



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

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**Consideration of supplementary information
submitted by States Parties to the Convention**

**Additional information submitted by Colombia under
article 29 (4) of the Convention***

[Date received: 14 October 2019]

* The present document is being issued without formal editing.



I. Introduction

1. The Government of Colombia, in accordance with article 29 of the International Convention for the Protection of All Persons from Enforced Disappearance (hereinafter “the Convention”), hereby submits its second periodic report to the Committee on Enforced Disappearances (hereinafter “the Committee”). The report provides updated information on the measures taken between 2016 and 2019 pursuant to the Convention.
2. Colombia submitted its initial report on the implementation of the Convention on 17 December 2014. On 20 June 2016 it submitted its replies to the list of issues and on 27 October 2016 it discussed its report with the Committee.
3. On 4 October 2017 Colombia submitted its report on the implementation of the recommendations prioritized by the Committee, contained in paragraphs 14, 20 and 26, pursuant to paragraph 44 of document CED/C/COL/CO/1 of 27 October 2016, entitled “Concluding observations on the report submitted by Colombia under article 29 (1) of the Convention”.
4. As stated in the report submitted by Colombia in 2014, the Government maintains its firm commitment to combating the crime of enforced disappearance. Colombia is party to most of the international instruments on the subject and has drawn up special legislation and mechanisms to combat this scourge.
5. Legislative Act 01 of 2017, “by means of which a title of transitional provisions of the Constitution is created for the termination of the armed conflict and the construction of a stable and lasting peace and other provisions are issued”, provided for the creation of the comprehensive system of truth, justice, reparation and non-repetition, which is composed of the Commission on Truth, Coexistence and Non-repetition; the Special Unit for the Search for Persons reported missing in the context of and due to the armed conflict (hereinafter “the Special Unit”);¹ and the Special Jurisdiction for Peace.

II. General information

(Para. 10 of the recommendations (CED/C/COL/CO/1))

Urgent action procedure

6. Colombia states its willingness to continue cooperating with the Committee under the urgent action procedure. There is no doubt that this mechanism allows the State to move forward on clarifying the facts and establishing the whereabouts of the person alleged to have disappeared. With regard to the 17 cases for which the Committee has requested urgent actions, the State has responded in a manner appropriate to the specificities of each case and in keeping with the competences and capacities of the national authorities.
7. There is an internal working group at the Ministry of Foreign Affairs to follow up on and process communications sent by the Committee. This group coordinates the collection of information with the competent bodies.
8. Colombia reiterates its commitment to comply with the Convention and will continue its efforts to implement the guiding principles for the search for disappeared persons. The State takes due note of the Committee’s recommendations on the regular follow-up of urgent actions.

III. Definition and characterization of enforced disappearance (arts. 1–7)

(Paras. 14, 16 and 18 of the recommendations (CED/C/COL/CO/1))

¹ Preliminary observations on the Special Unit in Annex II to the Report.

Records of persons subjected to enforced disappearance

9. The Attorney General's Office is in charge of the tasks entailed in the search, exhumation, identification and handover of disappeared persons, which are carried out with the technical support of the Technical Investigation Corps, the National Institute of Forensic Medicine and Sciences (hereinafter "the Institute") and the National Police.

10. In principle, all reports of acts related to the crime of enforced disappearance must be included in the platform comprising the National Register of Disappeared Persons (hereinafter "the National Register"). The tasks of the Group for the Search, Identification and Handover of Disappeared Persons (GRUBE), which is attached to the Directorate for Transitional Justice of the Attorney General's Office and is currently purging and consolidating the figures, thus include the verification and updating of that information. The Group's main functions include: (i) searching for disappeared persons in the framework of the justice and peace proceedings and cases in the ordinary courts; (ii) searching for, identifying and handing over disappeared persons to their families, in cemeteries and other identified areas; (iii) documenting acts attributable to illegal groups; and (iv) giving the community access to the administration of justice by holding victims' days.

11. The Attorney General's Office has a central process identifier known as the Central Criminal Complaint Number. It is on the basis of this identifier that processes are counted in the Attorney General's Office. It may happen that a single act is investigated in different processes, because each time there is a break in a process a new one is created, even when the acts under investigation are the same as those being investigated in the original process. The number of processes may therefore be greater than the number of acts that actually occurred.

12. The Institute and other institutions have been purging the disappeared persons module of the Disappeared Persons and Recovered Bodies Information Network (hereinafter the "Information Network") of all cases for which more than one record have been detected, or where there is a duplication of records because there is more than one complainant or the complaint was filed with more than one institution.

13. The detection of duplicate cases is carried out by the Institute and other institutions (Attorney General's Office and National Police). All staff members with a username in the Information Network may conduct detections and flag cases where corrections are needed. The verification, correction and consolidation of information on the most recent record or the oldest, known as "purging", is carried out by the Institute's working groups, and the deletion of more recent records matching the same case in the Information Network is conducted directly by the Institute's information technology group, which manages the platform.

14. As to the purge of inconsistencies or items missing from the Information Network, staff have been hired since 2015 to work on Excel files containing information from the Strategic Operational Information Group of the Judicial and Investigative Police Directorate. Some 8,384 records of arrests and offences have been created in the crime and operational statistics information system of the National Police, matching the identification numbers of persons registered in the Information Network as disappeared persons. All of these matches were for records dated after the date of disappearance reported for each case. Of the 8,384 records, 3,389 matched records of disappeared persons.

15. A total of 2,463 of the 3,389 records were reviewed and the information corrected, verified and purged. Those persons whose corpses were discovered, and those who were reported as being alive, were documented in this manner, their record numbers corrected and the available data added. The various competent bodies have been participating in institutional efforts to search for and compile information, which will speed up the process and enable the information to be consolidated in the Information Network.

16. As a result, on 27 January 2017, through Resolution 0045 of 2017, entitled "By means of which an Internal Working Group is formed to consolidate the figures on enforced disappearance in the context of and due to the internal armed conflict registered in the Attorney General's Office", the Director of the Special Prosecutor's Office for Transitional Justice ordered the following, inter alia: (i) the creation of an internal working group "in charge of updating, purging and disseminating the figures and statistics on

enforced disappearance in the context of and due to the internal armed conflict that are being handled by the Attorney General's Office"; and (ii) the designation of a professional-level staff member in each of the working offices and groups attached to that Directorate to serve as a liaison in providing the information required by the group created under the resolution.

17. Subsequently, by Attorney General's Office Resolution 03481 of 2016, entitled "Establishing guidelines on the procedures for the search, exhumation, identification and handover of disappeared persons", the relevant issues were resolved in order to meet the needs of the offices and respond quickly to the procedures.

18. The Institute of Forensic Medicine participates in regular meetings and cross-checks information with other institutions, including the Attorney General's Office, the Comprehensive Victim Support and Reparation Unit and the Ministry of Defence, in order to update the register of disappeared persons.

19. In order to ensure that all institutions participate in registering information and entering all cases of disappeared persons into the Information Network, the Institute has been expanding the authorized users to include those involved in the procedures who can show proof of their role in the different entities. In addition, periodic training and retraining continues of officials from the Institute and other entities. The national and inter-agency nature of the operation is evident from the fact that there are 3,831 active users of the National Register.

20. In addition, the Institute, pursuant to Act 938 of 2004, has been preparing the technical documents for uploading and monitoring information in the Information Network, including instructions on "Uploading dental information to the identification and disappeared persons modules of the Information Network", "Monitoring information uploaded to the Information Network", "Reviewing information on unidentified bodies in the Information Network" and "Guidelines on forensic practices for family members and other relatives of disappeared persons in the framework of humanitarian action".

21. Based on these documents, the quality of the data contained in the reports on disappeared persons registered in the Information Network is monitored and followed up on a monthly basis by the Subdirectorate of Forensic Services in meetings with regional directors.

22. In order to ensure the effective classification of reported cases of enforced disappearance in the Information Network, new fields were added to the disappeared persons registration form in order to provide more information to the investigating body on the factual context of each case.

23. The operating board of the Virtual Identification Centre holds monthly meetings with the Technical Investigation Corps, the Institute of Forensic Medicine and the Judicial and Investigative Police Directorate. The objectives are: to search for, identify and hand over disappeared persons to their families, as a way of making reparation to the victims and determining the truth; to place the events in context with a view to identifying patterns of criminal behaviour; and to collect, analyse and store data used to identify human remains that are obtained from exhumations, within the framework of Act 975 of 2005 and related texts.

24. The Institute has a statistical database that can be used to store data for consolidating figures at the national level. In order to determine the scale of the phenomenon of enforced disappearance, the Institute devised a tool known as the "Observatory", available on its webpage, which contains information about disappeared persons and externally caused fatal and non-fatal injuries in Colombia (<http://www.medicinalegal.gov.co/rnd-registro-de-desaparecidos>).

25. As part of the inter-agency meetings, the Institute has been introducing new variables into the Information Network pertaining to the context of the events and the conditions of the disappearance. This makes it possible to provide more information in statistical reports that can guide the search, location, identification and handover of disappeared persons. The inclusion of this information complements the Institute's work and helps to gauge more precisely the scale of the scourge of disappearance in Colombia. The Institute has rolled out applications for public consultations and the online missing persons certificate to help the public.

26. The National Register contains 145,263 records of missing persons, 28,453 of which are suspected cases of enforced disappearance. This figure matches the historical records available in the Information Network and covers reports of disappeared persons from 1930 to the cut-off date of 04/06/2019.²

27. Article 5 of Decree 589 of 2017, concerning the functions and powers of the Special Unit, states that the National Register, an inter-agency and national system established under Act 589 of 2000, must be used in the context of the operation of that body, and it is therefore reiterated that it is the only system for the registration of disappeared persons in Colombian territory. This provision guarantees the optimization of the resources used and obliges all entities to make exclusive and regular use of the National Register.

28. In 2018, by organizing the archives of the Ombudsman's Office, the Disappeared Persons Investigative Commission (hereinafter "the Investigative Commission") advanced on its preliminary review of the active case files brought to its attention, which resulted in the identification of 8,618 case files on disappearances. The team is currently making further progress on its review in order to update the National Register.

29. In 2016, the Investigative Commission also coordinated the cross-checking of information from the National Register, the Central Register of Victims, the systems of the Attorney General's Office and the database of kidnapped persons consolidated by the National Council to Combat Kidnapping and Other Attacks on Personal Liberty, which showed the need for verification of institutional information in order to update and consolidate the National Register.³ On that basis the National Directorate for Transitional Justice of the Attorney General's Office took over the process of internal verification.

30. The Special Unit is mandated to define the universe of persons reported missing, "comparing and contrasting the information available from the various official and unofficial sources".⁴ The following should be noted in this regard: (i) The term "persons reported missing" includes, in addition to cases of enforced disappearance, victims of other situations in which relatives are unaware of the fate and whereabouts of their loved ones and which stem from other phenomena (such as kidnapping, recruitment or conscription into armed action, disappearance in the midst of hostilities); and (ii) The Special Unit's mandate is limited to persons reported missing "in the context of and due to the armed conflict" up to 1 December 2016, which excludes those enforced disappearances that did not take place in the context of and due to the armed conflict. With regard to the Constitutional Court, it has been stated that enforced disappearances which are not covered by the Special Unit's mandate (i.e., which did not take place in the context of and due to the armed conflict, or which took place after 1 December 2016) continue to fall within the jurisdiction of the ordinary mechanisms, namely: the Investigative Commission and the Attorney General's Office.⁵

31. The Special Unit, which began operating in October 2018, has begun to define "a universe of persons reported missing in the context of and due to the internal conflict, comparing and contrasting the information available from the various official and unofficial sources". However, the following should be noted: (i) The official figures in the various State information systems are diverse and reflect an under-recording of the phenomenon, as highlighted by the Government in its presentation to the Constitutional Court during the

² The criteria for the classification of the category of suspected cases of enforced disappearance were drawn up by the Disappeared Persons Investigative Commission in 2006 and updated in 2009, in order to provide objective elements for analysis and selection as a support to the users of the National Register of Disappeared Persons, who are responsible for registering the classification of cases in the Information Network. They are available at:

<http://www.comisiondebusqueda.gov.co/images/Criterios-RND.pdf>. In addition, aspects related to suspected cases of kidnapping, trafficking in persons, illegal recruitment and other classifications are to be found in the National Register, as they constitute crimes against personal liberty.

³ The Technical Secretariat of the National Council is administered by the Directorate of Consolidation and Security of the Ministry of Defence, a member of the Disappeared Persons Investigative Commission.

⁴ Art. 5.1 of Decree-Law 599 of 2017.

⁵ Art. 29 of Decree-Law 589 of 2017 and Constitutional Court Judgement C-067/18, sects. 6.5.2 and 7.5.2.

review of Decree-Law 589 of 2017.⁶ The National Centre for Historical Memory has a register of 80,742 victims of enforced disappearance between 1958 and 2018, of whom 70,537 are still missing. In this regard, the Special Unit has been able to document numerous cases of enforced disappearance that took place during the armed conflict and that have not been recorded in the databases of state entities (Information Network, National Register, National Centre for Historical Memory, Central Register, Attorney General's Office). The Special Unit estimates that the universe of cases of enforced disappearance during the armed conflict comprises 120,000 persons. (ii) The National Register is administered by the Institute. Decree-Law 589 of 2017 prescribes that the Special Unit shall establish, in coordination with the Institute, a "special chapter of the National Register of Disappeared Persons [...] exclusively for the universe of persons reported missing in the context of and due to the armed conflict" and that the National Register shall continue to be administered by the Institute.⁷

Crime of enforced disappearance

32. Up to 2019, 127,583 cases of enforced disappearance were registered with the Attorney General's Office. In Table 1, presented in Annex I to the Report, this information is broken down by the status of the cases (active-inactive) and by the procedural law under which the investigations are carried out.⁸ By order of the Office of the Deputy Attorney General, the Directorate for Transitional Justice compiles statistics on the victims of this crime.

33. The work of systematization continues, with an initial figure of 75,287 victims, of whom 46,338 correspond to investigations carried out by the District Directorates; 5,604, to the Directorate of Human Rights and International Humanitarian Law; 8,418, to the Directorate of Support for Investigation and Analysis of Organized Crime; 28, to cases in the Public Prosecutors Unit of the Court; and 21,577, to cases involving acts committed during and on the occasion of the internal armed conflict, which are being investigated by the Directorate for Transitional Justice with regard to those who were demobilized and were subject to the provisions of Act 975 of 2005, based on the existing reports of the Justice and Peace Information Network. These figures match the number of victims reported, of whom 9,155 are likely to be minors.

34. Of the 127,583 cases tried, 675 resulted in convictions: 430 under Act 600 of 2000 and 245 under Act 906 of 2004. Some 1,315 persons have been convicted in all: 954 under Act 600 of 2000 and 361 under Act 906 of 2004.

35. Based on the information contained in the databases of the Directorate for Transitional Justice of the Attorney General's Office, to date there have been 1,832 convictions involving 2,808 direct victims. Among the former commanders or leaders convicted of such crimes are Salvatore Mancuso Gómez, Rodrigo Pérez Alzate, alias "Julián Bolívar"; Hébert Veloza García, alias "HH"; Ramón María Isaza Arango, alias "The Old Man"; Luis Eduardo Cifuentes Galindo, alias "The Eagle"; Ramiro Vanoy Murillo, alias "Cuco Vanoy"; Ivan Roberto Duque Gaviria, alias "Ernesto Baez"; and Fredy Rendón Herrera, alias "The German". Of those convicted, 183 persons are listed as members of the security forces, as shown in Table 2 of the Annex.

36. Of the total number of prosecutions, there have been 1,140 indictments: 563 under Act 600 of 2000, 575 under Act 906 of 2004 and 2 under Act 1098 of 2006. A total of 2,760 persons have been indicted: 1,371 under Act 600 of 2000, 1,387 under Act 906 of 2004 and 2 under Act 1098 of 2006. Of those indicted, 677 persons are listed as members of the security forces, as shown in Table 3 of the Annex.

Criminal responsibility of superior officials

37. The first thing to bear in mind in this regard is that, pursuant to articles 29 and 30 of the Colombian Criminal Code, the necessary measures are clearly conceived, in legislative

⁶ Judgement C-067/18, sect. 3.1.2.

⁷ Art. 5.1.d.

⁸ All the Tables of the Report (22 in total) are presented in Annex II.

terms, such that both the perpetrators and the participants take part in the commission of the punishable offence (understood as a characteristic unlawful and culpable act, for which causality alone is not sufficient for an indictment,^{9, 10} art. 9 of the Criminal Code), thereby complying with the obligation undertaken by the States Parties.

38. Responsibility (art. 29), from one point of view, is conceived as responsibility of one's own or not of one's own, the former referring to the execution of a punishable offence by a perpetrator on their own, and the latter to the use of another person as an instrument for such execution. The same provision stipulates that joint perpetrators are persons who, by mutual agreement, share responsibility for committing the punishable offence, taking into account the significance of their contribution.

39. Colombian law also stipulates that a perpetrator is anyone who acts as an authorized or de facto person or body representing a legal person, a collective entity without legal status, or a natural person for whom they act as a voluntary representative, and who commits the punishable offence, even if the special criteria used to determine the penalties carried by the offence in question do not apply to the perpetrator but to the person or collective entity that they represent (*italics added*).

40. The participants in the punishable offence are the perpetrator and the accomplice. With regard to the present case in particular, the perpetrator deals with what has, in terms of doctrine and jurisprudence, been called the "man behind", i.e., the one who, by means of an order, advice, a mandate or by other means, causes a person to commit the punishable offence.

41. Finally, it should be noted that the Supreme Court of Justice – Criminal Appellate Division accepted the prevailing thesis of the theory of perpetration through organized apparatuses of power, through which criminal responsibility can be attributed to the superiors, in the terms set out in the Convention, which applies not only to enforced disappearance but also to other crimes.

42. Thus, the Supreme Court of Justice, through its interlocutory decree of 23 September 2015, Rad. 34788, stated that "the Division, in its decision of 23 February 2010, Rad. 32805, accepted the prevailing thesis of INDIRECT PERPETRATION in order to define as follows, from the standpoint of criminal dogma, the manner of intervention in the punishable act of those called to answer for the crimes committed by a criminal organization: 'The legal name that should be used for individuals participating in a criminal organization, such as drug trafficking mafias and power structures organized and directed by paramilitaries and guerrilla organizations, has been discussed in domestic doctrine.

⁹ Art. 29. Perpetrators. A perpetrator is any person who commits a punishable offence either on their own or by using another person as an instrument.

Joint perpetrators are persons who, by mutual agreement, share responsibility for committing the punishable offence, taking into account the significance of their contribution.

A perpetrator is also anyone who acts as an authorized or de facto person or body representing a legal person, a collective entity without legal status, or a natural person for whom they act as a voluntary representative, and who commits the criminal offence, even if the special criteria used to determine the penalties prescribed for the offence in question do not apply to the perpetrator but to the person or collective entity that they represent.

The various forms of perpetrator shall incur the penalty prescribed for the punishable offence.

¹⁰ Art. 30. Participants. The ringleader and accomplice are both participants.

Any person who orders another person to commit an unlawful act shall incur the penalties prescribed for the crime in question.

Any person who contributes to the commission of an unlawful act or who provides assistance following the commission of the act, by previous agreement or at the time of the act, shall incur the penalties prescribed for the offence in question, reduced by a sixth to a half.

For participants who lack the special qualities required for the particular type of crime, sentences shall be reduced by one fourth.

When any of the concurrent punishable offences for which the most serious penalty is indicated calls for sanctions other than those established for that penalty, said legal consequences shall be taken into account in determining the penalty.

Paragraph. In cases involving continuous and mass crimes, the penalty shall be imposed at the respective rate increased by a third.

Commentators assert that such individuals are, strictly speaking, neither joint perpetrators nor instigators, and propose that their responsibility should be established on the basis of indirect perpetration, taking as the basis of such responsibility the control or influence that superiors exercised over the criminal organization, such that the perpetrators are anonymous and fungible instruments who directly carry out the criminal act without even knowing the leaders who ordered the crime.’ The parameters analysed by the Court to establish in this decision the intervention of the accused as the **INDIRECT PERPETRATOR** of the murders committed by the armed group in the tragic **MASSACRE OF MACAYEPO** indicate the criteria that must be met in the present case, namely, the close link between the accused and the organized power structure and its hierarchical authority over him or her, on the basis of which its **AUTHORITY** as defined by **CONTROL** over the ‘organized power structure’ can be sustained. In this vein, the Division outlined the following guidelines for the conviction it handed down for **INDIRECT PERPETRATION** of the crimes committed by the illegal armed group: ‘The defendant controlled the power structure “from above”, sharing authority with the military leaders who executed the plan of domination on the ground. Paramilitary groups are vertically organized structures in which there is compartmentalization and in which the higher-ranking authorities draw up general plans of action, while a large group of subordinates stand ready to execute these plans. The “massacre of Macayepo” was an action carried out as part of the “normal” course of activities by the paramilitary group “Bloque Héroes de Montes de María”, which was created, supported and advised by the accused. The proven existence of sessions with the gang’s military leaders and encrypted conversations shows how an order is executed within illegal armed organizations.’ Based on these assumptions and the evidence gathered, it may be concluded that the accused ‘not only organized the self-defence group responsible for the massacre, but also engaged in conduct typical of a member of such illegal armed groups, all of which allows him to be accused as the indirect perpetrator of the multiple murders which occurred during the paramilitary incursion’. It is important to specify that the foundations for the thesis of **INDIRECT PERPETRATION** do not presuppose and even less authorize dispensing with the assertion... of the “externalities of the action” (CSJ SP, 2 Sept. 2009, Rad. 29221). This implies that the parameters arrived at from the above-mentioned decision, which are in line with comparative doctrine and jurisprudence, must be included in the judgment on attribution of the act. And from those foundations of comparative law flows the majority doctrine of **RESPONSIBILITY FOR THE ACT** – the basis for **INDIRECT PERPETRATION** – which arises from the evolution of the theoretical positions that seek to explain the different forms of involvement in a criminal act based on the concepts of **PERPETRATION** and **PARTICIPATION**. Those concepts postulate that the **PERPETRATOR**, in general terms, is the one who ultimately controls the criminal act by controlling the causal course of events, and that participants are those who lack that power of ordination.”

43. From this perspective, the necessary legislative measures are considered to be in place to comply with Colombia’s international obligations under the Convention.

IV. Criminal responsibility and judicial cooperation in relation to enforced disappearance (arts. 8–15)

(Paras. 20, 22, 24, 26 and 28 of the recommendations (CED/C/COL/CO/1))

Complaints and investigations of cases of enforced disappearance

Investigations of disappearances perpetrated without the authorization, support or consent of State agents

44. In addition to the above and to the provisions of article 221 of the Constitution and article 3 of Act 1407 of 2010, promulgating the Military Criminal Code, the Jurisdictional Disciplinary Division of the High Council of the Judiciary is empowered to resolve conflicts of jurisdiction that occur between the different jurisdictions, on the basis of which, when hearing requests to declare a conflict of jurisdiction between criminal and military justice with respect to the crime of enforced disappearance, jurisdiction has been assigned to the ordinary courts, as evidenced by the rulings issued in the proceedings filed under Nos.

110010102000201401079 00, 110010102000201400312 and 110010102000201703285 00 (Annexes III, IV and V).¹¹

45. With regard to the competencies of the High Council of the Judiciary concerning the Judicial Branch Statistical Information Network, which collects aggregate information on judicial management of the offices, data are provided for 2014–2019 on the number of proceedings entered and removed, the total number of cases in the inventory at the end of each year and the total number of persons acquitted and convicted of the crime of enforced disappearance, as presented in Table 4 of the Annex to the Report.

46. In accordance with the primary objective of the Investigative Commission, on “supporting and promoting the investigation of the crime of enforced disappearance, with full respect for the institutional competencies and powers of the subjects of the proceedings”, 1,589 judicial investigations have been conducted by means of requests to judicial authorities, in which the status of the case, the investigative activities and the implementation of the National Plan on the Search for Disappeared Persons have been requested, with concrete measures recommended for the promotion and follow-up of investigations into cases of enforced disappearance, in accordance with the competencies of each institution.

47. The Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace, signed by the Government and the Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo (Revolutionary Armed Forces of Colombia – People’s Army) (FARC-EP), gave rise to the comprehensive system of truth, justice, reparation and non-repetition, which includes the Special Unit, an extrajudicial entity with legal status and autonomy. Its role is to manage, coordinate and contribute to the implementation of humanitarian actions to search for and locate living persons reported missing in the context of and due to the armed conflict. In the event that an individual has died, the role is, where possible, to recover, identify and hand over the remains in a dignified manner.¹²

48. As the Special Unit has budgetary and administrative autonomy, it has its own assets, comprising the resources allocated to it from the General National Budget, public and private donations, contributions from international cooperation agencies and any other resources it may receive in pursuit of its objectives.¹³

49. The Special Unit is competent over disappearances that occurred before 1 December 2016 (date of entry into force of the Agreements), disappearances that occurred in the context of and due to the armed conflict, and which constitute cases of enforced disappearance; kidnapping; unlawful recruitment and recruitment during hostilities: combatants, both regular (members of the security forces) and irregular (members of illegal armed groups).

50. Given its extrajudicial and humanitarian nature, the Special Unit is not mandated to investigate the crime of enforced disappearance or to establish criminal responsibility.¹⁴ Its role is to “manage, coordinate and contribute to the implementation of humanitarian actions to search for and locate living persons reported missing in the context of and due to the armed conflict. In the event that an individual has died, its role is, where possible, to recover, identify and hand over the remains in a dignified manner”.¹⁵ In this regard, the Constitutional Court has specified that “there is no room for misunderstanding about the Unit’s humanitarian mandate of searching for all ‘persons reported missing in the context of and due to the armed conflict’, whether they are alive or dead, regardless of the type of crime or conduct that led to the disappearance, the status of the victim or the identification of the alleged perpetrator”.¹⁶

51. The Unit does not investigate the crime at the origin of the disappearance. A search is initiated either at the request of relatives, associations of relatives, civil society organizations or any person, or by referral of cases by State authorities. A search is automatically initiated whenever the Unit receives or collects information on cases of

¹¹ Art. 112 of Act 270 of 1996.

¹² Legislative Act 01 of 2004, transitional art. 1.

¹³ Ibid. Art. 27.

¹⁴ Transitional art. 3 of Legislative Act 01 of 2017 and arts. 96-97 of Decree-Law 589 of 2017.

¹⁵ Art. 2 of Decree-Law 589 of 2017.

¹⁶ Judgement C-068/18, sect. 7.52.

persons reported missing. To initiate a search it is not necessary that the criminal acts which led to the disappearance have been the subject of a criminal or other report, nor that the person reported missing has been declared or registered in an official register or database (such as the National Register of Disappeared Persons, the Central Register of Victims, the register of the Comprehensive Victim Support and Reparation Unit or the Information Network).

52. The Unit searches for all “persons reported missing in the context of and due to the armed conflict”, regardless of whether the crime at the origin of the disappearance has been reported; regardless of whether there have been any developments in, or termination of, criminal proceedings; regardless of the legal status of the disappeared person;¹⁷ and regardless of whether the disappeared person has been included in any official register of victims and/or missing persons (such as the National Register, the Central Register of Victims and the Information Network).

53. The Unit’s humanitarian search actions do not replace or impede judicial investigations into the crimes that are at the origin of the disappearance of persons, nor do they disqualify the competent judicial authorities – whether from transitional justice or ordinary justice – from initiating or continuing investigations to establish the circumstances in which the crimes were committed or individual criminal responsibility for their commission.¹⁸

54. To ensure that its functions are exercised in full, the Unit has access to official databases, and all State entities must provide it with any necessary information that they may have at their disposal.¹⁹ The Unit may also request any information it considers relevant, the provision of which is mandatory, even if such information is confidential.²⁰

55. In addition, the Unit is mandated to access places where the presumed location of persons or bodies reported missing is known, with certain exceptions, for which it must have judicial authorization issued by the Review Section of the Special Jurisdiction for Peace.^{21, 22}

56. The Unit’s extrajudicial and humanitarian mandate includes the search for any person whose disappearance may have originated with the actions of either State agents or of members of any organization that participated in the armed conflict, whether or not that organization has signed a peace agreement with the national authorities, as expressly stipulated in the Final Agreement and reiterated by the Constitutional Court. This means that, for the purposes of the Unit’s extrajudicial and humanitarian searches, it is irrelevant whether the perpetrator or alleged perpetrator of the unlawful act at the origin of the disappearance comes under the Special Jurisdiction for Peace. However, once the perpetrator has come under the Jurisdiction, the law establishes a series of regulations on the conditionality regime.

57. As to the Institute, its contribution to investigations of enforced disappearance consists of the registration, search and follow-up of cases through information systems, interventions at cemeteries and case management provided by competent personnel trained in keeping with national and international standards.

58. The Institute has given relatives of disappeared persons opportunities for dialogue and workshops, drawing on institutional tools for follow-up, such as public consultations, and involving them in information-gathering and sample collection sessions. It also ran a publicity campaign at its headquarters, called “Here we provide information on the disappeared” and “Here you can register your missing relative with the Disappeared Persons and Recovered Bodies Information Network”, so as to encourage the gathering of information from relatives of disappeared persons.

¹⁷ Declaration of presumed death following disappearance, from arts. 96–97 of the Civil Code; and Declaration of absence by reason of enforced disappearance and other forms of involuntary disappearance, Act 1531 of 23 May 2012.

¹⁸ Transitional Art. 3 of Legislative Act 1 of 2017, art. 3 of Decree-Law 589 of 2017 and Constitutional Court, Judgement C-067/18, sect. 7.5.3.

¹⁹ Decree 589 of 20 April 2017. Art. 11.

²⁰ Ibid. Art. 12.

²¹ Ibid. Arts. 6–8.

²² Ibid. Art. 9.

59. The Institute also rolled out the public consultation tool on its website, enabling relatives of disappeared persons to monitor the follow-up of actions to search, locate and identify them. This tool is updated regularly and linked directly to the reports registered with the Information Network.

60. The Institute has forged strategic alliances that allow it to report the results of the search, location, identification and handover processes involving disappeared persons. One example is the alliance with the newspaper El Tiempo, resulting in the project called “Los muertos que nadie reclama” (The dead that no one claims), an initiative which, in addition to portraying in depth the drama of missing persons in the country, devised a search engine for people. Persons with a family member or relative who is presumed missing can consult the eltiempo.com webpage, the most visited website in the country, to check whether the person has died. If the search is positive, the search engine also provides data on the registration of the case, the forensic service that performed the autopsy and the respective contact numbers.

61. As mentioned previously, the operating board of the Virtual Identification Centre holds regular meetings, with the participation of the Attorney General’s Office, the Technical Investigation Corps, the Institute and the Judicial and Investigative Police Directorate. At these meetings, inter-agency actions are coordinated to fulfil the mission of searching for, identifying and handing over disappeared persons to their families as a means of providing compensation to the victims, determining the truth and collecting, analysing and storing data for the identification of human remains.

62. The publication and dissemination at the national level of the book “Minimum Forensic Standards for the Search for Disappeared Persons and the Recovery and Identification of Corpses”, the adaptation of the Disappeared Persons Module and the monitoring of cases in order to meet the obligations of Decree 0303 of 2015, interventions in cemeteries, monitoring of cases, joint strategies for purging databases and the proposed modification of the National Disappeared Persons Search Request Form are among the noteworthy advances made in inter-agency coordination.

63. The search for disappeared persons is a coordinated process involving different institutions, such as the Attorney General’s Office, the Institute and the National Police (Judicial and Investigative Police Directorate).

64. One milestone was the signing by the Institute, the National Civil Registry Office and the Ministry of the Interior of Agreement 1 of 2010, which led to the processing of 22,689 post-mortem fingerprints and the identification of 9,968 cases. Of the 22,689 fingerprints, 440 were reported as those of missing persons in the National Register, while the remaining 12,721 did not show up in the Automated Fingerprint Identification System. The Agreement was the second phase of the large-scale fingerprint cross-checking project, which in its first phase had the financial support of the Investigative Commission and was able to cross-check 35,500 post-mortem fingerprints. This resulted in the verification of the identification of 22,214 cases and the first-ever identification of 1,350 bodies, leaving 11,936 cases pending, which were removed in 2010.

65. The Institute then initiated a verification process that allowed for the review of identifications, generating identification reports in order to locate the case files, the authorities in charge and the places of burial. Based on this process and the available information, a strategy was devised for the recovery of unidentified bodies buried in cemeteries throughout the country.

66. The Directorate of Human Rights of the Ministry of the Interior is making progress in enhancing the management of cemeteries that have unidentified or nameless bodies or remains buried on their grounds. Some 503 cemeteries have been improved to date in support of the search for disappeared persons in Colombia.

67. The Institute is making concerted efforts to fulfil its technical-scientific mission of supporting justice and assisting victims with the human resources available in its 8 regional and 25 district offices, which are located in 125 municipalities. These staff members all possess the necessary training and expertise. In addition, the Institute’s regional directorates participate in the inter-agency round tables on enforced disappearance in order to create specific roadmaps for reporting a disappeared person.

68. The Institute, as administrator of the National Register, ensures that the competent authorities have access to the information they need for the investigation. Organizations and victims also have effective and timely access to relevant information through the public consultation tool available on the website.

69. The Attorney General of the Nation, by Resolution 0-3481 of 31 October 2016, established guidelines on the processes of search, exhumation, identification and handover of disappeared persons that are carried out within the Office. This resolution authorized the Directorate for Transitional Justice to perform the following functions, among others: (i) to schedule, in conjunction with the Criminal Investigation Department of the Technical Investigation Corps, all exhumation procedures required by any office of the entity; (ii) to implement procedures for the dignified handover of the bodies of disappeared persons; and (iii) to consolidate, purge and disseminate the figures on enforced disappearance within the Attorney General's Office.

70. However, it should be noted that the Directorate for Transitional Justice, pursuant to Resolution 0-2886 of 2007 and article 48 of Act 975 of 2005, has been carrying out search, exhumation and support work for the identification and dignified handover to the families of victims of enforced disappearance in the context of the armed conflict, through the Exhumations Subunit, now known as GRUBE.

71. As part of that work, since the activation of the corresponding Search Plan, the Directorate for Transitional Justice through GRUBE has to date recovered 9,735 bodies of persons reported missing, of which 4,766 have been handed over to their families with dignity.

72. In this context the Attorney-General's Office, through the Directorate for Transitional Justice, has been undertaking a number of investigations into the crimes of enforced disappearance committed during and on the occasion of the internal armed conflict, which have uncovered a pattern of criminality associated with the phenomenon of enforced disappearance. This pattern is in line with the standards and methodology established by the international human rights courts, on the basis of which both the top leaders and the middle and lower-ranking members of the illegal armed groups that demobilized and were brought to justice are being charged; the practices and modus operandi used by these criminal organizations have been uncovered. These practices include dismemberment, burial in clandestine graves and immersion in rivers, all of which are common to the different criminal structures. The modus operandi includes such actions as intimidation or force, deception and the installation of "checkpoints".

73. The Directorate for Transitional Justice conducts investigations into the acts confessed to by deponents under Act 975 of 2005 when in the course of such proceedings the participation, support, responsibility or criminal involvement of State agents is noted, and the certification of copies has been ordered for investigation by the competent judicial authorities. The coordination and joint work with internal and external agencies of the Public Prosecution Service has enabled the Directorate to make significant progress in the investigation, location and identification of the victims of the crime of enforced disappearance within the framework of this special jurisdiction.

74. The Technical Investigation Corps of the Attorney General's Office provides technical support to exhumation efforts at the national level, but also identifies exhumed bodies in conjunction with the laboratories of the Judicial and Investigative Police Directorate of the National Police and the Institute. Once the bodies are identified in accordance with Act 1408 of 2010 and its Regulatory Decree 303 of 2015, arrangements are made with the Comprehensive Victim Support and Reparation Unit to turn the bodies over to their families, and with the Ministry of Health for psychosocial support.

75. As of 2019, the Attorney General's Office has registered 3,125 prosecutions for extrajudicial executions. In Table 5, this information is broken down by status of the prosecutions (active-inactive) and by the procedural law through which the investigations are carried out. In these prosecutions, 7,056 victims were registered, of whom 210 were minors.

76. Of the total number of prosecutions for extrajudicial executions, 395 have resulted in convictions: 308 under Act 600 of 2000 and 87 under Act 906 of 2004. In these prosecutions, 1,381 people have been convicted: 1,176 under Act 600 of 2000 and 205

under Act 906 of 2004. Of those convicted, 558 are registered as members of the military or of illegal armed groups, as shown in Table 6.

77. Of the total number of prosecutions for extrajudicial executions, 1,157 have resulted in indictments: 616 under Act 600 of 2000 and 87 under Act 906 of 2004. In these prosecutions, 5,800 people have been indicted: 3,855 in investigations conducted under Act 600 of 2000, 1,933 in investigations conducted under Act 906 of 2004 and 12 in investigations conducted under Act 1098 of 2006. Of those convicted, 558 are registered as members of the military or of illegal armed groups, as shown in Table 6.

Search for disappeared persons

78. The urgent search mechanism is a tool used to locate persons presumed missing. The objective is for the judicial authorities immediately to order all the necessary steps to locate such persons. It is not necessary to wait a given period of time before requesting activation of the mechanism. Anyone can make such a request before a judge or a prosecutor, and there is no cost for the service.

79. In the exercise of its powers, the legislature created the urgent search mechanism under Act 971 of 2005 as an expeditious instrument devoid of any significant formalities, with which the judicial apparatus is activated in an effort to locate the person presumed missing while he or she is still alive. The Attorney General's Office, through its representatives, has taken on the duty imposed by this statutory regulation, by means of activities aimed at the immediate location of the missing person, dead or alive, once a matter of this nature is brought to its attention, through the urgent search mechanism, understood as an autonomous, preventive mechanism that is urgent and compulsory and free from division. In addition, a special prosecutor was assigned to the Public Safety Office to process the relevant requests as a matter of priority.

80. The Directorate for Transitional Justice has activated and processed 4 urgent search mechanisms, and the Special Directorate on Human Rights Violations has information for 2019 according to which 19 urgent search mechanisms have been processed to date.

81. With regard to the Directorate for Transitional Justice, now that progress has been made in the search for persons reported missing, it has been established that 341 persons reported missing have been found alive. And as stated in the previous section, 9,735 bodies have been found and exhumed from both clandestine graves and cemeteries.

82. As of 30 July 2019, the Directorate for Transitional Justice, through GRUBE, has exhumed 9,735 bodies, of which 7,481 were recovered in the open and 2,254 in cemeteries. It is important to clarify that prior to 2006, when the Group began its work, the permanent justice offices and national directorates carried out exhumations, the registration of which is not known. From 2006 to 2016, GRUBE carried out exhumations solely within the framework of Act 975 of 2005.

83. The Directorate for Transitional Justice has, as of 30 July 2019, handed over 4,766 fully identified bodies to their families, in ceremonies arranged with their relatives and with full respect for their beliefs and traditions. Of those bodies, 511 match cases processed by the District Directorates attached to the Public Safety Office, 17 match cases handled by the Public Prosecutors Unit of the Court (Palace of Justice) and 12 match cases handled by the International Committee of the Red Cross (ICRC).

84. Within GRUBE, the Inter-Agency Protocol on the Dignified Return of Disappeared Persons' Remains, promulgated by the Investigative Commission and to which the Attorney General's Office is a party, is strictly followed. GRUBE actively participated in its preparation, contributing its experience and specific knowledge, as since 2007 – before the adoption of Act 1408 of 2010, regulating the document in question – it had handed over numerous bodies to the relatives of victims of the crime of enforced disappearance, an experience that was reflected in the drafting of the Protocol.

85. In addition, the team of prosecutors, forensic dentists and psychologists who carry out the handover undergo continuous training on adhering strictly to the principles governing the process, such as human dignity, integrity, equal treatment and non-discrimination, differentiated approach and “do-no-harm”.

86. As mentioned above, within the Attorney General's Office each of the judicial, forensic, criminalistic and psychosocial support staff members receives continuous training on the proper implementation of the National Plan on the Search for Disappeared Persons and the urgent search mechanism. These tasks are carried out for each of the phases established in the Plan: (i) information collection; (ii) verification and analysis; (iii) recovery, analysis and identification; and (iv) final provision. Table 8 shows the training provided in the Attorney General's Office on the proper implementation of the Plan and of the urgent search mechanism.

87. The Investigative Commission has asked the Attorney General's Office to activate the urgent search mechanism on 43 occasions, in order to progress on all the immediate tasks associated with the search for disappeared persons. Its team has also made more than 260 requests for samples to be taken for the Disappeared Persons Genetic Profile Bank and for the family group to be extended. With regard to "speeding up the identification and release of exhumed remains", letters have been sent requesting information on forensic examinations and the release of bodies, as requested by family members.

88. The Commission has held 10 seminars on "National and international norms, mechanisms and instruments to address the crime of enforced disappearance", covering the National Plan and the urgent search mechanism, and has organized training sessions for public officials and family members (leaders) in the cities of Fusagasugá, Barrancabermeja, Buenaventura and Pasto (2017), Cúcuta, Florencia, Mocoa, Puerto Carreño and Quibdó (2018) and Barranquilla (2019).

89. The Commission drafted the Inter-Agency Protocol on the Dignified Return of Disappeared Persons' Remains and submitted it as a binding document on 28 August 2014. As part of its support activities at the request of family members, it assisted with the dignified return of three bodies during the period 2017–2019.

90. When it receives information on a suspected case of enforced disappearance, the Institute registers the disappeared person with the Information Network and ensures that sufficient information is available to the complainant on the relevant duties and rights, provides guidance on how to file a formal complaint and informs the complainant about the public consultation tool, available on the Institute's website, through which he or she can follow up on the actions taken in the search for the disappeared person.

91. In addition, in accordance with the legislation in force, the Institute takes the necessary steps to activate the urgent search mechanism and works to ensure continuous follow-up. The mechanism can be activated solely by the judicial authorities, in accordance with Act 971 of 2005, so the Institute records the activation in the National Register and can also request it. Its fundamental task with regard to this mechanism, however, is to verify the information on the disappeared person as one of the corpses that have undergone a medico-legal autopsy, in order to contribute to the immediate and timely handover of the body in the event of the death of the disappeared person.

92. Tables 9, 10 and 11 in the Annex to the Report show the urgent search mechanisms that have been activated. Of the 145,263 records of disappeared persons, 28,453 match suspected cases of enforced disappearance.

93. Personal information, including medical or genetic data, collected by the Special Unit during the extrajudicial and humanitarian search process is confidential. The Unit's collection of such information requires prior authorization from the relatives of the person reported missing, and the family member's signature of the informed consent form.²³ When the Unit's collection of biological samples from persons reported missing is carried out by the Institute, the donor must have previously signed the standard informed consent form for the collection of biological samples, to be used exclusively for identification purposes.²⁴

94. By law, and as the Constitutional Court has reiterated, information received or produced by the Unit – with the exception of forensic technical reports and elements associated with the body – "may not be used to attribute responsibility in judicial proceedings and shall have no probative value".^{25, 26} The Constitutional Court has also

²³ Art. 2 of Decree-Law 589 of 2017.

²⁴ Decree 903 of 2015.

²⁵ Art. 3 (para.) of Decree-Law 589 of 2017.

stipulated that the Special Unit “shall certify to the Special Jurisdiction for Peace that this condition [appearance and contribution to the truth] has been met, without it having to share with the Jurisdiction whatever information it has obtained, especially that of an incriminating nature”.²⁷

95. With regard to the genetic data and/or biological samples collected and transmitted by the Unit for identification purposes to the Disappeared Persons Genetic Profile Bank, which is administered by the Institute under the direction and coordination of the Attorney General’s Office, Act 1408 of 2010 (which pays tribute to the victims of the crime of enforced disappearance and establishes measures for their location and identification) and (Regulatory) Decree 303 of 2015 are applicable. These texts establish that: (i) “during all phases of the procedure, biological samples and the data obtained from them should be handled in accordance with the right to habeas data of the individuals who have provided them and within the guidelines established by international protocols and standards in relation to informed consent, confidentiality, security, the preservation, protection and exclusive use of samples for the purposes of identification and the destruction of the samples once the data has been obtained from them”;²⁸ (ii) “the Office of the Attorney General of the Nation, within the framework of the administration of the Disappeared Persons Genetic Profile Bank, shall perform the following functions: [...] 2. to protect genetic material and other information obtained from the bodies or remains of the victims, as well as from members of their family, in compliance with international standards and ethical and legal criteria of privacy, quality control of analyses, safeguarding the chain of custody, and exclusive use of genetic information for identification purposes”;²⁹ and (iii) “the information collected, administered and centralized by the Bank shall be for the purpose of searching for and identifying missing persons. Its use for other purposes, such as scientific research or medical analysis, is prohibited unless the donor gives his or her consent to participate in such studies”.³⁰ It should be noted that Decree-Law 589 of 2017 establishes that “the National Government shall strengthen the physical, human and technological infrastructure and territorial coverage of the Institute of Forensic Medicine, taking into account its role as a scientific support for the Special Unit for the Search for Persons reported missing in the context of and due to the armed conflict”.³¹

96. The Institute, through awareness-raising activities and a publicity campaign at its various headquarters, called “Here we provide information on missing persons” and “Here you can register your missing relative with the Disappeared Persons and Recovered Bodies Information Network”, has been promoting the need to begin the search for disappeared persons immediately, demystifying the limit set on the number of hours to elapse before the search gets under way.

97. The idea behind the participation of the families in the commemorative events and the drafting of roadmaps such as that drawn up in the department of Santander is to get the search started as soon as possible. The entities involved in the National Register have internal guidelines for complying with Act 971 of 2005, with inter-agency roadmaps that give greater opportunities to family members who report cases and that guide the community in general on access to these types of guarantees, taking into account the role these entities play in the search for disappeared persons.

98. As part of efforts to locate skeletal remains, since 2015 interventions have been carried out in cemeteries as part of the cemetery intervention project, because of the need to recover bodies buried in different areas of the country that are either unidentified or identified but unclaimed, and giving priority to areas with a high number of unidentified bodies buried in the same cemetery, areas of armed conflict, areas referenced in atlases of the armed conflict or the presidential observatory on human rights, and areas with a high number of persons reported missing in the National Register.

²⁶ Judgement C-067/18, sect. 7.5.3.

²⁷ Judgement C-080/17, sect. 4.1.12.2.

²⁸ Art. 4, para. 5, of Act 1408 of 2010.

²⁹ Art. 6 of Act 1408 of 2010.

³⁰ Art. 13.2 of Decree 303 of 2015.

³¹ Art. 5, para.

99. Seven cemeteries have been visited to date, in the municipalities of Bocas de Satinga, Cimitarra, La Plata, Florencia, Puente Nacional, Yarumal and Bojayá, and 577 bodies have been exhumed. Of these, 499 have been examined and 84 positively identified, using advanced scientific methods and applying the Minimal Forensic Standards for the Search for Disappeared Persons and the Recovery and Identification of Bodies. In addition to these interventions, there are others led by the Exhumation Group of the Prosecutor's Office for Justice and Peace (now the Office of the Special Prosecutor for Transitional Justice) in the cemetery of La Macarena and nearby towns, Vista Hermosa, Granada and San José del Guaviare, whose work has been supported by the Institute's laboratories.

100. In addition, inter-agency events are held for the families of persons reported missing, in order to update and complement forensic interviews for identification purposes in the National Register and the Information Network, and to take biological samples for inclusion in the Disappeared Persons Genetic Profile Bank and the respective cross-checks, obtain useful information for the investigation and location of the bodies, provide advice and take statements, as appropriate. The following institutions are involved in these events: Attorney General's Office, Ombudsman's Office, Comprehensive Victim Support and Reparation Unit, organizations of relatives, and the Institute.

101. Pursuant to Act 1408 of 2010, the local authorities (laboratories of the Technical Investigation Corps and the Judicial and Investigative Police Directorate) and the national Government (the Institute and the Genetic Profile Bank) have carried out the activities indicated below.

102. Management reports have been prepared by the local authorities (laboratories of the Technical Investigation Corps and the Judicial and Investigative Police Directorate) and the national Government (the Institute and the Genetic Profile Bank) since 2016 to aid in the identification of unidentified human remains. The Bank's management reports (after review by the institutions that provide profiles to the Bank) are sent to the Investigative Commission to be prepared and disseminated at the end of each year, both to the associations representing relatives of victims of the armed conflict and enforced disappearance and to the government institutions involved in these tasks.

103. The management reports have included recommendations on: (i) the need for such resources as equipment, inputs and human capital to ensure that the sample profiles, where feasible, are classified and entered into the Bank with 23 genetic markers, and the need to improve the accuracy of the searches; (ii) having samples available from more than one family member (biological father, biological mother, biological children, more than one biological sibling, grandparents), so as to optimize the use of the search tool by grouping genetic profiles into family trees, and improving the accuracy of the searches; (iii) updating the communication network (router) by which the Bank's data is shared by the three institutions that provide genetic profiles; (iv) having licences available for remote access to the server, which would enable more than two users to be connected simultaneously on the national server; and v) having local servers available so that each of the three institutions' laboratories can have the option of a local bank, which would speed up their processing.

104. In the months of June and July 2018, the National Administration of the Genetic Profile Bank, with the support of the Subdirectorate of Forensic Services of the Institute and the Anthropology Group of the Regional Directorate of Bogotá, held a workshop on the work of the Bank for GRUBE prosecutors and all the officials of the Institute. The following topics were covered: (i) history and structure of the Bank; (ii) technical explanation of the importance of having samples from blood relatives of the first degree and more than one relative for each missing person case entered into the Bank; (iii) search method used by the Combined DNA Index System (CODIS) computer platform; (iv) scope and limitations of the use of genetic profile banks for identification purposes; how to interpret a match and perform the respective analysis; (v) interdisciplinary and inter-agency work between the Bank, the forensic genetics laboratories and the forensic anthropology and pathology groups on managing matches; and (vi) practical workshop on managing a Bank match.

105. The workshop was attended by 22 GRUBE staff members, including prosecutors and investigators from Cundinamarca and Meta. Subsequently the GRUBE Coordinator asked that such workshops continue to be offered for GRUBE prosecutors from all over the country and other groups and institutions involved in the identification process. Arrangements for these new workshops are pending.

106. The Inter-Agency Committee on Genetics created under Act 1408 of 2010 and its Regulatory Decree 303 of 20 February 2015 performed the following activities: (i) preparation and presentation on the management of the Genetic Profile Bank, which has been carried out once a year in the past three years (2016–2018) by the Investigative Commission; (ii) preparation and presentation of the Bank’s Operating Manual to the Inter-Agency Committee on Criminalistics; and (iii) preparation of the proposal on updating the informed consent form for the collection of samples from relatives of disappeared persons at the request of GRUBE for dissemination, review and approval by the institutions involved in its use.

107. Statistical information is presented on the management of the Bank, highlighting the work of the genetics laboratories of the three institutions that prepare and contribute genetic profiles to the Bank, and also the results of the interdisciplinary work undertaken with the Anthropology and Identification Groups that contribute non-genetic information and thus guide the results of the genetic profile matches found in the Bank. Table 12 shows that, as of 31 December 2018, a total of 47,406 genetic profiles had been registered and uploaded into the Bank, and also shows the number of genetic profiles grouped by indicator and institution. Table 13 shows the number of verified matches from 2011 to 31 December 2018.

108. According to the records as of 31 December 2018, the Bank has helped to identify 264 unidentified bodies. However, the number may actually be higher because in many of the cases of matches reported by the Bank it is difficult to follow up on the findings.

109. One of the immediate confidence-building measures is the creation of special plans by the Institute and ICRC, by obtaining information for the search, location, identification and dignified return of the remains of persons reported missing in the context of and due to the armed conflict.

110. Monthly meetings of the operating board of the Virtual Identification Centre are held with the Technical Investigation Corps, the Institute and the Judicial and Investigative Police Directorate. The meetings’ mandates include: to search for, identify and return the remains of persons reported missing to their families as a form of compensation to the victims and of determining the truth; to place the facts into context in order to identify patterns of criminal behaviour; and to collect, analyse and store data that could help identify human remains obtained from exhumations, within the framework of Act 975 of 2005 and related texts.

111. The Institute is part of the National Committee of Criminalistics and of the Inter-Agency Committee on Forensic Genetics. These memberships allow the entities to coordinate and cooperate among themselves in order to cross-check data, as reflected in the above-mentioned results achieved in the management of the Bank.

112. The Institute has held bilateral meetings with the Special Unit and working groups to define the mechanisms for coordination between the two entities. As a result, usernames and passwords for the National Register have been assigned to Unit staff.

113. Training has been provided on using the National Register’s systems, including the Information Network. It was agreed that a pilot test would be carried out to review two areas of the country, prioritizing Nariño and Norte de Santander, in order to assess the available information on unidentified bodies that were brought to the Institute between 1960 and the signing of the Final Agreement.

114. The Institute offers continuous training not only to its officials, but also to the different participating institutions, victims and social organizations that work with the victims of the armed conflict. Similarly, with ICRC support, training has been provided to officials as part of the National Seminar on the Search for and Identification of Disappeared Persons and Support for their Families and to FARC-EP in the collection of data on disappeared persons in the framework of Joint Communiqué CC62 (2015) and at the request of the FARC-EP National Commission. The first training session was held in December 2018 and the second in the first half of 2019.

115. The Institute, as the governing body of the National System of Forensic Medicine and Science, and based on the existing need for providing satisfactory responses to a greater number of victims’ relatives, proposes and heads up the development of the Minimum Forensic Standards for the Search for Missing Persons and the Recovery and Identification

of Corpses, aimed at ensuring the application of good forensic practices, based on technical and scientific quality assurance criteria, interdisciplinary and inter-agency consensus, and the adoption of national and international schemes that meet the country's needs.

116. Entities involved in searching for, locating, identifying and handing over disappeared persons, as well as victims' organizations, universities and non-governmental organizations, among others, helped to draft the Standards.

117. In addition, the Institute, as part of the immediate confidence-building measures, together with ICRC and in coordination with family members, ensures that the handover process adheres to the Protocol on Dignified Handover, at all times respecting the customs and requests of family members.

118. The Institute participates in the return of recovered and identified bodies, ensuring that the Protocol on Dignified Handover is observed, which involves interdisciplinary and inter-agency teams of investigators, prosecutors, forensic doctors, forensic anthropologists, forensic dentists, psychologists and others. The objective of the Protocol is to resolve concerns and provide a technical-scientific explanation to the families on an individual basis, as established by them. Legal advice and psychosocial support are offered as well. One example is the forensic approach taken in the intervention at the Bojayá cemetery in the department of Chocó, which involves a working group with the victims. The idea is to listen to their needs and develop a model for cooperation that respects their traditions and customs.

119. The Ministry of National Defence continues to lead the implementation of Standing Ministerial Directive 06 of 2006 within the Armed Forces and the National Police. The Directive aims to "adopt measures to prevent the enforced disappearance of persons and support the investigation of this crime and the search for disappeared persons under the urgent search mechanism, in accordance with the legal instruments cited in the References".

120. In this regard, the Ministry has been actively participating in the Investigative Commission through its work on crime prevention and the advancement of investigations into enforced disappearances. The participatory nature of the Investigative Commission has facilitated deliberations and policy design where State entities and the social organizations that belong to it propose, on an equal footing, best practices for judicial and/or disciplinary investigations; design, evaluate and support both national and regional search plans; set up working groups to conduct specific monitoring of certain cases; and collaborate in accordance with article 8 of Act 589 of 2000.

121. The Ministry has held meetings with the Special Unit in order to coordinate the search for disappeared persons, including both members of the security forces and other persons who are still missing.

122. One positive aspect of this process is the confidence that has been generated by the internal mechanisms, such as the urgent search for persons, which calls for inter-agency participation by the State, including the National Police, and the National Registry, which is administered by the Institute with the support and supervision of the Investigative Commission.

123. The National Police have been undertaking preventive activities targeting police personnel both at the central level and in the United Action Groups for Personal Liberty (GAULA), in order to deter them from arbitrary detention, illegal deprivation of liberty, enforced disappearance and similar actions. Training and awareness-raising activities are also held to discourage police officers from violating human rights and international humanitarian law.

124. In the period from 2016 to 2019, GAULA groups at the national level have been assigned 224 investigations into the crime of enforced disappearance. Of those cases, 68 individuals have been found alive and 9 dead, while 147 are still being investigated. There has also been inter-agency work during this period to achieve justice and uncover the truth about this serious human rights violation.

125. The National Police constantly monitor human rights violations as part of their daily work. The last official communication issued by the Counsel General's Office, filed under No. 11100111000001 on 9 May 2019, indicates that no records were found on the filing of complaints, petitions or requests, nor were any ex officio disciplinary actions initiated by

the Anti-Kidnapping and Extortion Office of the National Police on alleged human rights or international humanitarian law violations involving arbitrary detention and/or enforced disappearance.

126. Army personnel undergo two kinds of training in human rights: one dispensed at the training schools for officers, non-commissioned officers and soldiers, complemented by specific training in the fulfilment of their constitutional mission, and one by the National Prisons Institute.

127. Relatives of the victims of enforced disappearance and homicide related to the internal armed conflict are offered psychosocial assistance by a team of social workers and psychologists assigned by the Comprehensive Victim Support and Reparation Unit. The support is provided during the various stages of the search process, including the initial report or notification of the disappearance, collection of biological samples for genetic identification, recovery, surveying and/or exhumation, the provision of information by the Institute and Attorney General's Office on the identification process, and cooperation on the dignified return or final disposal of corpses or skeletal remains within Colombia.

128. Efforts are made to mitigate the potential emotional impact of these activities on the relatives of the victims of enforced disappearance through the restorative effects of showing signs of recognition and enhancing their dignity. This process entails the emotional preparation and physical availability of each family member prior to every stage in the process, encouraging self-regulation, recognition of the history of the search, and the impact of enforced disappearance on family dynamics, as well as commemorative events that honour the victims' stories. Once the various procedures are completed, cases being handled by the Unit or referred to the programme of psychosocial and integrated health care for victims, under the Ministry of Health, are followed up.

129. Each and every one of the procedures is managed and handled in keeping with the needs of the families receiving care, taking into account the guidelines dictated by ethnic specificities, where applicable, agreeing on how the procedures will be executed and respecting the relevant customs and traditions, since most of the procedures are carried out in the communities' territories.

130. Victims' participation in the process is made possible by funding from the Comprehensive Victim Support and Reparation Unit to cover travel, housing and food costs as established by law, taking into account the particular needs of each family member.

131. In addition, the psychosocial team strengthens the participation of victims and national organizations of victims of enforced disappearance through training and inter-agency workshops.

132. The Unit's psychosocial support can be triggered in two ways: at the direct request of the Attorney General's Office or an organization of victims, or by a victim's family member. In all cases, the psychosocial team is constantly in touch with the institutions that are heading up the search for and handover of bodies and with organizations of victims and other specialized organizations.

133. Working with family members on the search for and handover of bodies requires psychosocial support and a "do-not-harm" approach, before, during, and after the process, and it is essential at all times to take into account the requests, needs and expectations of the family members when planning the process in coordination with the family members, the prosecutor's office and the technical forensic team in charge. From January 2014 to 31 December 2018, assistance was provided to 1,892 cases, which have been administered as shown in Table 14.

134. The psychosocial professionals involved in the process use a tool or manual containing the procedural and psychosocial elements needed to ensure that family members participate with full respect for their autonomy and dignity as well as realization of their rights to truth, justice and reparations. Putting all this into practice requires knowledge of the differential approach because "it allows for the particularities of culture, age or gender to be taken into account, given that these characteristics imply different needs or ways of handling the impact of the different types of violence that must be understood".

135. The psychosocial support measures call for informed decision-making by individuals, families and the community as to the actions undertaken as part of the process

that may directly affect the family members. This requires coordination among judicial authorities, forensic teams and psychosocial professionals to provide family members with the necessary information so that to the extent possible the assistance is in harmony with the languages, technical procedures and possible findings that are crucial for their participation.

136. For the period 2014–2019, requests for assistance in the search for 325 victims of enforced disappearance were handled; participation and psychosocial assistance were given to some 800 family members beginning in 2017 with the victims of the Bojayá Massacre, as presented in Table 15.

137. Similarly, requests were handled for psychosocial support in judicial proceedings for the dignified return of the bodies of 1,837 victims of enforced disappearance and homicide to their families, as shown in Table 16; some 7,441 family members received assistance.

138. By legal mandate, the Special Unit must “ensure the participation of the family members of persons reported missing in the context of and due to the armed conflict in the processes of searching, locating, recovering, identifying and handing over skeletal remains with dignity”.³² The participation of family members throughout the search for their loved ones is a core element of the humanitarian nature of the Unit’s mandate and is expressly enshrined in the regulatory framework governing the Unit.³³ In this context the Constitutional Court has indicated that “as far as the development of the mandate of participation of the victims and their organizations is concerned, it is a matter that cuts across the entire system [comprehensive system of truth, justice, reparation and non-repetition, of which the Special Unit is a part]”.³⁴

139. The Constitutional Court has termed this participation a “right of participation of the victims and the possibility of their collaborating with the Unit’s work”.³⁵ Although participation is optional from the perspective of the family members, the Special Unit has a legal mandate to guarantee it and to provide the support needed to make it effective.³⁶ This mandate, as pointed out by the Constitutional Court, is “broad and general and seeks to ensure the greatest possible involvement of victims, for which purpose the type of activity being carried out and the risks or other elements associated with it must be taken into account”.³⁷

140. The participation of family members in the entire process of searching for persons reported missing is a way of alleviating their suffering, and also constitutes a new paradigm for search: extrajudicial and humanitarian search. Thus, the Constitutional Court has indicated that “the State’s duty to provide the victims of the armed conflict with effective and expeditious assistance and guidance in the search for their family members and other related persons who disappeared in the context of the conflict shall be realized through the [Special Unit]”.³⁸

141. As prescribed by Decree-Law 589 of 2017, the participation of family members is predicated on: (i) the entire search process (i.e., search, location, recovery, identification and reunification or dignified handover);³⁹ (ii) the design, development and implementation of the National and Regional Plans on the Search for Disappeared Persons;⁴⁰ and (iii) the establishment of “guidelines for determining the whereabouts of girls and women reported missing”.⁴¹ With regard to the search process, the Constitutional Court has stipulated that the participation of family members must be effective and covers the process “from the

³² Art. 54 of Decree-Law 589 of 2017.

³³ Transitional art. 3 of Legislative Act 01 of 2017 and art. 5 (2 and 4) of Decree-Law 589 of 2017. See also the Final Peace Agreement, chap. 5.1.1.2, pp. 139 and 141.

³⁴ Judgement C-674/17. Sect. 4.5.2.4 (chap. (iv) of transitional art. 3).

³⁵ Judgement C-067/18, sect. 7.5.5 (vi).

³⁶ Art. 5 (4) of Decree-Law 589 of 2017 and Constitutional Court Judgement C-067/17, sect. 7.5.7 (ii).

³⁷ Judgement C-067/17, sect. 7.5.7 (ii).

³⁸ Judgement C-674/17. Sect. 5.4.1.

³⁹ Art. 5 (4).

⁴⁰ Art. 5 (2).

⁴¹ Art. 4.

possibility of providing input to the design of work methodologies, to being able to assist the teams involved in the identification and dignified handover of bodies”.⁴²

142. In this context, Decree-Law 589 of 2017 empowers the Director General of the Special Unit to “establish protocols for the participation of victims in the activities of the [Unit]; [and] to maintain a constant dialogue with the victims and their organizations”.⁴³ With regard to the protocols for the participation of victims in the Unit’s activities, the Constitutional Court states that this power “is subject precisely to the scope of autonomy and independence of this body [...] [and] it is a broad and general obligation that seeks to ensure the greatest possible involvement of victims”.⁴⁴

143. The Directorate of Participation Techniques, Contact with Victims and Differential Approaches was created as a structural component of the Special Unit. It is responsible for designing and implementing strategies and actions for participation, contact, dialogue and interaction with the victims’ families to ensure informed decision-making and their participation in the search process.⁴⁵ In addition, the Unit’s territorial teams (10 to date) include two officials responsible for providing support and counselling to family members in the search for their loved ones.

144. The Unit also has an Advisory Council, whose members include two representatives from organizations of victims of enforced disappearance, two representatives of selected organizations of kidnapping victims and one representative of civil organizations with forensic-technical expertise.⁴⁶ These representatives are chosen by their organizations.

145. By legal mandate, and given the participatory nature of the search process, the Special Unit regularly informs family members about the progress of the investigation and, at the end of the process, if the person reported missing is found and identified, provides an “official detailed report of the information it has been able to obtain about what happened to the person reported missing”.⁴⁷ Although the Unit is an extrajudicial and humanitarian mechanism, it is important to note that the Constitutional Court has specified that “the provision [by the Unit] of information to family members, once a search plan has been concluded or while it is under way, allows them to exercise their right to know or to learn the truth about the circumstances in which the disappearance occurred, and thus to exercise, if necessary, their rights to justice and reparation”.⁴⁸

146. By legal mandate, in addition to its autonomous and independent capacity to carry out extrajudicial and humanitarian searches (including the power to exhume), the Special Unit is empowered to coordinate search, location, recovery and identification with other entities, as well as to contribute to the implementation of humanitarian searches.⁴⁹ Thus, among other activities, the Unit: (i) has coordinated, in keeping with the independence and autonomy and the extrajudicial and humanitarian nature of its mandate, with the Special Jurisdiction for Peace on the receipt of information related to the search for persons reported missing, particularly in Special Jurisdiction Case Nos. 001 (illegal detention of persons by the FARC-EP), 002 (serious human rights situation of the population of the municipalities of Tumaco, Ricaurte and Barbacoas, Nariño), 006 (victimization of members of the Unión Patriótica) and 007 (recruitment and use of children in the Colombian armed conflict); (ii) participates in the technical round table set up by the trial division of the Special Jurisdiction for Peace for cases involving the non-recognition of truth and responsibility for acts and conduct, in the framework of precautionary measures to protect 34 places where the bodies of possible victims of disappearance are reportedly located, in the departments of Antioquia, Caldas, Cesar, Santander and Sucre.^{50, 51, 52, 53, 54} Pursuant to

⁴² Judgement C-067/18, sect. 7.5.5.

⁴³ Art. 17 (4–5).

⁴⁴ Judgement C-067/17, sect. 7.5.7.

⁴⁵ Art. 14 of Decree 1393 of 2018.

⁴⁶ Art. 21 of Decree-Law 589 of 2017.

⁴⁷ Art. 5 (6) of Decree-Law 589 of 2017.

⁴⁸ Judgement C-067/17.

⁴⁹ Art. 2 of Decree-Law 589 of 2017.

⁵⁰ Municipalities of Medellín, Tarazá, Ituango, Valdivia, Cáceres, Yumaral, Nechí, Peque, Briceño, San Andrés de Cuerquia, Liborina, Sabanalarga, Toledo, Olaya, Buriticá, Betulia and Puerto Berrío.

⁵¹ Municipalities of La Victoria, Riosucio, La Dorada, Samaná and Norcasia.

⁵² Municipality of Aguachica.

Order 01 of 14 September 2018, the Special Jurisdiction asked the Unit for its technical opinion, in keeping with the principle of harmonious collaboration and respect for its autonomy and its extrajudicial and humanitarian nature; (iii) signed an agreement on access to and exchange of information with the Attorney General's Office and created a joint technical working group on cases with a view to optimizing action, avoiding duplication and providing effective responses in relation to searches; and (iv) coordinated with the Institute processes for the identification of persons reported missing. In addition, as of 15 July 2018 the Unit began implementing a pilot project with the Institute for the identification of 2,100 unidentified exhumed bodies in the departments of Nariño and Norte de Santander. Starting in 2020, the project will be extended to other regions and will be aimed at identifying 25,000 unidentified exhumed bodies.

147. By legal mandate, throughout the search process (involving the location, recovery and reunification or handover), the Special Unit must ensure a “territorial, differentiated and gender-sensitive approach, in keeping with the specific characteristics of victims in each region and each population. In particular, it must give priority to protecting and supporting women and children victims of the armed conflict”.⁵⁵ The Unit must “guarantee, when possible, the return to family members of the skeletal remains of persons reported missing in the context of and due to the armed conflict, in all cases ensuring that the return is dignified and taking into account the different ethnic and cultural traditions and the international and national standards in force”.⁵⁶ To that end, the Directorate of Technical Participation, Contact with Victims and Differential Approaches, and the Technical Directorate for Surveying, Recovery and Identification of the Unit are developing protocols on dignified handover.

148. As part of prior consultations, the Special Unit has signed a Protocol of Relations and Coordination with the Indigenous Peoples of Colombia, in which the Unit commits itself to “guaranteeing the participation of indigenous families, communities, peoples and organizations in the processes of investigation, analysis, planning, search, location and reunification with persons reported missing who are found alive; the surveying, recovery and identification of persons found dead; and the culturally relevant and dignified return of their bodies to their families and communities or the symbolic return of their affected ancestral lands in accordance with the parameters established in this protocol”. The Protocol also sets out the procedures for giving effect to this obligation. The Unit is currently holding consultations on establishing protocols with Afro-descendant communities and the Roma people.

Protection of persons who report and/or take part in the investigation of enforced disappearance

149. Taking into account that articles 12 and 18 of the Convention establish the obligation of States to ensure measures for the adequate reporting of enforced disappearances, as well as guarantees for the protection of those involved in processes relating to such disappearances, the National Protection Unit has a programme for human rights defenders in different target populations.

150. Although not all the subjects of protection are complainants, witnesses, defenders or victims of enforced disappearance, it is important to show that all these persons have access to protection measures to prevent violations of their right to personal liberty. Table 17 lists the different populations under protection, including the groups mentioned above, as well as the different protection measures currently in place.

151. However, with regard to the competence of the Attorney General's Office, as the body that institutes criminal action it conducts the respective investigations of those acts that may constitute the commission of a crime against persons who report and/or take part in the investigation of an enforced disappearance.

⁵³ Municipalities of Lebrija, San Vicente de Chucurí and Cimitarra.

⁵⁴ Municipalities of Sincelejo, Corozal, San Marcos and San Onofre.

⁵⁵ Art. 4 of Decree-Law 589 of 2017.

⁵⁶ Art. 5.3.f of Decree-Law 589 of 2017.

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

(Paras. 30 and 32 of the recommendations (CED/C/COL/CO/1))

Communication of persons deprived of liberty

152. With regard to temporary detention or its equivalent in the legal system, the immediate reaction units are considered to be citizen service centres run by the Attorney General's Office, whose purpose is to provide ongoing care and facilitate access to justice through a prosecutor and his or her team. They are thus not places established by law to confine persons who must remain deprived of liberty as a security measure or as a sentence once detention has been formalized. Further information on the work of the Judicial Police is available at <https://www.fiscalia.gov.co/colombia/wp-content/uploads/Manual-de-Policia-Judicial-Actualizado.pdf>, which provides regulatory and functional instructions on how to work with crime reports.

153. Term of 36 hours: Article 12. Article 21 of Act 65 of 1993 is amended to read as follows: "Article 21. Jails and pretrial detention facilities.⁵⁷ Article 21 of Act 1709 of 2014, by adding article 28A to Act 65 of 1993, establishes the possibility of holding persons in immediate reaction units or similar facilities on a temporary basis, since the term may not exceed 36 hours, i.e., the situation of the detained person must be legalized within a period not to exceed that indicated."

154. This time limit was established on the basis of article 28 of the Constitution, since it is the maximum period of time allowed for legalizing an arrest: from this time onwards persons who are arrested or detained must be placed at the disposal of the due process judge or trial judge, in the custody of the National Prisons Institute and in a prison establishment or penitentiary.

155. Act 1095 of 2006, which establishes regulations for article 30 of the Constitution, defines habeas corpus as a fundamental right and sets out the rules for its application.

156. In addition, the Ministry of Justice and Law prepared an infographic presentation on the rationalization of pretrial detention, available at: <https://www.minjusticia.gov.co/Portals/0/4detencionpreventiva.pdf>.

157. The National Prisons Institute, through Resolution 006349 of 19 December 2016, which lays out the general regulations of the prison facilities of the national system, administered by the National Prisons Institute, provided in Chapter I of the regulations for external communications authorized to persons deprived of liberty.

158. The National Prisons Institute, in order to ensure the right of all persons deprived of their liberty to communicate with their family, counsel or other person, has signed contracts with telephone companies to provide this service within prison facilities. At present, 3,335 telephones are installed nationwide, with 100 per cent coverage of the prison facilities run by that Institute. This means that for every 50 persons deprived of their liberty, there is at least one telephone available for external communication.

159. The National Prisons Institute also has a procedure for receiving and sending correspondence for the prison population, PA-DO-P04 Version 4, whose main purpose is to establish and monitor activities for the proper receipt, classification, registration, distribution and delivery of correspondence received and sent by the prison population, both internally and externally through the State postal service.

⁵⁷ Prisons and pretrial detention facilities are establishments with a closed regime of confinement. They are intended exclusively for the care of persons in pretrial detention under article 17 of Act 65 of 1993, who are the responsibility of the territorial authorities. Pretrial detention facilities may be set up in a correctional facility for convicted persons where security reasons so warrant, provided that they are adequately separated from the other sections of the facility and from convicted persons. The territorial authorities, the Attorney General's Office and the High Council of the Judiciary may take the necessary steps to build a judicial complex with a pretrial detention centre annexed to it, and to coordinate everything necessary for the construction and maintenance of these complexes.

160. With regard to access to technical defence, the right of persons deprived of their liberty to meet with their lawyer is guaranteed by allowing the lawyers to enter the prison facilities. They must show their citizenship card and business card in order to enter the premises. In 2008 a module was implemented in the information system for the comprehensive systematization of the prison system in order to register the entry of lawyers.

161. Once lawyers have been registered, the prison officer in charge checks their credentials in the register of the High Council of the Judiciary. The lawyers must then go to the facility's legal area to check that the inmate in question has authorized them to serve as their trusted or court-appointed lawyer. The system then generates an entry form listing the inmates whom the lawyers are authorized to visit, following which the lawyers are admitted to the facility, where, after a fingerprint check, they meet with the inmates in the visiting room.

162. According to the report of the information system, 59,007 lawyers have been registered since the module was first implemented. The entry of staff from the Public Defender's Office is managed in the same way.

Registers of persons deprived of liberty

163. With regard to the registration system for the prison population, the National Prisons Institute has been using the web-based application of the prison system's information system since 2007. It was created, designed and implemented to meet the need for systematizing information on the prison population in the Institute-run prisons.

164. The system gives users real-time access to information on persons deprived of their liberty who are part of the prison system. The Institute's regional and headquarters prison facilities are endowed with the minimum technological infrastructure needed to expedite all inmate data management procedures. The system is a modular one that is constantly being updated to meet new regulatory requirements, functions and procedures related to data processing on the prison population.

165. Since 2007, when the system was first implemented, 617,572 persons have been registered as having been deprived of their liberty, either as inmates or through alternative measures, such as house arrest or electronic monitoring, under the Institute's responsibility, along with persons who are currently deprived of their liberty.

166. The Institute's regional and headquarters prison facilities are endowed with the minimum technological infrastructure needed to expedite all inmate data management procedures. This information system was adopted by the General Directorate as the only system authorized to handle information on the prison population, in accordance with Resolution 3670 of 9 September 2011, which is essential for planning, decision-making and monitoring of prison policies.

167. Data is collected directly from the prison facilities and uploaded into the various modules by prison and jail staff who have been trained in the proper use of the application. In this regard it is important to highlight the provisions of Chapter V of the General Regulations of the prison facilities of the national system, which refer to the information that must be reported when a person who has been deprived of liberty enters a prison (arts. 25–27, 29 and 30).⁵⁸

168. In the case of death while in custody, it is important to report that, once the death of persons deprived of liberty has occurred, the Institute's Judicial Police Units initiate urgent actions to inspect the scene of the crime, conduct autopsies, conduct interviews, capture the perpetrators in cases of flagrante delicto, submit executive reports to the Public Prosecution Service with a crime report number, submit administrative reports to the prison director and turn the body over to the Institute of Forensic Medicine for an autopsy, as called for by Decree 786 of 1990.

169. Likewise, when persons deprived of their liberty die in hospitals as the result of a natural disease, the Judicial Police Units request the support of the Attorney General's

⁵⁸ Resolution 006349 of 19 December 2016.

Office in conducting an autopsy so that a forensic medical necropsy can be performed in accordance with the aforementioned decree.

170. Similarly, there is a procedure for compulsory execution by the Judicial Police Units stationed in each prison facility regarding their transfer to the Institute of Forensic Medicine when events or acts occur that affect or jeopardize the rights of persons deprived of their liberty, such as injuries or cases of possible torture, cruel, inhuman and degrading treatment and sexual violence, situations laid down in Circular 000030 of 9 June 2015.

171. Once the Judicial Police Units in the prison facilities have dealt with the situation, which has criminal implications for those involved, they inform the Attorney General's Office in a timely manner and also advise the prison administration, which is responsible for informing the Central Disciplinary Control Office if the event involves prison officials.

172. Based on the records of the Institute's Judicial Police Group, between 2016 and 2019, Table 18 indicates the deaths that occurred within the prisons. The number of deaths shown in Table 18, totalling 100 per cent, was reported to the Attorney General's Office.

173. In addition, the National Prisons Institute and the Institute of Forensic Medicine signed Inter-Agency Agreement 218 of 22 November 2018, with the aim of: "sharing information between the databases of the National Prisons Institute and the National Institute of Forensic Medicine and Sciences that will make it possible to follow up on the deaths of persons deprived of their liberty while in custody, under house arrest or subject to electronic monitoring and who died while under the Institute's care" in order to create a channel for information exchange via Web Servicio.

174. According to the information registered in the prison information system, between 2016 and 2019 the National Prisons Institute transferred 45,475 persons deprived of their liberty between different prison facilities. All of these transfers were logged in the database once the transfer decision was signed by the Director General of the Institute, and then were consecutively listed, dated and uploaded via the prison information system's WEB phase I application to the "New Transfers – Transfers from Prison Affairs" module. Such uploads are carried out for each inmate awaiting transfer, logging the personal identification number, the number and date of the decision, and the origin, destination and reason for transfer.

175. The director of military detention facilities for the National Army reported that under article 56 of the Penitentiary and Prison Code, all persons are backed up in a national online software application (the prison information system), thereby ensuring the traceability of information on the location of detainees. Likewise, when a person is received at a military detention facility, his or her documents are checked to ensure that they include a statement of the rights of detainees, which allows the person to be in constant touch with his or her family and friends as well as with law enforcement entities.

176. The number of military personnel deprived of their liberty to date in high- and medium-security prisons and penitentiaries for members of the security forces at the national level is 653, as shown in table 19 in the Annex to the Report.

VI. Measures to provide reparation and to protect children against enforced disappearance (arts. 24–25)

(Paras. 34, 36, 38 and 40 of the recommendations (CED/C/COL/CO/1))

National Centre for Historical Memory

177. The mission of the National Centre for Historical Memory is to contribute to the reconstruction of the national historical memory through the realization of the right to truth and full reparation and to guarantees of non-repetition.⁵⁹ Its work is grounded in a legal

⁵⁹ The National Centre of Historical Memory is a national public body created by Act 1448 of 2011 (Victims and Land Restitution Act) whose objective is to receive, recover, preserve, compile and analyse all documentary material, oral testimony and other depictions of the violations that occurred during the Colombian internal armed conflict, through research, museum activities, educational and

mandate based on the large number of narratives and the diversity of narratives, recognizing the right to truth of victims and society as a whole, as well as the State's duty of remembrance with regard to the violations that occurred during the Colombian armed conflict. In this context it is important to report on the work done on enforced disappearance by each of the Centre's directorates and teams.

178. Directorate of the Museum of Historical Memory: The first exhibition of the Museum of Historical Memory of Colombia, "Voices to transform Colombia", was tested in 2018 and presented at the Bogotá Book Fair and the Book and Culture Festival in Medellín. In this exhibition, the crime of enforced disappearance was represented in the following ways: (i) in a multimedia presentation showing the bodies of murdered people being thrown into the river in Magdalena Medio, so that their relatives would be unable to find them; (ii) in a depiction of the life stories of victims of enforced disappearance, including the Embera Katío leader, Kimy Pernía; the priest of Trujillo (Valle del Cauca), Tiberio Fernández Mafla; Fair Leonardo Porras, victim of false positives in Soacha (Cundinamarca); Carlos Horacio Urán, a magistrate who left the Palace of Justice alive; and the citizen Jesús Antonio Pipicano Mosquera, from Puerto Torres (Caquetá); (iii) in a presentation of the case of La Escombrera in Medellín, one of the largest mass graves in Latin America, where thousands of bodies of persons reported missing will presumably be found.

179. The Museum Directorate has also supported workshops and commemorations relating to this crime: the "commemorative day for the dignity of victims of enforced disappearance" was held in the department of Meta in 2015. The World Day to Combat Detention and Enforced Disappearance was commemorated, and in the city of Bogotá in 2016 the Directorate supported the commemoration of the International Day against Enforced Disappearance – Cuerpos Gramaticales 2016 on the premises of the Museum of Historical Memory of Colombia.

180. The Directorate for the Construction of Historical Memory is responsible for coordinating the investigations through which the Centre reconstructs the history of the armed conflict and places particular emphasis on the experience of the victimized population, in this case the victims of enforced disappearance. Investigations have been conducted on the following subjects: (i) practices and dimensions of enforced disappearance in Colombia; (ii) traces and faces of the enforced disappearance of persons in Colombia 1970-2010; (iii) between uncertainty and pain: psychosocial impacts of enforced disappearance; (iv) assessment of actions taken by the Colombian State in response to the enforced disappearance of persons; (v) Embodying testimony of cruelty: historical memory and forensic anthropology; (vi) Caquetá: A highway through enforced disappearance; (vii) Buenaventura: A port without a community; and (viii) until we find them: the drama of enforced disappearance in Colombia. A website exists that is devoted specifically to enforced disappearance: <http://www.centrodememoriahistorica.gov.co/micrositios/desaparicionForzada/>.

181. Reparations Strategy: This working group of the Centre is in charge of assisting with symbolic reparation procedures for victims, in this case victims of enforced disappearance, either as part of administrative procedures (comprehensive collective reparation plans) or judicial proceedings (sentences of the ordinary courts, sentences on land restitution and sentences on justice and peace). In keeping with the legal framework, the following activities have been carried out on enforced disappearance: (i) judgement of the Council of State on the case of Luis Fernando Lalinde, who was extrajudicially executed and disappeared by the National Army: the Centre produced a documentary (Operation Cirirí: Persistent, Insistent and Uncomfortable, <http://www.centrodememoriahistorica.gov.co/de/noticias/noticias-cmh/operacion-ciriri-persistente-insistente-e-incomoda>); and (ii) as part of the comprehensive collective reparation plan of Nueva Venecia and Buenavista in Magdalena, the Centre mounted a photo exhibition, "Skimming memory".

182. The Directorate for Truth Agreements is in charge of the non-judicial mechanism for contributing to historical truth, a transitional instrument for applying principles of truth, justice and reparation created by Act 1424 of 2011 (declared enforceable by Constitutional Court Judgement C-771 of 2011), which aims to collect, systematize and preserve

related activities that help to establish and shed light on the causes of the events, uncover the truth and help prevent future repetition of the acts (Decree 4803 of 2011, art. 2).

information arising from the agreements to promote historical truth and reparation, and to produce the appropriate reports.

183. Under resolution 062 of 14 March 2016 of the Centre, which establishes the criteria and procedures of the non-judicial mechanism for contributing to truth, the procedures include conducting interviews with the signatories of the Truth Agreements (art. 2 (3)), and these interviews will be used as input to the reports (art. 3). Furthermore, as indicated in Judgement C-771 of 2011, the Directorate for Agreements must collect, systematize and preserve information on voluntary contributions, i.e. contributions made by individuals, institutions or groups interested in helping to shed light on paramilitary groups.

184. Based on the information compiled by the non-judicial mechanism for contributing to truth, the signatories' views of the activities of the armed groups are being sought, more specifically by announcing that "I am going to read you a list, based on investigations, of the actions most frequently carried out by paramilitary groups in the country". Questions are then asked about such acts as: selective homicide, forced displacements, land dispossession, sexual violence, torture, kidnapping, massacres, personal injuries and enforced disappearance. From this list, the interviewee chooses the three acts that, in his or her opinion, were most frequently committed by the group to which he or she belonged for the most time. Enforced disappearance is the fourth most frequently cited act, mentioned by 12 per cent of the interviewees.

185. The Directorate has also produced several reports containing findings on the historical memory concerning paramilitary groups and on specific aspects of this phenomenon, based on contributions from members of the demobilized population who signed the Agreements, voluntary contributions and consultations of existing sources of information. In these reports, enforced disappearance has been shown to be an instrument of violence for armed paramilitary groups.

186. The Directorate of Human Rights Archives is responsible for compiling historical memory of the conflict in order to realize the rights of victims to truth, justice and reparation. Its mandate is to compile documentation on human rights violations that occurred during the internal armed conflict, as well as oral, written and other types of testimonies in order to create an archive of human rights and historical memory.

187. The Directorate's Special Register of Human Rights Archives contains 1,347 records pertaining to enforced disappearance. It also contains collections that deal with issues relating to enforced disappearance, such as: (i) Fabiola Lalinde de Lalinde (Operation Cirirí); (ii) Association of Relatives of Victims of the Trujillo Violence; and (iii) Mario de Jesús Agudelo Vásquez.

188. Memory and Conflict Observatory: This is the most complete information system on the Colombian armed conflict. It documents 11 acts of violence committed during the armed conflict, which took place between 1958 and 15 September 2018. Through its 592 sources and 10,236 databases and documents, the Observatory contributes to historical clarification and recognition of the variety of memories. It documents the circumstances of manner, time and place of the events, the perpetrators and the victims of the armed conflict, based on one central question: Who did what to whom, when, where and how? This makes it possible to filter the specific information on the crime of enforced disappearance: <http://centrodememoriahistorica.gov.co/observatory/>.

189. Cross-cutting approaches: Gender-differentiated approach: The work undertaken with this approach aims to incorporate the gender approach into the processes of historical memory that highlight the differentiated impacts suffered by women and LGBTI groups during the war. Based on this approach, three reports have been produced about enforced disappearance in these segments of the population: (i) women and war, http://www.centrodememoriahistorica.gov.co/descargas/informes2011/Informe_mujeresyguerra.pdf; (ii) the war as experienced by the body: national report on sexual violence, http://www.centrodememoriahistorica.gov.co/descargas/informes-accesibles/guerra-inscrita-en-el-cuerpo_accesible.pdf; and (iii) annihilate the difference: Report on the LGBTI population, <http://www.centrodememoriahistorica.gov.co/descargas/informes2015/aniquilar-la-diferencia/aniquilar-la-diferencia.pdf>.

190. Differentiated approach to older people: This approach focuses on including older people in work on historical memory. Thus, the publication “Ojalá nos alcance la vida” (Let’s hope we live long enough) lends visibility to stories from older people about their families or communities who have been disappeared.

191. Differentiated approach to disability: This approach takes specific actions to ensure the effective participation of victims with disabilities by means of different methodological and conceptual approaches. Based on this approach, support has been given to processes involving social organizations (Mothers of False Positives of Soacha and Bogotá, MOVICE and Sewing for Memory), in which several people who participated in commemorations and historical memory processes shared their testimony about enforced disappearance.

192. The express request of Luz Marina Bernal (Soacha’s mother) to draw attention to the case of her son Fair Leonardo Porras, who had cognitive disabilities and who was disappeared and then presented as a guerrilla killed in combat, was honoured. This differentiated approach to disability has made evident the relationship between disability and the profile of victims of enforced disappearance.

193. Pedagogy team: Its mandate is to promote the conditions and guarantees for different social and institutional sectors to advance autonomously in exercises to reconstruct historical memory. It also helps to create guarantees for the non-repetition of the events of the armed conflict, contributing to three specific tasks: (i) devising a social pedagogy that takes into account the events that occurred in the framework of the armed conflict and that, on the basis of this historical recognition, promotes the values and the charter of rights enshrined in the Constitution; (ii) drafting a central training and teaching strategy on respect for human rights and international humanitarian law, including a differentiated approach, for law enforcement officers and members of the security forces: the strategy will include a policy of zero tolerance for sexual violence in State entities; and (iii) promoting mechanisms for preventing and resolving social conflicts through democratic means.

194. The team developed a methodological tool, “Toolbox: A Journey through Historical Memory. Learning Peace and Unlearning War” (<http://www.centrodehistoriahistorica.gov.co/micrositios/un-viaje-por-la-memoria-historica/index.html>), which fosters a debate in the classroom on the historical memory of the Colombian armed conflict, from a pluralistic, rigorous, non-dogmatic perspective, with a differentiated and do-no-harm approach.

195. The tool includes some sessions that focus on, or touch on, the issue of enforced disappearance. These are sessions 5.6 and 5.7, and to a lesser extent 5.5: the booklet on “Damage: analysis of the impacts of the Colombian armed conflict”, and the sessions on enforced disappearance. The objective of sessions 5.6 and 5.7 is to recognize that the damage that occurred during the armed conflict is related to the repertoire and modalities of violence used. This is achieved by looking at the crimes of kidnapping and enforced disappearance. Session 5.6 focuses on kidnapping and session 5.7 on enforced disappearance.

196. All of these efforts represent a major contribution, not only to reconstructing the historical memory about the enforced disappearances that took place during the armed conflict in Colombia or to shedding light on this crime, but also to recognizing the victims and enhancing their dignity. While the Centre’s work is focused specifically on the crime, it also highlights the struggles and resistance of the victims of the armed conflict.

Right to obtain reparation and prompt, fair and adequate compensation

197. As of 1 June 2019, a total of 47,712 disappeared victims and 124,859 indirect victims of enforced disappearance have been included in the Central Register of Victims, for whom the compensation received through administrative channels represents, as of 1 May 2019, a total of 11,076 transfers made during the period from 1 January 2014 to 31

May 2019.⁶⁰ It should also be noted that the amounts and recipients of compensation were determined by virtue of the concurrent application of article 15 of Act 418 of 1997, article 5 of Decree 1290 of 2008 and articles 2.2.7.3.4. and 2.2.7.3.5. of Decree 1084 of 2015.

198. Thus, and as previously discussed, the balance sheet for the compensation year is presented in Tables 20, 21 and 22, broken down by: (i) historical perspective, (ii) departments and (iii) regulatory framework. Table 20 provides, by period of validity, information on the administrative compensation awarded by the Victims Unit during the period between 2014 and 2019 as reparation for the crime of enforced disappearance, which amounted to \$87,441,686,935. Table 21 also includes information on the compensation year put forward by the Victims Unit, by department, during the period in question.⁶¹ Table 22 disaggregates, by current regulatory framework, the figures that were previously listed under financial compensation.

Legal situation of disappeared persons whose fate, and that of their relatives, has not been clarified

199. The 2019 Judicial Branch Training Plan for the Rodrigo Lara Bonilla Judicial Academy of the High Council of the Judiciary includes training for judicial employees on how to make a declaration of absence by reason of enforced disappearance.

200. As stated in the reply contained in paragraph 88 of this report, the Investigative Commission has run 10 training sessions for public officials and family members (leaders) from different parts of the country, which included the topic of asset management in order to disseminate the provisions of Act 1531 of 2012 and Act 986 of 2005. This training was prepared for the Investigative Commission by representatives of the Ministry of Defence.

201. The Commission also prepared a booklet on disappeared persons' asset management, which contains all the regulations involving the legal benefits for these cases and is available at the Investigative Commission/Publications webpage or from the following URL: http://www.comisiondebusqueda.gov.co/images/PDF/CARTILLAS2012/e_administracion_de_bienes.pdf.

202. Since the issuance of Act 1531 of 2012, the Directorate for Transitional Justice of the Attorney General's Office, as a participant in the Committee on Enforced Disappearances, welcomed the initiative to disseminate this booklet to its employees, particularly to prosecutors, assistants and investigators handling the victims of enforced disappearance.

203. In addition, training sessions were held to ensure full implementation of the Act, highlighting the importance of acquainting the families of disappeared persons with its existence and emphasizing that whether or not they applied to the judges for a "declaration of absence" for the families, the search for victims would continue indefinitely.

204. A chapter on the scope and nature of the Absence Act was agreed upon with ICRC as part of the training courses to be held between 2012 and 2014. These sessions were attended inter alia by relatives of disappeared persons, non-governmental organizations, prosecutors, assistants and investigators from GRUBE, human rights, the District Directorates of the Attorney General's Office and GAULA, as well as military criminal court judges.

⁶⁰ The Central Register of Victims is a system created to identify the population that was victimized during the internal armed conflict and that benefited from the reparation mechanisms established under Act 1448 of 2011. Its purview does not allow it to be described as a registry system for disappeared persons, given its nature and normative scope. As a result, the information available in the system constitutes an input for verification to document the cases that, once they have been entered into the Register, become part of the inter-agency search process established under Act 589 of 2000.

⁶¹ It should also be noted that the section *NO INFORMATION* corresponds to amounts that were paid out as trusts for children and adolescent minors, pursuant to article 185 of Act 1448 of 2011, or amounts that were deposited directly into national bank accounts; both situations prevent the compensation year from being geographically associated with a branch of Banco Agrario.

205. At present, the Directorate for Transitional Justice, through GRUBE, continues to explain all matters pertaining to the objective, validity and application of Act 1531 of 2012 to the families of victims of enforced disappearance who go to judicial offices or participate in the victims' assistance days.

206. In accordance with article 5. Procedure of Act 1531 of 2012: Upon receipt of the request for a Declaration of Absence by reason of Enforced Disappearance and other forms of involuntary disappearance, the Judge shall request the Attorney General's Office or the Public Legal Service to hear the report or complaint, in order to verify its submission, and shall order its registration in the Disappeared Persons and Recovered Bodies Information Network as well as its publication in a widely circulated national newspaper.

207. The Special Unit has no legal mandate in relation to the action of declaration of absence by reason of enforced disappearance and other forms of involuntary disappearance, established under Act 1531 of 2012, nor in relation to any other mechanism of similar scope, such as Act 986 of 2005. However, within the framework of its mandate and attributions, through the Directorate of Participation Techniques, Contact with Victims and Differentiated Approaches, as well as its territorial teams, the Unit provides guidance to family members on the entities, legal actions and roadmaps for the protection of their rights.

Protection of children from enforced disappearance

208. The Institute of Forensic Medicine has been participating in inter-agency activities to ensure that children and adolescents who are reported missing, abducted or kidnapped are sought and located as a matter of priority and that the urgent search mechanism is activated and the location of missing, abducted or kidnapped children and adolescents is secured.

209. In 2018, the Colombian Family Welfare Institute and the Attorney General's Office began organizing the State's response to the disappearance of children and adolescents. To that end, a territorial assessment was conducted nationally in six representative areas (Bogotá, Ibagué, Santa Marta, Cúcuta, Pasto and the coffee-growing zone), which identified the barriers, practices and notions that State actors have about the disappearance and immediate search for children and adolescents.

210. Similarly, for that year (2018) an intersectoral technical round table was set up to review the aspects identified. Noteworthy among them were the intersectoral review of the internal protocols conducted by each entity in their search for children and adolescents, and the review of the Information Network of the Institute of Forensic Medicine in order to draw attention to missing persons under 18 years of age and to the need to build an intersectoral roadmap for the timely rescue of children and adolescents.
