assaulted while held at Public Prosecutors' Office facilities.<sup>52</sup>

47. With respect to information on information systems, data collection, and analysis regarding women, migrants, human rights defenders, justice operators, and indigenous peoples, the State indicated that in October 2021, at the initiative of the SEGOB, the Inter-institutional Group for Strategies against Violence against Women, Girls and Adolescents (GIEV) was created, which aims to strengthen and improve actions against impunity and violence against women and girls throughout the national territory. Within the framework of this initiative, the C-19 Statistics Working Group was formed to assist in the analysis of information on violence against women, femicides and 9-1-1 calls, as well as to meet the urgent information requirements arising from the health emergency generated by COVID-19. It also indicated that on November 16, the Federal Judiciary Council (CJF) and the German cooperation agency Deutsche Gesellschaft für Internationale Zusammenarbeit in Mexico (GIZ Mexico) signed a collaboration agreement to execute the project "Strengthening of the Federal Justice for Human Rights (FORTAJUS-DH)", whose objective is to improve the conditions of the Federal Judiciary (PJF) for compliance with human rights obligations. One of the three main axes of the aforementioned agreement contemplated the creation of a system of human rights indicators with the purpose of having reliable statistical information required on these issues, and to support institutional decision making for the promotion, dissemination and guarantee of human rights within the PJF<sup>53</sup>.

48. It also reported that the Institutional Program of the National Institute of Indigenous Peoples (INPI) 2020-2024 as well as the Special Program for Indigenous and Afro-Mexican Peoples (PEPIA) 2021-2024, defined for its Objective 1 the goal "Number of facts allegedly violating the rights of indigenous persons and peoples" and the Parameter "Percentage of women who received comprehensive care on gender violence in the Indigenous and Afro-Mexican Women's Houses", with annual measurement frequency and its level of disaggregation is national. Work is also underway to build a National System of Information and Statistics on Indigenous and Afro-Mexican Peoples and Communities, which will contain a National Catalog of Indigenous and Afro-Mexican Peoples and Communities, with the aim of identifying these communities and their main political, legal, economic, social and cultural institutions, their lands, territories and resources. It also indicated that the National Data and Information Bank on Cases of Violence against Women (BANAVIM), is a source of information that allows the preparation of statistics and diagnoses of violence that contributes to systematic

<sup>50</sup> Observations and Comments from the State of January 24, 2022, p. 7.

<sup>51</sup> INEGI, [ENPOL 2021](#), December 2021.

<sup>52</sup> INEGI, [ENPOL 2021](#), December 2021.

<sup>53</sup> Comments and observations of the State of January 24, 2022, pp. 8-9

knowledge of the characteristics and patterns of this phenomenon, in order to detect geographic areas and areas of society that imply risk for women, as well as the needs of services for their care<sup>54</sup>.

49. The State reported specific information on its programs for the collection of information with indicators and statistics on violence against children and adolescents. Without reporting relevant information, the State declared that it collects information on women defenders, indigenous people, and people with disabilities. For its part, the IACHR accessed information on systematic practices of violence (*ejercicios de sistematización de violencia?*) against women, LGBTIQ persons and persons deprived of liberty. The IACHR urges the State to submit information on the subject to facilitate a comprehensive evaluation of progress made in the creation of information systems in its next reports. In light of the above, the Committee considers that compliance with the recommendation is partial.

50. In relation to the recommendation on **reorienting its approach to the drug issue**, the State presented the National Addiction Prevention Strategy "Together for Peace" (ENPA), which promotes a change of approach to the addiction problem, with a perspective that treats people affected by addictions as a segment of the population whose rights to protection, support, inclusion, and bonding deserve to be respected. The State also indicated that, as part of its support for implementing the ENPA, the General Directorate of Crime Prevention and Services of the Attorney General's Office delivered 277 talks on various topics related to crime prevention, including drug use, to a variety of actors in different parts of the country, between January and September 2021.<sup>55</sup>

51. The IACHR also learned that on March 10, 2021, the Mexican Chamber of Deputies approved a bill to regulate the personal use of cannabis; that initiative was sent to the Senate, where, according to the State, it is currently under review. Through this ruling, the General Law for the Regulation of Cannabis was issued, which regulates the cultivation, production, distribution, sale, and consumption of marijuana and complies with the SCJN judgment that ordered legislation on the matter.<sup>56</sup> Although the unconstitutionality of the SCJN's prohibition of recreational use of marijuana has been resolved, there are still some lacunae related to marketing, self-cultivation, consumption, and amounts that can lawfully be possessed that need to be addressed in regulations in order to avoid loopholes that could generate legal uncertainty and criminalization.<sup>57</sup>

52. From the information submitted, the Commission notes that the State's report focuses, with significant support from law enforcement agencies, on disincentives to the use of psychoactive substances. The information provided contrasts with the report received in 2020 on the implementation of the National Program for Comprehensive and Differentiated Drug Policies (PNPIDD) 2019-2024, which focused on the prevention of drug abuse, violence, and other harm associated with the illicit market, through what the State described as a systemic, comprehensive, and balanced approach between public health interventions, social policy, and concern to see justice done, involving the gradual regulation of certain drugs. The State did not present new information regarding the implementation of that program. In its comments to the draft of this report, the State referred to the 2019 National Strategy for the Prevention of Addictions (ENPA) "Together for Peace" as a collective commitment of the whole of society, the three branches of government, the three orders of government, and the social and private sectors to change the traditional paradigm in terms of prevention of psychoactive substance use towards a perspective that does not criminalize users, that treats people affected

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<sup>54</sup> Comments and observations of the State of January 24, 2022, pp. 8-9

<sup>55</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 14 – 16. The State reported that the Directorate of Crime Prevention also organized informative talks, forums, conferences, and meetings on the subject for public servants who perform crime prevention functions in the Prosecutor's Office and mentioned that this knowledge is replicated by the staff implementing crime prevention programs in schools and community and sports centers, along with other training at the municipal level.

<sup>56</sup> New York Times, [Mexico Set to Legalize Marijuana, Becoming World's Largest Market](#), March 20, 2021.

<sup>57</sup> BBC, [Marijuana in Mexico: 5 questions about what changes now that the law does not prohibit recreational cannabis use](#), June 30, 2021.

by addictions as a population worthy of rights of protection, support, inclusion and bonding, with a view to their acquiring a healthy and productive life in all senses.<sup>58</sup> Thus, with respect to the recommendation made, the level of implementation of these policies is not clear. In light of the above, the IACHR considers that compliance with the recommendation is partial.

## B. Disappearances and Forced Disappearances

- Adopt a General Law on Disappearances and Enforced Disappearances, and take all necessary measures to ensure that, at both the federal and state levels, legislation and practices conform to international standards in this area.
- Establish immediate search mechanisms for missing persons throughout the national territory.
- Improve the National Registry of Missing Persons as a single registry of disappearances that also allows registering a person as a victim of enforced disappearance. A database should contain personal information on missing persons; the necessary personal -- mainly genetic and cellular sample-- information regarding the relatives of missing persons, obtained with their consent; and genetic information and cellular samples from the bodies of any unidentified persons who were deprived of life. Such personal information shall be protected on the Registry's website in accordance with international standards on access to information.
- Strengthen existing early warning and urgent search mechanisms in cases of disappearance of women and girls to ensure their effective application at the federal, state, and municipal levels. Likewise, strengthen the National Registry of Data on Missing or Disappeared Persons so that it provides accurate and reliable information on missing and forcibly disappeared women and girls.
- Comply with the recommendations of the GIEI in accordance with its mandate, specifically its reiterated request to meet with members of the Army, as well as to visit Battalion 27 and continue with the investigations in the case. Consider using similar mechanisms for other cases of gross human rights violations.

53. Regarding the recommendation to **adopt a General Law on Disappearance and Enforced Disappearance, and to adopt all necessary measures to ensure that, at both the federal and state levels, legislation and practices are in line with international standards on the matter**, as already reported by the Commission, the Mexican State adopted the General Law on Enforced Disappearance, Disappearance Committed by Private Parties and the National System for the Search for Persons (hereinafter the "General Law") on November 17, 2017, which entered into force on January 16, 2018.<sup>59</sup> In addition, the State recalled that in December 2018 it recognized, nationally and internationally, the existence of a humanitarian crisis of missing persons and a crisis with respect to forensic matters in Mexico.<sup>60</sup> In view of the above, the State complied with the first part of the recommendation. The CNDH informed the IACHR that the implementing regulations of this Law have not yet been adopted.<sup>61</sup>

54. With regard to other measures to ensure that practices are in line with international standards in this area, the State reiterated information on the publication of the Standardized Protocol for the Search for Missing and Unaccounted-for Persons (PHB) in October 2020, and indicated that it was the product of a broad

<sup>58</sup> Observations and Comments from the State of January 24, 2022, p. 8).

<sup>59</sup> IACHR, [Annual Report, Mexico](#), 2020, par. 59; IACHR, [Annual Report, Mexico](#), 2019, par. 57; IACHR [Annual Report, Mexico](#), 2018, par. 40.

<sup>60</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 16.

<sup>61</sup> IACHR, [Reporte de la CNDH ante el SIMORE](#), December 15, 2021.

participatory process.<sup>62</sup> The State added that the Additional Protocol for the Search for Missing Children and Adolescents (PABNNA) was approved by the National Search System (SNB) in April 2021, and published in the Official Gazette of the Federation on July 15, 2021.<sup>63</sup> The IACHR notes that this tool establishes differentiated and standardized methodologies at the national level in order to make the search for missing children and adolescents in Mexico more efficient.<sup>64</sup> In particular, it stresses that the design and preparation of the PABNNA sought to guarantee the right of family members and civil society organizations to participate in the construction of public search policies, in addition to the fact that it benefited from the observations of experts and international organizations. Without prejudice to the above, the Commission notes that the PABNNA as adopted without the consent of the Attorney General's Office of that of the National Conference of Judicial Procurators (CNPJ), both of which are key authorities for looking for and locating children and adolescents.<sup>65</sup>

55. In the same vein, the IACHR welcomes the creation of the National Roundtable (*Mesa Nacional*) for the Search for Disappeared Migrants in November 2021<sup>66</sup>, and notes that the SNB authorities are in the process of drafting the Guidelines of the External Support Mechanism for Search and Investigation with the aim of establishing a transnational search and access to justice mechanism for missing migrants and members of their families residing abroad, as detailed below. The Commission also highlights the decision of the first chamber of the SCJN to recognize the mandatory nature of the urgent actions of the United Nations Committee on Enforced Disappearances (CED) for all Mexican authorities within the scope of their respective spheres of competence "as they constitute precise guidelines for search and investigation and are a consequence of the useful effect of applying the provisions of treaties and the pro persona principle in their interpretation."<sup>67</sup> In addition to the above, the IACHR welcomes the Mexican State's invitation to the CED to conduct a visit in November 2021<sup>68</sup>, and hopes that Mexico will adopt the necessary measures to implement any recommendations issued by said body in due course.

56. On the other hand, and taking into consideration that forensic identification has a direct impact on the search for and location of missing persons, the Commission highlights the advocacy work on human identification promoted by the National Search Commission (CNB) through the strengthening of the forensic capacities of the states with federal subsidies. In this regard, the State reported on the promotion of three Human Identification Centers: (i) the Regional Human Identification Center located in Coahuila, which is currently up and running; (ii) the Human Identification Center of San Luis Potosí, which is in the process of acquiring equipment; and (iii) the Human Identification Center of Tamaulipas, which is under construction. In addition, the IACHR learned through information in the public domain about the possible construction of a

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<sup>62</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 16 - 17; Official Gazette of the Federation, [Agreement SNBP/002/2020 approving the Standardized Protocol for the Search for Missing and Unaccounted for Persons, which is annexed to this Agreement and forms an integral part thereof](#), October 6, 2020.

<sup>63</sup> IACHR, <https://twitter.com/CIDH/status/1383037926066520064?s=20>, April 16, 2021; Ninth Report of the Mexican State on compliance and follow-up of the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 17 - 18; Diario Oficial de la Federación, [Acuerdo SNBP/002/2021 por el que el Sistema Nacional de Búsqueda de Personas aprueba el Protocolo Adicional para la Búsqueda de Niñas, Niños y Adolescentes](#), July 15, 2021; IACHR, <https://twitter.com/CIDH/status/1415804689493413897?s=20>, July 15, 2021.

<sup>64</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 17 - 18.

<sup>65</sup> CNB, [First Regular Session of the National System for the Search for Persons of 2021](#), April 15, 2021.

<sup>66</sup> IACHR, <https://twitter.com/CIDH/status/1458462923702128643?s=20>, November 10, 2021; Ministry of the Interior, [Approves SNBP mechanisms to search for missing migrants](#), November 9, 2021; CNB, [Second Regular Session of the National Search System 2021](#), November 9, 2021.

<sup>67</sup> IACHR, <https://twitter.com/CIDH/status/1405663981948309505?s=20>, June 17, 2021; SCJN, First Chamber, [Forced Disappearance of Persons. The urgent actions called for by the United Nations Committee on Enforced Disappearances are mandatory for the authorities in charge of the search for missing persons](#). Thesis: 1a./J. 37/2021 (11a.), November 19, 2021

<sup>68</sup> Ministry of Foreign Affairs and Ministry of the Interior, [Committee on Enforced Disappearances of the United Nations will visit Mexico, August 30, 2021](#) Mexico, August 30, 2021; OHCHR, [Press conference following the visit of the UN Committee on Enforced Disappearances to Mexico, November 26, 2021](#), November 26, 2021.

fourth center in Jalisco.<sup>69</sup> The State added that it has been promoting the construction of five centers for the safekeeping of the bodies of deceased persons in Tamaulipas, Michoacán, Jalisco, and Veracruz.<sup>70</sup> Nevertheless, the Commission notes that those actions are no substitute for the forensic identification obligations of the federal and local law enforcement agencies, experts, and forensic authorities.

57. Along the same lines, the IACHR highlights the State's efforts to implement the Extraordinary Forensic Identification Mechanism (MEIF). In this regard, and thanks to its participation as a permanent guest in the MEIF implementation process, the Commission was able to observe an open-minded and inclusive process for defining the guidelines for selecting members of the Coordinating Group and recognizes the State's efforts to ensure mechanisms allowing for the participation of relatives of missing persons and of civil society in the selection of nominees. In addition, the Commission appreciates the State's efforts to ensure that the experts were recruited through the United Nations Population Fund (UNFPA) and the United Nations High Commissioner for Human Rights (OHCHR) in order to ensure the independence of the MEIF. Thus, in August 2021, during the official initiation of the MEIF, the State publicly presented the members of the Coordinating Group.<sup>71</sup>

58. In line with the above, at its 182nd period of sessions, the IACHR convened ex officio a public hearing on progress and challenges encountered in the implementation of the Extraordinary Forensic Identification Mechanism. In this regard, civil society organizations acknowledged the start of MEIF Coordinating Group activities, following a broad participatory, public, and transparent process. They also stressed the importance of moving ahead with collaboration agreements between the MEIF and law enforcement and forensic authorities; of creating the national forensic registries provided for in the General Law on Disappearances; of ensuring the financial sustainability of the MEIF; and of providing the necessary guarantees for the performance of the MEIF's functions without risk or reprisals. In this regard, the State reported that the National Conference of Judicial Prosecutors (CNPJ) worked on the preliminary draft terms of reference for the development of a single coordination agreement with the MEIF aimed at ensuring the legality of its proceedings.<sup>72</sup>

59. The Commission appreciates that the Coordinating Group indicated that in its next (2022) work plan it intends to form the first forensic and data analysis team to determine the status of information on missing persons, post-mortem, and databases; and to move forward with reaching collaboration agreements with the CNPJ and local prosecutors' offices. The Coordinating Group indicated that it seeks to install mechanisms for the participation of families, collectives, and accompanying organizations in the functions it performs. In addition, it identified the following challenges: achieving a common (shared) understanding of the forensic crisis; the high volumes of dispersed data related to unidentified deceased persons; the importance of raising awareness of the value of the work of forensic personnel and fostering university programs to promote skills and professionalization in the field; and the participation of families as a key feature of public policies on forensic matters.<sup>73</sup>

60. With regard to the follow-up of the recommendations analyzed in this report, the IACHR considers that a key factor for adequate implementation of the General Law is the pro-active adoption of measures for the creation of institutions specializing in the search for missing persons and investigating crimes

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<sup>69</sup> Government of Jalisco, [State government officials participated in the academic review of the III Government Report](#), November 29, 2021; El Informador, [Proyectan 29.3 MDP para Centro de Identificación Humana en Jalisco](#), November 2, 2021.

<sup>70</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 41.

<sup>71</sup> Ministry of the Interior, [Members of the Coordinating Group of the Extraordinary Forensic Identification Mechanism are presented](#), August 30, 2021; IACHR, <https://twitter.com/CIDH/status/1432705884673749022?s=20>, August 31, 2021.

<sup>72</sup> IACHR, Public Hearing, [Progress and Challenges in the Implementation of the Extraordinary Forensic Identification Mechanism](#), 182nd period of sessions, December 15, 2021.

<sup>73</sup> IACHR, Public Hearing, [Progress and Challenges in the Implementation of the Extraordinary Forensic Identification Mechanism](#), 182nd period of sessions, December 15, 2021.

of disappearance, as well as the activation of tools for investigating the disappearance of persons. That being so, in this report the Commission will review the status of implementation of the bodies that have specific functions perform in the National Search System in accordance with the General Law:

- a. **Local Search Commissions (CLB):** according to official information, as of the beginning of November 2021, the 32 CLBs of the federal entities were legally constituted, installed, and up and running. The IACHR notes that 26 CLBs have a person in charge appointed in accordance with legal requirements, while the CLBs of the states of Guerrero, Michoacán, Querétaro, San Luis Potosí, Veracruz and Yucatán still have a person “in charge of the office.”<sup>74</sup> In this regard, the Commission expects Mexico to adopt the necessary measures to advance the designation procedures established in its domestic legislation in order to ensure that all CLBs are headed by an incumbent. At the same time, the IACHR notes that in 2021, more than 580 million Mexican pesos in federal subsidies were granted to strengthen the capacities of search commissions, and notes that most of them operate thanks to those subsidies. The IACHR takes note of the CNB's calls to Congresses to ensure that the CLBs have the budgetary allocations they need for the proper performance of their functions. In its observations on the draft of this report, the State indicated that while the State recognizes the challenges in terms of financial and human resources for their operation, it points out that both the federal government, through the National Commission for the Search for Persons (CNBP), and the National Search System of SNB, have reiterated to the governors of the states their obligation to build, strengthen, and maintain the CLBs<sup>75</sup>. Accordingly, the Commission calls on the State to take the necessary measures in accordance with its internal regulations to ensure that the CLBs have adequate human, financial, technical, and scientific resources, regardless of the section of government to which they belong.
- b. **Public Prosecutor's Offices specializing in the investigation of crimes of disappearance:** The State reiterated information regarding the creation of the Special Prosecutor's Office for the Investigation of Enforced Disappearance Crimes in 2018, which is attached to the FGR.<sup>76</sup> Despite the above, the IACHR does not have updated official information on the status of the establishment and operation of the Specialized Prosecutor's Offices for the investigation of crimes of disappearance in the federative entities, and expects the Mexican State to report on this matter in its next reports.
- c. **Consejo Nacional Ciudadano (National Citizen Council):** In its 2020 follow-up report, the IACHR noted that the legal term of office for the members of the National Citizen Council would expire in April 2021.<sup>77</sup> In this regard, the Commission notes that the Senate of the Republic appointed the new members in a timely manner in March 2021, to serve a three-year term.<sup>78</sup>
- d. **Search groups:** In its comments on the draft of this report, the State informed that the CNBP is in the process of designing the guidelines that will allow each order of government to determine the number of members that will make up the Search Groups. However, it should be noted that search actions are dynamic, i.e., each action is specific according to the needs of the terrain and the case itself, so human and material resources will be determined for the type of search to be carried out on land, waterways, by air, etc. It also indicated that from February 8, 2019 to November 4, 2021,

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<sup>74</sup> CNB, [Second Session of the National Search System 2021](#), November 9, 2021.

<sup>75</sup> Observations and Comments from the State of January 24, 2022, p. 10.

<sup>76</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 18: 18.

<sup>77</sup> IACHR, [Annual Report, Mexico](#), 2020, par. 70.

<sup>78</sup> Senate of the Republic, [Senate appoints members of the Citizen Council of the National System for Searching for Persons](#), March 17, 2021.

the CNB implemented 2,260 field search days in 28 states and 314 municipalities; of those days, 18 involved waterway searches.<sup>79</sup> To undertake such actions, the CNB forms search groups.<sup>80</sup>

- e. National Exhumation and Identification Program: The State indicated that the Prosecutor's Office Specializing in Human Rights and the Office responsible for General Coordination of Expert Services have adopted measures for the development of the program in question, specifically, the preparation of a diagnostic assessment of the state of forensic and expert services in the country and working group meeting with forensic experts from international and academic organizations to define strategies and courses of action.<sup>81</sup> Notwithstanding the above, the Commission notes the National Citizen Council's requests to the FGR to guarantee participation mechanisms for relatives of missing persons and civil society organizations in the design and development of the National Exhumation and Identification Program in accordance with Article 134, section XII, of the General Law.<sup>82</sup>
- f. National Search Program: The IACHR notes that the CNB began designing and drafting the National Search Program in October 2021 and takes note of the plan to develop and implement it in 9 stages through August 2022. The CNB reported that, in each of these phases, a variety of participation mechanisms have been foreseen to gather needs and proposals from family members and social organizations<sup>83</sup>. Simultaneously, the Commission notes progress with the development of the Northeastern<sup>84</sup> and Northwestern<sup>85</sup> Regional Search Plans, provisional proposals for which should be ready by March and July 2022, respectively.<sup>86</sup>

61. With respect to the information management tools envisaged in the General Law, the Commission notes the following:

- a. National Register of Disappeared and Missing Persons (RNPDNO): In its follow-up reports, the IACHR acknowledged the creation of the RNPDNO, which has a public version that allows citizens to consult in real time the number of reports and complaints of missing or unaccounted-for persons, as well as a tool to report disappearances, even anonymously and without filing a complaint.<sup>87</sup> The IACHR notes that in November 2021 the National Search System agreed to the establishment of the Committee of the Single System of Technological and I.T Information (SUITI) in order to ensure inter-agency coordination in decision-making regarding the interoperability of the RNPDNO with other relevant databases for the investigation, search and identification of missing persons.<sup>88</sup>
- b. National Forensic Database: The Mexican State reported that, by virtue of bilateral cooperation with the Government of the United States, an agreement was signed for the donation of the

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<sup>79</sup> Observations and Comments from the State of January 24, 2022, p. 10.

<sup>80</sup> Ministry of the Interior, [First visit of the UN Committee on Enforced Disappearances](#), November 15, 2021.

<sup>81</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 22.

<sup>82</sup> CNB, [Second Session of the National Search System 2021](#), November 9, 2021; National Citizen Council, <https://twitter.com/CCiudadanoSNB/status/1464264317600251919?s=20>, November 26, 2021.

<sup>83</sup> CNB, [Second Regular Session of the National Search System 2021](#), November 9, 2021.

<sup>84</sup> The Northeastern Regional Search Plan will be applicable in the states of Coahuila, Durango, Nuevo Leon, and Tamaulipas.

<sup>85</sup> The Northwestern Regional Search Plan will be in effect in the states of Baja California, Baja California Sur, Chihuahua, Sinaloa and Sonora.

<sup>86</sup> CNB, [Second Regular Session of the National Search System 2021](#), November 9, 2021.

<sup>87</sup> IACHR, [Annual Report, Mexico](#), 2020, par. 71; IACHR, [Annual Report, Mexico](#), 2019, par. 64.

<sup>88</sup> CNB, [Second Session of the National Search System 2021](#), November 9, 2021.

Combined DNA Index System (CODIS) and its implementation in all forensic laboratories of public prosecutors' offices and government laboratories involved in the administration of justice in Mexico.<sup>89</sup> Mexico also indicated that it is working on a national interoperable computer system that will allow the exchange of information between the *Ante Mortem/Post Mortem* Database, the National Forensic Data Bank, the National Registry of Deceased, Unidentified and Unclaimed Persons, as well as the National Registry of Graves in the implementation phases ranging from 2021 to 2024.<sup>90</sup>

- c. National Registry of Unidentified and Unclaimed Deceased Persons: The State reported on the adoption of measures aimed at implementing the National Registry of Unidentified and Unclaimed Deceased Persons during several implementation stages between 2021 and 2024.<sup>91</sup>
- d. National Registry of Graves: The State reported on the adoption of measures aimed at implementing the National Registry of Unidentified and Unclaimed Deceased Persons during several implementation stages between 2021 and 2024.<sup>92</sup> In addition, it pointed to the CNB's efforts to consolidate a registry of contexts in which corpses are discovered, as well as the collection of information on burials in mass graves in municipal cemeteries, and indicated that the data obtained should serve as input for the National Register of Graves.<sup>93</sup> However, the IACHR notes that the aforementioned database is not yet operational, as detailed below in the report,
- e. Administrative Registry of Detentions: The Commission was apprised of the start-up of the National Registry of Detentions on April 1, 2021, which has a public version that makes it possible to know whether a person has been detained and, if so, to locate the place where he or she is being held.<sup>94</sup> Nevertheless, the IACHR notes that the unconstitutionality action brought by the CNDH before the SCJN on June 26, 2019 has not yet been resolved and could hamper the prompt release of detainees, as detailed below.
- f. AMBER Alert: The State noted that the AMBER Alert system still faces challenges related to lack of real capacity to search for children and adolescents.<sup>95</sup> In its observations on the draft of the present report, the State indicated that during 2021, the CNB, with the support of organizations specializing in children's issues and the active participation of children and adolescents, prepared the Draft Additional Search Protocol for Children and Adolescents (PABNNA), which was approved by the National System in April and published in August 2021. PABNNA should be applied in conjunction with the PHB<sup>96</sup>.
- g. Standardized Search Protocol: In its 2020 follow-up report, the Commission welcomed the publication of the PHB in October 2020, and highlighted the fact that this tool provides for an

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<sup>89</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 22.

<sup>90</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 22.

<sup>91</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 22.

<sup>92</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 22.

<sup>93</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 40 – 41.

<sup>94</sup> Ministry of the Interior, [National Registry of Arrests for administrative offenses comes on stream on April 1st](#), March 31, 2021.

<sup>95</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 18: 18.

<sup>96</sup> Observations and Comments from the State of January 24, 2022, p. 10.

immediate search mechanism and a variety of methodologies for searching for missing persons.<sup>97</sup> In addition, the IACHR welcomes the adoption and publication of the PABNNA as a differentiated tool for the search for missing children, and reiterates its observations contained in this report,

- h. Standardized Investigation Protocol: The State reiterated information on the adoption and publication of the Standardized Investigation Protocol in 2018.<sup>98</sup> In this regard, the IACHR reiterates its observations set forth in its 2019 and 2020 follow-up reports regarding the shortcomings with respect to guaranteeing the right of family members and civil society to participate in its design and development.<sup>99</sup>

62. Notwithstanding the foregoing, the Commission notes with concern that disappearances and forced disappearances continue to constitute an alarming phenomenon that seriously affects the human rights situation in Mexico. In its comments on the draft of this report, the State reiterates that the Government of Mexico has acknowledged, since December 2018, that it faces significant challenges in forensic and disappearance matters. Since then, the CNBP and the SEGOB have begun to build the institutional scaffolding for the State's search efforts.<sup>100</sup> According to official information, as of December 2021 there were more than 95,000 reports and complaints of missing persons<sup>101</sup>, compared to just over 82,000 2020.<sup>102</sup> For the Commission, full implementation of the General Law and the effective functioning of the institutional framework specializing in the search for persons and investigation of crimes of disappearance is essential not only to address the disappearances and forced disappearances that have already occurred; it must also be geared to adoption of the measures needed to prevent future violations, in accordance with Mexico's international obligations.

63. In summary, the Commission welcomes the fact that Mexico continues to adopt measures aimed at the full implementation of the General Law on Disappearances, specifically, the installation and operation of all the Local Search Commissions, the creation of the National Roundtable for the Search for Disappeared Migrant Persons, and publication of the PABNNA. In addition to the above, the IACHR recognizes the extraordinary measures taken to strengthen the forensic capacities of the different states through the construction of infrastructure for conducting forensic activities, as well as the entry into operation of the MEIF. The Commission also takes note of the progress made toward the development of the National Search Program and the National Exhumation and Identification Program, as well as the implementation of the National Forensic Data Bank, the National Registry of Unidentified Deceased Persons, and the National Registry of Graves. Notwithstanding the foregoing, the IACHR notes that the aforementioned programs and databases have not yet been created, and therefore calls upon the State to redouble its efforts in order to fully comply with its programmatic and regulatory obligations in connection with disappearances. In light of the above, the Committee considers that substantial compliance with the recommendation is still partial.

64. Regarding the recommendation to **establish immediate search mechanisms for missing persons**, the State reiterated information indicating that the PHB establishes an immediate search mechanism to look for and locate missing persons regardless of whether or not there is a presumption of probable commission of a crime against them. In addition, the State reported that the PHB determines the actions to be taken by the different authorities, classified as primary responses, transmission of notifications, informative, disseminating, etc.; it emphasizes the need to adopt a differentiated, gender, and human rights approach, and stresses that "the authorities have a reinforced duty to act with due diligence when there is gender violence,

<sup>97</sup> IACHR, [Annual Report, Mexico](#), 2020, par. 71.

<sup>98</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 19 – 20.

<sup>99</sup> IACHR, [Annual Report, Mexico](#), 2020, par. 71; IACHR, [Annual Report, Mexico](#), 2019, par. 67.

<sup>100</sup> Comments and observations of the State of January 24, 2022, pp. 10

<sup>101</sup> CNB, <https://versionpublicarnpdno.segob.gob.mx/Dashboard/Index>, consulted on December 9, 2021.

<sup>102</sup> IACHR, [Annual Report, CHAPTER IV.A](#), 2020, par. 544.

which, under this Protocol, is the case when the disappearance of a person is related to their gender condition or identity, specifically, as women (girls, adolescents or adults) and persons belonging to the sexually diverse population (...)." <sup>103</sup>.

65. In this regard, the Commission reiterates its observations regarding the adoption of the Standardized Search Protocol in the sense that it provides for an immediate search mechanism. Notwithstanding the above, the Commission continues to receive complaints about obstacles to inter-agency coordination for implementation of the PHB, especially as regards law enforcement authorities. These challenges are seen, for example, in the absence of the National Conference of Judicial Prosecutors (CNPJ) at most of the PHB Implementation, Monitoring, Evaluation and Updating Commission's sessions held in 2021, until a representative was appointed in December 2021.<sup>104</sup> For these reasons, the IACHR considers it important to continue monitoring implementation of the PHB during the coming year, in particular with respect to immediate search actions deployed by the authorities required to conduct them within their sphere of competence, and trusts that the State will report on the measures adopted in this regard in its next report. In light of the above, the IACHR considers that substantial compliance with the recommendation is partial.

66. Regarding the recommendation to **improve the National Register of Missing Persons as a single register of disappearances with genetic and protected information**, the State reiterated that the CNB has been implementing a technological strategy for the incorporation of information into the RNPDNO from 2019 to the present and added that said register has an interoperability system with other databases of state authorities at various levels of government. In addition, the State indicated that the RNPDNO has technological tools for large-scale uploading of missing persons reports, as well as tools for reporting missing and unaccounted for persons on a public web page and a public version that can be used to consult information on missing and unaccounted for persons in Mexico in real time.<sup>105</sup>

67. Nevertheless, the State emphasized that, not only are the data dynamic because of the very nature of these kinds of records; they will also be modified as soon as the prosecutors' offices that have not yet done so provide the information in their possession.<sup>106</sup> Accordingly, the Commission considers it important to continue monitoring the progress made and challenges encountered by obligated authorities with feeding information into the RNPDNO with a view to consolidating a single registry of disappearances with more robust data. At the same time, the IACHR takes note of the creation of the Committee of the Single System of Technological and Computerized Information (SUITI), aimed at achieving coordination among the various authorities of the SNB for the implementation of that System, which will allow interoperability between the RNPDNO and other relevant databases for the investigation, search for, and identification of missing persons.<sup>107</sup>

68. The Commission appreciates the progress reported above, although it understands that the present recommendation is aimed at feeding genetic and protected information into the RNPDNO, as provided for in the General Law with the implementation of an interoperability system with the National Forensic Data Bank and the National Registry of Unidentified and Unclaimed Deceased Persons. However, as detailed above, these tools are not yet up and running. Accordingly, the IACHR notes the lack of a national, unified, and updated registry integrated with the Forensic Data Bank and its corresponding National Registry of Unidentified and

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<sup>103</sup> Diario Oficial de la Federación, [Acuerdo SNBP/002/2020 por el que se aprueba el Protocolo Homologado para la Búsqueda de Personas Desaparecidas y No Localizadas, el cual se anexa al presente Acuerdo y forma parte integrante del mismo](#), October 6, 2020.

<sup>104</sup> CNB, [Second Session of the National Search System 2021](#), November 9, 2021.

<sup>105</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 24 – 25.

<sup>106</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 24 – 25

<sup>107</sup> CNB, [Second Session of the National Search System 2021](#), November 9, 2021.

Unclaimed Deceased Persons. That being so, the IACHR considers that compliance with the recommendation is partial.

69. Regarding the recommendation to **strengthen existing early warning and urgent search mechanisms in cases of disappearance of women and girls**, and to **strengthen the ability of the National Registry of Data on Missing or Disappeared Persons to provide accurate and reliable information on women and girls**, the State recalled that there is a public version of the RNPDPNO, whose technological tools make it possible to disaggregate information on missing, unlocated, and located persons by gender and age, as well as other categories. It added that the PABNNA takes into consideration the conditions of vulnerability of adolescent girls and women, placing special emphasis on analysis of the context, particularly the hypothesis of trafficking for the purpose of sexual exploitation. In addition, in all cases of disappearance of adolescent girls and women, the authorities are obliged to deploy all available mechanisms to search for them and initiate an investigation as soon as they become aware of their disappearance.<sup>108</sup>

70. The CNDH informed the Commission that its Special Program for Disappeared Persons, attached to the First Inspector General's Office, conducted 100 supportive operations for families and searchers on the ground, and provided direct assistance to 1,325 family members and relatives of victims of disappearance. Likewise, 530 legal counseling services were provided to the families and relatives of missing persons.<sup>109</sup>

71. In relation to the disappearances of women, the Commission received information from the State indicating that the PHB establishes a differentiated approach to the search for girls, female adolescents, and women, such as the complementary activation of the Alba Protocol, as well as the consideration in search hypotheses that the disappearance may have been gender motivated. The State added that the CNB and the National Commission to Prevent and Eradicate Violence against Women (CONAVIM) agreed to jointly initiate harmonization of the Alba Protocols in the country. In this regard, the IACHR takes note of the installation of a National Technical Commission for the Harmonization of Alba Protocols in August 2021, which is composed of 64 liaisons at the national level, one for each CLB and one for each prosecutor's office in the different federal entities<sup>110</sup>.

72. The IACHR welcomes the fact that the PABNNA contemplates differentiated methodologies for the search for missing girls and female adolescents with a special emphasis on contextual analysis and highlights the State measures aimed at updating and standardizing the Alba Protocols at the national level. It therefore considers it important to continue monitoring these actions. In addition, it reiterates its observations on the importance of the PHB having specialized, differentiated, and gender-sensitive provisions for cases of disappearance of women, female adolescents, and girls, such as those included in its 2020 report.<sup>111</sup> In its comments on the draft of this report, the State informed that the CNB, together with the National Commission to Prevent and Eradicate Violence against Women (CONAVIM), initiated in 2021 a process of implementation of the National Program for the Harmonization and Application of the Alba Protocol in order to align this mechanism of immediate reaction and coordination for the search and investigation of cases of disappearance of women, girls and adolescents. In August 2021, the National Technical Coordinating Committee for the Harmonization of Alba Protocols was established, made up of CLB and FE liaisons from the 32 states, with the

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<sup>108</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 25 – 27.

<sup>109</sup> IACHR, [Report of the CNDH in SIMORE](#) July 15, 2021.

<sup>110</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 25 – 27.

<sup>111</sup> IACHR, [Annual Report Mexico](#), 2020, par. 81.

objective of working together on the minimum criteria document. This process is supported by UN Women.<sup>112</sup> Notwithstanding the foregoing, the IACHR notes with concern that, as of December 7, 2021, more than 23,500 girls, adolescent girls, and women were reported missing in Mexico, more than 50% of whom are in the 10 to 24 age range.<sup>113</sup>

73. In view of the above, the IACHR considers that substantial compliance with this recommendation remains partial, and it will continue to follow up on the implementation of the search actions contemplated in the PHB and the PABNNA, in addition to monitoring progress with standardizing the Alba Protocols at the national level.

### **Follow-up to the Ayotzinapa Case**

74. During 2021, the IACHR continued to monitor compliance with Precautionary Measure 409/14 and with the recommendations made by the Interdisciplinary Group of Independent Experts (GIEI) and the Special Follow-up Mechanism for the Ayotzinapa Case (MESA) in their respective reports. To that end, the MESA continued to implement its 2020 work plan and adopted a new 2021-2022 work plan agreed upon with State during its September 2021 working visit.<sup>114</sup> Thus, the new work plan aims to strengthen follow-up and technical support for implementation of the precautionary measure, through technical assistance to the State to bolster the capacities of the Special Investigation and Litigation Unit for the Ayotzinapa Case (UEILCA) and the drafting of a follow-up report with recommendations.

75. In addition to the above, the Commission and the State, at the request of the parents of the missing students, took steps to extend the mandate of the GIEI until December 2021, and adopted the necessary measures to extend its mandate again for a period of three months. Thus, the simultaneous operation of the MESA and the GIEI allows the IACHR to carry out the close monitoring that the case deserves, as stated by the families of the students and their legal representatives at the time.<sup>115</sup>

76. As regards progress with the criminal investigation, the State reported that the UEILCA is pursuing lines of inquiry to establish the criminal liability for forced disappearance of persons detained in the investigation, as well as to determine irregularities in the investigations conducted by the then Attorney General's Office (PGR), which concluded with the so-called "Historical Truth". It also indicated that investigations are underway into possible acts of torture committed by public servants as a generalized and systematic practice. Thanks to those investigative efforts, UEILCA has been able to establish that the context in which the forced disappearance of the students occurred was possible due to the collusion of a transnational organized crime group called Guerreros Unidos with municipal, state, and federal authorities.<sup>116</sup>

77. With regard to the prosecution of the case, the State reported having obtained 85 arrest warrants, 55 of which have been executed and have led to sentences to imprisonment or commitment to trial

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<sup>112</sup> The State also stated that the National Women's Institute (INMUJERES) formed an Inter-agency Working Group made up of six local and federal institutions to design and implement a training program for personnel who carry out search and justice actions in cases of disappearance and violence against women. Observations and Comments from the State of January 24, 2022, p. 11.

<sup>113</sup> CNB, [Public Version of the RNPDO](https://twitter.com/kiquinta/status/1463944328791875589?s=20), December 7, 2021; Karla Quintana Osuna, <https://twitter.com/kiquinta/status/1463944328791875589?s=20>, November 25, 2021.

<sup>114</sup> IACHR, Press Release 241/21, [IACHR Concludes Working Visit to Mexico Regarding the Special Follow-Up Mechanism on the Ayotzinapa Case](#), Washington, D.C., September 16, 2021.

<sup>115</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. Prodh Center) Response of the Mexican State to the sixth questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, August 12, 2021, pp. 1 - 2.

<sup>116</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 28 - 31.

(*vinculación a proceso*)<sup>117</sup>. In this regard, the Commission notes that multiple arrest warrants have been issued against municipal police officers in Iguala, municipal police officers in Cocula, agents of the now defunct Federal Police, agents of the Federal Ministerial Police, ministerial agents of the Specialized Sub-Attorney's Office for the Investigation of Organized Crime (SEIDO) attached to the former PGR, and even against an agent of the Secretariat of the Navy (SEMAR) and an employee of the Secretariat of National Defense (SEDENA). In particular, the Mexican State highlighted the arrest warrants issued against the former head of the Criminal Investigation Agency, who is reportedly in Israel, and against the former head of the Federal Ministerial Police, both of whom were high-ranking officials of the now defunct PGR.

78. In addition to the foregoing, the State indicated that the UEILCA has been mandated to investigate allegations of acts possibly constituting crimes of torture, as well as crimes against the administration of justice probably related to the Ayotzinapa case.<sup>118</sup> In this regard, the IACHR has been apprised of the indictment of two former officials of the Office for General Coordination of Expert Services of the former PGR for their alleged participation in the manipulation of evidence at the San Juan River crime scene.<sup>119</sup> In addition, the State reported the initiation of two criminal cases<sup>120</sup> for the crime of torture in which two remand-in-custody orders were obtained against four public servants and against three public servants, respectively.<sup>121</sup>

79. The Commission is pleased to note that the State has fostered the flow of information from its institutions, gaining access to intelligence information that had not been provided in the first phase of the investigation. In particular, the IACHR notes, in connection with COVAJ's activities, the granting of some requests made by the GIEI for access to documents and information related to the facts of the case from a number of security and intelligence institutions.

80. At the same time, the IACHR notes that the State disclosed documents reportedly referring to communications intercepted by SEDENA in 2014 and that are said to be related to the Ayotzinapa case.<sup>122</sup> The Commission takes note of the statement by the families and legal representatives of the beneficiaries of the precautionary measure stating that, being members of COVAJ, they did not participate in the decision to publish the documents disseminated and regarded their propagation as risky. At the request of the legal representatives, an investigation was initiated with respect to SEDENA to determine the origin and further details of the documents disclosed that could lead to the establishment of criminal liability and the determination of the whereabouts of the missing students.

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<sup>117</sup>Regarding the status of the arrest warrants issued, Mexico reported the following: (i) 34 arrest warrants against Iguala municipal police officers, 27 of whom have been formally remanded in custody; (ii) 25 arrest warrants against various individuals, including a military officer and three federal police officers, of which 18 have been formally remanded in custody; (iii) nine arrest warrants against six municipal police officers in Cocula and three municipal police officers in Iguala, three of whom have been formally remanded in custody; (iv) eight arrest warrants against members of the Federal Ministerial Police for the crime of torture, six of whom have been formally remanded in custody; (v) one arrest warrant for the crime of torture against a member of the Ministry of the Navy, also remanded in custody; (vi) three arrest warrants against former officials of SEIDO for the crime of torture, pending execution; (vii) three arrest warrants, pending execution, against former officials of the Federal Police for the crime of torture; (viii) an arrest warrant against a SEIDO agent for crimes against the administration of justice, forced disappearance, and torture; and (ix) an arrest warrant against the former head of the Criminal Investigation Agency of the then PGR, for crimes against the administration of justice, forced disappearance, and torture.

<sup>118</sup> Diario Oficial de la Federación (Official Gazette), [Agreement A/010/19 creating the Special Investigation and Litigation Unit for the Ayotzinapa case](#), June 26, 2019; Ninth Report of the Mexican State on compliance and follow-up of the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 28 – 31.

<sup>119</sup> Aristegui Noticias, [Two experts in the Ayotzinapa case are indicted](#), October 13, 2021.

<sup>120</sup> Criminal Case 1/2020 of the Ninth District Court, based in Iguala; and Criminal Case 8/2020.

<sup>121</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 28 – 31.

<sup>122</sup> Proceso, [After criticism for lack of transparency \(opacidad\), Encinas publishes "relevant information" on Ayotzinapa case](#), October 1, 2021.

81. Accordingly, the Commission reiterates the importance of the State continuing to make every effort to ensure the execution of the arrest warrants and that orders to remand in custody are issued using regular procedures, with respect for the due process rights of the persons brought to justice. In particular, the Commission attaches special importance to the State's efforts to involve military officials in the investigation of the Ayotzinapa case, in line with the recommendations contained in the GIEI and MESA reports. The IACHR calls on the State to continue to advance investigations and prosecutions for the crime of enforced disappearance, as recommended by the GIEI and the MESA, and to exercise due care to respect the judicial guarantees of the persons prosecuted. The Commission also deems it a priority to adopt measures that ensure that the right of access to information regarding the matters of public interest that the Ayotzinapa case raises does not lead to those expectations being transformed into acts of obstruction of justice based on sensitive information, and that those measures protect the integrity of the investigation. **[TR: suggest clarifying the Spanish; and then checking my interpretation]**

82. Regarding the search for the 43 missing students, the State reported that the actions on the ground to search for them are being coordinated with the representatives of the beneficiaries of the precautionary measure and the Argentine Forensic Anthropology Team (EAAF), which furnishes technical advice to the families of the missing students. The State also indicated that the forensic search procedures are being conducted by forensic and ministerial personnel under the direction of the UEILCA and monitored by COVAJ authorities. The IACHR received information from the State indicating that 47 search exercises have been carried out since its creation, and positive results have been obtained in 10 of them.<sup>123</sup>

83. In February 2021, the head of the UEILCA had the skeletal remains transferred to the Laboratory of the University of Innsbruck, Austria, in a procedure monitored by the IACHR, COVAJ authorities, and members of the EAAF.<sup>124</sup> In June 2021, UEILCA received the results of the genetic identification, and reconfirmation of the identity (*reasociación positiva*), of students Jhosivani Guerrero de la Cruz and Christian Alfonso Rodríguez Telumbre, respectively. The IACHR appreciates that, once the results were confirmed by the EAAF, the Guerrero Cruz family was notified of the identification in a dignified manner by a team made up of the head of the UIELCA, COVAJ authorities, organizations representing the beneficiaries of the precautionary measure, and the EAAF.<sup>125</sup> More than seven years after the forced disappearance of the 43 students from Ayotzinapa, their whereabouts are still unknown and the clarification of the facts surrounding their disappearance is still pending. The IACHR considers it essential that the State redouble its efforts and continue to prioritize the search for the students.

84. As regards care for the victims, the IACHR appreciates the continuation of medical care services for relatives of the missing students in federal and state public health institutions, according to the guidelines established in the protocols adopted in coordination with the families and their representatives. In particular, the Commission highlights the State's efforts to ensure medical care for family members who have contracted COVID-19. However, the IACHR takes note of complaints about shortages of medicines and lack of sensitivity on the part of public health authorities in Guerrero.<sup>126</sup>

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<sup>123</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 31 – 32.

<sup>124</sup> Animal Político, [Mexico sends to Innsbruck 16 more remains related to the Ayotzinapa case](#), February 18, 2021; Reporte Indigo, analysis, February 18, 2021.

<sup>125</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 32; Ministry of the Interior, [Comisión Presidencial para el caso Ayotzinapa confirma hallazgos de restos de normalistas obtenidos en Barranca de la Carnicería \(Presidential Commission for the Ayotzinapa case confirms findings of remains of students obtained in Barranca de la Carnicería\)](#), June 15, 2021; IACHR, <https://twitter.com/CIDH/status/1404972382930997248?s=20>, June 15, 2021.

<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. (Prodh Center) Response of the legal representatives to the sixth questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, August 12, 2021, pp. 38.

85. Also, in a working meeting held during its 179th period of sessions, the IACHR received troubling information about omissions and unjustified delays on the part of the Executive Commission for Attention to Victims (CEAV) in processing payments for the maintenance of biomedical equipment and the place where Aldo Gutiérrez Solano receives medical care.<sup>127</sup> The Commission was later informed that CEAV had made arrangements for the maintenance of Aldo's ventilator and for the processing of outstanding payments until March 2021, since when there had, however, been further delays.<sup>128</sup> For the IACHR, it is essential to guarantee a sustainable and timely mechanism for the payment of the assistance measures granted in favor of Aldo, as well as periodic maintenance of the biomedical equipment needed for his care.

86. On the other hand, the IACHR notes that in 2019, protocols were established to guarantee the rehabilitation of Édgar Andrés Vargas. However, the Commission received information indicating that, as a result of the health emergency, the care arrangements had to be suspended, and notes that, at the beginning of 2021, medical care was resumed.<sup>129</sup> Accordingly, the IACHR calls upon the State to take the necessary steps to provide the corresponding treatment, prostheses, and rehabilitation.

87. Regarding structural measures to avoid the repetition of the Ayotzinapa events, the IACHR is pleased to note that the work of the MEIF Follow-up Committee has been effective and that the Coordinating Group has been hired and is already in place. The Commission also notes that the State continues with the process of establishing protocols to govern the search for missing persons and that the SNB has adopted both the Additional Protocol for the Search for Missing Children and Adolescents<sup>130</sup> and the agreement to create the National Roundtable for the Search for Missing Migrants. It also notes that the Guidelines for the External Support Mechanism for the Search and Investigation are currently being drawn up.<sup>131</sup> The IACHR has followed up on the regular and special sessions of the 2021 National Search System and welcomes the reinforcement of actions aimed at addressing the problem of disappearance and enforced disappearance in Mexico in accordance with the recommendations of the GIEI and the MESA.

88. The IACHR will continue to participate and deploy its monitoring and technical assistance functions with respect to the search, investigation, victim assistance, and the establishment of structural measures of non-repetition, based on the precautionary measure in favor of the 43 missing students and their families, and the Commission's mandates under the American Convention on Human Rights. With respect to the recommendation under review, the IACHR considers that some important progress has been made, such as the positive identification of two of the students. However, it continues to be essential to deepen the lines of investigation to throw light on what happened and determine the corresponding liabilities, and to include surviving victims in the actions aimed at seeing justice done. The Commission therefore considers that compliance with the recommendation is partial. Finally, the Commission reiterates that it is preparing a follow-up report on compliance with the recommendations of the precautionary measure, as well as those of the GIEI and the MESA.

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<sup>127</sup> Working Meeting regarding precautionary measure 409/14, 179th period of sessions, March 26, 2021.

<sup>128</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. (Prodh Center) Response of the legal representatives to the sixth questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, August 12, 2021 pp. 38 – 39.

<sup>129</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. (Prodh Center) Response of the legal representatives to the sixth questionnaire of the Special Follow-Up Mechanism to the Ayotzinapa Case, August 12, 2021, pp. 38.

<sup>130</sup> IACHR, Observations on the Draft Additional Protocol for the Search for Disappeared Children and Adolescents, Communication 127-21/IACHR/SE/MPCT-MISC, March 22, 2021.

<sup>131</sup> IACHR, Observations on the guidelines for the External Support Mechanism for Search and Investigation and the Roundtable for the Search for Disappeared Migrant Persons, Communication 478-21/IACHR/SE/MPCT-MISC, September 15, 2021.

### C. Torture

- Adopt a General Law on Torture and inhuman or degrading treatment or punishment, and take all necessary measures to ensure that, at both the federal and state levels, legislation and practices conform to international standards in this area, especially the Inter-American Convention to Prevent and Punish Torture.
- In particular, ensure that the General Law on Torture excludes "evidence" and "confessions" obtained by torture from the criminal proceedings of the tortured person and other persons implicated in such confessions. Clearly establish in the law that the prosecuting party has the burden of proof to demonstrate the lawfulness of any challenged evidence.
- Create a Single National Registry of detained persons and ensure, on pain of punishment, that such persons are immediately brought before a judge.
- Investigate cases in which judges have not ordered an investigation when there are allegations or circumstantial evidence of torture or ill-treatment. Ensure that the Istanbul Protocol is applied at the national level by competent and independent authorities in an expeditious manner and on pain of punishment.
- Establish the mandatory use of cameras and other security protocols during interrogations and in patrols as a preventive measure against torture and other cruel, inhuman, and degrading treatment.
- Establish federal and state guidelines on the collection of uniform statistics on gross human rights violations. In particular, the State must improve the system for collecting information in a disaggregated manner, using a consistent and transparent methodology.
- Eliminate "arraigo" (writs of ne exeat) and quasi flagrante delicto (*flagrancia equiparada*) from the Mexican legal system.

89. In relation to the recommendation to **adopt a General Law on Torture and to ensure that practices in the matter are in line with international standards**, the Commission highlights that the General Law to Prevent, Investigate, and Punish Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (hereinafter the "General Law on Torture") was published in the Official Gazette of the Federation on June 26, 2017. In light of the above, the State has complied with the first part of the recommendation.<sup>132</sup>

90. For its part, the State highlighted Agreement A/006/18 of 2018, which established the creation of the Special Prosecutor's Office for Investigation of the Crime of Torture, which replaced the Specialized Unit for the Investigation of the Crime of Torture and which, since 2019, by virtue of Agreement A/013/19, is part of the Special Prosecutor's Office for Human Rights. With respect to the National Program for the Prevention of Torture, the State reported that it continues to be implemented and the staff of the Office of the Prosecutor for Torture continues to receive training through the Directorate for the Promotion of Human Rights Culture of the Office of the Special Prosecutor for Human Rights.<sup>133</sup>

91. The CNDH informed the IACHR that, based on the study entitled "Legislative Harmonization on the Prevention, Investigation, and Punishment of Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment" of 2020, during 2021 it had had contacts with a view to starting work on the necessary adjustments to the legislation in this area in the states of Querétaro, Quintana Roo, Michoacán, Tabasco, and Oaxaca.<sup>134</sup>

92. For its part, the Commission notes with concern that, according to the information available, the State has not yet created a national program for the prevention of torture, nor a national registry of this

<sup>132</sup> IACHR, [Annual Report, Mexico](#), 2019, par. 95; IACHR [Annual Report, Mexico](#), 2018, par. 71.

<sup>133</sup> Eighth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 16.

<sup>134</sup> IACHR, [Report of the CNDH in SIMORE](#) December 15, 2021.

crime. In particular, the United Nations office in Mexico pointed out that the publication of the National Program to Prevent and Punish Torture is still pending. In the same communiqué, it indicated that, through the Observatory against Torture, it has been able to verify that various national authorities do not have the systematized information they should have on the incidence of torture and the measures to eradicate it.<sup>135</sup> Likewise, through a June 26 pronouncement, the Mexico City Human Rights Commission (CDHCM) urged the State to conclude the process of drafting, publishing, and implementing the National Program for the Prevention and Punishment of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.<sup>136</sup>

93. With respect to the registry, the Commission notes that the United Nations has expressed its views on the State's failure to comply with its obligation to create and operate the National Registry of the Crime of Torture<sup>137</sup>. In addition, through a decision of October 20, the First Chamber of the Supreme Court of Justice of the Nation resolved to extend an indirect amparo lawsuit filed because of the failure to create and operate the National Registry of the Crime of Torture (Renadet). In this regard, the Court stated that the failure to create this registry represents an omission of the obligation of the Public Prosecutors' Office to diligently investigate torture.<sup>138</sup> In its comments on the draft of this report, the State reported that the National Registry of the Crime of Torture (RENADET) is now operational and can be consulted online.<sup>2</sup> Likewise, on December 15, 2021, the guidelines for the operation of the National Registry of the Crime of Torture were published in the Official Gazette of the Federation (DOF).<sup>139</sup>

94. In light of the above, the IACHR concludes that compliance with this recommendation has been partial and reiterates its call to the Mexican State to adopt the necessary measures to ensure that both at the local and national level, practices are in accordance with the General Law on Torture and international standards on the matter.

95. Regarding the recommendation to ensure that **the General Law on Torture excludes evidence and confessions obtained through torture and that the prosecuting party must prove the lawfulness of challenged evidence**, the State indicated that, in accordance with Article 50 of the General Law to Prevent, Investigate, and Punish Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, all evidence obtained directly through acts of torture and any other violation of human or fundamental rights is excluded or annulled, as well as evidence obtained by legal means but derived from such acts, because it lacks probative value. In addition, the State indicated that Article 52 of the aforementioned Law also establishes that when evidence has been excluded because it was obtained through a violation of human or fundamental rights and in the opinion of the Public Prosecutors' Office the evidence admitted was not sufficient to support the accusation, it will request the dismissal of the case. In this case, the Oversight Judge shall order the cessation of any precautionary measures that may have been imposed and, if applicable, shall order the immediate release

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<sup>135</sup> United Nations - Mexico, [The State must guarantee the right to the truth about the incidence of torture: ONU-DH](#), July 26, 2021.

<sup>136</sup> CDHCM, Mexico, Bulletin No. 118/2021 - [In connection with International Day in Support of Victims of Torture, the CDHCM urges publication and implementation of the National Program for Victims of Torture](#), June 26, 2021. See also: OMCT Red SOS-Tortura and Red Nacional de Organismos Civiles de Derechos Humanos, [Mexico: Torture and Impunity Increase during the Pandemic](#), July 2021; and Animal Político, [Is a decree enough to eradicate torture in Mexico?](#) September 23, 2021.

<sup>137</sup> United Nations - Mexico, [The State must guarantee the right to the truth about the incidence of torture: ONU-DH](#), July 26, 2021.

<sup>138</sup> Mexican Supreme Court of Justice, Mexico, Press Release No. 322/2021 - [The failure to create the national registry of the crime of torture represents an omission of the obligation of the Public Prosecutors' Office to diligently investigate this crime: First Chamber](#), October 21, 2021. See also: OMCT Red SOS-Tortura and Red Nacional de Organismos Civiles de Derechos Humanos, [Mexico: Torture and Impunity Increase during the Pandemic](#), July 2021; and Animal Político, [Is a decree enough to eradicate torture in Mexico?](#) September 23, 2021.

<sup>139</sup> Observations and Comments from the State of January 24, 2022, p. General Comment No. 14., E/C. 12/2000/4, 11 August 2000, para.

of the person being prosecuted. In 2020, the Commission acknowledged full compliance with this recommendation.<sup>140</sup>

96. In ENPOL 2021, 18.2% of the persons deprived of liberty who were surveyed indicated that they gave or signed their statement because they were pressured or threatened, and 20% indicated that they were physically assaulted in order to get them to plead guilty. The IACHR expresses its concern regarding the fact that in the 2016 ENPOL 16.4% of persons surveyed stated that they were subject to aggressions, meaning that there was an increase in 2021 that runs counter to the recommendation under review.<sup>141</sup>

97. Notwithstanding the above, civil society organizations continue to document cases of the judiciary admitting unlawful evidence on the grounds that the victim has allegedly not proven torture, i.e., continuing to place the requirement and burden of proof on the accused, who must present a medical-psychological expert opinion to prove the act of torture in an "indisputable" manner.<sup>142</sup> Such cases occur despite the fact that national legislation and international norms require their dismissal and place the burden of proving the lawfulness of the evidence on the Public Prosecutors' Office.<sup>143</sup> In its comments to the draft of the present report, the State indicated that in November 2021, the SCJN presented the updated version of the Protocol to Judge Cases of Torture and Ill-treatment. This document was prepared based on the latest advances in case law and the development of international standards. The new Protocol provides judges with more up-to-date tools to effectively face the challenges involved in combating torture and ill-treatment in the judicial venue, with methodological rigor and recognizing the severity of the problem.<sup>144</sup> For assessing compliance with this recommendation, the IACHR will continue to monitor application of the rule excluding evidence extracted under duress.

98. In relation to the recommendation to **create a Single National Registry of Detained Persons and ensure that they are immediately brought before a judge**, the State reiterated that Federal Public Prosecutors' Offices have access codes granted for registration with the National Registry of Detainees (RND).<sup>145</sup> For its part, the IACHR takes note of the beginning of the third and last phase of the RND in April for incorporating the data of persons detained for administrative offenses or commission of any infraction contained in municipal and civic justice regulations, thus completing the registration of all persons detained in the national territory.<sup>146</sup> The Commission also appreciates that the RND has a public platform on the Internet that makes it possible to find out if a family member or acquaintance has been detained and, if so, ascertain his or her whereabouts.<sup>147</sup> In addition, the government of San Luis Potosí conducted the online workshop "RND Administrative Offenses" through which it trained more than 400 people, including members of the National Guard, agents of municipal corporations, judges, trustees (*síndicos*), and municipal personnel.<sup>148</sup>

<sup>140</sup> IACHR, [2020 Annual Report](#), Chapter V, Mexico, par. 105.

<sup>141</sup> INEGI, [ENPOL 2021](#), December 2021.

<sup>142</sup> OMCT Red SOS-Tortura and Red Nacional de Organismos Civiles de Derechos Humanos, [Mexico: Torture and Impunity Increase during the Pandemic](#), July 2021; p. 5.

<sup>143</sup> In this regard, see IACHR, [2020 Annual Report](#), Chapter V, Mexico, par. 105.

<sup>144</sup> Observations and Comments from the State of January 24, 2022, p. General Comment No. 14., E/C. 12/2000/4, 11 August 2000, para.

<sup>145</sup> Ninth Report of the Mexican State on compliance with the recommendations of the American Commission on Human rights issued in its report on the "Situation of Human Rights in Mexico," October 2021, p. 34. See also: IACHR, [2020 Annual Report](#), Chapter V, Mexico, par. 110;

<sup>146</sup> Secretariat of Citizen Security and Protection, Mexico, Bulletin No. 048/2021 - [National Registry of Arrests for administrative offenses begins on April 1st](#), March 31, 2021.

<sup>147</sup> In the same vein, Secretaría de Seguridad y Protección Ciudadana, México, [Consulta](#), 2021.

<sup>148</sup> State Government - San Luis Potosí, Mexico, [SECESP strengthens training on the National Registry of Arrests in SLP](#), April 24, 2021.

99. At the same time, based on available information, the Commission notes that the unconstitutionality action filed by the CNDH before the SCJN on June 26, 2019, claiming the invalidity of the fifth transitory article in relation to Article 19, which would appear to exempt the Armed Forces from the duty to notify the competent police authority of arrests they make, so that those arrests are registered.<sup>149</sup> In its observations on the draft of the present report, the State indicated that naval personnel who participate in operations in support of public security, maintenance of the rule of law, and in Coast Guard functions, do register alleged lawbreakers who are detained in flagrante delicto during the commission of an offense, in accordance with the provisions of Article 16 of the Political Constitution of the United Mexican States, in relation to paragraphs 21 of the LNUF and 17 of the National Law on the Registry of Arrests.<sup>150</sup>

100. Regarding the obligation to ensure that detained persons are immediately brought before a judge, the Commission is concerned that, according to a civil society report, the period of time during which persons are deprived of their liberty before being registered and presented before a competent authority is uncertain. In particular, the report indicates that there are no clear deadlines or transparent and reliable ways to oversee them.<sup>151</sup> In this regard, the latest ENPOL (2021) indicated that 52.5% of the population deprived of liberty was presented before the Public Prosecutor's Office or a criminal judge within four hours or less, while 8.4% was presented after 48 hours had elapsed.<sup>152</sup>

101. Based on the above, although the IACHR appreciates that the process of incorporating data into the National Registry of Detainees has been completed, it notes that no decision on the unconstitutionality action has yet been taken and that there are still challenges regarding the prompt presentation of detainees. In view of the above, the Commission concludes that compliance this recommendation has been partial.

102. Regarding the recommendation to **ensure that trained personnel apply the Istanbul Protocol and to investigate cases in which judges do not order an investigation into allegations or indications of torture**, the State pointed out that the Law on Torture provides that, in carrying out any medical-psychological report, the guidelines set forth in the General Law and in the Istanbul Protocol must be observed, and the highest international standards on the subject must be met. Victims also have the right to be examined by specialized physicians and/or psychologists of their choice. As reported by the State, the law also states that in the event that the forensic doctor or physician designated by the detainee finds signs of torture, he/she must request, through the corresponding legal procedure, that a specialist provide a medical-psychological report in accordance with the Istanbul Protocol and must immediately notify the competent authorities so that they can initiate investigations in accordance with this Law.<sup>153</sup>

103. As indicated by the State, the medical-psychological report must be added to the investigation file of the Specialized Prosecutor's Office handling the case and a copy issued to the victim or the person defending the victim. The State also pointed out that the rule provides for a distinction to be made in the medical-psychological report based on the Istanbul Protocol regarding the status of the victim as a woman, girl, child or adolescent. Likewise, according to the information provided, the report, which contains information on background, state of health, findings, description of injuries, and conclusions, shall be included as evidence in the investigation file.

104. The CNDH reported that a training program entitled "Documentation and investigation of torture and other cruel, inhuman, and/or degrading treatment, application of the principles and guidelines of

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<sup>149</sup> CNDH, Mexico, [Unconstitutionality Action 63/2019](#), 2021. See also: IACHR, [2020 Annual Report](#), Chapter V, Mexico, par. 111.

<sup>150</sup> Observations and Comments from the State of January 24, 2022, p. 13.

<sup>151</sup> OMCT Red SOS-Tortura and Red Nacional de Organismos Civiles de Derechos Humanos, [Mexico: Torture and Impunity Increase during the Pandemic](#), July 2021; p. 5.

<sup>152</sup> INEGI, [ENPOL 2021](#), December 2021.

<sup>153</sup> Ninth Report of the Mexican State on compliance with the recommendations of the American Commission on Human Rights issued in its report on the "Situation of Human Rights in Mexico," October 2021, p. 34.

the Istanbul Protocol” had been delivered and replicated by human rights commissions in the states of Baja California, Guanajuato, Guerrero, Jalisco, Oaxaca, Puebla, Queretaro, San Luis Potosí, Veracruz, and Yucatán.

105. The IACHR takes note of the legal provisions that oblige authorities involved in the administration of justice to apply and include the corresponding investigation in the investigation files and, if necessary, to initiate the corresponding investigation on their own initiative. However, the recommendation comprises two components. The first is aimed at verifying cases in which justice operators did not order an *ex-officio* investigation for torture when there is circumstantial evidence or complaints of it having occurred. Regarding this part of the recommendation, the State did not provide information that would make it possible to gauge a trend towards the reduction or eradication of this lack of diligence on the part of judicial authorities. In this regard, in ENPOL 2021, the IACHR notes that between 2016 and 2021, acts that could have triggered investigations into torture or cruel, inhuman, or degrading treatment and punishment decreased, although they still persisted. For example, in 2021, 45.8% of persons surveyed indicated that they were isolated or held in solitary confinement, compared to 58.3% of respondents in 2016. Likewise, 30.7% and 28.8% indicated that they were blindfolded or had their head covered, respectively, in ENPOL 2021, compared to 39.2% and 46.2% in ENPOL 2016. However, this decrease in violent acts does not provide information on active pursuit of the State's obligations to prosecute torture *ex officio*, as required by the IACHR recommendation.

106. The second part of the recommendation is aimed at ensuring that the Istanbul Protocol is applied. Nevertheless, the State did not provide information that would permit a quantitative or qualitative assessment of the extent to which Mexico is ensuring that the Istanbul Protocol is being applied at the national level by competent and independent authorities, without risk of reprisals, as stipulated in the Commission's recommendation, as opposed to just reiterating what is set forth in the Law on the matter. In this regard, the IACHR reiterates the information provided in its last public hearing on torture in Mexico, according to which the FGR conducted more than 5,000 investigations initiated for torture; however, the State has not indicated how many of them applied the Istanbul Protocol.<sup>154</sup>

107. In its last submission, the State committed the same informative omissions, despite which the IACHR maintained its rating of partial compliance with the recommendation. However, considering the information presented and the holding of a thematic hearing on the matter in December 2020, as well as the fact that it is a recommendation on a serious human rights violation, the Commission considers that compliance with the recommendation is still pending.

108. Regarding the recommendation to establish the **mandatory use of cameras during interrogations and patrols**, the State pointed out that Article 37 of the National Law on the Use of Force establishes that vehicles deployed in the exercise of the use of force shall have technological mechanisms to monitor the safety of the agents and the people around them. It also indicated that Article 38 of the same law states that audiovisual material shall be accessible for investigations and judicial proceedings.<sup>155</sup> For its part, the CNDH informed the IACHR that, following the signing of a cooperation agreement, the National Committee for the Prevention of Torture of Argentina [TR: CHECK] sent to the Executive Directorate of the National Mechanism for the Prevention of Torture the document "Use of video cameras, video surveillance and recording systems in places of detention," which establishes the mandatory and protocolized use of cameras in interrogations, patrols, and other places of deprivation of liberty, in order to safeguard human rights and as a preventive measure against torture and other cruel, inhuman, and degrading treatment.<sup>156</sup>

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<sup>154</sup> IACHR, [Public Hearing - Combating Torture in Mexico](#), 178th period of sessions, December 4, 2020.

<sup>155</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 36.

<sup>156</sup> IACHR, [Report of the CNDH- SIMORE](#) December 15, 2021.

109. The IACHR finds that this information does not allow for an analysis of the level of progress made with complying with the recommendation, and therefore concludes that the recommendation has not been complied with.

110. Regarding the recommendation to **ensure uniform statistics and improve the information gathering system**, the State reported that the National Law on the Use of Force provides that whenever members of the security institutions use force in the performance of their duties, they must make a detailed report to their immediate superior, a copy of which shall be included in the file of the agent in command of the operation and, where appropriate, of each of the participants. The hierarchical superiors shall be responsible when they should have or have knowledge that the agents under their command have unlawfully used force, instruments, or firearms under their charge and do not prevent it or do not report it to the corresponding authorities.<sup>157</sup>

111. Likewise, as already noted in this report, the IACHR welcomes the fact that ENPOL was implemented again in 2021 [TR: CHECK]. That instrument is fundamental for observing the progress made by the State in the eradication of torture, cruel, inhuman, or degrading treatment or punishment of persons who are detained, prosecuted, and deprived of their liberty.<sup>158</sup>

112. On the other hand, as already indicated in this report, the IACHR reiterates, in relation to Renadet, the State's failure to comply with its obligation to create and operate the registry of the crime of torture.<sup>159</sup>

113. Accordingly, the IACHR welcomes the fact that, almost five years later, the ENPOL has been implemented, and encourages the State to adopt evidence-based policies based on this instrument that contribute to the fulfillment of its international commitments in relation to the eradication of torture and cruel, inhuman, or degrading treatment or punishment. The IACHR considers that the State has resumed compliance with the present recommendation. However, the failure to implement the Torture Crime Registry, mandated by law in 2017, remains a concern. In light of the above considerations, the IACHR finds that compliance with this recommendation is still pending.

114. Regarding the recommendation to **eliminate "arraigo" and quasi flagrante delicto (flagrancia equiparada)**, the IACHR has previously reported that "flagrancia equiparada" was declared unconstitutional by the SCJN in 2015, so that that part of the recommendation is considered to have been fully complied with. Regarding the figure of "arraigo", the State reported that since 2019 there have been two initiatives in the Senate to repeal the eighth paragraph of Article 16 of the Mexican Constitution, which recognizes *arraigo* ("hold restraint").<sup>160</sup>

115. The IACHR will continue to monitor the progress of the legislative proposals that seek to eliminate "arraigo" from the text of the Constitution. However, considering that "arraigo" continues to be in force in the text of the Constitution, the IACHR concludes that compliance with this recommendation remains partial.

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<sup>157</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 36 – 37.

<sup>158</sup> INEGI, [ENPOL 2021](#), December 2021.

<sup>159</sup> United Nations - Mexico, [The State must guarantee the right to the truth about the incidence of torture: UN-DH](#), July 26, 2021, *Diario Jurídico*, [Mexico - National registry of the crime of torture](#), October 23, 2021.

<sup>160</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 38.

#### D. Extrajudicial Executions

- In any act in which there is deprivation of life by members of the security forces, conduct an exhaustive inquiry and investigation in accordance with international standards, and ensure that the investigations of the scene of the crime be carried out by experts who are not members of police or military agencies.
- Ensure that the Armed Forces record the numbers of people killed and injured in their operations and that the corresponding investigations are opened when appropriate.
- Establish a national registry of the location of unidentified remains of persons with a violent cause of death, buried in cemeteries throughout the country. Also recommended is a search for clandestine graves in states that have experienced high levels of violence.
- Create an autonomous national forensic services institution with adequate infrastructure, sufficient human and financial resources, and standardized protocols applicable nationwide.
- Carry out all exhumation and identification of remains procedures with strict adherence to the requirements to ensure dignified treatment of the victims' families by the authorities at all levels of government involved in the process.
- Continue and reinforce the work of the Forensic Commission for the Identification of Remains in cases found along migrant routes. Adopt the measures needed to establish the Transnational Mechanism for Access to Justice for Migrants and their Families, and to create a Special Prosecutor's Office for Crimes of Violence against Migrants at the federal level.
- Implement a national mechanism to facilitate the exchange of forensic information on unidentified remains of Mexican and Central American persons missing in Mexico with the forensic databases of missing migrants that have been developed in the region.

116. Regarding the recommendation to **conduct an investigation in accordance with international standards in cases of deprivation of life by members of the security forces with experts who do not belong to those forces**, the State indicated that operations that require and, from the planning stage, authorize the use of lethal force, may be audio-visually recorded for monitoring purposes, and that audiovisual material shall be accessible for investigations and judicial proceedings. The State indicated that security institutions must submit annual public reports on activities involving the use of force, in addition to the requirement that agents of public security institutions submit a detailed report to their hierarchical superior whenever they use force.<sup>161</sup>

117. The IACHR received information from civil society indicating that internal and external oversight of the National Guard ineffective. In particular, the PRODH Center highlighted delays in the presentation of the 2020 annual report of the National Guard to the Senate of the Republic and the scant scrutiny it received in the Senate, which approved the report in November 2021.<sup>162</sup>

118. Given the lack of updated information submitted by the State, and the questions raised regarding the oversight mechanisms for operations involving the use of force, especially in the case of the Armed Forces, the IACHR considers that compliance with this recommendation is still pending.

119. Regarding the recommendation to ensure that the armed forces **record the number of persons killed and injured in their operations and open the relevant investigations**, the State reiterated that state agents pertaining to security institutions that use force in the performance of their duties must submit a detailed report to their superiors, specifying: (i) the identification data of the agent; (ii) the level of

<sup>161</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 38 – 39.

<sup>162</sup> Excélsior, [Senate to make suggestions on public safety: will meet with the cabinet](#), November 29, 2021.

force used; (iii) the manner, time, place, and reasons for the use of force; and, where applicable, (iv) any use of lethal weapons.

120. With respect to this recommendation, the IACHR reiterates its observations regarding the problems related to reporting on operations involving the use of lethal force, as required in the National Law on the Use of Force. In addition to the above, the Commission finds that the State provided information on the part of the recommendations related to the records, but did not provide information on the opening of investigations into extrajudicial executions or any indication regarding the opening of investigations and prosecution of cases that would make it possible to assess the extent to which the State is complying with this recommendation. In light of the above, the IACHR considers that substantial compliance with the recommendation is partial.

121. With respect to the recommendation to establish **a national registry of locations of unidentified remains and search for clandestine graves**, the IACHR notes that the CNB keeps a registry of discovery contexts and exhumed bodies with view to achieving a diagnostic assessment that might assist the search for persons. According to the General Law on Disappearance, the information in that registry is to be fed into the National Registry of Graves, when the latter starts operating. In addition, the State indicated that the CNB has been systematizing the records of burials in common graves in municipal cemeteries in a nationally standardized database called the Common Graves Module (Modulo de Fosas Comunes). In this regard, the IACHR notes that 15,000 records have been collected and compared with the RNPDO. From this universe of records, the CNB has been able to confirm that at least 38% of the corpses found in mass graves have not been identified.<sup>163</sup>

122. In addition to the above, the Commission reiterates the observations made in this report regarding the adoption of State measures to implement the National Registry of Graves and the National Registry of Unidentified and Unclaimed Deceased Persons provided for in the General Law on Disappearances. In particular, the IACHR notes that the idea is to implement them in different phases of execution through to full operation in 2024, and that work is being done on a system to ensure their interoperability,

123. Notwithstanding the above, according to a report by the National Movement for Our Disappeared in Mexico published in August 2021, as of August 30, 2020, at least 52,000 unidentified bodies, corpses, or skeletal remains of deceased persons and an as yet unknown number of bone fragments were in the custody of state authorities nationwide<sup>164</sup>. The IACHR observes that the deficiencies in the treatment, identification, safeguarding, traceability and restitution of human remains, together with the sheer number of unidentified deceased persons, cry out for prompt installation of the National Registry of Unidentified and Unclaimed Deceased Persons, as well as the National Registry of Graves, and steps to ensure their interoperability with other databases provided for in the General Law on Disappearance.

124. Accordingly, the IACHR appreciates the efforts undertaken by the CNB to compile information on discovery contexts and mass graves and reiterates its observations regarding the adoption of measures for the implementation of the aforementioned registries. Considering the adoption of measures for the establishment of these databases, but also the fact that they are not yet in operation, the Commission considers that compliance with this recommendation is partial.

125. Regarding the recommendations to create an **autonomous national institution for forensic services** and to **carry out exhumation and identification of remains with strict adherence to the requirement to ensure dignified treatment of the victims' relatives**, the State recalled the measures adopted to strengthen the forensic capacities of the states by constructing centers for human identification and

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<sup>163</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 40 - 41.

<sup>164</sup> National Movement for Our Disappeared in Mexico, [The Forensic Crisis in Mexico: more than 52,000 unidentified deceased persons](#), August 2021, p. 7.

forensic safekeeping. In particular, it pointed out that the Regional Center for Human Identification in Coahuila is intended for the large-scale identification of missing persons, with the technical advice of the Guatemalan Forensic Anthropology Foundation. At the same time, the State reiterated that it has officially recognized the forensic crisis that Mexico is going through and, —in coordination with relatives and civil society,— has adopted the steps needed to achieve the effective installation and entry into operation of the MEIF during the current year.<sup>165</sup> Regarding this matter, the IACHR refers to its observations on the progress made with regard to the start-up of the MEIF and the strengthening of forensic capacities at the national level,

126. The IACHR welcomes the State's efforts to promote the start of MEIF operations, as well as the construction of the infrastructure and equipment needed to address the forensic identification crisis in Mexico. However, the Commission notes that the mandate of the MEIF is extraordinary and temporary, and therefore does not represent the creation of an autonomous national institution for the forensic work included in the two recommendations under review. In this regard, in its 2015 report, the IACHR noted that the dependence of expert and forensic institutions on law enforcement agencies poses a structural problem that hinders the search for persons and the pursuit of thorough, timely, and impartial investigations<sup>166</sup>. Accordingly, in the Commission's opinion, compliance with the recommendation in question would imply the creation of a national institution of forensic services independent of law enforcement and administration of justice agencies and, where appropriate, the creation of counterpart institutions at the state level. In light of the above, the IACHR considers that compliance with both recommendations is still pending.

127. Regarding the **continuation and reinforcement of the work of the Forensic Commission for the Identification of Remains Found on Migration Routes** and the **adoption of measures for the creation of the Transnational Mechanism for Access to Justice for Migrants and their Families**, the State reiterated the information sent in previous years, stating that the agreement to create the Forensic Commission would remain in force since none of the parties had expressed any desire to terminate it, and that the purpose of the agreement subsists.<sup>167</sup> For its part, the Commission reiterates its concern that, during 2015, women human rights defenders and journalists were subject to investigations promoted by the PGR due to their work in the case of the San Fernando massacre related to the disappearance of migrants passing through Mexican territory, as detailed below.

128. For its part, the IACHR is aware that the Mexican State is in the process of drafting the Guidelines for the External Support Mechanism for Search and Investigation (MAEBI), which will establish regulations governing inter-agency coordination and international cooperation in the investigation of crimes committed against migrants, as well as guidelines for the transnational search for missing migrants and other persons missing in human mobility contexts. On this issue, at the request of the Mexican State, the Commission issued a technical opinion with its observations based on Inter-American human rights standards and hopes that its recommendations will be duly addressed and incorporated into the MAEBI Guidelines.<sup>168</sup>

129. Considering the lack of updated information on the work of the Forensic Commission, in addition to the fact that the Guidelines for the External Support Mechanism for Search and Investigation have still to be drawn up, approved, and implemented, the IACHR considers that compliance with this recommendation is still partial.

130. Regarding the recommendation to **implement a national mechanism to facilitate the exchange of forensic information on unidentified remains of migrants and Central Americans who have**

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<sup>165</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 41 – 45.

<sup>166</sup> IACHR, [Situation of Human Rights in Mexico](#), OEA/Ser.L/V/II. Doc. 44/15, December 31, 2015, paras. 134 and 490.

<sup>167</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 45.

<sup>168</sup> IACHR, Observations on the guidelines for the External Support Mechanism for Search and Investigation and the Roundtable for the Search for Disappeared Migrant Persons, Communication 478-21/IACHR/SE/MPCT-MISC, September 15, 2021.

**disappeared in Mexico with the forensic databases on missing migrants that have been developed in the region**, the State pointed out that the PHB establishes large-scale search mechanisms, including large-scale comparison of genetic information in order to determine the fate or whereabouts of individuals. It added that the Office of the Attorney General's Unit for Investigating Crimes against Migrants sends genetic samples obtained from indirect victims to the Office for General Coordination of Expert Services so that they can be incorporated into the National Genetic Database and used for comparative purposes.<sup>169</sup>

131. For its part, the IACHR welcomed the agreement to create the National Roundtable for the Search for Disappeared Migrants adopted within the framework of the SNB on November 9, 2021.<sup>170</sup> In this regard, the Commission notes that this body comprises both national and foreign citizen and state actors involved in the coordination and exchange of information needed to search for, locate, and identify missing migrants in Mexico, and recognizes the State's efforts to develop mechanisms to further regional cooperation among different actors in the search for, and identification of, missing migrants in accordance with its recommendations. At the same time, the IACHR reiterates its observations on the above-mentioned MAEBI Guidelines,

132. The Commission appreciates the creation of the National Roundtable for the Search for Disappeared Migrant Persons, as well as the progress made by the State with respect to the drawing up of the MAEBI guidelines. On this last issue, the IACHR hopes that they will promptly be adopted and implemented as a measure to guarantee effective access to justice for aggrieved migrants and their families and to search for missing migrants in a manner consistent with the Commission's recommendations. In light of the above, the Commission considers that substantial compliance with this recommendation is still partial.

## E. Access to Justice

- Strengthen the country's prosecutor's offices in terms of technical training and independence, in order to guarantee proper investigation.
- Establish a coherent plan for cooperation between federal and state law enforcement authorities in the investigation of serious human rights violations, with a comprehensive approach, specific protocols, and the adoption of technical-professional, rather than political, criteria for federal investigations.
- Adopt specific protection measures for victims, their families, representatives, witnesses, experts, and defenders who participate in the investigation or search for justice when they are at risk. Guarantee access to files to family members and legal representatives. Impose appropriate sanctions in cases of retaliation against any of these persons.
- Adopt specific protection measures for justice operators according to their particular needs and in consultation with them.
- Ensure implementation of the General Victims Law and the ability of the Executive Commission for Attention to Victims to function at the federal and state levels. In consultation with civil society organizations and victims, analyze, concretely address, and eliminate the barriers that limit effective application of the law.
- Assume historical responsibility for accountability for gross human rights violations. Investigate, throw light on, and punish the acts committed during the so-called Dirty War.
- Strengthen the Mechanism for the Protection of Human Rights Defenders and Journalists, guaranteeing its long-term financial sustainability, providing it with greater administrative autonomy, and encouraging the states to collaborate with it. Meanwhile, the Commission recommends that the Mechanism evaluate and adopt differentiated protection measures

<sup>169</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 46.

<sup>170</sup> Ministry of the Interior, [Approves SNBP mechanisms to search for missing migrants](#), November 9, 2021; CNB, [Second Regular Session of the National Search System 2021](#), November 9, 2021; IACHR, <https://twitter.com/CIDH/status/1458462923702128643?s=20>, November 10, 2021.

taking into account gender, indigenous leaders, and environmental defenders; measure the effectiveness of the measures implemented; promote institutional coordination and cooperation with the PGR; and increase the transparency of all actions undertaken so as to increase beneficiaries' trust in the Mechanism. All that needs to be accompanied by prevention policies and the participation of the target population.

- Amend the Code of Military Justice to provide that when a member of the armed forces commits acts that could constitute a violation of human rights, such acts shall be tried by civil law courts, regardless of whether the victim is civilian or military.
- Monitor the entry into force of the new criminal justice system, as well as the effectiveness of training. Include public defenders in training.
- Evaluate the effective implementation of the new criminal justice system, as well as the areas in which closer monitoring will be required, along with adequate training and necessary resources. Include permanent training for justice operators and public defenders to ascertain compliance with the Inter-American Convention on Human Rights.

133. With respect to the recommendations regarding the **strengthening of public prosecutors' offices** and the **establishment of a cooperation plan between federal and state law enforcement authorities**, the State indicated, in general terms, that it was continuing, at the national level, with the training of public servants who perform functions related to law enforcement, such as the personnel of SEDENA, SEMAR, SSPC and of the Decentralized Administrative Body for Prevention and Social Readaptation of SEGOB, of the prosecutors' and the attorney generals' offices, as well as of the public security secretariats of the federative entities, at the three levels of government<sup>171</sup>. The State did not provide details on those training courses.

134. In relation to the recommendation regarding the establishment of a plan for cooperation between law enforcement authorities, the State reiterated to the IACHR that existing cooperation between federal and state law enforcement authorities in investigations of serious human rights violations is governed by application of the laws on the disappearance of persons, trafficking in persons, and torture.<sup>172</sup> The State did not provide details on how these cooperation mechanisms function between judicial authorities at different levels of government.

135. In November and December 2021, the Commission learned that attorney Ana Lorena Delgadillo, forensic expert Mercedes Doretti, and journalist Marcela Turati were the subject of investigations for their work in the defense of human rights in the case of the San Fernando massacre related to the disappearance of migrants passing through Mexican territory during 2015. The IACHR notes with concern that the inclusion of the women involved in the investigation, in a case being prosecuted for the crime of organized crime and disappearance of persons, has been described by state agents<sup>173</sup> and civil society organizations as a form of criminalization. Regarding the recommendation related to technical training for the staff of public prosecutors' offices to enable them to conduct independent investigations, the Commission is concerned that, although this recommendation has been in effect since 2015, the State has not identified the aforementioned kind of investigations directed against human rights defenders. This raises serious questions about the extent to which the vices of bias and lack of objectivity have been overcome in investigations. An adequate diagnostic assessment of training needs, prioritizing the investigative bodies with the greatest shortcomings, is necessary for the strategic fulfillment of this recommendation. In its observations on the draft of this report, the State indicated that Ana Lorena Delgadillo filed a complaint with the Prosecutor's Office for Internal Affairs of the Attorney General's Office. In this regard, the Unit for the Investigation of Crimes against Migrant Persons

<sup>171</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 47

<sup>172</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 47.

<sup>173</sup> Proceso, [UN-HR Council condemns State persecution of Marcela Turati, Ana Lorena Delgadillo, and Mercedes Doretti](#), December 8, 2021. La Lista, ['Violence and corruption keep people disappearing in Mexico'](#): Encinas, December 6, 2021; El Economista, on, December 5, 2021.

(UIDPM) has provided the necessary facilities to said Prosecutor's Office to consult the file initiated as a result of the complaint. On the other hand, Marcela Turati was provided with a public version of the Forensic Graphoscopy Report dated March 1, 2016, issued by an expert in graphoscopy and documentoscopy, assigned to the Office for General Coordination of Expert Services of the then Attorney General's Office of the Republic (*Procuraduría General de la República*). In response to a request for access to information submitted to that Prosecutor's Office. Likewise, a copy of the entire file and the digital information contained therein has been provided to Ana Lorena Delgadillo in order to guarantee the victims' Right to Truth and Justice. Finally, the State informed that according to the FGR, there is no ongoing investigation for the crimes of organized crime or forced disappearance, in which the human rights defenders mentioned above are being investigated.<sup>174</sup>

136. The Commission welcomes the inclusion of the affected persons in the mechanism for the protection of human rights defenders and journalists and stresses the need for the State to identify training needs regarding this type of investigation aimed at undermining (*comprometer*) the defense in cases of human rights violations, without prejudice to the corresponding administrative and criminal investigations. **[TR: please check my interpretation]** Based on the above considerations and the lack of specific information provided by the State, the IACHR concludes that compliance with the recommendation under review is partial.

137. Regarding the recommendation on the establishment of a coherent plan for cooperation between state and federal authorities for the investigation of serious human rights violations, the State did not provide information on the implementation of the norms it mentioned as measures adopted to comply with the recommendation; therefore, this recommendation has not been complied with.

138. As for the recommendation to **adopt protection measures for those who participate in the search for justice when they are at risk, to guarantee access to files, and to impose sanctions in the event of reprisals**, the State indicated that the General Directorate of the Federal Legal Counsel of the CEAV, through various specialized directorates, provides timely follow-up and legal representation from the moment the investigation file is opened through to the criminal proceedings. It also noted that it guarantees access to justice and the rights of victims through the implementation of its national norms and international treaties. The State did not present more specific information regarding this recommendation, although in other sections of its report it refers to the coverage provided by its Mechanism for the Protection of Human Rights Defenders and Journalists.<sup>175</sup>

139. The IACHR publicly repudiated the murder of Javier Barajas, (member of the organization "Mariposas Destellando, Buscando Corazones y Justicia", today called "Angeles de Pie por Ti") in circumstances that have not been clarified.<sup>176</sup> In this regard, the PRODH Center indicated that Javier Barajas was the brother of Guadalupe Barajas, who disappeared in February 2020 and since then, both Javier and his parents had been searching for her, finding several clandestine graves, until finally in February 2021 they identified Guadalupe's body in the clandestine grave in Salvatierra, Guanajuato, along with 80 other corpses. The IACHR was also informed that Mr. Barajas worked in the State Search Commission of Guanajuato and, together with his family, participated with family member collectives in the searches conducted in that state. Since the discovery of Salvatierra's grave, threats and surveillance against him reportedly increased, until he was murdered, and two people are currently under arrest and being prosecuted for murder. The family is currently displaced for security reasons. In addition to this murder, there were several security incidents and threats against family members conducting searches in Guanajuato; at least four family members reported receiving threats due to their role in the search for their relatives.<sup>177</sup>

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<sup>174</sup>Observations and Comments from the State of January 24, 2022, p. 14.

<sup>175</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 48

<sup>176</sup> IACHR, <https://twitter.com/cidh/status/1400139116340260866>, June 2, 2021.

<sup>177</sup> PRODH Center, follow-up report to "Situation of Human Rights in Mexico" 2015, October 2021, p. 10.

140. In addition, the IACHR has learned from information in the public domain about the difficulties (including the need to initiate judicial and administrative processes, in some cases lasting up to seven years) encountered with gaining access to investigation files in cases involving the disappearance of migrants<sup>178</sup> and corruption<sup>179</sup>.

141. In this regard, although the State has broadly indicated that it has mechanisms and protocols to make this recommendation viable, for the IACHR there is little evidence of protection and support being provided through the CEAV or of actions taken to guarantee the victims' access to the investigation files. The recommendation also includes two additional components, one related to access to files by persons seeking justice and the other to the imposition of sanctions for reprisals, for which the State did not provide the information needed for the Commission to assess progress made with compliance. In light of the above considerations, the IACHR finds that compliance with the recommendation is still pending.

142. With regard to the **recommendation to adopt specific protection measures for justice operators in accordance with their particular needs and in consultation with them**, the State reported that, based on the "General Agreement of the Plenary of the Federal Judicial Council" that regulates the Assignment, Use, and Withdrawal of Security Measures for Public Servants of the Federal Judiciary, as of September 28, 2021, 81 risk assessments had been issued in favor of judicial officials, proposing security measures and their duration, or suggesting that they be assigned, continued, modified, or terminated, in accordance with the aforementioned Agreement.<sup>180</sup>

143. In its 2020 Report, the IACHR followed up on the murder of federal judge Uriel Villegas and his wife Veronica Barajas.<sup>181</sup> In this regard, the Commission takes note of the statement made by the National Association of Circuit Magistrates and District Judges of the Federal Judiciary, complaining that, one year after the events, the persons responsible have not been punished, that only one person has been indicted, and that the State did not provide the necessary security for the work of imparting justice.<sup>182</sup>

144. The Commission draws the State's attention to the need to throw light on the murder of Judge Villegas and Mrs. Barajas and to its obligations to provide guarantees for the work of justice operators. Without underestimating the importance of the above, the Commission notes that during the present reporting period, protective measures were adopted for justice operators. In light of the above, the IACHR considers that compliance with the recommendation is still partial.

145. With regard to the recommendation concerning **implementation of the General Law on Victims and the functioning of the Executive Commission for Attention to Victims**, the State indicated that the General Directorate of Legal Affairs of the CEAV signed inter-agency collaboration agreements with the state executive commissions for attention to victims of Chiapas, Guanajuato, Sonora, and Puebla, as well as with the Legal Research Institute of the National Autonomous University of Mexico, the National Institute of Indigenous Languages, the National Institute of Social Development, and the National Housing Commission.<sup>183</sup>

146. In this regard, the IACHR reiterates its concern regarding the CEAV's funding in light of information in the public domain indicating that the CEAV will operate in 2022 with a budget shortfall of 1.6

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<sup>178</sup> Milenio, [They accuse the PGR of investigating an expert, lawyer, and journalist for the massacre in San Fernando](#), November 24, 2021.

<sup>179</sup> PODER Latam, [FGR's hidden files on the Odebrecht case are only six contracts](#), November 23, 2021.

<sup>180</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 48 – 49.

<sup>181</sup> IACHR, [Annual Report, Mexico](#), 2020, par. 81.

<sup>182</sup> Milenio, [Judges and magistrates see impunity in murder of Uriel Villegas Ortiz](#), June 17, 2021.

<sup>183</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 49 – 51.

billion Mexican pesos, the estimated amount needed to pay reparations for almost 3,000 victims and the salaries of approximately 150 officials.<sup>184</sup> In its observations on the draft of this report, the State indicated that for fiscal year 2021 the CEAV had an original budget allocation for subsidies (in which the resources for assistance and comprehensive reparation measures are concentrated) of \$430,704,811.00 and during the fiscal year budget adjustments were made to savings that existed in other expenditure chapters, and additional resources were obtained from the Ministry of Finance and Public Credit (SHCP) so that at the end of the year \$783,620,929.24 was spent. For fiscal year 2022, the original allocation for subsidies is \$530,713,021.00, more than one hundred million more than the original allocation of the previous fiscal year. Likewise, the General Directorate of Administration and Finance of the CEAV has planned to channel all resources saved in other expenditure chapters to the subsidies chapter; the SHCP has stated that at all times it will support the CEAV so that it has the additional resources necessary to guarantee support for victims.<sup>185</sup> In addition, the IACHR welcomes the fact that on December 9 the Senate confirmed the new head of the CEAV, after a year in which that position was left vacant.<sup>186</sup>

147. The IACHR welcomes the signing of inter-agency agreements to improve the protection of victims under the CEAV's mandate. Nevertheless, the IACHR also notes with concern that the items needed to monitor compliance with this recommendation continue to be subject to uncertainty. The budget allocated to the CEAV for fiscal year 2022 is once again being questioned given that the amount would appear to be insufficient for it to perform all its operations and comply with Mexico's commitments regarding the rights of victims of human rights violations. Likewise, the absence of visible leadership in the CEAV, due to the long vacancy of the incumbent, undermined the institutional status of the CEAV and its work in coordination with the state Commissions. The IACHR finds that the institutional status of the CEAV and its leadership in the defense and protection of victims' rights have deteriorated with respect to previous years. Accordingly, the Committee considers that compliance with the recommendation is no longer partial but pending.

148. With regard to the recommendation concerning accountability for **serious human rights violations and investigation and punishment of the events of the so-called Dirty War**, the State reported the publication, on October 6, 2021, of the decree establishing the Commission for Access to the Truth, Historical Clarification, and the Promotion of Justice for serious human rights violations committed between 1965 and 1990.<sup>187</sup> According to the information provided, the aforementioned Truth Commission was constituted as a special working group to investigate, follow-up on, supervise, propose, and issue reports on gross human rights violations during the period of political violence from 1965 to 1990, so as to ensure that necessary actions are taken to clarify the truth and promote justice, comprehensive reparation, and the right to memory, within the sphere of competence of the Federal Public Administration, and, where applicable, to share them with the ministerial and judicial victim care authorities or those competent for attending to them. The Truth Commission has been formed and is about to begin its work.<sup>188</sup>

149. For its part, Transitional Justice in Mexico has highlighted the importance of the Truth Commission hearing, at first-hand, the voices of the victims, and that the guidelines governing its operation be explicit with respect to the financing and personnel it will have at its disposal.<sup>189</sup> Along the same lines, the PRODH Center pointed out that the Decree omitted to include in its articles the obligation of all the agencies of

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<sup>184</sup> Animal Político, [CEAV will operate in 2022 with a shortfall of more than 1.6 billion: payments and hiring at risk](#), December 8, 2021.

<sup>185</sup> Observations and Comments from the State of January 24, 2022, p. 15.

<sup>186</sup> La Jornada, [Collectives and family members urge the Senate to appoint the head of the CEAV](#), October 3, 2021; Senate of the Republic, [More stringent requirement proposed to head the CEAV](#), February 11, 2021.

<sup>187</sup> Official Gazette of the Federation, [Decree creating the Commission for Access to the Truth, Historical Clarification, and the Promotion of Justice for gross human rights violations committed from 1965 to 1990](#), October 6, 2021.

<sup>188</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 52 – 54.

<sup>189</sup> Animal Político, [The extraordinary mechanism for the "Dirty War": lights and shadows](#), October 28, 2021.

the Federal Public Administration to deliver all the information within a specific period of time, even though that was reportedly included in similar decrees; and that voting arrangements were established in which it is predominantly members of governmental institutions that have a voice. In addition, the time allowed was based on federal public administration terms and not geared to a specific plan regarding the objectives and scope of the Decree. The PRODH Center conveyed to the IACHR the importance of the SEDENA actively collaborating with the Truth Commission's actions, by handing over the files in its possession and allowing access to its facilities for search purposes.<sup>190</sup>

150. The IACHR welcomes the initiative aimed at creating and installing the Commission for Access to Truth and Historical Clarification and Justice for Gross Human Rights Violations committed between 1965-1990, which will foster the necessary actions and conditions by the federal executive branch to guarantee the rights to truth, justice, reparation, and memory regarding the serious violations committed during the period known as the Dirty War. To that end, mechanisms and policies for truth, justice, search, comprehensive reparation, memory, and guarantees of non-repetition will be implemented.<sup>191</sup> In this regard, the IACHR recognizes this initiative as an important step towards accountability for the human rights violations committed during the so-called Dirty War, and therefore concludes that substantial compliance with the recommendation is now partial.

151. With respect to the recommendation regarding the **strengthening of the mechanism for the protection of human rights defenders and journalists, guaranteeing its long-term economic sustainability and autonomy, as well as adopting measures for the evaluation and differentiated protection of beneficiaries**, the State reported that since 2012 it has had the Law for the Protection of Human Rights Defenders and Journalists, which gave rise to the Protection Mechanism monitored in the present recommendation, which by April 2021 had 1,848 beneficiaries, 691 of whom are journalists and 1157 human rights defenders.<sup>192</sup> The State also reported on international cooperation agreements to strengthen the Mechanism, signed in 2019, and on the emphasis placed on protecting environmental defenders since the signing of the Escazú Agreement in 2020.

152. In this regard, the IACHR notes with concern the statement by government officials that the Mechanism has been overwhelmed and is insufficient to combat the aggressions and violence faced by human rights defenders and journalists. The IACHR welcomes the announcement by the executive branch to the legislative branch of a proposed amendment of the Mechanism aimed at strengthening it and expanding its capacities.<sup>193</sup> In its comments on the draft of this report, the State reported that training actions have been implanted for analytic personnel (*personal analista*), including the personnel in charge of its General Directorate. Likewise, a selection process has been initiated to detect personnel qualified to join the Mechanism, by applying standards that prioritize excellence and professionalism.<sup>194</sup>

153. Here, the IACHR emphasizes that the recommendation it is geared to the adoption of decisions that enhance effective functioning of the Mechanism, both internally (budget, functional independence, sustainability) and externally (effective provision of the protection service in accordance with the needs of the target population). Likewise, in view of the announcement of a possible amendment of the Mechanism, the IACHR deems it necessary for the normative modifications to be participatory and to include the opinions and proposals of civil society organizations, as well as those of the beneficiaries of protection measures. In this regard, the IACHR does not find that the State has provided the information needed to analyze whether the

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<sup>190</sup> PRODH Center, follow-up report to "Situation of Human Rights in Mexico" 2015, October 2021, p. 17.

<sup>191</sup> Ministry of the Interior, [Commission created for access to truth and justice for gross human rights violations during the Dirty War](#), October 7, 2021.

<sup>192</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 54 - 55.

<sup>193</sup> Excélsior, [Mechanism for the protection of journalists is overwhelmed and insufficient: Encinas](#), December 1, 2021.

<sup>194</sup> Observations and Comments from the State of January 24, 2022, p. 15.

current configuration of the Mechanism guarantees personnel properly trained to receive protection requests, conduct risk analysis, adopt and apply protection measures, and monitor performance in such a way as to ensure that the implementation of the Mechanism is adequate. Nor has it provided information on possible solutions for the Mechanism that, following its amendment, will enable it to be an entity with greater operational capacity.

154. Thus, the IACHR has indicated that the State must provide the necessary budgetary and logistical resources to ensure that protection measures can remain in effect for as long as the risk subsists. For that reason, it is essential that Mexico provide sufficient information to ascertain that the necessary guarantees are in place to ensure independent, continuous, and effective provision of the services of the Mechanism for the Protection of Human Rights Defenders and Journalists. In light of the above, and due to the lack of progress, the IACHR considers that compliance with this recommendation remains partial.

155. With regard to the recommendation on the **reform of the Code of Military Justice**, the State reiterated that the Code of Military Justice, the Federal Code of Criminal Procedure, and the Law Establishing Minimum Standards for the Social Readaptation of Convicted Persons restrict military jurisdiction and ensure that cases of human rights violations committed by military personnel against civilians are tried by civilian courts, which, it claims, brings national legislation into line with international standards in this area. The State also indicated that the aforementioned norms establish the rules for prosecuting members of the armed forces for these crimes. The State informed the IACHR that it considered that compliance with the recommendation<sup>195</sup> had been achieved.

156. Without prejudice to the foregoing, the IACHR warns that unconstitutionality action 46/2016 regarding the legality of the amendments to the Code of Military Justice and the publication of the Military Code of Criminal Procedures is pending resolution by the Supreme Court (SCJN). In the opinion of the PRODH Center, the failure to amend also runs counter to the judgments of the Inter-American Court on this matter.<sup>196</sup>

157. The Commission recalls that ever since its 2017 Annual Report,<sup>197</sup> it has indicated that such modification of the Code is still pending, as the current legislation continues not to be fully aligned with Inter-American standards, an observation also made by the I/A Court of Human Rights in its supervision of compliance with certain judgments against Mexico.<sup>198</sup> In light of the above, the Commission reiterates the need for the State to comply with this recommendation, for which compliance is still pending, and thereby ensure recognition of the fact that military criminal jurisdiction does not apply to human rights violations, regardless of whether the passive subject (accused) is civilian or military.

158. With respect to the recommendations on **monitoring the effectiveness of the new criminal justice system** and **evaluating its actual implementation**, the State pointed out that the Unit for the Consolidation of the New Criminal Justice System (UCNSJP) is the administrative area under the General Secretariat of the Presidency of the Federal Judicial Council responsible for studying, analyzing, and proposing the design, planning, execution, and evaluation of the plans, programs, and actions needed for the consolidation of the New Criminal Justice System, as well as the coordination of the various administrative areas involved in those processes; among other tasks. With respect to training, the State indicated that the Federal Judicial Training School (EFFJ) taught subjects related to the adversarial criminal justice system and various academic programs aimed at public servants of the CJF, including those belonging to the Federal Public Defense Institute.

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<sup>195</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 56; IACHR [Annual Report, Mexico](#), 2020, par. 156; IACHR [Annual Report, Mexico](#), 2019, par. P. 150.

<sup>196</sup> Centro PRODH, Follow-up Report to the "Situation of Human Rights in Mexico" Report 2015, October 27, 2020, p. 12.

<sup>197</sup> IACHR, [Annual Report, Mexico](#), 2017, par. 129.

<sup>198</sup> IACHR Court, [Supervision of Compliance with Judgment, Cases of Radilla Pacheco, Fernández Ortega et al. Rosendo Cantú et al v. Mexico](#), April 17, 2015, par. 20; I/A Court H.R., [Supervision of Compliance with Judgment, Case of Cabrera García and Montiel Flores v. Mexico](#), June 24, 2020, par. 1.

From June 1 to August 5, 2021 the State taught the course "Evidentiary reasoning in the part played by public defense counsel in the adversarial criminal process."<sup>199</sup>

159. Regarding the evaluation of the actual implementation of the NSJP, the State indicated that the UCNSJP had deployed cross-cutting judicial policy actions to ensure better attention to all cases that can be brought to court, as part of efforts to consolidate the new federal justice system in three main aspects: (a) harmonization of guidelines to be followed in different aspects of criminal prosecution - judicial guidelines for the conduct of hearings, for the judicial evaluation of scientific evidence, and for the individualization of sanctions using technological assistance; (b) guaranteeing the continuity and bolstering of institutional capacities to provide efficient delivery of justice, including changing administrative arrangements in the Federal Criminal Justice Centers (CJPF) by replacing district judges in administrative functions with professional administrators; changing judicial (judge-case) management arrangements in the CJPF, and using a specialized sentence finder in the Adversarial Criminal Justice System; and (c) training of personnel to improve their command of the adversarial system and of aspects that are particularly important for the assessment of these kinds of cases.<sup>200</sup>

160. The Inter-American Commission welcomes the information submitted regarding capacity-building for justice operators in connection with the implementation of the adversarial criminal justice system in Mexico. However, the information submitted with respect to the Unit for the Consolidation of the New Criminal Justice System is only declarative and does not include substantive data on implementation at the different levels of government (not only at the federal level), with special emphasis on the training of public servants in human rights, gender perspective, and attention to the needs of various vulnerable groups.<sup>201</sup> For the above reasons, the IACHR considers that compliance with this recommendation has been partial.

## **F. Harm done to Specific Groups**

### **1. LGBT Persons**

- Adopt the necessary measures to investigate, punish, and redress acts of violence against LGBT persons, in accordance with due diligence standards. Investigations into cases of violence against LGBT persons should be free of stereotypical notions of LGBT persons and should include a determination as to whether the acts of violence were committed because of the sexual orientation or gender identity of the victims.
- Adopt measures needed to prevent violence, including legislative and public policy measures aimed at eradicating the social discrimination that exists against LGBT people, which exacerbates and reinforces violence based on prejudice.

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<sup>199</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 57 - 58.

<sup>200</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 57-58. Courses and training programs reported by the State include: "Master's Degree in Adversarial Justice"; "Permanent Training Program on Human Rights and Criminal Procedure"; "Diploma Course for Secretaries of Jurisdictional Bodies with competence in the new criminal justice system"; "Specialization in Justice for Adolescents"; "Inter-agency Discussion of Prospects for Preventing and Combating the Crime of Operations with Illicit Proceeds and for Delivering Justice in such cases"; "Course on Human Rights and Evidence in Criminal Proceedings"; and "Course on the Istanbul Protocol and its interaction with the Federal Judiciary." The State also informed the IACHR of the following courses conducted by the Federal Judicial Training School: "Induction course for Administrators of the Federal Criminal Justice Centers"; "Course on evidentiary reasoning in the part played by public defense counsel in the you adversarial criminal process"; and "Diploma course on skills for conducting hearings and handing down decisions."

<sup>201</sup> In its comments to the draft of this report, the State referred to 11 semiannual reports to the Congress of the Union, which can be accessed at this link: <https://www.cjf.gob.mx/sjpa/>. Quantitative and qualitative data on these two phases can be consulted in these reports, such as: (i) number of Federal Criminal Justice Centers (CJPF) per federal entity; (ii) courtrooms per CJPF; (iii) number of judges in control, prosecution and execution functions; (iv) strengthening of CJPF infrastructure; (v) effective use of courtrooms; (vi) workloads by criminal cases; (vii) cases being processed by federal entity; (viii) substantive actions to address consolidation; (ix) data on the operation of the CJPFs and the persons charged, among others. Observations and Comments from the State of January 24, 2022, p. 16.

161. Regarding the recommendation to **investigate, punish, and redress acts of violence against LGBT persons**,<sup>202</sup> the State provided information on complaints of discrimination received and processed by CONAPRED. The State indicated that, during 2021, CONAPRED opened 25 files of complaints for acts of discrimination against LGBTI persons, of which, 21 were attributed to private individuals and 4 to persons holding public office.<sup>203</sup> The CNDH reported conducting various activities to disseminate the National Protocol of Action for personnel of the country's law enforcement agencies in cases involving sexual orientation or gender identity.<sup>204</sup>

162. The Commission acknowledges the work done by CONAPRED as the leading institution for promoting social inclusion and equality policies and measures. Likewise, the IACHR values the existence of national protocols to guarantee access to justice in cases related to discrimination based on sexual orientation, gender identity and expression<sup>205</sup> and the incorporation of the element of hate as an aggravating factor for sexual orientation, gender identity, and expression in the crime of homicide in Quintana Roo.<sup>206</sup> In addition, the IACHR welcomes the fact that the Mexico City Prosecutor's Office asked for forgiveness for the deficiencies in the investigations of the transfemicide of Paola Buenrostro, which occurred in 2016.<sup>207</sup>

163. However, the information submitted by the State does not include specific information regarding measures adopted during 2021 to guarantee due diligence in investigations, sanctions, and reparations for acts of violence against LGBTI persons and those perceived as such in the country, which, according to available information, continue to be reported on an alarming scale.

164. Based on public information, the Inter-American Commission warns of a challenging context in which the rights to life and personal integrity, personal safety, and access to justice of LGBTI persons are threatened. In this regard, according to information from civil society, between January and October 2021, at least 374 incidents of violence and discrimination committed against LGBTI people were reported<sup>208</sup>, including 68 murders reportedly motivated by prejudice<sup>209</sup>, with a worrying number of cases that, based on the existence of preliminary evidence and the context in which they were committed, could qualify as murders due to prejudice against the gender identities and expressions of trans women, or transfemicides.<sup>210</sup> This points to the ongoing need for the State to take urgent measures to comply with the duty of acting with due diligence in investigating, punishing, and redressing acts of violence against LGBTI persons in a stereotype-free manner, as well as adopt preventive measures in light of the following recommendation in this section.

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<sup>202</sup> While the 2015 report used the term "LGBT" to refer to the group comprised of lesbian, gay, bisexual and transgender people, the IACHR notes that subsequently the IACHR has referred to the "LGBTI" group, recognizing intersex persons in the letter "i". Given that the State has also used the acronym "LGBTI", this report will henceforth use that acronym.

<sup>203</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 58 – 59.

<sup>204</sup> IACHR, [Report of the CNDH- SIMORE](#) December 17, 2021.

<sup>205</sup> Including the Identity, approved by the Attorney General's Office in 2017.

<sup>206</sup> *Estamos Aquí MX Roo. Code, September 4, 2021.*

<sup>207</sup> Proceso, [Error! Hyperlink reference not valid.](#) October 1, 2021.

<sup>208</sup> Amicus DH AC, Platform statistics from January to December 2021.

<sup>209</sup> Arcoíris Foundation, [National Observatory of Hate Crimes against LGBT persons](#), date of consultation: Monday November 1, 2021

<sup>210</sup> In this regard, the Commission notes with concern eight reports of murders of trans women in Mexico in the month of July, according to information from Agencia Presentes, [Six transfemicides in 12 days in Mexico: one trans woman murdered every 48 hours](#), July 13, 2021 and [Marches in Mexico to protest transfemicides of Aline and Fabiola](#), July 26, 2021.

165. The IACHR received reports of homicides and transfeminicides in Baja California,<sup>211</sup> Colima,<sup>212</sup> Mexico City,<sup>213</sup> State of Mexico,<sup>214</sup> Guanajuato,<sup>215</sup> Jalisco,<sup>216</sup> Puebla,<sup>217</sup> Quintana Roo,<sup>218</sup> Veracruz,<sup>219</sup> and Yucatan.<sup>220</sup> In addition, the Commission learned of physical assaults during social protests<sup>221</sup> in Mexico City and of aggressions suffered by muxes in Oaxaca.<sup>222</sup>

166. Although the information submitted points to some positive practices such as the prosecution of some of the cases with a gender perspective, the IACHR does not have sufficient information to enable it to evaluate trends in the adoption of measures to ensure the investigation, punishment, and reparation of violence with due diligence. In addition to the above, the IACHR observes challenging factors in this area, with 2021 being a particularly violent year for LGBTI people. In its observations on the draft of this report, the State indicated that the Attorney General's Office is currently developing the National Protocol for the Investigation of Crimes Committed against LGBTI+ persons, which is expected to be issued by the National Conference of Prosecutors of Justice, to be applied in all instances of prosecution in the country. It also reported that the SCJN's Protocol of Action for those who impart justice in cases involving sexual orientation or gender identity, published in 2015, is subject to a careful process of updating.<sup>223</sup> In light of the above and considering that the Commission does not have State information showing progress in compliance with the recommendation, compliance with it is still partial.

167. Regarding the recommendation for the **prevention of violence**, the State highlighted the National Program for Equality and Non-Discrimination 2021- 2024 (PRONAIND), which, in line with the National Development Program (PND) 2019-2024, will aim to counteract discriminatory practices and favor the exercise of human rights in education, health, labor, social security, security and justice, among other areas. The State highlighted the forum conducted for drafting said Program, which included LGBTI people. According to the State, the Program is in the process of being published.<sup>224</sup> The CNDH indicated that it held 61 liaison meetings related to the rights of LGBTTTIQ+ populations with public institutions and organized civil society.<sup>225</sup>

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<sup>211</sup> El Imparcial, [Kendra Medina Trans woman found dead at Hacienda los Laureles](#), July 9, 2021; Agencia Presentes, [Trans women in Ensenada fear free transfeminicides](#), November 26, 2021; El Imparcial, [LGBT Community Demands Justice for "Tita"](#), November 5, 2021; Agencia Presentes, transfeminicides, November 26, 2021.

<sup>212</sup> Animal Político [In one week, three trans women are killed in Colima, Tijuana, and CDMX](#), July 8, 2021, Agencia Presentes, [Transfeminicide in Colima: Valeria was murdered in her home and bore signs of torture](#), July 9, 2021.

<sup>213</sup> Agencia Presentes, [Transfeminicide in CDMX: Ivonne was murdered in her beauty parlor](#), July 6, 2021.

<sup>214</sup> Pr: [their communities demand justice amid violence](#), September 9, 2021.

<sup>215</sup> Agencia Presentes, [Two trans activists murdered in Mexico: their communities demand justice amidst violence](#), September 9, 2021.

<sup>216</sup> UDG TV, [Five trans women murdered in one month in Mexico: two of them from El Salto and Tonalá](#), July 11, 2021.

<sup>217</sup> Anodis, [For hate crimes in Puebla, LGBT community demands removal of public official](#), August 21, 2021.

<sup>218</sup> Agencia Presentes, [Hate crime against young person living with HIV: Mexican activists speak out and demand justice](#), June 14, 2021.

<sup>219</sup> Agencia Presentes, [Another hate crime in Veracruz: young chef and social entrepreneur killed with 20 stab wounds](#), October 25, 2021.

<sup>220</sup> Política, [Yucatán: prosecutor's office investigates the possible homicide of a young man by police officers](#), August 7, 2021.

<sup>221</sup> El Popular, [Traders attack LGBT+ community members working at a dissident outdoor market \(tianguis\) in Mexico City with sticks](#), September 23, 2021; Agencia Presentes, [Attack against LGBT+ merchants in CDMX: "They assaulted us with sticks and knives."](#) September 23, 2021.

<sup>222</sup> Plumas Atómicas, [Muxes beaten on the streets of Oaxaca](#), May 17, 2021.

<sup>223</sup> Observations and Comments from the State of January 24, 2022, p. 16.

<sup>224</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 58 – 59.

<sup>225</sup> IACHR, [Report of the CNDH- SIMORE](#) December 17, 2021.

168. The Commission welcomes advances in the recognition of the rights of LGBTI persons in Mexico, including the right to equal marriage and gender identity. The IACHR emphasizes that these measures make it possible to build a more egalitarian society that is increasingly free of violence based on prejudice, taking into account that the heightened vulnerability of LGBTI persons to violence and discrimination occurs in a context of social discrimination and lack of recognition of their human rights.<sup>226</sup>

169. In the same vein, the Commission welcomes the approval of a law in Quintana Roo that would oblige town councils to create sexual diversity divisions in order to generate public policies for the social inclusion of LGBTI people.<sup>32</sup> In addition, the IACHR welcomes the recognition of equal marriage in Baja California, Querétaro, Sinaloa, Sonora, Yucatán and Zacatecas.<sup>227</sup> Likewise, the Commission welcomes advances in the recognition of the right to gender identity in Baja California Sur, Puebla, State of Mexico and Morelos,<sup>228</sup> including the recognition of the gender identity of trans children in Oaxaca.<sup>229</sup> The IACHR also noted the prohibition of procedures that attempt to modify, switch, or suppress people's gender identity/expression and sexual orientation (also known as "conversion therapies") and its criminalization in Baja California Sur, Colima, Tlaxcala, Yucatan, and Zacatecas.<sup>230</sup> The Commission also takes note of the presentation of an initiative to guarantee the incorporation into the labor force of trans and transvestite persons in the public sector in Mexico City.<sup>231</sup>

170. In light of the above, the IACHR considers that compliance with this recommendation has been partial. Here, the IACHR recalls the importance that progress in human rights be made at the federal level, i.e., nationwide. In this regard, the Commission welcomes the upcoming publication of the PRONAIND as a positive measure for eradicating discrimination against LGBTI persons.

## 2. Women

- Implement and strengthen measures, incorporating a gender perspective, to comply with the duty to act with due diligence to prevent, punish, and eradicate violence and discrimination against women, including concrete efforts to comply with the obligations to prevent, investigate, punish, and redress violations of women's human rights; this includes training and monitoring the authorities in charge of investigation, including health services and the judiciary.

<sup>226</sup> IACHR, Violence against LGBTI persons in the Americas, OEA/Ser.L/V/II. Rev.2.Doc 36 (2015), par. 16.

<sup>227</sup> IACHR, <https://twitter.com/CIDH/status/1441405408791334914?s=20>, September 24, 2021; IACHR, <https://twitter.com/CIDH/status/1431265577419649029?s=20>, August 27, 2021; Sinaloa Congress, [Sinaloa accepts equal marriage. Congress extends equal marriage and common law marriage \(cohabitation\) to same sex couples](#), June 15, 2021; Animal Político, [Baja California Congress Also Approves Reform to Recognize Equal Marriage](#), June 16, 2021; El País, [Conservative State of Querétaro Approves Same-Sex Marriage](#), September 22, 2021; Expansión Política, [Sonora's Congress Says "Yes" to Equal Marriage](#), September 23, 2021; Expansión Política, [Yucatan's Congress Approves Equal Marriage](#), August 25, 2021; Infobae, [Zacatecas became the 25th state to recognize equal marriage](#), December 14, 2021.

<sup>228</sup> El Financiero, [Puebla Congress endorses 'Agnes Law', which recognizes self-perceived gender identity](#), February 25, 2021; El Heraldo de México, [BCS approves 'trans law' and criminalizes 'conversion therapies'](#), June 29, 2021; Animal Político, [Edomex Congress adopts trans law authorizing gender identity changes](#), July 20, 2021; Morelos 24, [Gender Identity Law Approved in Congress of Morelos](#), September 9, 2021.

<sup>229</sup> Expansión Política, [Oaxaca allows minors to choose their gender identity](#), October 5, 2021.

<sup>230</sup> El Heraldo de Mexico, [BCS approves 'trans law' and criminalizes 'conversion therapies'](#), June 29, 2021; Expansión Política, [Yucatan's Congress approves egalitarian marriage](#), August 25, 2021; IACHR, <https://twitter.com/CIDH/status/1431265577419649029?s=20>, August 27, 2021; La Tertulia, [Zacatecas prohibits conversion therapies or efforts to change sexual orientation or gender identity](#), August 30, 2021; Contramuro, [Colima legislates against conversion therapies](#), September 28, 2021; Infobae, [Congress of Tlaxcala approved jail sentences for conversion therapy crimes](#), October 19, 2021;

<sup>231</sup> Anodis, [PRI Congresswoman presents initiative on trans labor quota in CDMX](#), December 2, 2021.

- Adopt the necessary measures to prevent, punish, and eradicate acts of sexual violence and other forms of violence, torture, and cruel, inhuman, or degrading treatment by security forces against women, especially those deprived of their liberty.
- Implement standardized law enforcement protocols for crimes related to violence against women, as well as proper supervision of their implementation.
- Adopt public policies aimed at restructuring stereotypes about the role of women in society and promoting the eradication of discriminatory sociocultural patterns that impede their access to justice, including training programs and comprehensive policies for the prevention of violence against women.
- Design and implement culturally appropriate policies with the participation of indigenous women, applying a comprehensive and holistic approach aimed at preventing, investigating, punishing, and redressing acts of violence and discrimination committed against them.

171. Regarding the **implementation and strengthening of measures incorporating a gender perspective, to comply with the duty to act with due diligence to prevent, punish, and eradicate violence and discrimination against women, including concrete efforts to that end**, the State reported that in 2021 the National Commission to Prevent and Eradicate Violence against Women (hereinafter the "CONAVIM") issued the Institutional Integrity System (hereinafter "SII") aimed at selecting the applications of the Justice Centers for Women (hereinafter "CJM") to obtain the 2021<sup>232</sup> certification, and indicated that from January to July 2021, eight were certified and eleven CJMs were recertified in the SII.<sup>233</sup> The State also reported that from January to July 2021, six CJMs were created, located in Escárcega, Campeche; San Luis Río Colorado, Sonora; Gómez Palacio, Durango; Ciudad Cuauhtémoc, Chihuahua; Tlaxcala; and Magdalena Contreras, Mexico City; in addition, five more were strengthened in Torreón, Saltillo, Piedras Negras and Ciudad Acuña, in Coahuila, and in Culiacán, Sinaloa.<sup>234</sup> In addition, note is taken of the inauguration of two more CJMs in San Luis Potosí, SLP<sup>235</sup> and in Uruapan, Michoacán.<sup>236</sup> The IACHR notes that the CJMs are places where specialized, comprehensive, and inter agency services are provided to attend to victims of gender-based violence,<sup>237</sup> and takes note of the information presented by the State indicating that the certification processes make it possible to monitor the operational quality and efficiency of the services offered by the CJMs, in addition to favoring coordination with State authorities for prevention and care programs.<sup>238</sup>

172. In addition, the State informed that during the first semester of 2021, resources were allocated via subsidies to the federal entities for proper implementation of the Gender Violence against Women Alert Mechanism<sup>239</sup> (hereinafter "AVGM"), for the Design four Kinds of Emergency Plans: 1, for the prevention of femicides, by identifying, attending to, and targeting women victims of intentional injuries and attempted femicide (28 projects); 2, for access to justice with actions to reduce the backlog of investigation files relating to crimes of simple and similar rape (*violación simple y equiparada*), intentional injuries, sexual abuse, violence against women, attempted femicide, femicide, and intentional homicide of women and girls (13 projects); 3, for attending to, monitoring, following up on cases involving indigenous and Afro-Mexican women and girls who

<sup>232</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 61.

<sup>233</sup> Mexican State, Report of the Mexican State for the 2021 Annual Report of the IACHR, September 17, 2021, submitted through Diplomatic Note OAS304 File 4.8.0.1, September 18, 2021. [Hereinafter "Report of the Mexican State. Chapter IV: September 18, 2021"]

<sup>234</sup> Report of the Mexican State. Chapter IV: September 18, 2021, par. 127.

<sup>235</sup> Ministry of the Interior, [Interior Ministry Inaugurates Justice Center for Women in San Luis Potosí](#), July 15, 2021

<sup>236</sup> CONAVIM. [Integral Justice Center for Women is inaugurated in Uruapan, Michoacán](#), October 15, 2021

<sup>237</sup> Mexico City Attorney General's Office. [Women's Justice Centers](#), accessed December 2, 2021.

<sup>238</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 61.

<sup>239</sup> The Commission notes that the AVGM mechanism comprises the whole set of emergency governmental actions to confront and eradicate femicidal violence in a given territory, whether exercised by individuals or by the community itself. General Congress of the United Mexican States, [General Law on Women's Access to a Life Free from Violence](#). Art. 22

experience violence (7 projects) and; 4, for the design and implementation of a follow-up and monitoring methodology for modalities 1, 2, and 3 (6 projects).<sup>240</sup>

173. Likewise, the State indicated that as of August 2021, 25 AVGMs remain active in 22 states.<sup>241</sup> In particular, it reported that on June 25, 2021 a new AVGM declaration was issued for the State of Baja California for feminicidal violence, and in August 2021 new declarations were issued for the States of Chihuahua, Tlaxcala, and Sonora for feminicidal violence, and a new resolution on the alert already declared for the State of Oaxaca, also for feminicidal violence.<sup>242</sup> For its part, the National Human Rights Commission (hereinafter the "CNDH") reported that during 2021 it followed up on 27 AVGM procedures, 22 of which correspond to AVGM declarations and 5 to requests that are still to be resolved.<sup>243</sup>

174. The State also reported on the continued implementation of the "Strategy for gender mainstreaming and institutionalization" within the Federal Judicial Council (CJF), initiated in 2019, based on a comprehensive policy comprising three courses of action: 1) judging and defending with a gender perspective; 2) personal, family, and work-place conciliation; and 3) consolidating a culture of gender equality. As part of this strategy, the State reports having carried out institutional actions to achieve gender parity; prevent and address cases of sexual harassment and any other form of gender-based violence in the CJF; provide training and education on gender issues in order to bolster the skills and competencies of CJF personnel; strengthen gender mainstreaming in the Public Defender's Office (*Instituto de la Defensoría Pública*); and strengthen the CJF's gender equality communication strategy.<sup>244</sup>

175. Likewise, the State reported that, in order to reinforce the integration of the gender perspective in federal crime investigations, the FGR collaborated during 2021 with a number of ministerial departments to issue expert technical opinions regarding three investigation files, using the methodology for the application of the gender perspective established in the SCJN Protocol on the subject.<sup>245</sup>

176. The State also reported<sup>246</sup> a series of specific activities to prevent and eliminate femicide in Mexico, as well as other forms of gender-based and other violence against women, girls, and adolescents.<sup>247</sup>

177. The Commission takes note of the adoption of legislative measures related to the prevention and punishment of violence against women. In particular, it notes that in March 2021, the General Law on Women's Access to a Life Free of Violence was amended to strengthen protection orders for victims of violence and include digital and media violence as a form of violence against women<sup>248</sup>; and the Federal Criminal Code

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<sup>240</sup> Report of the Mexican State. Chapter IV: September 18, 2021, par. 131.

<sup>241</sup> Report of the Mexican State. Chapter IV: September 18, 2021, par. 131.

<sup>242</sup> Report of the Mexican State. Chapter IV: September 18, 2021, par. 2, p. 130.

<sup>243</sup> Report of the Mexican State. Chapter IV: September 18, 2021, par. 257.

<sup>244</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 62.

<sup>245</sup> Report of the Mexican State. Chapter IV: September 18, 2021, par. 148.

<sup>246</sup> Report of the Mexican State. Chapter IV: September 18, 2021, par. 122.

<sup>247</sup> The State reported that within the framework of the Spotlight Mexico Initiative, in conjunction with the United Nations office in Mexico and Organized Civil Society, a series of actions were conducted, including the evaluation of the AVGM; the publication of a manual for journalists with a gender perspective; the implementation of the Safe Accommodation Program to involve hotels in the protection of women victims of violence and their children; advisory services to strengthen the National Information Database on Cases of Violence against Women; training for first responders, public officials, and civil society organizations; and support to the Congress of the Union and the Congress of the State of Chihuahua in legislative reform initiatives to eliminate legal provisions that discriminate against women and girls.

<sup>248</sup> Diario Oficial de la Federación (Official Gazette of the Federation), [Decree reforming and adding various provisions to the General Law on Women's Access to a Life Free of Violence, March 18, 2021; Diario Oficial de la Federación, March 18, 2021](#), March 18, 2021; Diario Oficial de la Federación, [DECREE adding various provisions to the General Law on Women's Access to a Life Free from Violence and to the Federal Criminal Code](#), June 1, 2021.

was amended in June 2021 to include the criminal offense of violation of sexual privacy.<sup>249</sup> Likewise, the IACHR learned of the modification of the Criminal Code of Chihuahua in May 2021 to declare that the crime of femicide cannot prescribe under the statute of limitations.<sup>250</sup>

178. However, the IACHR notes with extreme concern the persistence of high rates of gender-based violence against women in Mexico, particularly femicide and sexual and domestic violence. According to information from the Executive Secretariat of the National Public Security System, between January and October 2021, there were 809 cases of femicide; 58,489 aggressions against sexual freedom and security, including abuse, harassment, simple and similar rape, incest, and other sexual crimes; and 214,277 cases of domestic violence.<sup>251</sup> In the same period, 581,849 emergency calls related to incidents of domestic violence were recorded<sup>252</sup>. The Commission reiterates the importance of ensuring that the investigation, punishment, and reparation of acts of gender-based violence against women are carried out with strict due diligence, from a gender perspective and with an intersectional approach, in order to reduce levels of impunity and prevent the recurrence of violence.<sup>253</sup>

179. The IACHR was also informed about acts of gender violence and excessive use of force against women in connection with feminist protests and protests against gender violence, noting that those protests have been stigmatized by government officials as instigations to violence.<sup>254</sup> In its observations on the draft of this report, the State reported that it provided assistance to victims of police repression in connection with the November 9 demonstrations. Likewise, a statement was sent to all the governors of the 32 states and to the Secretaries of Public Security, promising cooperation with the authorities in the training of their personnel to prevent violence against women in demonstrations.<sup>255</sup> In light of the above, the IACHR considers that compliance with this recommendation is partial.

180. Regarding efforts to provide **training and monitoring for the authorities in charge of investigation, including those in health services and in the judiciary**, the State reported that it has developed the Annual Jurisdictional Training Program for the development of skills and competencies to try cases and defend with a gender perspective, as well as various actions to raise awareness and strengthen the technical capacities of personnel to systematically and transversally incorporate the gender perspective in the Federal Judicial Council.<sup>256</sup> It also reported that the CJF, through its various agencies, and the SCJN trained and raised awareness among public officials of the Federal and Local Judiciaries on gender equality and human rights through a series of training activities, including talks, conferences, seminars, roundtable discussions,

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<sup>249</sup> Official Gazette of the Federation, Code, June 1, 2021

<sup>250</sup> Congress of the State of Chihuahua. [Chihuahua Congress includes femicide as a crime not subject to statute of limitations](#), April 8, 2021

<sup>251</sup> Secretariat for Citizen Security. [Incidencia Delictiva del Fuero Común 2021. Instrument for the Registration, Classification, and Reporting of Crimes and Victims CNSP/38/15](#), November 20, 2021

<sup>252</sup> Secretariat for Citizen Security. [Information on violence against women](#). Information as of October 31, 2021.

<sup>253</sup> In its comments to the draft of this report, the State referred to the development of the Comprehensive Program to Prevent, Address, Punish, and Eradicate Violence against Women 2021-2024 (PIPASEVM), published in the Official Gazette of the Federation on December 30, 2021. Similarly, for fiscal year 2021, 121 million pesos were allocated to support the states and municipalities that have a Declaration of Gender Violence against Women Alert, through actions in support of justice, security, and prevention. Observations and Comments from the State of January 24, 2022, p. 18.

<sup>254</sup> IACHR. Hearing on the situation of the human rights of women and girls in the context of the protests in Mexico, period of sessions No.181, October 27, 2021; Amnesty International, CEJIL, Círculo Feminista de Análisis Jurídico, Espacio OSC, Front Line Defenders, Instituto de Justicia Procesal Penal, Luchadoras, RNDDHMX, Request for thematic hearing on repression of women's social protest and freedom of expression in Mexico, 180th period of sessions. P. 3 On file with the IACHR; Milenio, Video shows arrest of woman with baby in her arms in Jalisco; she is released hours later, July 10, 2021; Animal Político. Feminist movement seeks to harm me, is conservative, says Amlo, September 29, 2021.

<sup>255</sup> Observations and Comments from the State of January 24, 2022, p. 18.

<sup>256</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 60 - 62; Report of the Mexican State. Chapter IV: September 18, 2021, p. 68.

dissemination of chronicles and jurisprudential bulletins.<sup>257</sup> It also announced the approval in March 2021, by the CJF Plenary, of the "Guidelines for the registration of sentences in the Specialized Sentence Search Engine in the Adversarial Criminal Justice System", which will provide a database on victims, including cases that have been tried with a gender and priority groups perspective.<sup>258</sup>

181. The State reported that three courses coordinated by CONAVIM and the National Institute of Criminal Sciences on Gender, Femicides and Human Rights were held for personnel from prosecutors' offices, expert opinion personnel, agents of the Public Prosecutors' Office, investigative police, and those responsible for the care and protection of women victims of violence and their children; 1,935 public servants (1,496 women and 439 men) from 27 states were trained.<sup>259</sup> Also, in order to generate egalitarian and violence-free work environments, workshops and videoconferences were held on prevention and dealing with sexual harassment, gender-based violence, violence in a migration context, and gender perspective, targeting Federal Public Administration personnel, with the participation of 2,094 people in the videoconferences and 562 in the workshops.<sup>260</sup> To enhance the professional skills of FGR personnel, 41 public servants were trained in legal argumentation with a gender perspective; summer courses on sexuality were held with the participation of 36 adolescents who are family members of FGR personnel, with a view to preventing sexual violence, and an online course on the gender perspective for forensic experts is currently being developed.<sup>261</sup> The State also indicated that 403 municipal public security personnel in Guerrero and Quintana Roo were trained in gender and human rights policing.<sup>262</sup>

182. The Commission recognizes and welcomes the State's efforts to prevent and protect women, girls, and adolescents from gender-based violence; it highlights the efforts to mainstream the gender perspective in the investigation and administration of justice, as well as the strengthening of institutions through multiple training courses for public officials on gender and human rights. However, it notes with extreme concern the persistence of high levels of femicide and sexual and domestic violence, as well as violence in connection with social protest. Furthermore, there is not enough information related to access to justice for women, girls, and adolescent victims of violence to measure the level of compliance with the duty to act with due diligence in the investigation, punishment, and reparation; nor was information received on mechanisms for monitoring the authorities in charge of the investigation and their findings, or on training and monitoring of health services personnel. In its comments to the draft of the present report, the State indicated that it prepared the Comprehensive Program to Prevent, Address, Punish, and Eradicate Violence against Women 2021-2024, published in the Official Gazette of the Federation on December 30, 2021.<sup>263</sup> Based on the foregoing, the Commission considers that compliance with the present recommendation is still partial.

183. With respect to the recommendation regarding the **adoption of measures needed to prevent, punish, and eradicate acts of sexual violence and other forms of violence, torture, and cruel, inhuman, or degrading treatment by security forces against women, especially those deprived of their liberty**, the State reported that it is strengthening the Mechanism for Monitoring Cases of Sexual Torture committed against Women, derived from the judgment of the I/A Court of H.R. in the Case of *Women Victims of Sexual Torture in Atenco v. Mexico* issued on November 28, 2018.<sup>264</sup> It also indicated that the guidelines of the

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<sup>257</sup> Report of the Mexican State. Chapter IV: September 18, 2021, paras. 43- 44, 46- 49, and 241.

<sup>258</sup> Report of the Mexican State. Chapter IV: September 18, 2021, paras. 95-96.

<sup>259</sup> Report of the Mexican State. Chapter IV: September 18, 2021, paras. 144.

<sup>260</sup> Report of the Mexican State. Chapter IV: September 18, 2021, paras. 140 and 145.

<sup>261</sup> Report of the Mexican State. Chapter IV: September 18, 2021, paras. 151-152.

<sup>262</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 60 – 62.

<sup>263</sup> Observations and Comments from the State of January 24, 2022, p. 18.

<sup>264</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 60 – 62.

Follow-up Mechanism for Cases of Sexual Torture Committed against Women are currently being revised, and once the corresponding opinion has been issued, they will be published. However, one of the objectives of the Federal Government is to generate a national diagnostic assessment of sexual torture against women, above all those who are deprived of their liberty.<sup>265</sup>

184. In particular, the State indicated that on November 5, 2021, at the XLI Regular Session of the National System for Preventing, Addressing, Punishing, and Eradicating of Violence against Women, the creation of the Technical Support Group of the Follow-up Mechanism for Cases of Sexual Torture Committed against Women was approved, with a view to strengthening and providing resources for the mechanism, submitting annual reports, conducting a diagnostic assessment of sexual torture, and formulating public policy proposals on the subject; it pointed out that the aforementioned Support Group met for the first time on June 25, 2021. Likewise, the State reported that, in that session, the "Guidelines for the organization and operation of the Technical Support Group of the Mechanism", which had previously been presented and discussed, on May 14, 2021, with the civil society organizations representing the survivors of the Atenco case, including their observations, were presented to the member institutions. The State specified that the Guidelines contemplate including all women victims of sexual torture who are involved in criminal proceedings, including trans women; the drafting of a diagnostic assessment of sexual torture of women in the country; and the formulation of public policies aimed at preventing, addressing, punishing, and eradicating sexual torture in Mexico. Finally, it reported that, as of October 2021, the Guidelines were in the process of being validated by the General Department of Legal Affairs of the Ministry of the Interior.<sup>266</sup>

185. For its part, the IACHR takes note of public information from the PRODH Center regarding compliance with the I/A Court H.R. Judgment on the Case of Women Victims of Sexual Torture in Atenco v. Mexico, indicating the lack of progress with respect to the guarantees of non-repetition ordered by the Court, especially with regard to the preparation of the national diagnostic assessment of sexual torture against women, and highlighting the persistence of those cases in the country.<sup>267</sup> It also reports that the Prosecutor's Office of the State of Mexico continues to obstruct access to justice for the victims in the case, as it refuses to hand over the investigation file to the Special Prosecutor's Office for Crimes of Violence against Women and Trafficking in Persons, thereby preventing a comprehensive and consistent investigation of the case and hindering the determination of liabilities, including those involving the chain of command.<sup>268</sup>

186. The Commission recalls the State's duty to guarantee access to justice for women victims of gender-based violence, which requires investigations to be conducted with due diligence by competent and impartial authorities trained in gender and women's rights.<sup>269</sup> In particular, it stresses that, in the framework of the I/A Court HR judgment in the Case of Women Victims of Sexual Torture in Atenco, the State must conduct comprehensive, systematic, and thorough investigations to determine, prosecute, and if appropriate, punish all persons responsible for the violence and sexual torture suffered by the victims in the case and to identify those responsible at all levels of decision making, whether federal, state, or municipal.<sup>270</sup>

187. The Commission appreciates the progress made with the installation of the Technical Support Group of the Mechanism for Following-up on Cases of Sexual Torture committed against women, as well as the

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<sup>265</sup> Observations and Comments from the State of January 24, 2022, p. 18.

<sup>266</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 63; Report of the Mexican State. Chapter IV: September 18, 2021, paras. 120-121.

<sup>267</sup> Animal Político on behalf of the Prodh Center, [The State's Debt to the Women of Atenco](#), May 5, 2021

<sup>268</sup> Prodh Center. [Mexico State Prosecutor's Office should refer the investigation of the Women of Atenco case to the FGR](#), September 19, 2021.

<sup>269</sup>I/A Court H.R. [Case of González et al. \("Cotton Field"\) v. Mexico](#). Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 16, 2009, Series C No. 205, par. 455

<sup>270</sup>I/A Court H.R. [Case of Women Victims of Sexual Torture in Atenco v. Mexico](#). Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 28, 2018. Series C No. 371, par. 338

Guidelines to govern its organization and operations. However, the information received is not enough to assess the level of compliance with this recommendation, particularly since no information has been provided on the situation of women deprived of their liberty.<sup>271</sup> There is also no information on access to justice for women victims of violence and sexual torture, and the Commission notes ongoing obstacles in this regard in the case of the *Women Victims of Sexual Torture in Atenco*. The Commission also notes that the absence of a national diagnostic assessment of sexual torture against women prevents the adoption of effective comprehensive public policies for the prevention and eradication of this practice. In light of the above, the Commission considers that compliance with this recommendation is still partial.

188. The Commission also received information from the State on follow-up to the **recommendation to implement protocols standardized by law enforcement authorities for crimes related to violence against women, as well as proper supervision of their implementation**. In this regard, the State reported that on November 25, 2020, the Federal Government presented the updated version of the Protocol for Handing down Judgments with a Gender Perspective (hereinafter "the Protocol").<sup>272</sup> According to the information provided, the Protocol was updated by the SCJN's General Directorate of Human Rights, taking into consideration the progress made in this area since it was first published in 2013, and consulted with a wide range of judicial personnel, civil society organizations, human rights defenders, and academics. The State emphasized that this Protocol enables judicial authorities to incorporate the gender perspective as an analytical method in cases in which gender constitutes an obstacle to equal access to justice.<sup>273</sup>

189. The State added that the updated version of the Protocol includes the most up-to-date national and international human rights standards on the subject, including criteria espoused by the SCJN, the Inter-American Court of Human Rights, and the Universal Human Rights System, and is accompanied by the Support Tool for Consulting the Protocols of Action (Hecopac), which contains standards and other relevant sources on the subject. Likewise, it indicated that the updated Protocol constitutes a novel practical guide for handing down judgments with a gender perspective, based on the provisions of jurisprudential thesis 22/2016 of the First Chamber of the SCJN, which identifies 3 major sets of obligations for issuing judgments with a gender perspective: (i) prior obligations in the analysis of the merits; (ii) specific obligations when ruling on the merits; (iii) a generic obligation on the use of language; and uses examples of practical cases of analyses in which this category is adequately considered.<sup>274</sup>

190. For its part, the Commission notes that on August 4, 2021, the National Protocol for the Comprehensive Care of Children and Adolescents Orphaned by Femicide, mandatory for the three levels of government, was published with a view to guiding and facilitating the actions of public officials in charge of protecting and restoring their rights and restitution of their rights, by providing appropriate services in accordance with the applicable regulatory framework.<sup>275</sup>

191. The Commission welcomes the adoption of both Protocols and invites the State to continue its efforts to ensure their proper implementation through the allocation of sufficient economic, technical, and

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<sup>271</sup>In its comments to the draft of this report, the State informed that during the months of October and November 2021, the SEGOB in collaboration with the CEAV devoted one day to conducting surveys of women deprived of their liberty in State Social Rehabilitation Centers. The work involved visits to 66 state prisons and one federal prison, covering the country's 32 states. Observations and Comments from the State of January 24, 2022, p. 18.

<sup>272</sup>Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 64; Mexico. Report of the Mexican State. Chapter IV: September 18, 2021, Annex 5, p. 64; SCJN, [Protocol for Judging with a Gender Perspective](#), 2020.

<sup>273</sup>Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 64 – 65.

Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 64-65.

<sup>275</sup>Report of the Mexican State. Chapter IV: September 18, 2021, par. 306; Diario Oficial de la Federación, Extract from the Agreement issuing the [National Protocol for the Comprehensive Care of Orphaned Children and Adolescents](#), August 4, 2021.

human resources, as well as their wide dissemination to promote awareness among the various competent authorities. However, the Commission notes that, in order to evaluate compliance with this recommendation, it is necessary to have information on the effective implementation of the protocols by the law enforcement authorities; it also notes that no information was received regarding oversight mechanisms for their implementation. In light of the above, the Commission considers that compliance with the recommendation is still partial.

192. With respect to the recommendation to **adopt public policies aimed at restructuring stereotypes about the role of women in society and to promote the eradication of discriminatory sociocultural patterns that prevent their access to justice**, the State reported that at the XLIV Regular Session, held on September 7, 2021, the National System to Prevent, Address, Punish, and Eradicate Violence against Women approved agreement 03-07/09/2021 adopting the Comprehensive Model of Primary Prevention of Violence against Women, the implementation of which will be monitored by the Prevention Commission, which, in turn, will report to the National System.<sup>276</sup> The State reported that this agreement aims to modify the socio-cultural patterns inherited from both a regime based on impunity, institutional neglect, and corruption, and from the patriarchal system; it also indicates that the agreement aims to lay the foundations for a free, democratic, and sovereign society in which there is no room for exclusion, marginalization (*invisibilización*) and violence against women.<sup>277</sup>

193. The State also reported on the joint drafting with ECLAC of the document entitled "Financial Inclusion without Discrimination: towards a protocol for inclusive treatment in bank branches in Mexico", published in October 2021, which incorporates elementary guidelines derived from the right to equality and non-discrimination, and seeks to promote social, political, and economic equality among the Mexican population; the State stressed that the recommendations contained in the document seek to embody and mainstream the anti-discrimination perspective throughout the entire process of interaction between users and the financial system.<sup>278</sup> In addition, the State reported the publication in 2019 of the document entitled "Diversity and discrimination in service sector companies in Mexico City," which reveals the preponderance of subjective criteria based on prejudices and stereotypes in hiring, job stability and promotions.<sup>279</sup>

194. The State also reported that during 2021 CONAVIM obtained NMX-R 025-SCFI-2015 recertification in labor equality and non-discrimination, for the period from March 5, 2021 to March 4, 2025 with a total score of 90 and Bronze Level status.<sup>280</sup> It also reported that within the framework of the Institutional Culture Program (PCI), in 2021 steps were taken to help eliminate violence against women in the workplace, targeting government employees in the Ministry of the Interior and its sectoral agencies, and highlighted the updating of the Protocol for the preventing, addressing and punishing of sexual harassment - and the training provided in this regard - as well as training activities on non-sexist and inclusive language, gender perspective, human rights, equality, and non-discrimination.<sup>281</sup> The State also reported on the efforts of the National Electoral Institute through the Institutional Dissemination Strategy to raise awareness of gender-based political violence against women, to draw attention to the civic and political participation of women in various public spheres, and to promote inclusive and non-sexist language in publications; however, the State

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Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 65.

<sup>277</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 65.

<sup>278</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 66; ECLAC. **Error! Hyperlink reference not valid.** October 2021

<sup>279</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 66-67; CONAPRED, [Diversity and discrimination in service sector companies in Mexico City](#), November 2019

<sup>280</sup> Report of the Mexican State. Chapter IV: September 18, 2021, paras. 137 and 141.

<sup>281</sup> Report of the Mexican State. Chapter IV: September 18, 2021, paras. 138-140, and 142.

acknowledged that, for authors used to traditional language, there is some resistance to using non-sexist or inclusive language.<sup>282</sup>

195. The CNDH reported in the Recommendations Monitoring System (SIMORE) a series of promotional activities and meetings with authorities to advance women's rights focusing on equality between men and women and the prevention of violence.<sup>283</sup>

196. The Commission welcomes the adoption of the Comprehensive Model for the Primary Prevention of Violence against Women and urges the State to continue its efforts to ensure its proper implementation; it also appreciates the efforts to promote the use of inclusive and non-sexist language, as well as to prevent, address, and punish violence and discrimination in the workplace and in political participation. However, the Commission notes with extreme concern the prevalence of high rates of femicidal, sexual, and domestic violence against women, reflecting the normalization and social tolerance of such violence. The Commission also notes that some of the information provided by the State is outdated, local in scope, or is insufficient for an assessment of the extent to which this measure contributes to modifying sociocultural patterns of discrimination against women. Based on the foregoing, the Commission observes that compliance with this recommendation is still partial.

197. With respect to the recommendation to **design and implement culturally appropriate policies, with the participation of indigenous women and with a comprehensive and holistic approach to preventing, investigating, punishing, and redressing acts of violence and discrimination against indigenous women**, the State reported that CONAVIM is currently discussing the Sanction Model established in Article 24 of the Regulations of the General Law on Women's Access to a Life Free of Violence. It indicates that an in-depth analysis is being carried out with a view to mainstreaming a comprehensive, holistic, and inclusive approach for indigenous women, closing historical gaps, and ensuring equity in the administration and prosecution of justice.<sup>284</sup>

198. Likewise, the State reported that through the Specialized Unit for Attention to Indigenous Affairs of the FGR, seven courses were held from January to September 2021 in the states of San Luis Potosí and Quintana Roo on "gender violence against women in indigenous communities", with a total participation of 335 indigenous people (205 women and 130 men). The State added that the General Directorate of Federal Legal Counsel provides guidance, advice, representation, and legal support to indigenous women victims of federal crimes and gross human rights violations.<sup>285</sup>

199. The State further indicated that, through the Program for the Integral Well-being of Indigenous Peoples (PROBIPI), the National Institute of Indigenous Peoples (hereinafter the "INPI") supports the implementation and effective exercise of the rights of indigenous and Afro-Mexican women, paying special heed to the causes and consequences of violence and discrimination against them. To this end, the State indicates that efforts have been made to disseminate information and raise awareness among the general population about the rights of indigenous women; prevent sexual and obstetric violence; generate information on cases, and manage resources and support for the care of women victims of violence; provide training workshops for the prevention of gender violence; provide promotional, preventive, guidance, counseling, and other support services for women victims of violence; provide sexual and reproductive health services; and promote the political participation of indigenous and Afro-Mexican women. Such efforts, according to the State, have been financed through the subprogram "Support for the effective access of indigenous and Afro-Mexican individuals and communities to the jurisdiction of the State", as well as the "Support for organizational

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<sup>282</sup> Report of the Mexican State. Chapter IV: September 18, 2021, paras. 226-227, and 230.

<sup>283</sup> IACHR, [Report of the CNDH- SIMORE](#) December 17, 2021.

<sup>284</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 67.

<sup>285</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 67 – 68.

processes and actions for the effective exercise of the rights of indigenous and Afro-Mexican women," through which support is granted to the Indigenous and Afro-Mexican Women's Houses (hereinafter "CAMIS"), with 35 houses in 17 states as of October 2021.<sup>286</sup> In this regard, the Commission notes that on March 8, 2021, the State announced the allocation of state funds for the CAMIS.<sup>287</sup>

200. On the other hand, the CNDH reported that Oaxaca ranks first nationally in crimes committed against women, which, in the context of marginalization, backwardness, and exclusion prevailing in the State, suggests a relationship between inequality, poverty, and gender violence<sup>288</sup>; the above indicates the particular prevalence of violence against indigenous women considering that the population of Oaxaca constitutes only 3.3% of the total population of the country, while at the same time it has the highest percentage of indigenous language speakers (31%).<sup>289</sup> In this regard, the Commission highlights the heightened duty to prevent and protect, given the violence of States against women confronting two or more factors of discrimination, as is the case of indigenous women,<sup>290</sup> as well as the importance of acting with due diligence in the investigation, punishment, and reparation of acts of violence against indigenous women, while including a gender, intercultural, and multidisciplinary perspective and taking into consideration their situation of particular vulnerability, their socioeconomic characteristics, their values, and their customs.<sup>291</sup>

201. The Commission notes the ongoing absence of a structured and coordinated strategy in the design and implementation of culturally appropriate policies to prevent, investigate, punish, and redress acts of violence and discrimination against indigenous women<sup>292</sup>; and highlights the absence of the information needed to evaluate the application of a comprehensive and holistic approach, as well as the level of participation of indigenous women in the design and implementation of such policies. It also notes the lack of disaggregated data on the real prevalence of discrimination and violence, and on access to justice for indigenous women, girls, and adolescents. In this regard, the Commission reiterates its recommendation to the State and urges it to redouble its efforts to advance guarantees for the right of indigenous women to live free from all forms of violence and discrimination. In light of the above, the IACHR considers that compliance with this recommendation is still pending.

### 3. Children and Adolescents

- Develop protocols for police activities with respect to children and adolescents in order to ensure the protection of their rights.
- Implement and strengthen measures to comply with the duty to act with due diligence to prevent, punish, and eradicate violence against children and adolescents, including concrete efforts to comply with the obligations to prevent, investigate, punish, and redress human rights violations, and consider the corresponding aggravating factors related to the age of the victim.

202. With regard to the recommendation on the **development of protocols for police activities with respect to children and adolescents**, the State reported that the National System for the Integral Development of the Family (DIF) and the Federal Attorney General's Office for the Protection of Children and

<sup>286</sup> Report of the Mexican State. Chapter IV: September 18, 2021, paras. 106-107, 111, 112 and 287- 296.

<sup>287</sup> INPI. [The INPI promotes the effective exercise of the rights of indigenous and Afro-Mexican women](#), March 8, 2021

<sup>288</sup> Report of the Mexican State. Chapter IV: September 18, 2021, paras. 281 – 282.

<sup>289</sup> INEGI. [Cuéntame de México. Población de México](#), 2021.

<sup>290</sup> IACHR, Violence and Discrimination against Women, Girls, and Adolescents. [Annex 1: Standards and recommendations](#). OEA/Ser.L/V/II. Doc. 233, November 14, 2019, par. 7,

<sup>291</sup> IACHR, [Indigenous Women and their Human Rights in the Americas](#), OEA/Ser.L/V/II. Doc. 44, 2017, paras. 183-184; I/A Court H.R., Case of Fernández Ortega et al. v. México Preliminary objection, reparations and costs, Judgment of August 30, 2010, Series C No. 215; Case of Tiu Tojín v. Guatemala, Merits, reparations and costs, Judgment of November 26, 2008, Series C No. 190, par. 96.

<sup>292</sup> IACHR, [Annual Report Mexico](#), 2020, par. 208

Adolescents (PFPNNA) have adopted a series of instruments to achieve effective protection and restitution for this population. In particular, it highlighted the adoption of the National Protocol for the Comprehensive Care of Children and Adolescents orphaned by femicide in August 2021, which contains guidelines for police intervention and care for children and adolescent victims of femicide.<sup>293</sup> For its part, the National Human Rights Commission (CNDH) highlighted the publication of the above Protocol aimed at ensuring that the competent authorities provide immediate and high quality care for children and adolescents who are indirect victims of the crime of femicide, irrespective of measures that may be ordered as part of a comprehensive reparation.<sup>294</sup>

203. Additionally, the IACHR received information on the adoption of the Institutional Coordination Protocol for the Protection of Children and Adolescents against all forms of violence, which includes guidelines for actions by cyber police and police authorities acting as first responders to complaints.<sup>295</sup>

204. In addition, the IACHR takes note of the report published by the Human Rights Commission of Mexico City, which warns that between 2008 and 2020 a total of 843 complaints were registered in relation to interactions with agents of the Secretariat of Citizen Security (SSC) in which at least 1,091 adolescents were allegedly involved. The report also identified that 80% of the case files opened in 2020 involving adolescents were related to illegal or arbitrary detention.<sup>296</sup>

205. At the same time, the Commission notes with concern reports from civil society regarding the death of two adolescents aged 13 and 15 in the community of Guadalupe La Patrona, in the State of Veracruz, allegedly due to the excessive use of force by police officers.<sup>297</sup>

206. In this regard, the Commission notes that, based on the information available, it is not possible to establish progress made with complying with this recommendation. In its comments to the draft of the present report, the State indicated that in the framework of the implementation of the 2019-2024 Action Plan of Mexico in the Global Partnership to End Violence against Children, Line of Action 1 is implemented.1 Strengthening the capacities of the National Guard and state and municipal security forces in the protection of children and adolescents, which is coordinated by the Ministry of Security and Citizen Protection (SSPC) and refers to a series of training courses and the drafting of a "Single Protocol of Action for the Detention of Adolescents for acts that the Law describes as Administrative Offenses."<sup>298</sup> Based on this, the Commission concludes that compliance with this recommendation is partial. In this regard, the IACHR reiterates the importance of the adoption and effective implementation of protocols that regulate the actions of the police in accordance with international standards for the comprehensive protection of children and adolescents. In addition, it emphasizes the need to promote the effective implementation of the protocols, as well as the monitoring of their application.

207. Regarding the recommendation aimed at **implementing and strengthening measures to comply with the duty to act with due diligence to prevent, punish, and eradicate violence against children and adolescents**, the State informed the Commission of the general collaboration agreement signed

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<sup>293</sup> National System for the Comprehensive Development of the Family (DIF), [Protocolo Nacional de Atención Integral a Niñas, Niños y Adolescentes en condición de orfandad por femicidio \(National Protocol for Comprehensive Care for Children and Adolescents Orphaned by Femicide\)](#), August 4, 2021, 2021.

<sup>294</sup> CNDH, Mexico, Annex 6 to the Mexican State's Information for the 2021 Annual Report of the IACHR "CNDH Study on Legislative Harmonization," September 17, 2021, p. 9.

<sup>295</sup> SIPINNA, Violence, February 12, 2021.

<sup>296</sup> CDHCM, City, January 26, 2021.

<sup>297</sup> ONEA, "[ONEA Mexico joins the demand for justice for the murder of Eduardo Jimenez and Jonathan Herrera in Veracruz](#)", July 5, 2021. Las Patronas [@LasPatronas-dh]. (July 3, 2021) *Open Letter to the Gov. of Veracruz @CuitlahuacGJ, the Mayor of Amatlan @EDUARDOROJASCA2sec. of Public Security @HGutierrez\_M and Sec. of Government @M\_OlgaSCordero, and the community in general.* [Tweet] Twitter. [https://twitter.com/LasPatronas\\_dh/status/1411548497757802503?s=20](https://twitter.com/LasPatronas_dh/status/1411548497757802503?s=20).

<sup>298</sup> Observations and Comments from the State of January 24, 2022, p. 21.

by a number of state institutions to strengthen, standardize, and streamline the quality of emergency telephone services. The purpose of this is to ensure that reports of violence against children and adolescents in vulnerable situations are dealt with in a comprehensive manner, with a gender perspective and a specialized differential approach. In addition, the State emphasized that this measure seeks to provide statistical and geo-referenced information to document public policies aimed at eradicating gender-based violence and violence against children and adolescents.<sup>299</sup>

208. In addition, the State indicated that as of September 2021, various training courses on violence against children and adolescents had been delivered, benefiting 1,280 State employees nationwide.<sup>300</sup> At the same time, it reported that, as of September 30, 2021, 14 children and adolescents had been admitted to the Specialized Shelter of the Special Prosecutor's Office for Crimes of Violence against Women and Trafficking in Persons; while 110 children and adolescents had received care at the same shelter.<sup>301</sup>

209. With respect to this recommendation, the Commission has pointed out that it focuses on the protection of children and adolescents against all forms of violence. Accordingly, it will pronounce on situations that require to address in a comprehensive manner by the State. In April 2021, the IACHR expressed its rejection of the recruitment of some thirty Nahua children, between 6 and 11 years of age, by the community police "Coordinadora Regional de Autoridades Comunitarias - Pueblos Fundadores (CRAC-PF)", Guerrero.<sup>302</sup>

210. Regarding family violence, the Commission notes that, according to a report by the Undersecretary of Human Rights of the SEGOB, during the first quarter of 2021, 129,020 investigation files related to family violence were opened; that figure represents an increase of 24% over the same period in 2020. It added that during the second quarter of the year, record highs in domestic violence were reported.<sup>303</sup> In addition, the report underscores that 65.96% of the cases of injuries due to violence were perpetrated by persons related to the victim.<sup>304</sup>

211. The IACHR notes that between 2018 and 2021, a total of 4,401 homicides of children and adolescents were recorded<sup>305</sup> and, as of August 2021, 1,114 children and adolescents were reported as missing; an increase of 19.5% over the same period in 2020.<sup>306</sup>

212. Regarding sexual violence against children and adolescents, the Commission notes with grave concern that, according to a report by the Office of the Ombudsman for Children's Rights, children suffer sexual violence on a daily basis in a number of schools. The report also states that those occurrences were not reported by the school authorities, who only initiated in-house investigations. It adds that, although several prosecutor's offices throughout the country are reportedly aware of those cases, they have not been adequately investigated.<sup>307</sup> In its comments on the draft of this report, the State reported that the Federal Attorney General's Office for the Protection of Children and Adolescents of the National DIF System has implemented the

<sup>299</sup> Ministry of Foreign Affairs, Mexico, Follow-up report on compliance with the recommendations of the IACHR, October 2021, p. 70.

<sup>300</sup> Ministry of Foreign Affairs, Mexico, Follow-up report on compliance with the recommendations of the IACHR, October 2021, p. 71.

<sup>301</sup> Ministry of Foreign Affairs, Mexico, Follow-up report on compliance with the recommendations of the IACHR, October 2021, p. 73.

<sup>302</sup> IACHR, Press Release 099/21 - [IACHR Rejects All Forms of Recruitment of Children and Adolescents by Armed Groups and Urges the Mexican State to Protect the Life and Personal Integrity of This Population](#), Washington D.C., April 22, 2021.

<sup>303</sup> Ministry of the Interior, [Impact of the Pandemic on Children](#), August 13, 2021, p. 4.

<sup>304</sup> Ministry of the Interior, [Impact of the Pandemic on Children](#), August 13, 2021, p. 5.

<sup>305</sup> Ministry of the Interior, [Impact of the Pandemic on Children](#), August 13, 2021, p. 7.

<sup>306</sup> Derechos Infancia, ["Niñez Desaparecida en México, una epidemia invisible por el adultocentrismo" \(Missing Children in Mexico, an invisible epidemic due to adult centrism\)](#), August 29, 2021.

<sup>307</sup> Office of the Child Rights Ombudsman, ["It's a Secret": Child Exploitation in Schools](#), 2021, p. 46.

procedure contained in the Protocol for Comprehensive Care for Child and Adolescent Victims of Crime and Vulnerable Conditions, in order to restore the rights of children and adolescents who are victims of sexual violence. It also legally represents children and adolescents in judicial and administrative proceedings in which they are involved, in either a substitute or third-party capacity.<sup>308</sup>

213. Regarding pregnancy among girls and adolescents, the Commission notes with concern that, according to official information, approximately one thousand babies are born every day to girls and adolescents in Mexico. This figure includes girls between the ages of 10 and 14 who are pregnant, mostly as a result of rape or arranged marriages. In addition, 4 out of every 100 births reportedly involve girls under 14 years of age.<sup>309</sup>

214. In light of the above, the Committee considers that compliance with this recommendation is partial.

#### 4. Indigenous Peoples

- Adopt measures to ensure that a culturally appropriate perspective is adopted and that the collective nature of indigenous communities and peoples is taken into account when they, or their members, are victims of human rights violations.
- Guarantee the availability of translators throughout the national territory and at all levels of government so that indigenous peoples and their members can have access to justice when they need it.
- Adopt the necessary measures to conduct free, prior, and informed consultations on projects that affect their territories.

215. In relation to the recommendation to **adopt culturally appropriate measures in case of human rights violations**, the CEAV and the National Institute of Indigenous Languages (INALI) are to [TRANSLATOR: TEXT MISSING IN THE SPANISH] establish mechanisms for collaboration and exchange of knowledge on linguistic rights of indigenous peoples, promotion of indigenous languages, training, and updating with respect to legal matters. The State also reported on a training course conducted in September 2021 by the General Directorate of Federal Legal Counsel for INALI staff and members of the Triqui people, on issues of access to legal defense.<sup>310</sup>

216. The IACHR notes that the information reported by the State does not specify how it responds to violations of the rights of indigenous peoples, in particular with respect to measures to investigate, punish, and redress such violations. Although the measures reported may be considered as an effort to promote linguistic rights and the right to legal defense, the IACHR reiterates that the central content of this recommendation requires concrete, systematized, and interconnected measures that make it possible to assess their implementation. Likewise, in the case of indigenous peoples, culturally appropriate measures involve prevention and protection against threats to their territorial rights.<sup>311</sup>

217. The IACHR notes with concern the acts of violence against indigenous peoples in connection with problems they face with protecting their territorial rights. In 2021, the IACHR learned of the discovery of skeletal remains belonging to 5 of 10 Yaqui indigenous persons reported missing since July 14 in Bacúm,

<sup>308</sup> Observations and Comments from the State of January 24, 2022, p. 22.

<sup>309</sup> Ministry of the Interior, [Impact of the Pandemic on Children](#), August 13, 2021, p. 6.

<sup>310</sup> Ninth Report of the Mexican State on compliance with the Recommendations of the Inter-American Commission on Human Rights in its report on the "Situation of Human Rights in Mexico," arising from its visit to Mexico from September 28 to October 2, 2015, published in October 2021.

<sup>311</sup> IACHR. Annual Report 2020: Chapter V. Fifth follow-up report on the recommendations issued by the IACHR in its report on the Situation of Human Rights in Mexico, par. 234.

Sonora. The IACHR urged the State to continue investigating the facts in order to punish the persons responsible, and to continue the search for the persons who are still missing, as well as to adopt measures to guarantee the protection of the Yaqui people in situations of violence.<sup>312</sup> Subsequently, the remains of two other Yaqui people were reportedly found.<sup>313</sup> However, relatives of the victims have demanded greater certainty about the identification of the remains and information about the results of laboratory tests, progress made with the investigations, and the lines of inquiry pursuit. According to information received by the Commission, violence against leaders of the Yaqui people has intensified in recent months, in connection with constant pressure on their ancestral territory due to various public and private works being carried out in their territory.<sup>314</sup>

218. The IACHR reiterates its concern over the ongoing violence and displacement in southern Mexico as a result of territorial conflicts that affect indigenous communities and require the attention of the State to ensure access to justice and reparation with an intercultural approach.<sup>315</sup> This includes the violence and displacement faced by families in 22 communities identified in the municipalities of Chalchihuitán, Chenalhó, and Aldama in Chiapas, which was the subject of precautionary measures granted by the IACHR through [Resolution 15/2018 of February 24, 2018](#) and [Resolution 35/2021 of April 23, 2021](#). The IACHR issued a follow-up resolution in which it maintained the measures in force due to the challenges and the serious and urgent situation that still persists. It therefore decided that the State must continue to take the measures needed to guarantee the life and personal integrity of the beneficiaries and report on the level of implementation of the measures adopted.<sup>316</sup>

219. In light of the above, the IACHR considers that compliance with this recommendation is still partial.

220. With respect to the recommendation to **guarantee the availability of translators**, the State reported that the Federal Institute of Public Defenders (IFDP) has the capacity to serve people in 148 different indigenous languages and has 11 legal advisors and 13 bilingual administrative officers to provide services in civil, commercial, tax, and administrative matters, among others.<sup>317</sup> The CNDH reported the formulation of General Recommendation 45/2021, "On the Right of Indigenous Persons Subject to Criminal Proceedings to be Assisted by Interpreters, Translators, and Defense Counsel with Knowledge of their Language and Culture," approved on October 19, 2021.<sup>318</sup>

221. In this regard, the IACHR notes the increase in indigenous languages in which IFDP can provide legal care, from 29 indigenous languages in 2018, 97 in 2019, 142 in 2020, and 147 in 2021. It also notes that the IFDP has had the Amnesty Law translated into 22 linguistic variants, and is inviting interested members of indigenous peoples to approach the IFDP for help with their applications for amnesty under said law.<sup>319</sup> The IACHR also notes the visits made by IFDP bilingual staff to various indigenous communities to

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<sup>312</sup> [@IACHR Twitter](#), September 29, 2021.

<sup>313</sup> La Jornada, identified, October 9, 2021.

<sup>314</sup> Animalpolitico.com, [Relatives of missing Yaquis doubt identity of remains found; demand scientific evidence](#), October 26, 2021.

<sup>315</sup> IACHR. Annual Report 2020. Chapter V. Fifth follow-up report on the recommendations issued by the IACHR in its report on the Situation of Human Rights in Mexico, par. 235.

<sup>316</sup> IACHR, Press Release No. 340/21, [IACHR Issues Follow-Up Resolution on Precautionary Measures in Favor of Tzotzil Families in 22 Communities in the Mexican State of Chiapas](#), Mexico, December 15, 2021.

<sup>317</sup> Observations and Comments from the State of January 24, 2022, p. 23.

<sup>318</sup> IACHR, [Report of the CNDH in SIMORE](#), December 17.

<sup>319</sup> Mexico. State Report requested by the IACHR - Chapter IV A - IACHR Annual Report 2021, paras. 37-38, Document submitted to the IACHR, August 12, 2021. In the IACHR's archives

inform them about the services provided by this Institute.<sup>320</sup> While the IACHR appreciates the efforts made with respect to the availability of translators, it notes the need for precise information on the geographic distribution of interpretation services for indigenous languages, legal advice, and administrative officials mentioned by the State in order to be able to evaluate their availability nationwide.

222. With respect to the above, the IACHR notes that according to the CNDH in the 288 Social Reinsertion Centers in the country, 7,227 people (3.29%) of the prison population call themselves indigenous; of them, 96 percent are men, the rest women. They are concentrated mainly in the states of Chiapas, Chihuahua, Guerrero, Oaxaca, Puebla, and Veracruz.<sup>321</sup> In a recent general recommendation, the CNDH noted, among other problems, that: the majority of indigenous persons accused of a crime, are subject, in most cases, to proceedings without understanding the reasons giving rise to them; the advisory services provided by the Federal Institute of the Public Defender's Office are subject to collaboration agreements, so interpreters and translators are needed to comply with the mandate to provide the public defender's service with a gender, intersectionality, and intercultural perspective; also required are "normative and express instructions on who must provide and guarantee the service of a translator and/or interpreter." It is also "necessary to improve operational arrangements for institutions responsible for delivering and administering justice, so that public servants know the linguistic rights of indigenous people, particularly those who are subject to criminal proceedings."<sup>322</sup> Along these lines, its recommendations focused on the need for a law initiative duly consulted with indigenous peoples to "empower or, as the case may be, establish a specialized agency or body with operational, technical and budgetary capacity to provide, free of charge, the assistance of interpreters, translators and defenders to indigenous persons subject to criminal proceedings."<sup>323</sup>

223. In light of the above, the IACHR considers that compliance with the recommendation is still partial.

224. Regarding the recommendation to **adopt the necessary measures to carry out free, prior, and informed consultations**, the State reported that it continues to provide technical and methodological assistance for the drafting of protocols for carrying out consultations. It also states that the obligation to carry out consultations in hydrocarbon and electricity industry projects continues to be in force so as not to impair the rights and interests of indigenous communities.<sup>324</sup>

225. The Commission notes that in April 2021 the Chamber of Deputies broadly approved the General Law on Consultation of Indigenous and Afro-Mexican Peoples and Communities, the purpose of which is to establish the principles, norms, institutions, and procedures to guarantee the right to consultation in accordance with applicable international instruments and standards.<sup>325</sup> Approval by the Senate is pending. In this regard, the Commission considers it necessary to have more information on the drafting process, including the consultation processes reportedly carried out with indigenous and Afro-Mexican peoples prior to the adoption of the General Law by the legislature. The IACHR reiterates its observation that the regulations governing consultation must be properly discussed with the indigenous and Afro-Mexican peoples through

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<sup>320</sup> Mexico. State Report requested by the IACHR - Chapter IV A - IACHR Annual Report 2021, para. 42, Document submitted to the IACHR, August 12, 2021. In the IACHR's archives

<sup>321</sup> CNDH, General Recommendation No. 45/2021 On the right of indigenous persons in criminal proceedings to be assisted by interpreters, translators, and defenders, who have knowledge of their language and culture, November 5, 2021, par. 90.

<sup>322</sup> CNDH, General Recommendation No. 45/2021 On the right of indigenous persons in criminal proceedings to be assisted by interpreters, translators, and defenders who are familiar with their language and culture, November 05, 2021, par. 162.

<sup>323</sup> See, CNDH, General Recommendation No. 45/2021 On the right of indigenous persons in criminal proceedings to be assisted by interpreters, translators, and defenders who are familiar with their language and culture, November 5, 2021, Sect. IV. Recommendations

<sup>324</sup> Ninth Report of the Mexican State on compliance with the Recommendations of the Inter-American Commission on Human Rights in its report on the "Situation of Human Rights in Mexico," arising from its visit to Mexico from September 28 to October 2, 2015, published in October 2021.

<sup>325</sup> Chamber of Deputies, [Bulletin No. 6338](#), April 20, 2021

their representative institutions, and that the proposals made by these groups to implement this right must be duly taken into account.<sup>326</sup>

226. On the other hand, the Commission notes that in February 2021 the Supreme Court of Justice of the Nation resolved the unconstitutionality action 123/2020, declaring the decree that gave rise to the Law on the Rights of Indigenous and Afro-Mexican Persons of Nuevo León to be invalid, because, given that it was a decree that directly affected the interests of the indigenous and Afro-Mexican peoples and communities, the local authorities were obliged to carry out a prior, free, informed, culturally appropriate, and in good faith consultation, with the participation of those peoples, which did not occur.<sup>327</sup>

227. The IACHR notes with concern the agreement declaring the execution of projects and works by the Government of Mexico that are considered a priority and/or strategic for national development to be of public interest and in the interests of national security; and instructing the agencies and entities of the Federal Public Administration to grant provisional authorization, within no more than five days prior to submitting and/or obtaining the necessary reports, permits, or licenses to initiate the projects or works.<sup>328</sup> It is noted that the National Institute for Transparency, Access to Information and Protection of Personal Data filed a constitutional controversy before the SCJN against said agreement on the grounds that it violates society's right to know.<sup>329</sup> In this regard, the SCJN ordered the suspension of the decree in order to prevent the withholding of information for reasons of national security in relation to projects and works.<sup>330</sup> The Commission warns that the provisional authorization for the execution of projects and works by the Government could include projects that might affect the rights of indigenous and Afro-Mexican peoples, and therefore recalls the State's obligation to comply at all times with international standards related to prior consultation and free, prior and informed consent and the guarantee and protection of the territorial rights of these peoples.

228. Similarly, the IACHR notes that complaints from indigenous peoples and civil society persist regarding obstacles to access to justice in relation to litigation against the Mayan Train, particularly delays in amparo proceedings, and declarations of incompetence by the courts. They also point to the failure of the responsible authorities to comply with the suspensions granted by the District Courts and Collegiate Courts ordering the parties involved to refrain from executing new works related to the Mayan Train Project.<sup>331</sup> In this regard, the IACHR reiterates its previous observations regarding the Mayan Train, the concerns about its implementation in the context of the pandemic, and regarding the necessary observance of the standards on consultation and free, prior and informed consent. In light of the above, the IACHR considers that compliance with the recommendation is still partial.

## 5. Persons Deprived of Liberty

- Correct the excessive use of pretrial detention, and apply it exceptionally, making use of other non-custodial precautionary measures. Within this framework, ensure that detained persons are immediately brought before a judge, in order to restrict arrests without a warrant in cases of alleged flagrante delicto and similar cases.
- Adopt all necessary measures to ensure a social reintegration strategy. Accordingly, ensure that financial resources are directed to humanizing and implementing measures that allow for

<sup>326</sup> IACHR. Annual Report 2020. Chapter V. Fifth follow-up report on the recommendations issued by the IACHR in its report on the Situation of Human Rights in Mexico, par. 255.

<sup>327</sup> SCJN. [Press release No. 047-2021](#), February 23, 2021

<sup>328</sup> SEGOB, DOF. [Agreement published](#), November 22, 2021

<sup>329</sup> INAI. [Comunicado NACI/435/21](#), December 8, 2021

<sup>330</sup> El financiero, [Court suspends AMLQ's 'decretazo,' but only for transparency purposes](#), December 14, 2021; Expansión política, [Court partially suspends presidential agreement on public works](#), December 14, 2021

<sup>331</sup> CEMDA, Litigations October 20, 2021.

the reintegration into society of persons deprived of liberty. In particular, with respect to people with disabilities, identify a social reinsertion strategy by implementing services in the community.

- Publicize the *American Correctional Association* ("ACA") standards for certifying correctional facilities.
- Implement regulatory and other measures to guarantee adequate detention conditions tailored to the particular needs of groups in especially vulnerable situations. In relation to women deprived of their liberty, the State must ensure that measures adopted take a gender perspective into account. With respect to persons with disabilities deprived of their liberty, the Mexican State must guarantee the elimination of elements in their surroundings that hinder the exercise of their rights, by making reasonable adjustments.
- Adopt measures to address pretrial detention and high levels of overcrowding. The measures to be adopted may include, among others, an increase in the number of criminal enforcement judges and the establishment of periodic file review brigades to identify cases of excessive duration of pretrial detention.
- Ensure that the National Law of Penal Execution includes international standards that guarantee the rights of persons deprived of liberty, while being tried or after sentencing, with emphasis on due criminal process and social reintegration.

229. With respect to the recommendation to **correct the excessive use of pretrial detention**, the State reported that the Comprehensive Case Tracking System (SISE) of the Federal Judicial Council lists "2,196 criminal cases filed in different Federal Criminal Justice Centers in which pretrial detention was ordered as a precautionary measure."<sup>332</sup>

230. For its part, the IACHR notes with concern that, according to the most recent figures from the SSPC, more than 40% of persons deprived of liberty are in pretrial detention. In particular, the rate of pretrial detention is 42.48% under state jurisdiction (*fuero común*) and 45.48% in federal jurisdiction.<sup>333</sup> In this regard, the IACHR warns that the frequent use of pretrial detention demonstrates that this precautionary measure is not being applied in accordance with its exceptional nature. In this regard, the IACHR recalls that the use of pretrial detention must be based on consideration of the right to the presumption of innocence; take into account its exceptional nature; be governed by the principles of legality, necessity, and proportionality; and may only be based on reasonable grounds to avoid the danger of flight or to prevent the obstruction of investigations.<sup>334</sup>

231. At the same time, the Commission notes that, by a decree issued on February 19, 2021, the amendments to the Federal Criminal Code, the National Code of Criminal Procedures, and special laws<sup>335</sup> entered into force, in compliance with the constitutional mandate to amend Article 19,<sup>336</sup> thereby

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<sup>332</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 76.

<sup>333</sup> In this regard, see Secretaría de Seguridad y Protección Ciudadana, Mexico, [Cuaderno mensual de información estadística penitenciaria nacional \(Monthly Notebook of National Penitentiary Statistical Information\)](#), September 2021, p. 3.

<sup>334</sup> IACHR, [Report on Measures Aimed at Reducing the Use of Pretrial Detention in the Americas](#), OEA/Ser.L/V/II.163. Doc. 105, July 3, 2017, par. 231. Recommendation A "General Measures pertaining to State policy," par. 1.

<sup>335</sup> In particular, the General Law on Electoral Crimes; the General Law on the Forced Disappearance of Persons, Disappearance Committed by Private Parties and the National System for the Search for Persons; the Federal Law to Prevent and Punish Crimes Committed in connection with Hydrocarbon Projects; the Federal Law on Firearms and Explosives; the General Health Law; the Federal Law against Organized Crime; and the Law on General Communication Channels were amended.

<sup>336</sup> In particular, the legislation incorporated the crimes of abuse or sexual violence against children, organized crime, intentional homicide, femicide, rape, kidnapping, human trafficking, home robbery, use of social programs for electoral purposes, corruption involving the crimes of illicit enrichment and abuse of authority (*ejercicio abusivo de funciones*), any kind of theft of cargo, crimes related to hydrocarbon, petroleum, or petrochemical projects, crimes related to forced disappearance of persons and disappearance committed by private individuals, crimes committed with violent means such as weapons and explosives, crimes involving firearms and explosives

expanding the list of crimes warranting semi-automatic pretrial detention (*prisión preventiva oficiosa*).<sup>337</sup> Thus, in harmony with Article 19 of the Constitution, these amendments expand automatic pretrial detention in the corresponding legislation, thus allowing the full application of this precautionary measure and avoiding contrary interpretations by justice operators.<sup>338</sup> Although the legislation maintains the regulations governing non-bailable offenses for various crimes, the IACHR welcomes the ruling of the Supreme Court of Justice of the Nation (SCJN) of October 25, which invalidates the application of the semi-automatic pre-trial detention (*prisión preventiva oficiosa*) for the crimes of smuggling, tax fraud, and use of false invoices.<sup>339</sup>

232. In this context, the Commission reiterates that the application of mandatory pretrial detention by type of crime constitutes a violation of the right to personal liberty under the terms of Article 7(3) of the American Convention. Furthermore, it converts pretrial detention into a penalty-in-advance<sup>340</sup>, and constitutes illegitimate interference by the legislator in assessments that fall within the sphere of competence of the judicial authority.<sup>341</sup>

233. Consequently, the IACHR reiterates its call to Mexico to ensure that pretrial detention is used in accordance with international standards on the matter, and, consequently, to eliminate non-bailable crimes (*delitos inexcusables*) in its legal system. In light of the above, the IACHR considers that compliance with this recommendation is still pending.

234. Regarding the recommendation to **adopt all necessary measures to guarantee a social reintegration strategy**, the State indicated that the Federal Penitentiary System promotes the inclusion of persons deprived of liberty with disabilities and those belonging to vulnerable groups in various labor,

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for the exclusive use of the Army, the Navy and the Air Force, as well as serious crimes determined by law against national security, the free development of personality and health. On this, see: Official Gazette of the Federation, "[Decree by which Article 19 of the Political Constitution of the United Mexican States is declared amended, in matters relating to Semi-automatic Pretrial Detention](#)," April 12, 2019.

<sup>337</sup>In that connection, see: Official Gazette of the Federation, [Decree amending and adding Article 167 of the National Code of Criminal Procedures: amending, adding, and repealing various provisions of the General Law on Electoral Crimes, the General Law on the Forced Disappearance of Persons, Disappearance Committed by Private Parties and the National System for the Search for Persons, the Federal Law to Prevent and Punish Crimes Committed in connection with Hydrocarbon Projects, the Federal Law on Firearms and Explosives, the Federal Criminal Code, the General Law of Health, the Federal Law against Organized Crime, and the Law of General Channels of Communication](#), February 19, 2021.

<sup>338</sup>In particular, the first transitory article of the 2019 Decree establishes that the amendment would enter into force on the day following its publication. However, its second transitory article provides that "for the effects referred to in the second paragraph of article 19", Congress has 90 days to amend article 167 of the National Code of Criminal Procedures and the corresponding legislation. In that connection, see: Official Gazette of the Federation, "[Decree by which Article 19 of the Political Constitution of the United Mexican States is declared amended, with the respect to Semi-automatic Pretrial Detention](#)," April 12, 2019; Chamber of Deputies, Mexico, Note No. 9197 - force, February 19, 2021; Senate of the Republic, Mexico, [Senate approves expansion of the list of serious crimes for semi-automatic pretrial detention](#), February 18, 2021; and CNDH, Communications, February 23, 2021.

<sup>339</sup>In this regard, see SCJN, Mexico, [Contents of the shorthand version of the Regular Public Session of the plenary of the Supreme Court of Justice of the Nation, held on Monday, October 25, 2021](#), October 25, 2021; Animal Político, [Court invalidates automatic imprisonment for smuggling, tax fraud, and use of false invoices](#), October 25, 2021; and CNDH, [Subject: Unconstitutionality Action](#), March 22, 2021.

<sup>340</sup>IACHR, "[Report on Measures Aimed at Reducing the Use of Pretrial Detention in the Americas](#)," OEA/Ser.L/V/II.163. Doc. 105, July 3, 2017, par. 91; IACHR, "[Report on the Use of Pretrial Detention in the Americas](#)," OEA/Ser.L/V/II., Doc. 46/13, December 30, 2013, par. 151; IACHR, Report on the Merits No. 86/09, Case 12,553. Merits. Jorge, José, and Dante Peirano Basso. Uruguay. August 6, 2009, par. 141.

<sup>341</sup>IACHR, "[Situation of Human Rights in Mexico](#)," OEA/Ser.L/V/II. Doc. 42/15, December 31, 2015, par. 558; IACHR, "[Report on the Use of Pretrial Detention in the Americas](#)," OEA/Ser.L/V/II. Doc.46/13, December 30, 2013, par. 137.

educational, cultural, and low-impact sports activities.<sup>342</sup> It also reported the existence of a list of reintegration programs covering activities in all technical areas within prisons and post-custodial services.<sup>343</sup>

235. For its part, the IACHR takes note of the measures adopted by the Mexican State to promote the social reintegration of persons deprived of liberty. These include: i) the work of the Intersecretarial Commission for Social Reintegration and Postcustodial Services; ii) the proposal of 10 courses of action to reform the penitentiary system; iii) a post-release program; and iv) the strengthening of educational services. According to official information, in October the work of the sub-commissions of the Inter-Ministerial Commission on Federal Detention Centers began, with proposals to address various issues to achieve effective social reintegration, such as health, welfare, economy, education, work, training, and culture.<sup>344</sup>

236. For its part, the CNDH reported on the adoption in November 2021 of General Recommendation 44/2021 to guarantee the right to decent work for persons deprived of liberty in prisons in the Mexican Republic.<sup>345</sup>

237. In this regard, the IACHR calls on the State to implement and follow up on the actions adopted in the area of social reintegration. The Committee considers that compliance with the recommendation is partial.

238. In relation to the recommendation on **making public information on the ACA standards for certifying prisons**, the State indicated that although it reports on the certification of some centers and the benefits that this entails, the data related to compliance with each standard are not shared. This is because it would "violate the security of the prison facilities", and because the International Core Standards are "the property of the ACA."<sup>346</sup> In this regard, the Commission notes that, according to the information available, the State still does not publicize the criteria for such certification. Therefore, the IACHR concludes that compliance with this recommendation is still pending.

239. With respect to the recommendation aimed at **implementing measures to guarantee adequate detention conditions, especially for groups in especially vulnerable situations, prison policies with a gender perspective, and the elimination of barriers for persons with disabilities**, the Mexican State referred to the Comprehensive Program to Prevent, Address, Punish, and Eradicate Violence against Women 2021-2024 (PIPASEVM), which contains actions for the benefit of various groups of women, including women deprived of their liberty.<sup>347</sup> In addition, it reported that, in the framework of compliance with the judgment of the Inter-American Court in the Case of Women Victims of Sexual Torture in *Atenco v. Mexico*, the National Commission to Prevent and Eradicate Violence against Women (CONAVIM) prepared the guidelines for the organization and operations of the "Technical Support Group of the Follow-up Mechanism for Cases of Sexual Torture Committed against Women." These guidelines provide for a gender-based diagnostic assessment of

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<sup>342</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 76.

<sup>343</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 77.

<sup>344</sup> Secretariat of Security and Citizen Protection, Mexico, "[Subcommissions for adequate social reintegration and post-custodial services are installed](#)", October 26, 2021.

<sup>345</sup> IACHR, [Report of the CNDH in SIMORE](#), December 17.

<sup>346</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 77.

<sup>347</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 78.

sexual torture of women, with a view to developing public policies for preventing, addressing, punishing, and eradicating sexual torture.<sup>348</sup>

240. The CNDH stated that it had adopted Recommendation 32/2021 on Dignified Practices relating to the Menstruation of Women Deprived of Liberty in order to guarantee women deprived of liberty the right to dignified conditions for menstruation and hygiene in Mexican prisons. It also reported the adoption of Recommendation 84/2021 on the lack of timely breast cancer screening for a person deprived of liberty at the Federal Social Rehabilitation Center in Coatlán del Río, Morelos.<sup>349</sup>

241. With respect to this recommendation, the Commission notes that, according to official data, as of September 2021, the Mexican prison system housed a total of 12,613 women deprived of liberty. Although there are 288 detention centers, only 22 of them are said to be used exclusively for the detention of women.<sup>350</sup> In addition, the IACHR notes with concern that close to 50% of women deprived of their liberty are in mixed detention centers.<sup>351</sup> Regarding detention conditions, the CNDH reported a series of violations including: i) insufficient separation between men and women<sup>352</sup>; ii) deficiencies in care for women and for children living with their mothers in 26.5% of the cases in the 113 detention centers observed<sup>353</sup>; and iii) obstacles to accessing sanitary towels due to the lack of a budget allocation for their purchase.<sup>354</sup> In this regard, the Commission takes note of Recommendation 35/2021 issued by the CNDH to ensure that prisons in all Mexican states and Mexico City; the Federal Center for Social Readaptation in Coatlán del Río (Morelos); military prisons in Mexico City, Sinaloa, and Jalisco; facilities in Mexican states where adolescents are held; and detention centers that receive visits from women are provided with the necessary resources to purchase sanitary towels and other menstrual hygiene items. This is to ensure that both female detainees and women entering facilities as family visitors can access these products free of charge.<sup>355</sup>

242. At the same time, with respect to the measures adopted to eliminate barriers for persons deprived of liberty with disabilities, the Commission notes that on this occasion the State did not send information on the measures implemented in 2021. Based on the information available, the IACHR warns that no progress appears to have been made to ensure differentiated detention conditions for at-risk groups. Therefore, the Commission concludes that compliance with this recommendation is still pending.

243. Regarding the recommendation to **adopt measures to address pretrial detention and high levels of overcrowding**, the State reported that the Federal Government included judges serving as "administrators" in strictly jurisdictional work. As a result, reportedly, there are currently 127 judges in control and trial functions, and 41 exclusively dedicated to sentence execution.<sup>356</sup>

244. For its part, the IACHR notes that on August 25, 2021, a decree was published that establishes the actions to be taken by the SEGOB and the SSPPC—through the Decentralized Administrative Body for

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<sup>348</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 78.

<sup>349</sup> IACHR, [Report of the CNDH in SIMORE](#) December 17, 2021.

<sup>350</sup> In this regard, see CNDH, [National Diagnostic Assessment of Prison Supervision](#), September 2021, pp. 104 and 294-295.

<sup>351</sup> In that connection, see: CNDH, [Supervision](#) September 2021, pp. 104 and 294-295; and AsiLegal, [Maternity behind bars: a reality for thousands women in the Mexican prison system](#), May 9, 2021.

<sup>352</sup> CNDH, [National Diagnostic Assessment of Prison Supervision](#) May 2021, p. 104.

<sup>353</sup> CNDH, [National Diagnostic Assessment of Prison Supervision](#), May 2021, pp. 294-295.

<sup>354</sup> CNDH, Recommendation No. 35/2021, August 31, 2021.

<sup>355</sup> CNDH, Recommendation No. 35/2021, August 31, 2021.

<sup>356</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 79.

Prevention and Social Readaptation (*Órgano Administrativo Desconcentrado Prevención y Readaptación Social*)—to manage requests for early release of: i) convicted older adults; ii) persons in pretrial detention for periods longer than those envisaged in the legislation; and iii) victims of torture, provided that proof of the torture has been certified and incriminating evidence has been obtained in the criminal proceedings.<sup>357</sup> According to public information, as of mid-September 2021, at least 682 people had been released as a result of the implementation of this agreement.<sup>358</sup> In addition, 4,233 files of people who could benefit have reportedly been identified.<sup>359</sup> In addition, the IACHR notes that, according to official information, as of September 2021, a total of 85,261 persons were granted early release and 105,336 persons were granted alternative sentences.<sup>360</sup>

245. In addition, the IACHR was informed of various challenges to enforcement of the Amnesty Law, and that, of a total of 1,560 cases received as of August 10, only 568 had been heard in court,<sup>361</sup> i.e., only 37% of the total number. In particular, the Commission notes that, according to the data published in the first annual report of the Amnesty Commission, as of the date indicated, of the 1,560 cases received, at least 245 lacked certain data, 747 were under review, and 568 were heard in court. Of the latter, only 47 were declared admissible and 521 were rejected.<sup>362</sup> In this regard, the IACHR notes with concern that the number of cases declared admissible represents only 3% of the total number of petitions filed.

246. Regarding the challenges related to the process, civil society organizations reported, among other issues: i) the requirement for applicants to submit their criminal records or additional documentation in order for the application to be processed; ii) the failure to comply with the deadlines established by law to hand down a resolution; iii) lack of access to information regarding the processing of the applications submitted; and iv) the lack of clarity regarding appeals, the way in which cases are assigned, and the deadlines for handing down a resolution.<sup>363</sup> Additionally, the IACHR was informed about the lack of publicity of the Amnesty Commission's sessions due to the fact that they were reportedly not announced in advance nor was information provided on all the topics discussed.<sup>364</sup>

247. The Commission appreciates the measures taken by the State to address overcrowding. However, it notes with concern the low level of enforcement of the Amnesty Law, and the challenges to its

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<sup>357</sup> Official Gazette of the Federation, Mexico, [Agreement adopted on August 25, 2021 by which the institutions indicated therein are instructed to carry out actions to process, before the competent authorities, the requests for pre-release of sentenced persons, as well as to identify cases of both persons in pretrial detention and those who have been victims of torture, under applicable legal provisions.](#)

<sup>358</sup> RT, [Victims of Torture and Persons without a final Conviction: Mexico frees the first 682 prisoners covered by López Obrador's decree](#), September 14, 2021; El Heraldo, [Mexico frees the first 682 prisoners under Andres Lopez's decree](#), September 14, 2021; and El País, [Mexico frees 682 prisoners as a result of AMLO's decree](#), September 15, 2021.

<sup>359</sup> RT, [Victims of Torture and Persons without a final Conviction: Mexico frees the first 682 prisoners covered by López Obrador's decree](#), September 14, 2021; El Heraldo, [Mexico frees the first 682 prisoners under Andres Lopez's decree](#), September 14, 2021; and El País, [Mexico frees 682 prisoners as a result of AMLO's decree](#), September 15, 2021.

<sup>360</sup> The IACHR obtained these numbers by adding the statistical data provided in a number of State reports. In this regard, see Secretaría de Seguridad y Protección Ciudadana, Mexico, [Cuaderno mensual de información estadística penitenciaria nacional \(Monthly Notebook of National Penitentiary Statistical Information\)](#), September 2021, p. 49 [Monthly Notebook of National Penitentiary Statistical Information](#), August 2021, p. 48 [Monthly Notebook of National Penitentiary Statistical Information](#), July 2021, p. 47 [Monthly Notebook of National Penitentiary Statistical Information](#), June 2021, p. 44 [Monthly Notebook of National Penitentiary Statistical Information](#), May 2021, p. 45 [Monthly Notebook of National Penitentiary Statistical Information](#), April 2021, p. 45 [Monthly Notebook of National Penitentiary Statistical Information](#), March 2021, p. 45; [Monthly Notebook of National Penitentiary Prison Statistical Information](#), February 2021, p. 43; y [Monthly National Penitentiary Statistical Information Notebook](#), January 2021, p. 46.

<sup>361</sup> Amnesty Commission, Mexico, [Annual Report on Amnesty Applications](#), August 10, 2021, p. 1.

<sup>362</sup> Amnesty Commission, Mexico, [Annual Report on Amnesty Applications](#), August 10, 2021, pp. 1-2.

<sup>363</sup> In this regard, see EQUIS - Justice for Women, Amnesty, Finally? (*Justicia para mujeres, Amnistía, ¿ya?*), September 8, 2021, IACHR Archive, pp. 16-24.

<sup>364</sup> EQUIS - Justice for Women, Amnesty, Finally? (*Justicia para mujeres, Amnistía, ¿ya?*), September 8, 2021, IACHR Archive, p. 17.

implementation. In light of the above, the IACHR finds that compliance with this recommendation is still pending.

248. Finally, with regard to ensuring that the **National Criminal Enforcement Law includes international standards that guarantee the rights of persons deprived of liberty with emphasis on due criminal process and social reintegration**, the Commission reiterates that in 2018 it certified full compliance with this recommendation.<sup>365</sup> Additionally, the State reported that the Federal Judicial Council has 24 criminal enforcement judges in charge of ensuring compliance with the recommendation.<sup>366</sup>

## 6. Migrants and Forced Internal Displacement

- Comply with all recommendations made in the Report on the Human Rights Situation of Migrants and Other Persons in the Context of Human Mobility in Mexico.
- Conduct a countrywide diagnostic assessment of internal displacement in Mexico and, on the basis thereof, adopt a national policy and measures to address the issue in accordance with international standards on the matter, particularly the Guiding Principles on Internal Displacement.
- Adopt specific legislation at the federal and state levels to address internal displacement, in accordance with the Guiding Principles on Internal Displacement.
- Ensure that at the federal level there is an institution in charge of protecting people from forced displacement.

249. The Commission recommended that the State **comply with the set of recommendations made in the Report on the Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico**. In this regard, the State reported on measures related to i) immigration review, verification, and control; ii) immigration detention; iii) detention conditions; iv) judicial guarantees and judicial protection; and v) violence and discrimination against migrants and others in the context of human mobility in Mexico.

250. With regard to immigration review, verification, and control actions, the State reported on the preparation of the "Guide for the prevention of racial profiling practices," which was introduced to public officials through training courses.<sup>367</sup>

251. Regarding immigration detention, the State reported on the preparation of the "Guide for the Care of Migrant Children and Adolescents at the disposal of the INM". This document contains updates on the administrative migration procedure, in accordance with the amendments to the Migration Law and the Law on Refugees, Complementary Protection, and Political Asylum for children and adolescents in migratory contexts. It also pointed out that the procedure in question is mandatory for all INM representative offices.<sup>368</sup>

252. Regarding the ban on detaining children and adolescents,<sup>369</sup> the State reported that following the implementation of the amendments to the Law on Migration and the Law on Refugees, Complementary

<sup>365</sup> IACHR, [Annual Report, Chapter V. Mexico](#), 2020, par. 276.

<sup>366</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 79.

<sup>367</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 80.

<sup>368</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 80; Ministry of Foreign Affairs, Mexico, Response of the Mexican State to the request by the Inter-American Commission on Human Rights for information in light of Article 41<sup>o</sup> of the American Convention on Human Rights regarding complaints about rejections of persons in a situation of mobility at border crossing points and airports in Mexico, August 30, 2021, p. 23.

<sup>369</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#), OEA/Ser.L/V/II, Doc. 48/13, December 30, 2013, par. 577.6.

Protection, and Political Asylum, the General Directory of National Social Assistance Centers was updated. According to the information provided by the State, this update will help strengthen links with public and private social actors in order to expand housing options and set up temporary centers for the specific care of children and adolescents and their families in the context of migration in the States with the highest migratory flows.<sup>370</sup>

253. Regarding immigration detention conditions, the State pointed out that in follow-up to the project for certifying immigration detention centers and temporary holding facilities, which aims to generate better living conditions in accordance with human rights<sup>371</sup>, in June 2021 an official letter was issued for the reclassification of those centers. This was done in accordance with Article 107 of the Immigration Law; and Articles 4 and 5 of the Agreement issuing its enabling regulations. In its comments on the draft of the present report, the State reported that the reclassification of the migrant stations and temporary holding facilities consists of cataloguing them according to their capacity, accommodation space and basic services. In this regard, the Migration Stations and Temporary Stays Certification Project aims to ensure that the infrastructure of migration facilities, their operation, and functioning, adhere to the provisions of the Migration Law and its Regulations, in order to be able to provide proper care to people in the context of migration and in the case of extraordinary migratory flows; respecting their human rights, with special attention to vulnerable groups<sup>372</sup>.

254. With regard to violence and discrimination against migrants in the context of human mobility in Mexico, the State reported on the implementation of the 2021 Annual Training Program, which incorporates topics related to human rights, administrative migration procedures, and attention to foreigners. It also emphasized that the contents of the program are updated in accordance with training needs and teachers' materials.<sup>373</sup>

255. Within this framework, the IACHR will make a pronouncement on those measures that require the attention of the State to overcome the situation of vulnerability in which people find themselves in the context of human mobility. In particular: i) measures to facilitate transit through Mexico through regular channels; ii) excessive use of force; iii) access to asylum or protection procedures; iv) situation of extreme violence faced by persons in human mobility in transit through Mexico; v) investigations for human rights violations; vi) Mexican returnees or deportees; vii) structural causes that generate the forced displacement of persons; viii) immigration detention; return or expulsion procedures; ix) human rights defenders.

256. Through its various monitoring mechanisms, the Commission has highlighted that Mexico is a country of origin, transit, destination, and return for mixed migratory movements from the region and other parts of the world, especially for people seeking to reach the United States. In recent years, in addition to the migration of Mexican nationals to the United States, there has been an increase in the number of Mexican nationals and persons of other nationalities who have been returned to Mexico. In addition, there has been an increase in the number of people in mobility situations for whom Mexico is or becomes a destination country. In this regard, the IACHR has observed that the complexity of these migratory dynamics poses challenges for protecting and guaranteeing the human rights of persons in human mobility.<sup>374</sup>

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<sup>370</sup> Ministry of Foreign Affairs, Mexico, Response of the Mexican State to the request by the Inter-American Commission on Human Rights for information in light of Article 41<sup>o</sup> of the American Convention on Human Rights regarding complaints about rejections of persons in a situation of mobility at border crossing points and airports in Mexico, August 30, 2021, p. 15.

<sup>371</sup> IACHR, Press Release 033/21, [IACHR concludes virtual working visit to Mexico on people in situations of human mobility, and presents its Preliminary Observations](#), Washington, D.C., February 12, 2021.

<sup>372</sup> Observations and Comments from the State of January 24, 2022, p. 25.

<sup>373</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 84.

<sup>374</sup> IACHR, Press Release 033/21, [IACHR concludes virtual working visit to Mexico on people in situations of human mobility, and presents its Preliminary Observations](#), Washington, D.C., February 12, 2021.

257. In relation to the **adoption of measures to facilitate the entry and transit of people through regular channels in Mexico**<sup>375</sup>, the International Organization for Migration (IOM) noted that Mexico is increasingly becoming a destination country for migrants, including those who have not been able to enter the United States.<sup>376</sup> Similarly, the most updated figures from the United Nations Department of Economic and Social Affairs, Population Division indicate that the number of migrants to Mexico, as a destination country, increased by 72% between 1990 and 2020.<sup>377</sup>

258. With regard to asylum seekers, refugees, or persons with complementary protection needs, official data from the Mexican Commission for Refugee Aid (COMAR) indicate that the filing of asylum applications increased by more than 5,400% between 2013 and 2019.<sup>378</sup> Likewise, the IACHR notes that during 2021 the upward trend continued, with 77,559 new asylum applications registered as of the end of August. This figure represents an increase of more than 200% over the same period in 2020.<sup>379</sup> Of this total, the IACHR notes that only 17,172 people were reportedly recognized as refugees during 2021. This could be related to limitations in COMAR's operational capacity to respond to the increase in asylum applications in recent years.<sup>380</sup>

259. Regarding people with complementary protection needs, the most recent figures from the Migration Policy Unit (UPMRIP) of the Mexican Ministry of the Interior indicate that 26,266 humanitarian visitor cards had been issued as of August 2021.<sup>381</sup> According to information provided by the State to the IACHR, these documents are delivered to foreigners who have obtained permission to stay for humanitarian reasons, as well as to children and adolescents in the context of mobility and their companions while the procedure for the restitution of rights is being processed.<sup>382</sup>

260. In addition, there has reportedly been an increase in the number of accompanied and unaccompanied children and adolescents. In this regard, the INM reported that as of August 31, 2021, a total of 34,427 children were identified as having entered the State's territory outside the regular channels of entry. It added that the figure in reference had tripled compared to the same period in 2020. According to official information provided to the IACHR, that increase was reportedly related to the amendment of the Migration Law that prohibits the detention of children in migrant holding stations or provisional stays.<sup>383</sup>

261. In this context, civil society organizations informed the IACHR that the increase in the number of asylum applications and the failure to strengthen institutions' ability to respond to them reportedly caused

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<sup>375</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#), OEA/Ser.L/V/II., Doc. 48/13, December 30, 2013, par. 409.2.

<sup>376</sup> IOM, [World Migration Report 2020](#), September 21, 2021, p. 104.

<sup>377</sup> United Nations Department of Economic and Social Affairs, Population Division (2020). [International Migrant Stock 2020](#). Table 1 International migrant stock at mid-year by sex and by region, country or area of origin, 1990-2020.

<sup>378</sup> IACHR, Press Release 033/21, [IACHR concludes virtual working visit to Mexico on people in situations of human mobility and presents its Preliminary Observations](#), Washington, D.C., February 12, 2021.

<sup>379</sup> COMAR, Mexico, [August 2021 Statistics](#), September 8, 2021.

<sup>380</sup> COMAR, Mexico, [August 2021 Statistics](#), September 8, 2021. IACHR, Press Release 033/21, [IACHR concludes virtual working visit to Mexico on people in situations of human mobility and presents its Preliminary Observations](#), Washington, D.C., February 12, 2021.

<sup>381</sup> UPMRIP, Mexico, [II Documentation and status of stay in Mexico](#), 2021, Table 2.1.

<sup>382</sup> Ministry of Foreign Affairs, Mexico, Response of the Mexican State to the request by the Inter-American Commission on Human Rights for information in light of Article 41<sup>o</sup> of the American Convention on Human Rights regarding the protection of migrants, refugee-seekers, refugees with complementary protection needs, and returnees in Mexico, p. 14.

<sup>383</sup> INM, Mexico, [Bulletin No. 474/2021. INM identifies increase in the flow of irregular migrant minors](#), August 31, 2021.

prolonged delays in the processing of asylum or protection procedures. These delays reportedly also affect the rights of individuals, who have to wait for a decision in the state where they made their request.<sup>384</sup>

262. Regarding the **excessive use of force against the mobile population**, in a press release dated April 1, 2021, the Commission noted that the participation of the National Guard in conjunction with the armed forces reportedly reflected a possible militarization of the State's response to irregular migration, accompanied by the excessive use of force against mobile persons, limitations on access to State territory, and the undermining of basic guarantees in asylum or protection procedures.<sup>385</sup> In addition, in its press release of September 27, 2021, the IACHR condemned the confrontations that culminated in acts of aggression and beatings by state authorities in response to the long lines of migrants that formed in Chiapas. According to civil society organizations, these movements of people were a result of prolonged delays in processing asylum or protection procedures, as well as the lack of access to state services and to the exercise of other human rights in Mexico's southern states. In this regard, official information indicates that 72% of the refugee applications in Mexico are filed in the city of Tapachula, Chiapas.<sup>386</sup>

263. In its comments to the draft of the present report, the State indicated that in the three years of the present administration, at the close of November 2021, the Mexican Commission for Refugee Assistance (COMAR) had resolved 75.1% of the total number of cases settled in the 8 years 11 months from 2013 to the end of November 2021 and had recognized and granted complementary protection to 77.54% of the total. It also indicated that COMAR has been internationally recognized for continuing to provide attention to the refugee population throughout the pandemic.<sup>387</sup>

264. In this regard, the Commission noted that, based on videos posted on social networks, state authorities and state security forces used shields and security batons to beat migrants on the head and other parts of the body, including whole -- defenseless -- families with children and adolescents. For that reason, the IACHR urged the Mexican State to investigate ex officio and with due diligence the acts of violence against the population in human mobility, punish the State agents responsible, make full reparations to the victims of those human rights violations, and adopt the necessary measures to avoid the repetition of those acts.<sup>388</sup> Similarly, specialized UN offices called on the State to implement measures for prevention, non-repetition and accountability; to move forward with the investigation of cases of use of force, and to punish those responsible.<sup>389</sup> In addition, the CNDH requested various federal authorities and the state of Chiapas to implement precautionary measures to safeguard the integrity and fundamental rights of migrants transiting through that state.<sup>390</sup>

265. In addition, the Commission condemned the excessive use of force in the operations in Chiapas. According to information in the public domain, a child was injured by National Guard officers.<sup>391</sup> The

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<sup>384</sup> IACHR, Press Release 033/21, [IACHR concludes virtual working visit to Mexico on people in situations of human mobility, and presents its Preliminary Observations](#), Washington, D.C., February 12, 2021.

<sup>385</sup> IACHR, Press Release 082/21 - [IACHR Calls on States in the Americas to Adopt Migration and Border Management Policies That Incorporate a Human Rights Approach](#), April 1, 2021.

<sup>386</sup> COMAR, Mexico, Encinas, July 24, 2021.

<sup>387</sup> Observations and Comments from the State of January 24, 2022, p. 25.

<sup>388</sup> IACHR, Press Release 255/21 - [IACHR Condemns Use of Force Against People in Movement in Mexico and Calls on the State to Investigate Events and Prevent Them from Being Repeated](#), Washington, D.C., September 27, 2021. INM, Mexico, [Communiqué No. 081/2021 - INM suspends two federal agents](#), August 30, 2021.

<sup>389</sup> United Nations, [UNHCR, IOM and UN-HR call for respect for international standards in the use of force](#), 31 August 2021.

<sup>390</sup> CNDH, Mexico, [Press release DGC/216/2021 - CNDH urges COMAR, and INM to expedite procedures for migrants in Tapachula](#), Chiapas, August 29, 2021. CNDH, Mexico, integrity, August 30, 2021.

<sup>391</sup> IACHR [@CIDH]. (October 26, 2021) IACHR condemns the excessive use of force against line of migrants in Chiapas. [Tweet] Twitter: <https://twitter.com/CIDH/status/1452992812191043593?s=20>.

IACHR also condemned the death of two migrants as a result of gunshots fired by National Guard officers on October 31, in Pijijiapan, Chiapas.<sup>392</sup>

266. For its part, the State pointed out the importance of limiting coercion by migration agents and auxiliary authorities (National Guard, Federal Police, and Army). Neither the physical nor psychological integrity of migrants should be put at risk. It further noted that the use of force should be a last resort<sup>393</sup>.

267. In this context, the IACHR notes that although steps have been taken to optimize the attention given to asylum seekers and those in need of protection - in particular, the possibility of requesting an appointment to file an application for refugee status via e-mail<sup>394</sup>- the authorities still face challenges in dealing with the increase in asylum and protection requests in that state. Therefore, the IACHR urges the State to implement measures to build the capacity of existing structures and institutions to process the massive flows of asylum seekers, refugees, and persons seeking other forms of humanitarian protection in the context of the current mixed migratory movements in the region, and to decide on them appropriately and with respect for due process.<sup>395</sup> The IACHR also recalls that the use of force must be governed by the principles of legitimate purpose, absolute necessity, proportionality, and progressiveness.<sup>396</sup>

268. Regarding **access to asylum or protection procedures in Mexico**, in a public hearing before the IACHR, civil society organizations complained that INM personnel are refusing to receive asylum requests at a number of border crossing points. They pointed out that this situation had been exacerbated by the COVID-19 pandemic.<sup>397</sup> In particular, the organizations reported that they had documented cases of people who were denied the possibility of applying for asylum, based on the argument that the procedures were complicated; that they did not meet the criteria to be recognized as refugees; or that initiating procedures of this nature could cause them legal problems in Mexico. In addition, the organizations said that they had heard of reports of threats that families would be separated and threats of prolonged detention to discourage such persons from filing asylum or protection applications<sup>398</sup>. In its observations on the draft of this report, the State indicated that at the border points authorized for the regular entry of persons, there are clear signs informing users of their right to request asylum in Mexico. Likewise, in all administrative migration procedures, comprehensive information is provided to migrants on their rights, especially the right to apply for refugee status on national territory.<sup>399</sup>

269. Regarding the **situation of extreme violence faced by people in the context of mobility in transit through Mexico**,<sup>400</sup> the IACHR learned of the discovery of 19 burned bodies in Camargo, Tamaulipas.

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<sup>392</sup>IACHR [@CIDH]. (November 4, 2021) #IACHR condemns the death of 2 #Migrants shot by National Guard officers in Chiapas on #31Oct. [Tweet] Twitter: <https://twitter.com/CIDH/status/1456262944593825804?s=20>.

<sup>393</sup> Permanent Mission of Mexico to the Organization of American States, Request for Preliminary Information on Virtual Visit regarding Human Mobility, Mexico, December 15, 2020, p. 2. CIDH Archive.

<sup>394</sup> COMAR, Mexico, [Comar optimizes procedures in Tapachula](#) Chiapas, July 19, 2021.

<sup>395</sup> IACHR, Press Release 255/21 - [IACHR Condemns Use of Force Against People in Movement in Mexico and Calls on the State to Investigate Events and Prevent Them from Being Repeated](#), Washington, D.C., September 27, 2021. IACHR, [Due Process in Procedures for the Determination of Refugee Status and Statelessness and the Granting of Complementary Protection](#), OEA/Ser.L/V/II, Doc. 255, August 5 2020.

<sup>396</sup> IACHR, Resolution 04/19 Inter-American Principles on the Human Rights of All Migrants, Refugees, Stateless Persons, and Victims of Trafficking in Persons, December 7, 2019, Principles 10, 49, and 65.

<sup>397</sup> IACHR, [Public Hearing "Protection of the Human Rights of Persons in a Situation of Human Mobility in Mexico,"](#) 180th regular session, July 1, 2021.

<sup>398</sup> IACHR, [Public Hearing "Protection of the Human Rights of Persons in a Situation of Human Mobility in Mexico,"](#) 180th regular session, July 1, 2021.

<sup>399</sup> Observations and Comments from the State of January 24, 2022, p. 25

<sup>400</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#), OEA/Ser.L/V/II, Doc. 48/13, December 30, 2013, par. 409.1; 409.6; 409.7.

According to information in the public domain, the people found were from Central America.<sup>401</sup> In relation to the above, the OHCHR emphasized that a prompt and effective investigation provides an opportunity to put an end to practices that have hindered migrants' access to justice. It also highlighted the need to ensure that all public security institutions are subject to the strictest transparency and accountability procedures.<sup>402</sup>

270. In this context, the National Human Rights Institutions of El Salvador, Guatemala, Honduras, and Mexico and the Offices of the United Nations High Commissioner for Human Rights of Guatemala, Honduras, and Mexico pointed out that 10 years after the discovery of the clandestine graves in San Fernando, Tamaulipas, the risks faced by migrants in transit has not improved.<sup>403</sup>

271. Regarding **investigations into the commission of crimes and other human rights violations against persons in the context of human mobility**,<sup>404</sup> the IACHR took note of the updating of the Protocol for Trying Cases Involving Migrants and Persons Subject to International Protection of the Supreme Court of Justice of the Nation (SCJN). According to available information, the Protocol is the result of a process in which a number of stakeholders participated, and it reportedly embodies national and international standards on the subject, with a view to their being considered in the processing and resolution of legal proceedings involving this population.<sup>405</sup>

272. Regarding the **protection of Mexican returnees**,<sup>406</sup> the IACHR learned of the adoption of the agreement to establish the Interagency Strategy for Comprehensive Care of Mexican Families Repatriated and Returning, mainly from the United States. According to official information, the above strategy seeks to promote and strengthen actions in each phase of the return and repatriation cycle, in order to achieve access to programs and services that facilitate the departure, entry, and reintegration of repatriated or returned persons.<sup>407</sup>

273. Regarding the **structural causes of forcible displacement**,<sup>408</sup> the State reported on a series of policies aimed at preventing the structural causes that generate forced movements of people. These policies include: i) National Development Program 2019-2024 (PND), which proposes to address the causes of migration through the creation of decent jobs, regional development, the construction of a welfare state, and the promotion of peace-building processes; ii) Sectoral Governance Plan, which seeks to guarantee the full exercise and enjoyment of human rights of all persons living in, entering, residing in, transiting, or returning to Mexico; and iii) the National Human Rights Program (PNDH) 2020-2024, which formulates actions to comprehensively address the structural causes of the national human rights problem. In addition, the State reported on the installation of the Inter-Ministerial Commission for Comprehensive Care in Migratory Matters

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<sup>401</sup> CNDH, Mexico, Tamaulipas January 24, 2021. El Universal, ["This is not San Fernando", says Sánchez Cordero regarding the 19 burnt bodies found in Tamaulipas](#), January 27, 2021. El Universal, [Migration personnel are being investigated for the van found with 19 burnt bodies: Sanchez Cordero](#), February 2, 2021.

<sup>402</sup> UN-HR, [UN-HR encourages further progress in investigations into massacre of 19 people in Tamaulipas and to guarantee the rights of victims' families](#), 4 February 2021.

<sup>403</sup> UN, [Joint communiqué of the national human rights institutions of El Salvador, Guatemala, Honduras and Mexico and the offices of the United Nations High Commissioner for Human Rights of Guatemala, Honduras and Mexico 10 years after the discovery of the clandestine graves of San Fernando, Tamaulipas, May 7, 2021](#), May 7, 2021.

<sup>404</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#). OEA/Ser.L/V/II., Doc. 48/13, December 30, 2013, par. 409.6; 409.12.

<sup>405</sup> SCJN, Mexico, [Protocol for Trying Cases Involving Migrants and Persons Eligible for International Protection](#), May 2021.

<sup>406</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#). OEA/Ser.L/V/II., Doc. 48/13, December 30, 2013, par. 409.21.

<sup>407</sup> Ministry of Foreign Affairs, Mexico, development, June 22, 2021. Official Gazette of the Federation, [Agreement establishing the Interagency Strategy for the Comprehensive Care of Mexican Repatriated and Returning Families](#), June 24, 2021.

<sup>408</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#). OEA/Ser.L/V/II., Doc. 48/13, December 30, 2013, par. 409.22.

(CIAIMM), which functions as a coordinating body for the migratory policies, programs, and actions of the agencies, decentralized administrative bodies, and entities of the Federal Public Administration.<sup>409</sup>

274. In addition, the State indicated that, through the Program for the Welfare of Persons in Social or Natural Emergencies, with a view to supporting the Migrant Population on the Southern Border, humanitarian support is granted to migrants and applicants for refugee status in Mexico. The purpose of this is to mitigate the vulnerability of people affected by a social or natural emergency during their stay in the country. The State added that in the context of the COVID-19 pandemic, the program had reportedly contributed to the inclusion of the mobile population in the national vaccination plan.<sup>410</sup>

275. In this context, the Commission emphasizes that the obligations of States as countries of origin of migrants and others in the context of human mobility derive from the general obligations to respect and guarantee human rights. For its part, the Inter-American Court has indicated that States have the primary responsibility to protect and guarantee the human rights of persons within their territory and under their jurisdiction. In addition, it has indicated that the duty of prevention derived from Article 22 of the American Convention on Human Rights requires States to create and ensure conditions such that their nationals are not forced to migrate, as well as to remedy the causes that generate migratory movements.<sup>411</sup>

276. In relation to **immigration detention and detention conditions**,<sup>412</sup> the Commission has noted with concern that the amendment to the Immigration Law makes it mandatory to present adult foreigners in immigrant holding stations or in places authorized for that purpose, while their immigration status in the country is being determined.<sup>413</sup> This information was also remitted by the State to the IACHR, indicating that all persons in an irregular migratory situation are presented before the migratory authority where they are informed of the reason for their detention, the possibility of regularizing their migratory status, or of requesting recognition of their refugee status.<sup>414</sup>

277. In this regard, the most recent figures from the State indicate that 252,526 people were presented to the immigration authority between January-November 2021. Of that total, 53,969 were children and adolescents, 88.5% of whom come from Central America. In addition, 65,799 people were returned by Mexican immigration authorities.<sup>415</sup> In addition, the State documented the assisted return of 12,345 children and adolescents, 12,034 of whom were nationals of Guatemala, El Salvador, Honduras, and Nicaragua.<sup>416</sup>

278. Regarding detention conditions, civil society organizations publicly complained about overcrowding of people in the context of human mobility, particularly in the Cupape II La Mosca Migration Station, located in the municipality of Chiapa de Corzo, Chiapas. According to press reports, the migrants were

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<sup>409</sup> Ministry of Foreign Affairs, Mexico, Response of the Mexican State to the request by the Inter-American Commission on Human Rights for information in light of Article 41<sup>o</sup> of the American Convention on Human Rights regarding the protection of migrants, refugee-seekers, refugees, persons with complementary protection needs, and returnees in Mexico pp. 6-8, and 9.

<sup>410</sup> Secretaría de Bienestar, Mexico, "Protecting the Rights of Persons in a Context of Human Mobility," Program for the Wellbeing of Persons in a Social or Natural Emergency, in Support of the Migrant Population on the Southern Border, p. 1.

<sup>411</sup> I/A Court H.R. *Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection*. Advisory Opinion OC-21/14 of August 19, 2014. Series A No. 21, par. 64.

<sup>412</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#), OEA/Ser.L/V/II, Doc. 48/13, December 30, 2013, par. 577.2; 577.5; 577.9; 577.11; 577.12; 577.13.

<sup>413</sup> IACHR, [Annual Report, Chapter V, Mexico](#), 2020, par. 300.

<sup>414</sup> Ministry of Foreign Affairs, Mexico, Response of the Mexican State to the request by the Inter-American Commission on Human Rights for information in light of Article 41<sup>o</sup> of the American Convention on Human Rights regarding complaints about rejections of persons in a situation of mobility at border crossing points and airports in Mexico, August 30, 2021, p. 18.

<sup>415</sup> Observations and Comments from the State of January 24, 2022, p. 25.

<sup>416</sup> Observations and Comments from the State of January 24, 2022, p. 23.

being held in "cage-like facilities." In addition, children and adolescents were detained along with adults.<sup>417</sup> During its virtual visit to Mexico, the IACHR received with concern information about the use of facilities such as the so-called "Las Moscas" (the flies) to detain people in mobility situations. On that occasion, the organizations pointed out that this place lacks the hygienic conditions needed to detain anyone.<sup>418</sup>

279. Additionally, the IACHR notes with concern that, according to reports from civil society organizations, on June 15, 2021, a group of persons detained at the Siglo XXI Migration Station were taken to the courtyard, beaten, and forced to lie face up with their hands on the back of their necks, a position they had to stay in from around 2 p.m. to midnight. In addition, the state authorities forbade them to close their eyes, threatening to beat anyone who did so. According to information available to the Commission, the organizations requested protection for those individuals, which, however, was not granted.<sup>419</sup>

280. In addition to the above, the Commission notes that the CNDH required various authorities to implement precautionary measures in order to, inter alia: i) safeguard the safety, physical integrity, and life of persons in the context of migration held in the "El Chaparral" camp, located in Tijuana, Baja California<sup>420</sup>; ii) grant humanitarian care for approximately 240 migrants - including children and adolescents- who are in the "De la República" square located in Reynosa, Tamaulipas<sup>421</sup>; iii) prevent overcrowding and provide basic services, while the legal situation of the persons at the Migration Station in Saltillo, Coahuila is being resolved; iv) safeguard the integrity of the migrants and their families, as well as their families, while they are in the Migration Station in Saltillo, Coahuila<sup>422</sup>; iv) safeguard the integrity of approximately 600 people in the Casa del Migrante "Senda de Vida", including 250 children and adolescents, pregnant women, persons suffering from chronic degenerative diseases, as well as persons with disabilities<sup>423</sup>; and, v) safeguard the integrity of persons who are kept in overcrowded conditions in buses and in the local representative office of the INM in Villahermosa, Tabasco.<sup>424</sup> Likewise, the CNDH issued a recommendation to the INM and the Attorney General's Office of the state of Chiapas regarding the death of two migrants inside the Siglo XXI Migration Station.<sup>425</sup>

281. In this regard, the IACHR has indicated that detention must be a measure of last resort. Therefore, States must take measures (laws, policies, and public practices) to eradicate the detention of migrants. Meanwhile, the State must ensure that detention is used only as authorized by law and only when it

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<sup>417</sup> Proceso [Complaints about Overcrowding in migrant detention centers on southern border](#), March 27, 2021. Prensa Libre, [Migrants suffer from overcrowding and poor conditions in Mexico's detention centers](#), April 24, 2021. Senate of the Republic, Mexico, [Senate Commission calls for guarantees for the human rights of migrant minors](#), August 20, 2021.

<sup>418</sup> IACHR, Press Release 033/21, [IACHR concludes virtual working visit to Mexico on people in situations of human mobility and presents its Preliminary Observations](#), Washington, D.C., February 12, 2021.

<sup>419</sup> Colectivo de Observación y Monitoreo de Derechos Humanos en el Sureste Mexicano, [Migration authorities in Mexico torture migrants and refugees after protest at Siglo XXI Migration Station](#), June 25, 2021.

<sup>420</sup> CNDH, Mexico, [Press release DGC/069/2021. CNDH requested Baja California and federal authorities to provide precautionary measures in favor of migrants living in the "El Chaparral" camp](#), March 20, 2021.

<sup>421</sup> CNDH, Mexico, [Press Release DGC/075/2021. CNDH requests urgent humanitarian attention to migrants in Reynosa, Tamaulipas, Mexico](#), March 24, 2021.

<sup>422</sup> CNDH, Mexico, [Press Release DGC/181/2021. CNDH requests the INM to take precautionary measures in favor of migrants housed in the Migration Station of Saltillo, Coahuila](#), July 5, 2021.

<sup>423</sup> CNDH, Mexico, [Press Release DGC/199/2021. CNDH requests the INM, SNDIF, and authorities of Tamaulipas to take precautionary measures in favor of persons housed in the "Senda de Vida" migrant home](#), July 24, 2021.

<sup>424</sup> CNDH, Mexico, [Press Release DGC/062/2021. CNDH issues precautionary measures to protect migrants overcrowded in buses and INM offices in Tabasco](#), March 13, 2021.

<sup>425</sup> CNDH, Mexico, [Press Release DGC/215/2021. CNDH makes a Recommendation to the INM and the Attorney General of Chiapas regarding the death of two migrants at the "Siglo XXI" migrant detention center](#), August 28, 2021.

is determined to be necessary, reasonable under the circumstances, and proportional to a legitimate purpose.<sup>426</sup>

282. Regarding the **procedures for the return or expulsion of persons in the context of human mobility**<sup>427</sup>, the IACHR expressed its concern about the people being returned from Mexico without analysis and consideration of protection needs.<sup>428</sup> According to information from REDLAC, deportations from Mexico increased 24% for migrants from Honduras, 159% for those from Guatemala, and 382% for those from El Salvador during 2021.<sup>429</sup> In its comments to the draft of this report, the State indicated that according to information from the UPM-RIP and INAMI, returns from Mexico increased 89% for Honduras, 76% for Guatemala and 14% for El Salvador between January-November 2021, compared to the same period in 2020. However, it is noted that these trends were affected by the border closure in 2020 as a result of the COVID-19 pandemic.<sup>430</sup>

283. In the same vein, through a press release dated September 17, 2021, the IACHR noted with concern the expulsions of people in an irregular migratory situation, including those who were expelled from the United States to various countries with borders with Guatemala. On that occasion, the Commission warned that when people are expelled or returned to their countries of origin or habitual residence, without an adequate determination of possible international protection needs, they reportedly face situations similar to those that forced them to leave.<sup>431</sup> Similarly, civil society organizations complained to the IACHR that they have documented cases of expulsions from Mexico of people with asylum procedures that were still being processed or who already had some type of protection in that country.<sup>432</sup>

284. For its part, the State indicated that in accordance with the Migration Law, these procedures are carried out in an orderly, expeditious, and safe manner, safeguarding the human rights of this population and observing the principle of *non-refoulement*. In addition, it noted that persons subject to a procedure of this nature have the right to: i) be notified; ii) communicate with and receive protection from their consular representation; except in cases where political asylum or recognition of refugee status has been requested; iii) lodge an effective appeal against INM resolutions; iv) have a translator or interpreter if the person does not speak or understand Spanish; and v) receive legal advice.<sup>433</sup> It added that in the cases of accompanied and unaccompanied children and adolescents, pregnant women, victims or witnesses of crimes committed in

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<sup>426</sup> IACHR, [Resolution 04/19. Inter-American Principles on the Human Rights of All Migrants, Refugees, Stateless Persons, and Victims of Human Trafficking](#), December 7, 2019, Principles 68 and 69.

<sup>427</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#), OEA/Ser.L/V/II., Doc. 48/13, December 30, 2013, par. 577.15.

<sup>428</sup> IACHR [@CIDH]. (June 16, 2021) *IACHR expresses concern over the return of unaccompanied children and adolescents to their countries from the U.S. and Mexico* [Tweet]. Twitter: <https://twitter.com/CIDH/status/1405187169484947456>. See: Amnesty International, [Pushed into Harm's Way: forced returns of unaccompanied migrant children to danger by the USA and Mexico](#), July 10, 2021.

<sup>429</sup> REDLAC, [Bulletin 14: Protection Crisis in Northern Central America, Mexico and Panama](#), March 2021.

<sup>430</sup> Likewise, the flow of Guatemalans moving to work in Mexico with a TVTF (Border Worker Visitor Card) has decreased in the past 3 years. According to the State, this decrease occurred in a context marked by the depreciation of the peso against the quetzal and the decline of the agricultural sector in southeastern Mexico. It indicates that it is important to consider that there are other migratory arrangements that contemplate insertion into the labor market. Such is the case of the Visitor's Card for Humanitarian Reasons (TVRH), which is mainly offered to applicants for refugee status. This card allows access to employment and other services. Observations and Comments from the State of January 24, 2022, p. 25.

<sup>431</sup> IACHR, Press 243/21- [The IACHR Expresses Concern about the Expulsion of People in a human mobility context from the United States and Mexico and calls on States to Ensure the Effective Protection of Their Rights](#), Washington, D.C., September 17, 2021.

<sup>432</sup> IACHR, [Public Hearing "Protection of Persons in Human Mobility in the United States, Mexico, and Northern Central America", 181st regular session, October 26, 2021](#) 181st regular session, October 26, 2021. Information provided by CHIRLA and the Human Rights Ombudsman of Guatemala.

<sup>433</sup> Ministry of Foreign Affairs, Mexico, Response of the Mexican State to the request for information from the Inter-American Commission on Human Rights in light of Article 41 of the American Convention on Human Rights regarding complaints about rejections of persons in a situation of mobility at border crossing points and airports in Mexico, August 30, 2021, p. 6.

national territory, persons with disabilities and older adults, the assisted return procedure is applied, with the intervention of consular or immigration officials of the receiving country.<sup>434</sup>

285. In this regard, the IACHR recalls that in accordance with international obligations and commitments derived from various international treaties and other instruments, the obligation to guarantee the principle of *non-refoulement* is applicable to all forms of forced return. In addition, States must implement measures to ensure absolute respect for the ban on *refoulement* of persons seeking asylum or other form of international protection.<sup>435</sup>

286. Regarding **human rights defenders**,<sup>436</sup> the Commission notes that the CNDH and the UN-HR in Mexico called on the State to guarantee adequate and safe conditions for human rights defenders and journalists to carry out their legitimate work of monitoring, documenting and communicating in the context of migration movements in Chiapas. In particular, they highlighted the work of human rights defenders and civil society organizations to guarantee the rights of migrants, asylum seekers, and refugees in transit through Mexico. In addition, they reiterated the importance of the work done by journalists and the media to publicize the difficulties faced by migrants, asylum seekers, and refugees and the actions of state authorities.<sup>437</sup>

287. With the regard to **migrant workers in Mexico**,<sup>438</sup> an IOM study found that in Central America and Mexico irregular border crossings are often used by migrant workers due to the limited availability of regular channels. It also noted that, although most people from Belize and Guatemala apply for the Border Worker Visitor Card (TVTF), some people do not do so due to lack of information and the costs involved. For nationals of El Salvador and Honduras who cannot apply for the TVTF, it is even more difficult to enter the labor market. They use other forms of migration that do not contemplate provisions for migrants looking for jobs.<sup>439</sup>

288. In addition, the study pointed out that the informality of recruitment practices in countries such as Mexico reportedly mean that workers, particularly women workers, are liable to be deceived about the salaries and living conditions under which they will work. Regarding the forms of recruitment of female domestic workers, the study found that the Internet is frequently used as a source for information on employment opportunities. This appears to increase the vulnerability of female migrant workers and exposes them to at-risk situations such as human trafficking, forced labor, sexual exploitation, and the smuggling of migrants due to the dissemination of false or misleading information.<sup>440</sup>

289. Based on the above analysis, the IACHR considers that compliance with this recommendation is still partial.

290. The Commission also recommended that the State **prepare a national diagnostic assessment to "characterize" internal displacement in Mexico and, consequently, adopt a national**

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<sup>434</sup> Ministry of Foreign Affairs, Mexico, Response of the Mexican State to the request by the Inter-American Commission on Human Rights for information in light of Article 41<sup>o</sup> of the American Convention on Human Rights regarding complaints about rejections of persons in a situation of mobility at border crossing points and airports in Mexico, August 30, 2021, pp. 7 and 11.

<sup>435</sup> IACHR, Press 243/21- [The IACHR Expresses Concern about the Expulsion of People in a human mobility context from the United States and Mexico and calls on States to Ensure the Effective Protection of Their Rights](#), Washington, D.C., September 17, 2021.

<sup>436</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#), OEA/Ser.L/V/II, Doc. 48/13, December 30, 2013, par. 409.1; 409.7; 409.12.

<sup>437</sup> UN-DH, [CNDH and UN-HR call for guarantees for the work of those documenting the situation in Chiapas](#), September 8, 2021.

<sup>438</sup> IACHR, [Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico](#), OEA/Ser.L/V/II, Doc. 48/13, December 30, 2013, par.

<sup>439</sup> IOM, [Recruitment Practices of Migrant Workers in Belize, El Salvador, Guatemala, Honduras, and Mexico](#), 2021, pp. 31, 33, and 62.

<sup>440</sup> IOM, [Recruitment Practices of Migrant Workers in Belize, El Salvador, Guatemala, Honduras, and Mexico](#) 2021, pp. 46 and 71. ILO. [Central American migrant women in Mexico: Informality in hiring and employment](#) January 2021.

**policy and measures aimed at providing a response in accordance with international standards on the subject, in particular the Guiding Principles on Internal Displacement.** In its report to the IACHR, the State indicated that it continues to work with an interagency roundtable to generate strategies to attend to people displaced by violence in their communities.<sup>441</sup> It also indicated that during 2021 the National Population Council published the documents entitled: "Internal displacement in indigenous contexts. Three State approaches to a common problem" and "National Diagnostic Assessment of Forced Displacement in Mexico." With respect to the design of a national policy, the State mentioned the progress achieved thanks to the publication by the UPM-RIP in 2021 of the "Guide for prevention, humanitarian assistance, comprehensive care, and durable solutions to Internal Forced Displacement."<sup>442</sup>

291. In this regard, the most recent data from the Internal Displacement Monitoring Center (IDMC) indicate that as of the end of 2020 there were 101,000 displacements related to natural disasters and 9,700 related to conflict and violence. Regarding disaster-related displacement, the Center indicated that the numbers increased fivefold in 2020 over the previous year as a result of floods and storms.<sup>443</sup> It added that all displacements reported by the media and civil society organizations took place in rural areas. However, the 2020 census results would suggest that urban displacement is also common. In particular, it noted that the state of Mexico and Mexico City would reportedly have a large number of internally displaced persons.<sup>444</sup>

292. For their part, the most recent figures from the Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH) indicate that as of September 2021, at least 36,272 forcibly displaced persons had been reported. These figures represent an increase of more than 400% compared to the same period in 2020.<sup>445</sup>

293. Based on the information available, the IACHR concludes that compliance with this recommendation is still pending.

294. Regarding the recommendations to **adopt specific legislation at the federal and state levels to address internal displacement, in accordance with the Guiding Principles on Internal Displacement** and to **ensure that at the federal level there is an institution in charge of the protection of persons against forced displacement**, the State indicated that, although there are three states that have issued laws on forced internal displacement -Chiapas, Guerrero, and Sinaloa-, there is no information available regarding the application of such mechanisms in particular cases.<sup>446</sup>

295. In this regard, the Commission has been of the opinion that the regulatory frameworks on internal displacement adopted by the State should name an institutional focal point to oversee their implementation, assign clear roles and responsibilities, and facilitate coordination with other governmental and non-governmental actors, including the CNDH and civil society organizations for the protection of the internally displaced population.<sup>447</sup> In light of the above, the IACHR considers that compliance with this recommendation is still pending.

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<sup>441</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 84.

<sup>442</sup> Observations and Comments from the State of January 24, 2022, p. 25.

<sup>443</sup> IDMC, [Internal displacement in a changing climate](#), pp. 62 – 63.

<sup>444</sup> IDMC, [New displacements by conflict and disasters in 2020](#), p. 63.

<sup>445</sup> CMDPDH, [Bulletin: Situation of Forced Internal Displacement in Mexico, September 2021](#), September 2021.

<sup>446</sup> Observations and Comments by the State, January 24 2022, p. 27. Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 85.

<sup>447</sup> IACHR, Press Release 100/19 - [IACHR and the UN Special Rapporteur on the Human Rights of Internally Displaced Persons Welcome Decision for the protection of internally displaced persons in Mexico](#), Washington, D.C., April 17, 2019.

## 7. Human Rights Defenders

- Strengthen the agencies responsible for the protection of human rights defenders and journalists, so that they can adequately guarantee their life and integrity. The Mexican State is urged to incorporate gender and multicultural perspectives in the design and adoption of protection measures for women defenders and journalists.

296. Regarding the recommendation **to strengthen the agencies responsible for the protection of human rights defenders and journalists, so that they can adequately guarantee their life and integrity**, the State reported that it continues to strengthen the Special Prosecutor's Office for Addressing Crimes Committed against Freedom of Expression (FEADLE). This authority continues to develop training programs to disseminate information on freedom of expression, the early warning system, how to act in the event of being a victim of a crime, and the primer on the rights of journalists.<sup>448</sup> The State did not provide specific information on the mechanism for the protection of human rights defenders or on measures adopted to address the risks they face.

297. In its observations on the draft of this report, the State reported that last year the budget allocated to the Mechanism was \$388,000,000.00 Mexican pesos, almost double that of previous years. Similarly, a strategy of signing agreements with the governments of the states was pursued in order to induce better coordination of work and resources throughout the country. It also reported that a process of participation had been designed for the year 2022, which includes the holding of Regional Dialogues that allow for consultation and participation of civil society, human rights defenders, journalists, victims, families, and beneficiaries of the Mechanism, and reinforce the initiative of drafting the General Law on Protection and Prevention in order to create a National Protection System.<sup>449</sup>

298. However, the Commission is aware that the National Protection Mechanism for Human Rights Defenders currently protects 1,506 people, 1,011 of whom are human rights defenders and 495 are journalists.<sup>450</sup> However, the Commission is concerned that, as stated in previous paragraphs, the lack of budget and human resources for the Protection Mechanism prevents it from functioning properly.

299. Accordingly, the Commission has observed that violence against human rights defenders continued during 2021. Thus, from January to early November 2021, the Commission received information regarding the murder of at least 10 human rights defenders.<sup>451</sup> In particular, the Commission observed that this violence was directed, in particular, against indigenous and environmental defenders<sup>452</sup> and groups of relatives of disappeared persons.<sup>453</sup> The Commission learned about the murder of environmental defender Fidel Heras Cruz, perpetrated on January 23, 2021 in the community of La Esperanza, municipality of Santiago Jaltepec,

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<sup>448</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 86.

<sup>449</sup> Observations and Comments from the State of January 24, 2022, p. 25.

<sup>450</sup> Ministry of the Interior, [Offenses against human rights defenders and journalists](#), October 5, 2021. Note: In its Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", the State reported (pp. 54-55) that it provided protection to 1,848 beneficiaries; however, the latest published (official) figure published is shown in this section.

<sup>451</sup> UN-HR, [UN-Human Rights condemns the murders of human rights defenders Rodrigo Morales Vázquez and Alejandro García Zagal](#), September 13, 2021.

<sup>452</sup> Ministry of the Interior, [Offenses Against Human Rights Defenders and Journalists](#), October 5, 2021; Público, [Mexico registers at least twenty-eight murders of environmental defenders and indigenous leaders in 2021](#), July 15, 2021;

<sup>453</sup> Animal Político, [Reynosa case: harassment denounced against family members who pointed out that the Prosecutor's Office had blamed the disappeared](#), June 30, 2021; Proceso, [Relatives of the disappeared denounce intimidation by naval personnel in Nuevo Laredo](#), August 4, 2021; Revista Espejo, [Displacement of female investigators with death threats](#), August 24, 2021.

state of Oaxaca.<sup>454</sup> It also condemned the murder of Simón Pérez, a defender of indigenous peoples and member of the organization Las Abejas de Acteal, which, according to information in the public domain, occurred on July 5, 2021 in Simojovel, Chiapas.<sup>455</sup> In addition, the Commission received information on the disappearance of three women defenders during 2021, in particular, the disappearances of Claudia Uruchurtu Cruz in Nochixtlán, Oaxaca, and Grisell Pérez Rivera in Tlalmanalco, state of Mexico, both of which occurred in March 2021, and the disappearance of Irma Galindo Barrios in October 2021 in Oaxaca.<sup>456</sup>

300. The Commission is also concerned about the lack of progress in the investigation of crimes against human rights defenders. In this regard, the Commission is aware that 98% of the murders of human rights defenders in Mexico have gone unpunished.<sup>457</sup> The IACHR reminds the State that the most effective way to protect human rights defenders is to effectively investigate acts of violence against them and punish those responsible, in order to identify and deal with the underlying causes, and thus avoid their repetition.<sup>458</sup>

301. Based on the above considerations, the Commission does not have sufficient information to analyze the measures adopted by the State to strengthen the agencies responsible for the protection of human rights defenders and journalists. On the contrary, based on the information received through its monitoring activities, the IACHR observes the persistence of acts of violence against human rights defenders, as well as high levels of impunity for these crimes. Therefore, the IACHR considers that compliance with this recommendation is still partial.

## 8. Freedom of Expression<sup>459</sup>

- Acknowledge, at the highest levels of the State, the legitimacy and value of journalistic work and condemn acts of aggression committed in retaliation for the exercise of freedom of expression.
- Define a single methodology to generate and publish detailed and disaggregated statistics on violence against journalists and investigations of attacks, as well as on the protection measures adopted. Establish a state authority in charge of capturing the information and publishing the statistics and informing the different stakeholders about any challenges that arise in applying this methodology.
- Remove all obstacles so that in practice the Special Prosecutor's Office for Addressing Crimes against Freedom of Expression can undertake investigation of crimes committed against journalists and against freedom of expression. Exercise effective jurisdiction over the crimes within its sphere of competence and guarantee that serious violations of freedom of expression are always investigated by that Prosecutor's Office.
- Maintain the FEADLE as a specialized prosecutor's office and provide it with sufficient financial and human resources to carry out its work.
- Adopt special investigation protocols to fully and sufficiently discard or confirm the hypothesis of a relationship between the homicide or aggression and the journalistic profession.
- Improve the relationship between the federal and state jurisdiction in order to prevent conflicts of jurisdiction from hindering or delaying investigations.

<sup>454</sup> Proceso, [Murder of Fidel Heras Cruz, the Río Verde defender against megaprojects in Oaxaca](#), January 25, 2021.

<sup>455</sup> IACHR [@ IACHR] (July 05, 2021). [IACHR condemned the murder of Simón Pérez](#) [Tweet]. Twitter:

<sup>456</sup> OHCHR Mexico, [UNHCHR Calls on Authorities to Guarantee the Work of Women Human Rights Defenders](#), November 29, 2021.

<sup>457</sup> El Sol de Mexico, [Aggressions against defenders and journalists have increased during the past three years: Segob](#), October 5, 2021; LATINUS, deficient, December 1, 2021.

<sup>458</sup> IACHR, Second Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II. L/V/II. Doc. 66, December 31, 2011, par. 233.

<sup>459</sup> The IACHR assigned the drafting of this section to its Office of the Special Rapporteur for Freedom of Expression.

- Allow victims, their families and, where appropriate, third parties to participate in criminal proceedings with full guarantees, both in the search for the truth and clarification of the facts, as well as when demanding reparation.

302. Lethal violence against journalists continues to be one of the main problems facing the right to freedom of expression in Mexico. During 2021, the Office of the Special Rapporteur for Freedom of Expression received information of at least ten murders of media workers that could be related to their profession, and at least one journalist reported missing.<sup>460</sup> Likewise, the Office has continued to receive with concern reports regarding State surveillance of communications to the detriment of journalists, human rights defenders, and public leaders who oppose the government.

303. With respect to the recommendation on **recognizing, at the highest levels of the State, the legitimacy and value of journalistic work, and condemning attacks committed in retaliation for the exercise of freedom of expression**, the Mexican State reported that it continues its commitment to adopt measures that allow defenders and journalists to go about their work, and in particular, to address cases in which protection is required.<sup>461</sup>

304. The IACHR has observed, however, a scenario of high and escalating levels of violence against the press in Mexico, which in 2021 was reportedly reflected not only in murders -which the Commission has considered the most extreme form of censorship- but also in threats, acts of harassment and intimidation, stigmatization, and surveillance of communications. Among other facts reported,<sup>462</sup> the Office of the Special Rapporteur received information about an alleged attempt on the life of journalist Edgar Leyva Mendoza, director of the *Urbano 24 Horas* news portal, on February 3, 2021, in the municipality of Ocotlán, state of Oaxaca, which could be linked to the media outlet's investigations into alleged acts of corruption and abuse of power by public authorities. According to information in the public domain, the reporter managed to flee and hide after the attack. However, two members of his family reportedly died on the spot, after which the Oaxaca State Attorney General's Office announced the opening of an investigation.<sup>463</sup> On May 21, an unknown individual reportedly physically assaulted Luis Raúl Aguilar Pérez, founder of the digital media *Pénjamo.Biz* and *Pénjamo. Biz 2.0*, as he was returning to his home in the town of Pénjamo, Guanajuato. The reporter was reportedly injured in the arms and neck, and had to undergo surgery at a local hospital, according to information from a public source.<sup>464</sup> In addition, on March 2, a vehicle reportedly attempted to ram the car of journalist Alberto Amaro Jordán, co-founder and director of *La Prensa de Tlaxcala*, when the journalist was driving in the company of his son in the municipality of Tetla de la Solidaridad, Tlaxcala. The Rapporteurship

<sup>460</sup> During 2021, the Office of the Special Rapporteur documented the murder of journalists Benjamín Morales Hernández, in the municipality of Sonoyta, State of Sonora; Gustavo Sánchez Cabrera, in the municipality of Santo Domingo Tehuantepec, State of Oaxaca; Felipe Enrique García, in the city of Metepec, Mexico state; Saúl Tijerina Rentería, in Ciudad Acuña, State of Coahuila; Abraham Mendoza, in the city of Morelia, state of Michoacán; Ricardo López, in the municipality of Guaymas, state of Sonora; Jacinto Romero Flores, in the municipality of Ixtaczoquitlán, state of Veracruz; Manuel González Reyes in the city of Cuernavaca, state of Morelos; and Alfredo Cardoso, in Acapulco, state of Guerrero; and Freddy López Arévalo in the city of San Cristóbal de Las Casas, state of Chiapas. The Rapporteurship has also learned of the disappearance of journalist Jorge Molontzín Cental since May 10 in the city of Santa Ana, Sonora.

<sup>461</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 86.

<sup>462</sup> Red Rompe el Miedo Twitter account (@RompeMiedo). [June 6, 2021](#) Reacción Informativa, [Journalists' Collective condemns aggressions against reporters in Escuinapa](#), January 28, 2021; CPJ, [Unidentified subjects shoot at Mexican journalist Beatriz Flores' car after she receives threats via telephone](#), November 18, 2021; La Jornada, [Police raid home of the director of Diario de La Tarde in Iguala](#), July 7, 2021; Reporters Without Borders, [Mexico](#), October 7, 2021; Excélsior, [Baja a chin... a tu ma... tus mentiras o vas a ver' así amenaza a reportero mayor](#), October 2, 2021; Radio Fórmula [EMEEQUIS portal attacked after publishing report "El checador detrás de las empresas fantasmas de AMLO"](#), October 6, 2021; El País, [Assaults and Arbitrary Arrests are Daily Occurrences for Journalists in Mexico](#), June 30, 2021.

<sup>463</sup> CPJ, [Mexican journalist Edgar Leyva goes into hiding after attack](#), February 22, 2021; Oaxaca Vial, [Two women executed in Ocotlán de Morelos, Oaxaca](#), February 3, 2021; Quadratin Oaxaca, [2 women shot to death in Oaxaca](#), February 3, 2021; Twitter account of the Oaxaca State Attorney General's Office (@FISCALIA\_GobOax), [February 3, 2021](#).

<sup>464</sup> CPJ, [Mexican journalist Luis Aguilar survives knife attack in Pénjamo](#), June 7, 2021; Proceso, [Reporter stabbed to death in Pénjamo, Guanajuato](#), May 22, 2021; Sopitas, [A reporter who blamed a PVEM candidate for his physical integrity is stabbed](#), May 23, 2021.

also learned, in early August, about alleged death threats against journalist and news anchor of the TV channel *Milenio*, Azucena Uresti, as a result of her coverage of drug trafficking in the state of Michoacán, by a group of masked and armed individuals who in a publicly circulated video claimed to represent a Mexican drug trafficking cartel.<sup>465</sup> It also received information regarding on a report of a kidnapping, robbery, and death threat against independent reporter Teresa Maraño, in the municipality of Zinacantepec.<sup>466</sup>

305. The hostile context for the practice of journalism has intensified in recent times due to stigmatizing remarks from the highest levels of government, which are capable of inducing attacks against journalists, both physical and digital, and increasing the situation of vulnerability and risk in which many media workers find themselves. In this regard, the Rapporteurship received information on the President's announcement that he intended to inaugurate a weekly section in the morning press conferences to display news that the government considers to be false and identify the journalists responsible. The Head of State reportedly called that section the "who's who in the lies of the week" and justified it by saying that it was important to inform citizens properly.<sup>467</sup> In this context, the president reportedly targeted journalists from the newspapers *El Universal*, *Forbes Mexico*, *El País*, and *Eje Central*, among others.<sup>468</sup>

306. In this regard, the State has claimed that the section "Who's Who in the Lies" constitutes a novel but legitimate mechanism or channel of communication between society and civil servants (...) that seeks to generate a critical and participatory citizenship in public affairs, which questions the behavior and decisions of the government in order to move towards a more democratic regime", and respects the constitutionally enshrined right to freedom of expression. The State also indicated that "if any of the points made during the section are inaccurate or require clarification, it will always be willing to acknowledge those failings."<sup>469</sup>

307. This Rapporteurship recognizes that it is legitimate and, on certain occasions, a duty for state authorities to make statements on matters of public interest and to defend themselves in the face of criticism or questioning by the press. However, in doing so, they should not discredit or stigmatize those who question them, due to their high position, the broad scope, and possible effects that their expressions may have on certain segments of the population. Likewise, in contemporary democracies, especially in countries with high rates of violence against the press, it is especially important to distinguish between the legitimate defense of an official position and discourse that, under that pretext, may imply stigmatization. With regard to disinformation, this Office recognizes the negative consequences derived from it and believes that democratic societies must combat attempts to manipulate public debate. However, it considers it atypical, and somewhat risky for democracy, to promote a governmental checking section that casts aspersions on both the contents and the media and journalists who publish them.

308. In this context, the Commission is particularly concerned about the new findings on the use of the *Pegasus* software to spy on journalists and human rights defenders investigating highly sensitive issues, such as corruption and gross human rights violations. In August, the IACHR, its Rapporteurship on Freedom of Expression, and the OHCHR expressed their concern about the facts and called on the Mexican State to investigate them in a thorough, effective, and impartial manner; and to guarantee the adoption of the measures needed to respect, protect, and guarantee citizens' right to privacy and freedom of expression, the exercise of

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<sup>465</sup> Associated Press, [Mexico: Drug traffickers threaten to kill journalist](#), August 9, 2021; Aristegui Noticias, [Jalisco Cartel Threatens Journalist Azucena Uresti: Government Announces Measures](#), August 9, 2021.

<sup>466</sup> CPJ, [Mexican journalist María Teresa Montaña is kidnapped, threatened, and robbed in Toluca, Mexico](#), August 23, 2021; Animal Político, [Teresa Montaña, Edomex journalist, is robbed, held, and threatened with death](#), August 14, 2021.

<sup>467</sup> El País, [López Obrador's 'who's who' or the new offensive against the press](#), June 23, 2021; Swissinfo, [López Obrador announces a weekly section to expose "fake news"](#), June 23, 2021.

<sup>468</sup> El País, [Mexico's president debuts his space against the media, calling them "corrupt, creepy-crawly, and fundamentalist."](#), June 30, 2021; Forbes Mexico Twitter account (@Forbes\_Mexico), [July 1, 2021](#).

<sup>469</sup> Response of the Mexican State to the request, under Article 41, by the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR/RELE/Art. 41/05-2021/164), July 28, 2021, Archive of the Office of the Special Rapporteur for Freedom of Expression.

journalism, the defense of human rights, public participation, and guarantees for political opposition. The public information disclosed in 2021 comes on top of the complaints made since 2017, if not before, by organizations, defenders, and journalists regarding the use of this and other espionage tools in Mexico and other countries in the region.<sup>470</sup>

309. Public reports in recent years have revealed multiple victims of attempted espionage through the software, including journalists Carmen Aristegui, Carlos Loret de Mola, and Azam Amhed, as well as Cecilio Pineda, a reporter murdered in the state of Guerrero in 2017. Members of the Miguel Agustín Pro Juárez Human Rights Center (Centro PRODH); Inter-American Court Judge Eduardo Ferrer Mac-Gregor; and at least one member of the Interdisciplinary Group of Independent Experts (GIEI) in the Ayotzinapa case, established to investigate the mass disappearance of students in Iguala in 2014, were also allegedly subjected to illegal surveillance. According to public information, almost one third of the 50,000 telephone numbers allegedly targeted for espionage are based in Mexico.<sup>471</sup>

310. In addition, the Commission and its Office of the Special Rapporteur received reports of alleged state surveillance of communications of women defenders and journalists investigating the massacre of 196 people found in 48 clandestine graves in San Fernando, Tamaulipas, in 2011, as already mentioned in this report. According to available information, between February 2015 and April 2016, Mexican authorities, through the then Deputy Attorney General's Office Specializing in Organized Crime Investigations, opened an investigation into alleged "kidnapping and organized crime" against journalist Marcela Turati and defenders Ana Lorena Delgadillo and Mercedes Doretti, requesting ("extra urgently") a complete record of their calls and messages sent and received, including the location.<sup>472</sup>

311. The Commission and its Rapporteurship welcome the Mexican State's willingness to discuss these issues. On July 1, 2021, in connection with a hearing on Mexico during the 180th period of sessions of the IACHR, the State underscored its willingness to participate in multi-sectoral dialogues and its willingness to move forward, jointly, to verify and combat any provision or practice that discredits journalists and human rights defenders.<sup>473</sup>

312. Given the lack of reports of progress in its implementation, the IACHR considers that compliance with the recommendation remains partial, while calling on the Mexican State to redouble its efforts to promote an environment favorable to the right to freedom of expression and of the press and to avoid any type of pronouncement by the authorities that could legitimize or appear to permit violence against the press.

313. Regarding the recommendation to **define a single methodology for compiling and publishing detailed and disaggregated statistics on violence against journalists and investigations into attacks, as well as on the protection measures adopted, establish a state authority in charge of gathering the information and publishing the statistics, and inform the various stakeholders about the challenges that arise in the application of this methodology**, the State reported that the Special Prosecutor's Office for Attention to Crimes Committed against Freedom of Expression (FEADLE), together with the competent authorities, follows up by systematizing information contained in complaints and preliminary

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<sup>470</sup> IACHR, Office of the Special Rapporteur for Freedom of Expression, Press Release R205/ 21, [The IACHR, SRFOE and OHCHR Mexico express their concern about the new findings on the use of Pegasus software](#), Mexico City - Washington D.C., August 6, 2021.

<sup>471</sup> Deutsche Welle (DW), [Pegasus spyware: Mexico one of the biggest targets](#), July 22, 2021; The Washington Post, [Takeaways from the Pegasus Project](#), August 2, 2021.

<sup>472</sup> The Washington Post, [A lawyer fought for justice after a Mexican massacre](#), November 23, 2021; El País, [Three female investigators of the San Fernando massacre denounce that they were spied on by the Peña Nieto government](#), November 24, 2021; El Economista, [Investigators of forced disappearances denounce spying by the PGR in the San Fernando case](#), November 24, 2021.

<sup>473</sup> IACHR, Public Hearing, [Situation of the Human Rights of Women and Girls in the Context of the Protests in Mexico](#) 180th period of sessions, Washington, D.C., July 1, 2021.

inquiries regarding crimes against freedom of expression, and issues monthly statistical reports in this regard.<sup>474</sup>

314. In their follow-up reports on previous recommendations, the IACHR and the Office of the Special Rapporteur have recognized the efforts by FEADLE to expedite procedures to investigate and punish crimes committed against those who practice journalism. They have also noted that FEADLE has one of the highest rates of compliance with respect to publicizing information related to the number of investigations, indictments, sentences, backlogs and other relevant data for society in the administration of justice. However, there are still challenges related to the lack of coordination between federal and state jurisdictions in terms of consolidating a single methodology and publishing disaggregated statistics. As the Commission and its Rapporteurship have previously stated, there are still obstacles to accessing detailed information from state prosecutors' offices on investigations into crimes against journalists.

315. The Commission considers that compliance with the recommendation continues to be partial and encourages the Mexican State to continue its efforts to systematize and update figures and indicators on violence against journalists, as well as to increase coordination among different levels of government.

316. Regarding the recommendations: **i) remove all obstacles so that in practice the Special Prosecutor's Office for Attention to Crimes against Freedom of Expression can take on the investigation of crimes committed against journalists and against freedom of expression; ii) maintain the FEADLE as a specialized prosecutor's office and provide it with sufficient financial and human resources to carry out its work; iii) adopt special investigation protocols for fully discarding or confirming the hypothesis of a relationship between the homicide or aggression and the journalistic profession; iv) improve the relationship between federal and state jurisdictions in order to prevent conflicts of jurisdiction from hindering or delaying investigations; and v) allow the victims, their families, and, where appropriate, third parties, to participate in the criminal proceedings with full guarantees, both in the search for the truth and clarification of the facts, and when demanding reparation,** the Mexican State expressed its commitment to continuing to move forward with the measures adopted so as to continue involving the FEADLE and pursue the investigations that the local authorities initiated due to the probable commission of crimes against journalists. Likewise, the State pointed out that when a case of possible wrongdoing against journalists is reported, the FEADLE initiates an investigation parallel to the investigations conducted by the state Attorney General's Office or Prosecutor's Office. In this investigation, the agent of the Public Prosecutors' Office collects evidence to determine whether the assaulted or murdered person could have been a victim of these crimes as a direct consequence of his or her journalistic work. Based on this, the FEADLE is in a position to initiate investigations (*ejercer la facultad de atracción*) under the terms of the provisions of the Code of Criminal Procedures.<sup>475</sup>

317. According to the State, as an evaluation mechanism, Mexico has developed the standard of competence "Investigation of crimes committed against freedom of expression using a differential and specialized approach" and continues to hold forums or roundtable discussions "aimed at raising the awareness of the Federal Judiciary regarding the importance of freedom of expression and the press, as democratic values of free societies."<sup>476</sup>

318. In addition, the State has informed the Commission about the establishment of a register for oversight and follow-up of criminal proceedings that reportedly facilitates "the construction of effective communication channels with the Public Prosecutors' Office staff assigned to the respective (federal and local)

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<sup>474</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 87.

<sup>475</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 88.

<sup>476</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 89.

jurisdictional bodies in which the criminal cases are being heard, in order to provide them with technical-legal support as needed." The State also reported on the delivery of a training course on the "Protocol for Preventive and Urgent Protection Measures," aimed at unifying the criteria for ministerial action in the enforcement of laws for the protection of journalists.<sup>477</sup>

319. The Mexican State also clarified that the FEADLE initiates investigations independently of those carried out by state prosecutors' offices or state attorneys' offices throughout the country and works in coordination with them; since those offices have the original responsibility, on many occasions, they have information derived from the first steps in the investigation.<sup>478</sup>

320. In relation to the recommendation aimed at ensuring that the victims, their families, and third parties can participate in criminal proceedings with full guarantees, both in the search for the truth and clarification of the facts and when demanding reparation, the authorities reported that the Executive Commission for Caring for Victims, through the General Directorate of Federal Legal Counsel, provides guidance, advice, representation, and legal support to the relatives of the direct victims, guaranteeing their participation in criminal proceedings. Accordingly, they are given clear information on the proceedings and means of defense in order to guarantee their access to truth, justice, and clarification of the facts before the corresponding authorities.<sup>479</sup>

321. The Commission and its Rapporteurship welcomed the progress made in the pursuit of justice in some of the most emblematic cases of murders committed against journalists in Mexico in recent decades, sometimes with the support of the FEADLE.<sup>480</sup> According to available information, on June 15, 2021, Hugo Amed Schultz, former mayor of Chínipas, Chihuahua, was sentenced to 8 years in prison as an aider and abettor in the murder of journalist Miroslava Breach Velducea on March 23, 2017. The judge in charge of the hearing established the obligation to make full reparation to all victims, as well as the obligation to hold a public ceremony of acknowledgment and apology. According to the information received by the Commission, at the hearing, the former official waived his right to file an appeal against the sentence, so that the sentence became final and entered the sentence execution stage.<sup>481</sup> The Rapporteurship welcomes this significant progress in the investigation of the facts and punishment of those responsible for the murder of the journalist. This is the second conviction in the case, following the 2020 court decision that sentenced Juan Carlos Moreno Ochoa, alias 'El Larry', to 50 years in prison for being considered a material co-perpetrator of the reporter's murder.

322. Likewise, this Office highlights the importance of the progress made in the investigation into the murder of journalist Javier Valdez, which occurred on May 15, 2017, in Culiacán, Sinaloa. According to the information received, on June 8, 2021, federal judge José Noé Egure handed down a conviction against Juan Francisco Picos, alias "El Quillo", a member of a local criminal gang, for his material participation in the murder of the reporter. It also established that Javier Valdez was the victim of homicide as a result of his journalistic investigations. According to the organization Alianza Cívica, this ruling constituted an "important precedent" in the fight against impunity for crimes against journalists in Mexico. Javier Valdez worked as a journalist and

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<sup>477</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 89.

<sup>478</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 90.

<sup>479</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 90.

<sup>480</sup> UNESCO, [Recent convictions highlight the work of Mexico's Prosecutor Office dedicated to crimes against freedom of expression](#), July 22, 2021.

<sup>481</sup> Animal Político, [Former PAN Mayor Sentenced to 8 years for the murder of journalist Miroslava Breach in Chihuahua](#), June 15, 2021; Propuesta Cívica, [Hugo Amed Schultz Alcaraz sentenced for the murder of journalist Miroslava Breach Velducea](#), June 15, 2021; El Sol de México, [Mexican former mayor sentenced to prison for murder of journalist Miroslava Breach](#), June 15, 2021.

writer, mainly investigating organized crime and drug trafficking issues; he was the founder and director of the Sinaloa weekly *Ríodoce* and a correspondent in Sinaloa for the *La Jornada* newspaper.<sup>482</sup>

323. Notwithstanding the aforementioned progress, the IACHR and its Office of the Special Rapporteur consider it imperative -- given the magnitude, gravity, and structural nature of violence against communicators in Mexico -- to step up the use of the FEADLE's legal authority to investigate and prosecute crimes against journalists and to adopt wide-ranging measures to put an end to impunity, as was pointed out in the Special Report on the Situation of Freedom of Expression in Mexico, published following the joint visit of the UN and OAS Special Rapporteurs for Freedom of Expression in 2017.<sup>483</sup>

324. Thus, according to the statistical report of the FEADLE updated to September 2021, of the 92 homicides of journalists registered since 2010, the Special Prosecutor's Office reportedly recognized jurisdiction in 27 of them given that there was a motive linked to journalistic activity. However, in 65 cases - 70.7%- it was determined that there was no connection with the exercise of the right to freedom of expression.<sup>484</sup> The Commission and its Rapporteurship consider that the number of cases under the jurisdiction of the FEADLE continues to be low in comparison with the high numbers of murders of journalists reported by civil society organizations dedicated to the defense and protection of journalists.

325. On the other hand, the Commission received reports regarding an alleged budget reduction for the year 2022, both for FEADLE and other specialized prosecutors attached to the Attorney General's Office (FGR). According to available information, the proposed budget for the Special Prosecutor's Office for Addressing Crimes against Freedom of Expression is one of the lowest of all the special prosecutor's offices in the Attorney General's Office.<sup>485</sup>

326. The Commission and its Special Rapporteurship have reiterated on several occasions that attacks against journalists continue to increase in Mexico, exacerbated in large part by the lack of legal consequences and the impunity surrounding several of these crimes. According to reports by the Artículo 19 organization, on average, 98% of attacks against the press go unpunished in Mexico.<sup>486</sup> The Committee to Protect Journalists (CPJ) continues to rank Mexico as one of the most violent countries in the world for the practice of journalism in 2021<sup>487</sup> and, according to a consortium of organizations linked to the protection of human rights defenders and journalists, current public protection policies are insufficient and "have failed to counteract the structural causes of violence and aggressions against the press in recent years."<sup>488</sup>

327. The IACHR reiterates the need for FEADLE to have all the facilities needed to exercise its legal powers, within its sphere of competence, in cases of murders, kidnappings, or disappearances of journalists in the states with the highest levels of violence and impunity. In addition, the IACHR notes with concern that

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<sup>482</sup> Civic Proposal, [Conviction of Juan Francisco Picos Barraeta, alias "El Quillo", for his participation in the murder of journalist Javier Valdez](#), June 8, 2021; El País, [El Quillo convicted for journalist Javier Valdez's murder](#), June 8, 2021; CPJ, [CPI welcomes 2nd conviction in case of slain Mexican journalist Javier Valdez Cárdenas](#), June 9, 2021.

<sup>483</sup> IACHR, Office of the Special Rapporteur for Freedom of Expression. [Special Report on Freedom of Expression in Mexico](#), June 2018, par. 48.

<sup>484</sup> Office of the Attorney General of the Republic of Mexico (FGR). [Statistical Report. Updated as of September 2021](#); El Financiero, [Feadle refuses to investigate 71% of murders of journalists](#), October 22, 2021.

<sup>485</sup> Animal Político, [Despite violence and impunity, budget cut to investigate torture and attacks on journalists](#), September 10, 2021.

<sup>486</sup> EFE Agency, [Impunity fuels crimes against journalists in Mexico](#), November 2, 2021.

<sup>487</sup> CPJ, [Mexican journalist Alfredo Cardoso Echevarría is kidnapped and killed in Acapulco](#), November 8, 2021.

<sup>488</sup> Article 19, [Murders of journalists in Mexico: the result of the absence of a comprehensive public policy of protection](#), June 21, 2021.

implementation of the Protection Mechanism for journalists continues to be ineffective, and that there are no signs of adequate coordination between the government and other institutions.

328. In its observations to the draft of the present report, the State indicated that from 2013 to 2021, the FEADLE exercised its power to initiate investigations (*facultad de atracción*) on 93 occasions; likewise, it is important to note, that in 2021 that power was exercised 24 times: and all-time record.<sup>489</sup>

329. The IACHR notes that FEADLE maintains its status as a Prosecutor's Office and that special investigation protocols have been adopted. It therefore considers that this part of the recommendation has been complied with, as indicated in recent annual reports. However, with regard to the portion of the recommendation on the operational scope of the FEADLE, the Commission finds that further efforts are required to achieve compliance.

330. In light of the above, the IACHR considers that compliance with the recommendation is partial.

### III. Access to information

- Regarding the authority conferred by the Access to Information Law on the Legal Counsel Office of the Presidency, the Commission recommends regulating it in accordance with international principles related to access to public information and national security.
- Strengthen laws, policies, and practices to ensure that judicial authorities have full access to relevant information when investigating and prosecuting cases of human rights violations attributed to members of the security forces.
- Adopt pertinent measures to ensure that the security forces compile, systematize, and periodically publish the information regarding harm done to life and integrity, as a consequence of efforts to combat organized crime. The information related to such harm shall include a description of the place where it occurred, the date, data on the security sector unit reportedly present when it occurred, and information regarding that unit's mandate and oversight. Likewise, what were the causes of the harm done and the inability to prevent it.

331. The Special Rapporteurship has taken note in its previous reports of the adoption of the General Law on Transparency and Access to Public Information, which shows a commitment by the Mexican State to transparency and the right of access to information. However, the Office of the Special Rapporteur has expressed its concern about the information received on obstacles still hampering access to information related to human rights violations.

332. Regarding the recommendation to **regulate the power conferred by the Law on Access to Information on the Office of the Legal Counsel of the Presidency so that it is brought into line with international principles related to access to public information and national security**, the State reported that "the possible exercise of such power respects at all times the international principles related to the right of access to public information and national security, since it is only appropriate to use that power [*el recurso de mérito*] in those cases in which it is considered necessary to safeguard the information related to guaranteeing the minimum foundations and structures required to achieve the stability, permanence, and integrity of the Mexican State." Thus, the State explains that this power to challenge is not applicable when it concerns information related to investigations into human rights violations, and therefore respects the

<sup>489</sup> Observations and Comments from the State of January 24, 2022, p. 28.

international obligations derived from the American Convention on Human Rights to guarantee the right of access to public information.<sup>490</sup>

333. The IACHR again calls attention to the provision of the Transparency Law that empowers the Legal Counsel Office of the Presidency of the Republic to appeal any decision to declassify information made by the National Institute of Access to Information that jeopardizes national security interests. As already pointed out in previous reports, this rule could constitute a significant obstacle to guaranteeing access to information of high public interest.

334. In this context, the IACHR and its Office of the Special Rapporteur for Freedom of Expression were informed that the SCJN suspended the orders to disclose information on the receipt of vaccines, their application, and current status of vaccination against COVID-19, based on the risk it would allegedly pose to national security. According to the information received, the case arose from the request by a citizen who asked to know which vaccines had been received in Mexico from each pharmaceutical company, as well as "where they were applied, specifying the numbers, how many doses each lot contains, where they were administered, whether they had already been administered, as well as the warehouse and state in which they are being kept." The Legal Counsel Office of the Federal Executive reportedly filed an appeal for review based on national security concerns with a view to revocation of the resolution issued on November 10 by the National Institute of Transparency, Access to Information, and Protection of Personal Data (INAI) that ordered the Executive to disclose such information.<sup>491</sup> According to information in the public domain, the Legal Counsel Office of the Presidency has filed more than 20 challenges against INAI's resolutions in relation to the COVID-19 vaccines.<sup>492</sup> The State reported in its comments on the draft of this report that to date there have been 25 appeals for review, which are pending resolution by the SCJN Plenary, as they are still under study.<sup>493</sup>

335. Relating to the lack of transparency regarding "national security" information, the Commission was apprised of a decree issued by the federal government declaring that "the execution by the Government of Mexico of projects and works associated with infrastructure in the communications, telecommunications, customs, border, hydraulic, water, environmental, tourism, health, railroads and railways of all kinds, energy, ports, and airports sectors and other sectors which, due to their nature, complexity, and size are considered to be a priority and/or strategic for national development" are in the public interest and matters of national security. As reported to the Commission and its Special Rapporteurship, the regulation could constitute a direct violation of the right of access to public information, recognized by the Mexican Constitution and international human rights treaties to which the State has adhered.<sup>494</sup>

336. In light of the above information, the IACHR considers that compliance with this recommendation is still pending.

337. In relation to the recommendation to **strengthen laws, policies, and practices to ensure that judicial authorities have full access to relevant information when investigating and prosecuting cases of human rights violations attributed to members of the security forces**, the State reported that "the

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<sup>490</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 90 – 91.

<sup>491</sup> Reforma, [Vaccine Data Blocked](#), December 3, 2021; El Universal, [SCJN Suspends Transparency of Information on Anti-Covid Vaccines](#), December 2, 2021

<sup>492</sup> Infobae, [SCJN blocks information on COVID-19 vaccines due to "national security"](#), December 3, 2021; Sopitas, [For "national security", SCJN blocks data on COVID vaccines](#), December 3, 2021; Article 19, [Challenge by the Federal Legal Counsel Office of the Federal Executive Branch Against the INAI Resolution Ordering Disclosure of SPUTNIK Vaccine Contracts Violates Societies Right to Information](#), June 28, 2021.

<sup>493</sup> Observations and Comments from the State of January 24, 2022.

<sup>494</sup> Infobae, [Why AMLO's decree puts access to public information at risk: "The most sensitive issue is to include the expression 'national security'"](#), November 23, 2021; Expansión, [AMLO declares 4T infrastructure projects to be of national security](#), November 23, 2021; Proceso, [UN-HR analyzes implications of AMLO's agreement on national security](#), November 29, 2021.

General Law on Transparency and Access to Public Information and the Federal Law on Transparency and Access to Public Information extend standardized exercise of the rights of access to information to the whole of the country with the objective of continuing to guarantee the right of access to public information held by any authority".<sup>495</sup>

338. The IACHR considers that the information provided by the State is insufficient to analyze compliance with the recommendation. As indicated in its last annual report, the Commission considers that the context of serious human rights violations means that transparency obligations still need to be strengthened. Accordingly, and given that it is an obligation involving gradual compliance, the IACHR considers that compliance with the recommendation is still partial and urges the State to continue strengthening the right of access to public information, especially with regard to gross human rights violations.

339. Regarding the recommendation to **adopt pertinent measures to ensure that the security forces compile, systematize, and periodically publish the information related to harm done to life and integrity as a consequence of efforts to combat organized crime, the information related to such harm shall include a description of the place where it occurred, the date, data on the security sector unit reportedly present when it occurred, and information regarding that unit's mandate and oversight. Likewise, regarding the causes of the harm done and the inability to prevent it,** the State indicated that "the Memory and Truth project seeks to disclose information related to serious human rights violations and crimes against humanity in Mexico. Its objective is to promote guarantees of non-repetition and the right to the truth, and to facilitate access to information for victims, investigating authorities, jurisdictional bodies, and/or guarantors of human rights, courts, and any other interested party." Accordingly, the State points out that the project is conceived as a tool for generating public knowledge that allows any interested party to know the facts, explore the available information, make an informed judgment, and promote full transparency and accountability of the authorities with respect to the handling of public documents related to serious human rights violations.<sup>496</sup> In addition, although the Commission and its Rapporteurship have continued to receive reports complaining of alleged obstructions and obstacles to the opening of historical archives on State crimes perpetrated between 1960-1980, as well as alleged persistent practices involving a lack of transparency and the withholding of information classified as confidential by State agencies, the IACHR recognizes the creation of the Commission for Access to the Truth, Historical Clarification, and Promotion of Justice for serious human rights violations committed between 1965 and 1990, which it will closely monitor.

340. In this context, the Commission welcomes the resolution by the National Institute for Transparency, Access to Information and Protection of Personal Data (INAI) instructing the National Guard to deliver the public version of the reports it has produced on the use of force by its agents since its creation. According to publicly available information, the case originated after a request for access to information made by the PRODH Center, with a view to ascertaining the number and public versions of the detailed reports on the use of force drafted by the National Guard. In response, the National Guard reportedly classified all the requested information as confidential for a period of 5 years, arguing that disclosure could impair the proper investigation of crimes.<sup>497</sup> According to publicly available information, the National Guard reportedly refused to comply with INAI's resolution.<sup>498</sup>

341. The Commission recalls that, in democratic societies, it is essential for State authorities to be governed by the principle of maximum disclosure, so that all information held by the State is presumed to be public and accessible, subject to a limited list of exceptions. In this framework, the concept of national security

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<sup>495</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 91 – 92.

<sup>496</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 91 – 92.

<sup>497</sup> Prodh Center, [Setback to the National Guard's Lack of Transparency](#), September 30, 2021; UN-DH Mexico, [UN-HR welcomes order to National Guard to publish its use of force reports](#), September 20, 2021.

<sup>498</sup> Animal Político, [National Guard refuses to provide data on use of force and weapons to contain protests](#), October 14, 2021.

must be interpreted in accordance with the "just demands for the common good in a democratic society."<sup>499</sup> The Inter-American Court has held in this regard that the establishment of restrictions to the right of access to information under the control of the State "without observance of the conventional limits (...) creates a fertile field for the discretionary and arbitrary action of the State in classifying information as secret, reserved, or confidential."<sup>500</sup>

342. Based on the information reported in the latest annual reports, and the lack of information showing significant new progress with respect to this recommendation, the IACHR considers that compliance with it continues to be partial.

#### IV. Mechanism to Protect Human Rights Defenders and Journalists

- Require the competent authorities to take into consideration the international parameters on protection, especially the considerations set forth in the "Second Report on the Situation of Human Rights Defenders in the Americas" and the "Report on Violence against Journalists and Media Workers of the Special Rapporteur for Freedom of Expression of the IACHR."
- Provide all the political support needed for the protection mechanism to function properly, including the financial resources it needs to exercise its protective powers and be sustainable over time.
- Adopt all measures needed to assign and train all the personnel it requires.
- Ensure that risk assessments and the implementation of preventive and protective measures are carried out appropriately and in a timely fashion. Ensure, in risk assessments, the choice of protection measures, and reviews of their suitability, that guarantees are provided for adequate participation, communication, and coordination with the persons protected by the Mechanism and the beneficiaries of precautionary measures requested by the I/A Court of H.R.
- Evaluate and adopt differentiated protection measures for women, indigenous leaders, and environmental defenders.
- Urge the State to implement the strategies needed for the different institutions, at the various federal and state levels, to work in a coordinated manner to provide a comprehensive response to all issues related to the protection of human rights defenders, as well as journalists.
- Encourage the protection mechanism to implement a strategy to publicize its competencies, the requirements for joining the program, as well as other necessary information to ensure that human rights defenders and journalists are aware of the protection that the mechanism can provide. Likewise, and in accordance with international standards, provide access to the necessary information regarding the protection mechanism, in order to provide greater transparency on the work it performs.
- Encourage the protection mechanism to adopt a procedure that allows it to order, ex officio, protection measures in those cases that, due to their seriousness and urgency, require them immediately.
- Urge the State to redouble its efforts to investigate the circumstances that lead persons to enter and remain in the protection mechanism, with a view to establishing, as a matter of State policy, that investigations will be pursued as a preventive measure.
- Encourage the mechanism to adopt tools that enable it to measure the effectiveness of the measures implemented and to increase the transparency of all actions taken in order to

<sup>499</sup> IACHR, Office of the Special Rapporteur for Freedom of Expression. [Right to information and national security](#). OEA/Ser.L/V/II IACHR/RELE/INF.24/20, July 2020, par. 76.

<sup>500</sup>I/A Court H.R. Case of Claude-Reyes et al. v. Chile. Merits, Reparations, and Costs. Judgment of September 19, 2006. Series C No. 151, paragraph 98.

enhance beneficiaries' trust in the mechanism. All that needs to be accompanied by a policy of prevention and participation of the target population.

343. Regarding the recommendation to **require the competent authorities to take international parameters on protection into consideration, especially those developed in the "Second Report on the Situation of Human Rights Defenders in the Americas" and the "Report on Violence against Journalists and Media Workers of the Special Rapporteur for Freedom of Expression of the IACHR", the State has reported that, at the request of SEGOB, on August 26, 2019, the Office in Mexico of the United Nations High Commissioner for Human Rights ("OHCHR")**, which serves as an observer in the Mechanism, conducted a diagnostic assessment of the way the Mechanism functions, in which it identified strengths, best practices, and areas of opportunity for interagency efforts to strengthen the Mechanism. Within this framework, the OHCHR issued 104 recommendations for bolstering the Mechanism, including increasing human and financial resources to enable it to meet legal requirements and real protection needs. According to the information provided by the State, the Ministry of Foreign Affairs and the Ministry of the Interior "are working to promote greater international cooperation to enhance the workings of the Mechanism. To that end, they are collaborating with the United States Agency for International Development, the European Union, the British Embassy, the various agencies of the United Nations and, in particular, with the mechanisms for the protection of human rights defenders in Colombia, Honduras, and Guatemala."<sup>501</sup>

344. As indicated in the last annual report, the Committee considers that compliance with this recommendation is still partial. Accordingly, the Commission urges the State to continue to make progress with strengthening and implementing its protection and prevention policies in accordance with the aforementioned recommendations.

345. With regard to the recommendation to **provide all the necessary political support for the proper functioning of the protection mechanism, which includes the financial resources needed for them to efficiently develop their protection skills, and ensure that it is sustainable over time**, the State indicated that "it has strengthened the mechanism in order to generate more coverage and attention to this problem given that, since December 2018, it has increased the number of beneficiaries by more than 80 percent." In this regard, the State pointed out that, thanks to an increase of 189 million pesos, the total budget for the Protection Mechanism in 2021 was 416.6 million pesos. Likewise, according to the State, "we are working resolutely, hand in hand with the victims, civil society organizations, and international organizations, to address the challenge of strengthening the Mechanism. In particular, the recent ratification of the Escazú Agreement testifies to the political will of the current Government of the Republic to contribute to this process that will gradually guarantee the application of international standards in the national jurisdiction."<sup>502</sup> Likewise, in its observations on the draft of this report, the State reported that the tasks of reengineering within the Mechanism continue, including increases in its budget. However, it recognizes the challenge of creating a National Protection System and, to that end, it is working on the creation of the General Law, as well as reaching agreements with the states, so that the task of providing guarantees and protection is collaborative and does not depend solely on the Federation.<sup>503</sup>

346. As indicated in the 2020 Annual Report, there is a close relationship between this recommendation and that of 'recognizing, at the highest levels of the State, the legitimacy and value of journalistic work, and condemning the aggressions committed in retaliation for the exercise of freedom of expression.' On this point, the IACHR and its Office of the Special Rapporteur for Freedom of Expression consider that espousing discourse in favor of pluralism that refrains from stigmatizing journalists contributes

<sup>501</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 93.

<sup>502</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 94.

<sup>503</sup> Observations and Comments from the State of January 24, 2022, p. 30.

to preventing violence against the press and constitutes an effective way of providing political support to the protection system.

347. The IACHR considers that the information provided by the State is not sufficient to enable it to assess progress on this point, and therefore reiterates that compliance with this recommendation is still partial.

348. Regarding the recommendation to **adopt all measures needed to assign and train all the personnel required for the Mechanism to function properly**, the State reported that it "conducts regular training courses to strengthen the Mechanism for the Protection of Human Rights Defenders and Journalists."<sup>504</sup> Taking into consideration that the State did not remit information on progress with respect to 2020, the IACHR considers that compliance with this recommendation is still pending, given that the new regulatory tools and protocols have still to be introduced in the competent institutions, targeting the officials in charge of carrying out the corresponding procedures and protocols. In this regard, it urges the State to take the necessary measures to ensure the constant and progressive training of all personnel responsible for the implementation of protection measures.

349. Regarding the recommendation to **ensure that risk assessments and the implementation of preventive and protective measures are carried out in an adequate and timely manner, so that in the processes of risk assessment, assignment of protection schemes and review of their suitability, guarantees are provided for adequate participation, communication, and consultation with the persons protected by the protection mechanism, as well as beneficiaries of precautionary measures requested by the I/A Court of H.R.**, the State reiterated information on the risk analysis methodology that has continued to be used by the Mechanism in recent years.<sup>505</sup>

350. On June 24, 2021, the Office of the Special Rapporteur for Freedom of Expression condemned the murder of journalists Gustavo Sánchez Cabrera in the municipality of Santo Domingo Tehuantepec, state of Oaxaca; Felipe Enrique García, in the municipality of Metepec, state of Mexico; and Saúl Tijerina Rentería in Ciudad Acuña, state of Coahuila, and urged the Mexican State to fully, effectively, and impartially investigate the facts and determine any links there might be with journalistic activity. On this occasion, the Rapporteurship highlighted the case of Gustavo Sánchez Cabrera, journalist and director of the digital media *Noticias Minuto a Minuto*, who covered local political issues and had investigated hydrocarbon trafficking in the area and was a beneficiary of the Protection Mechanism for Human Rights Defenders and Journalists.<sup>506</sup> The Rapporteurship had already documented threats against the reporter's life on previous occasions. In 2014, the Office of the Special Rapporteur reported in its annual report that Gustavo Sánchez Cabrera had received at least three threats in two months, allegedly in relation to various articles published in the media outlet *La Policiaca del Istmo*, which he directed; one of the threats referred to a call he received on his radio newscast in which an unknown subject warned him that he already had him "located to kill him."<sup>507</sup> In July 2020, he was also reportedly the victim of an armed attack at his home.

351. The Rapporteurship has maintained that, although States have a permanent obligation to prevent violence against the press and protect journalists at risk, this duty is accentuated in cases in which the authorities have had the opportunity to become aware of a particular risk to journalists. In this regard, the Rapporteurship is particularly concerned about the fact that, despite having prior knowledge of the risk to

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<sup>504</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 95.

<sup>505</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 95.

<sup>506</sup> IACHR, Office of the Special Rapporteur for Freedom of Expression, Press Release R157/ 21, [The Rapporteurship condemns the murder of journalists Gustavo Sánchez Cabrera, Enrique García and Saúl Tijerina and calls on the Mexican State to investigate the events and strengthen measures to protect the press](#), Washington D.C., June 24, 2021.

<sup>507</sup> IACHR, Annex: Report, 2014, OEA/Ser.L/V/ Doc, II.Doc. 13, March 9, 2015, par. 720.

which Gustavo Sánchez Cabrera was subjected, the State failed effective, timely, and proportional protection response to the risk faced by the journalist. In light of the above, the Rapporteurship has called on the Mexican State to review the risk assessment methodologies for ongoing requests and to ensure that the measures currently implemented by the Protection Mechanism are proportional to the risks.<sup>508</sup>

352. As pointed out by the Special Rapporteurs for Freedom of Expression of the UN and the IACHR in the Special Report on the Situation of Freedom of Expression in Mexico, attacks against journalists and journalism represent today the most direct and significant threat to freedom of expression in the country. They also stressed that violence against the press requires strengthening the national institutions responsible for fulfilling the state's obligations to protect journalists. In this regard, they warned that the Protection Mechanism for Human Rights Defenders and Journalists still faces important challenges and obstacles, which have not been adequately addressed. For example, coordination between the Mechanism and local authorities for the implementation of prevention and protection measures; the training of local personnel on how to fulfill their obligations according to the protocol created to standardize the Mechanism's operating procedures; the optimization of risk assessment methodologies; and the provision of sufficient resources for the agency to fully exercise its mandate.<sup>509</sup>

353. Based on the information provided by the State, the IACHR considers that compliance with this recommendation still partial and invites the State to redouble its efforts to adopt measures to ensure the effective protection of the rights of human rights defenders and journalists.

354. Regarding the recommendation to **evaluate and adopt differentiated protection measures for women, indigenous leaders, and environmental defenders**, the State reiterated that the Mechanism operates under a risk analysis methodology that includes a gender perspective and makes it possible to profile the beneficiaries of the mechanism according to the area in which they work, be it on environmental issues, social rights, issues related to access to justice, truth and reparation, or defense of migrants. They also noted that the Mexican State's ratification of the Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean ("Escazú Agreement") has strengthened the protection of environmental defenders.<sup>510</sup>

355. The IACHR welcomes the efforts to include different risk analysis factors and the adoption of protection measures; however, the Commission and its Rapporteurship consider that the information available is insufficient to fully determine significant progress in this regard, so it considers that this recommendation has been partially addressed.

356. In relation to the recommendation to **implement strategies so that the different institutions, at the various federal and state levels, work in a coordinated manner in order to provide a comprehensive response to all issues related to the protection of human rights defenders, as well as journalists**, the State pointed out that various authorities are involved in the Governing Board of the Mechanism, which is the highest and main decision-making body within the framework of the mechanism, and

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<sup>508</sup> IACHR, Office of the Special Rapporteur for Freedom of Expression. Press Release R157/21, [The Rapporteurship condemns the murder of journalists Gustavo Sánchez Cabrera, Enrique García and Saúl Tijerina and calls on the Mexican State to investigate the events and strengthen measures to protect the press](#), Washington D.C., June 24, 2021.

<sup>509</sup> IACHR, Office of the Special Rapporteur for Freedom of Expression. [Special Report on Freedom of Expression in Mexico](#). Joint report by the IACHR Special Rapporteur for freedom of expression, Edison Lanza, and the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye, on their mission to Mexico, June 2018.

<sup>510</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 96.

that they work in a coordinated manner: SEGOB, FGR, Ministry of Security and Citizen Protection, Ministry of Foreign Affairs and CNDH.<sup>511</sup>

357. The Commission reiterates the conclusion reached in the last annual report that implementation of the Protection Mechanism for journalists continues to be ineffective in terms of coordination between all levels of government and among institutions. Despite the signing of cooperation agreements with the 32 states, these are not binding, and the Federal Government cannot demand compliance with them, which makes it impossible to adequately implement protection measures. In addition, the lack of participation of the security forces in the programs, the passive reaction by the police (*intervención reactiva y policial*), the absence of risk analysis and protection measures in accordance with the needs of defenders and journalists, and the privatization of security measures are some of the difficulties still faced by the mechanism.

358. The IACHR considers that compliance with this recommendation has been partial, given that coordination between the state and federal levels is still deficient in a way that compromises the effectiveness of the system.

359. Regarding the recommendation to **encourage the protection mechanism to implement a strategy for publicizing its sphere of competence, the requirements for joining the program, and other necessary information, with the objective of making human rights defenders and journalists aware of the protection that the mechanism can provide, as well as providing access to the necessary information on the protection mechanism, in order to provide greater transparency on the work that is being carried out in accordance with international standards**, the State reiterated information previously sent in relation to the institutional web page of the Mechanism, which states that "accessible information is disseminated on the actors responsible for aggressions against human rights defenders and journalists, the measures implemented by the mechanism for the protection of human rights defenders and journalists, figures, and profiles on the scope and workplace of the persons who are currently beneficiaries.<sup>512</sup> In view of the fact that the State did not provide additional information on compliance with and follow-up to this recommendation in 2020, the IACHR considers that compliance with it remains partial.

360. On the recommendation to **encourage the protection mechanism to adopt a procedure that allows it to order ex officio protection measures in those cases that due to their seriousness and urgency require them immediately**, the State has informed the Commission that the Mechanism has the authority to grant ex officio protection measures in urgent cases, "in order to guarantee the integrity of persons, and without prejudice to the procedure to be followed subsequently before the Governing Board."<sup>513</sup>

361. The Committee welcomes the positive information provided by the State on this point, although it considers that it is insufficient for the purposes of reporting progress with respect to the previous period, and therefore considers that compliance with this recommendation is still partial.

362. In relation to the recommendation to **redouble efforts to investigate the facts that induce people to enter and stay in the protection mechanism, with a view to establishing investigation as a preventive measure and as State policy**, the State has informed that "as a result of the creation of the Unit for Prevention, Follow-up and Analysis, the Mechanism has drafted diagnostic assessments on the situation of human rights defenders and journalists in different entities of the Republic", which "have made it possible to investigate in depth the causes triggering the risks and aggressions, besides making it possible to focus properly

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<sup>511</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 97.

<sup>512</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 97 - 98.

<sup>513</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 98.

on the preventive measures to be adopted."<sup>514</sup> In light of the information it received, the Commission considers that compliance with this recommendation has been partial.

363. Regarding the recommendation to **encourage the Mechanism to adopt tools that enable it to measure the effectiveness of the measures implemented, as well as to increase the transparency of all actions in order to inspire greater trust among the beneficiaries -- both of which should be accompanied by the development of a policy of prevention and participation of the target population -** -, the State reiterated the information reported in the last annual report on the drafting of a diagnostic assessment of the functioning of the Mechanism, reportedly identifying strengths, good practices and areas of opportunity for strengthening inter-agency ties. According to the State, the OHCHR-MEX issued 104 capacity-building recommendations, including raising the level of human and financial resources, which are currently insufficient to meet legal requirements and real protection needs.<sup>515</sup>

364. Noting the lack of specific information, the IACHR considers that compliance with this recommendation is still pending.

#### IV. CONCLUSIONS

1. The Commission reiterates to the Mexican State the recommendations issued in its 2015 Country Report. Although significant progress has been made in complying with the recommendations highlighted by the IACHR in this document, challenges persist in terms of strengthening human rights institutions, specifically with regard to the promotion of gender equality and the eradication of violence against women, as well as the protection of human rights defenders and journalists, and comprehensive protection and care for victims of human rights violations.

2. During 2021, the issues developed by the Commission in its 2015 Country Report continued to be of particular concern, especially as regards the high numbers of disappearances and homicides without proper investigation, and the insecurity surrounding individuals or groups most exposed due to historical discrimination against them. The IACHR emphasizes that the information presented by the State does not contain information provided by law enforcement agencies.

3. As the Commission pointed out in its Country Report, the challenge facing the Mexican State is to close the gap between its regulatory framework and its recognition of human rights and the actual circumstances experienced by a large number of inhabitants when they seek prompt and effective justice. At the same time, it needs to redouble its efforts to prevent human rights violations.

4. Access to justice continues to pose one of the most significant facing the Mexican State. Efficient and effective justice is key to fighting impunity and a core factor in the response to any human rights violation.

5. In its observations on the draft of this report, the State indicated that "the observations and contributions from the Inter-American System constitute a frame of reference for the Mexican State to govern its promotion and protection of human rights in Mexico and in the world. Therefore, the Government of Mexico reaffirms its commitment to follow up on and fully address the recommendations issued by the Inter-American Commission on Human Rights."

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<sup>514</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", p. 99.

<sup>515</sup> Ninth Report of the Mexican State on compliance with and follow-up to the recommendations contained in the report "Situation of Human Rights in Mexico", pp. 99 – 100.

6. The Commission also reaffirms its commitment both to work with the Mexican State in the quest for solutions to the problems and challenges highlighted, and to support its efforts to meet its international obligations in the area of human rights.