

Draft

Guidance for national mechanisms for missing and disappeared persons on the coordination between the search and criminal investigations

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Note: This draft guidance note is a work in progress and subject to change. It does not necessarily reflect the views of the authors or the ICRC

## Abstract

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## 1 Terminology

Investigations into missing or disappeared persons can consist of a search and/or a criminal investigation. Persons go missing or disappear for any of the following reasons:

- They became victims of the enforced disappearance or other conduct identified as crimes in domestic and international law
- They went missing as a consequence of conduct which is permitted under international humanitarian law (e.g. a soldier was killed by the opposing party in combat and never identified)
- They went missing as a consequence of natural disasters or accidents (e.g. landslides, tsunamis).

A search process serves a so-called humanitarian objective, if it aims to provide individualized answers on the fate and whereabouts of missing persons and inform their families accordingly to reunite the disappeared with their family or return the remains to their loved ones, which is often fundamental to help them find closure. The fate refers to the situation of the missing person, whether they are alive or dead and what circumstances lead to their disappearance. The whereabouts of a missing person concerns the person's location, journey and circumstances that led to their fate<sup>1</sup>.

Criminal investigations seek to establish whether any crimes occurred immediately prior, during or after the person went missing (for example the crime of enforced disappearance, hostage taking, kidnapping or extrajudicial execution) and if so, to investigate and, if appropriate, prosecute the alleged perpetrators.

While the issue of coordination between search and criminal investigations is relevant in practice for the first two categories, it is less so for the third (except in relation to state responsibility regarding the duty to protect people from natural disasters).

While the ICRC and other international and domestic humanitarian actors use the term "missing persons" as an umbrella term, emphasizing that it includes all case constellations including persons whose whereabouts are unknown due to a criminal offence, some members of the human rights community are critical of this term because they fear that it is used to relativize the politically sensitive fact that many persons go missing as a consequence of a criminal offence for which accountability is needed. As a consequence of this dilemma, the Committee on Enforced Disappearances, when drafting the Guiding Principles on the Search, coined the term "disappeared persons" in 2019 as an umbrella term.<sup>2</sup> As this Guidance Notes is particularly relevant with view to cases where a criminal offence may have caused the disappearance, the terms "missing and disappeared persons" are used interchangeably in this document.

## 2 Search and criminal investigations as key pieces of a holistic approach

Both the search and criminal investigation are essential to respond to the basic needs and rights of the disappeared and their families relating to the return of the remains of the disappeared or reunification if the victim is alive, search, justice and truth; and to comply with domestic and international law. In addition, dealing with a legacy of armed conflict or other situations of violence that resulted in persons going missing, often as a consequence of serious violations of international humanitarian law (IHL) in situations of armed conflict and gross human rights violations, in a comprehensive and inclusive manner is considered to be an essential basis to develop sustainable peace.<sup>3</sup> Therefore, coordination<sup>4</sup> between

<sup>1</sup> Mercedes Salado Puerto, Denise Abboud, Jose Pablo Baraybar, Angel Carracedo, Stephen Fonseca, William Goodwin, Pierre Guyomarc'h, Alejandra Jimenez, Udo Krenzer, Maria Dolores Morcillo Mendez, Jose Luis Prieto, Jacqueline Rodriguez Gonzalez, Yarimar Ruiz Orozco, Jane Taylor, Ajith Tennakoon, Kristy Winter, Oran Finegan, "The search process: Integrating the investigation and identification of missing and unidentified persons," *Forensic Science International: Synergy*, Volume 3, 2021, p.2.

<sup>2</sup> <https://www.ohchr.org/EN/HRBodies/CED/Pages/Guiding-Principles.aspx>.

<sup>3</sup> A conceptual Framework for Dealing with the Past, swisspeace Essential, p. 5, Joinet Principles\*\*\*\*; <https://www.swisspeace.ch/assets/publications/downloads/Essentials/7bdf926517/A-Conceptual-Framework-for-Dealing-with-the-Past-Essential-16-swisspeace.pdf> (10.01.2022); more references \*\*\*.

<sup>4</sup> In this guidance note, coordination between the search and criminal investigation is understood as **processes of interaction and exchange** between different actors, institutions and mechanisms involved in the search and criminal investigations concerning

the search and criminal investigations is essential to address the issue in a comprehensive way, to guarantee that the search and criminal investigations do not replace or impede one another, and to ensure the effectiveness of both processes.

In international law, the search and criminal investigations have complementary aims: It contains obligations relevant to the search for missing persons and to establishing their fate and whereabouts, the return of the remains, as well as to investigate and prosecute serious violations of IHL and/or gross violations of international human rights law (IHRL) leading to persons going missing as an ordinary crime and/or as an international crime.<sup>5</sup> These obligations include the right of families to justice and to know what happened to their loved one.<sup>6</sup> Where a missing person has deceased, there are obligations related to identifying and returning remains as well as on their burial, including for families to be able to access the remains, mourn and bury their missing loved one according to their cultural and religious traditions.<sup>7</sup> Where a crime has occurred in connection with a missing person, families have a right to justice and the state has a responsibility to ensure that the criminal law is enforced, and alleged perpetrators are brought to justice.<sup>8</sup> Families further have rights to participate in the search, which can be hampered if the respective institutions do not work in a coordinated manner.<sup>9</sup> Going beyond the individual rights of the disappeared and their families, also the respective community or society has a collective right to know what led to people going missing and that similar events are prevented from happening in the future.<sup>10</sup>

In practice, the establishment of a specific mechanism is the result of negotiations among political actors. The creation of such a mechanism is often attributed to the fact that existing law enforcement institutions do not have the capacity or political will<sup>11</sup> to deal with the large volume/ or complexity of cases and the need to fulfill both the right to justice and the right to know of families (who in cases of enforced disappearances are recognized as victims of enforced disappearance) and society as a whole. Therefore, as a result of the given institutional landscape and political process, based on the given legal context at a given moment in time, new mechanisms are designed with specific mandates. While some institutions have mandates that focus on the search (e.g. Unit for the Search for Persons Presumed Disappeared in Colombia, National Search Commission in Mexico, Committee on Missing Persons in Cyprus, General Directorate for the Search of Missing Persons in Peru) others focus on the criminal investigation (e.g.

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disappeared persons. According to Merriam-Webster, coordination means (i.a.) “the process of organizing people or groups so that they work together properly and well” or “the process of causing things to be the same or to go together well” (<https://www.merriam-webster.com/dictionary/coordination>) (04.01.2021).

<sup>5</sup> IHL, which applies in armed conflicts, notably requires parties to the conflict to take all feasible measures to account for persons reported missing as a result of the armed conflict and to provide their family members with any information they have on their fate. It also requires that they record all available information before disposing of the dead and mark the location of the graves, with a view to identification, as well as to endeavor to facilitate the return of human remains. The International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) requires that States parties take appropriate measures to uphold the victims’ right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person. Beyond this, human rights treaties have been interpreted by United Nations treaty bodies and regional courts as giving rise to obligations relevant to missing persons, including on clarifying their fate and whereabouts, as well as requiring States to comply with certain obligations relating to the dead and the rights of their relatives. Based on the right to an effective remedy and the obligation of public authorities to carry out an effective investigation into the circumstances surrounding a disappearance or other gross violations of human rights, human rights bodies and regional courts have also recognized a right to the truth.

<sup>6</sup> See, for instance, Article 24.2 and 3 ICCPED. Under IHL, see Additional Protocol I, Article 32 and Henckaerts/Doswald-Beck (eds), ICRC Study on Customary International Humanitarian Law, Vol. I, Rule 117 (obligation to account for missing persons), p. 421.

<sup>7</sup> See, for instance, Articles 15 and 24.3 ICCPED. IHL also contains relevant obligations related to the dead, see for instance: Henckaerts/Doswald-Beck (eds), ICRC Study on Customary International Humanitarian Law, Vol. I, Rule 112 (search for and collection of the dead), p. 406; Rule 114 (return of the personal effects and remains of the dead, p.411; Rule 115 (disposal of the dead), p. 414; and Rule 116 (accounting for the dead), p. 417.

<sup>8</sup> See, for instance, Article 7 ICCPED. Under IHL, States have an obligation to investigate serious violations of IHL (or in other words war crimes) and, if appropriate, prosecute the suspects: see, for instance, Henckaerts/Doswald-Beck (eds), ICRC Study on Customary International Humanitarian Law, Vol. I, Rule 158, p. 607.

<sup>9</sup> Principle 5 of the CED Guiding Principles on the Search for Disappeared Persons; \*\*\*, \*\*\*.

<sup>10</sup> See, for instance, Principle 2. The Inalienable Right to the Truth, Report of the independent expert to update the Set of principles to combat impunity, Diane Orentlicher. For more information on the four pillars of a holistic approach to Dealing with the Past (or Transitional Justice), beyond disappeared persons, see swisspeace, “Essential: A Conceptual Framework for Dealing with the Past” (<https://www.swisspeace.ch/assets/publications/downloads/Essentials/7bdf926517/A-Conceptual-Framework-for-Dealing-with-the-Past-Essential-16-swisspeace.pdf>), (04.01.2022). IActHR case law?\*\*\*;

<sup>11</sup> See also Guidance Note 4 Assessing the Political Context, Building and Ensuring Political Will.

most Prosecutorial institutions, Colombia's Special Jurisdiction for Peace), while other new institutions seek at varying degrees to contribute to both objectives (e.g. Office on Missing Persons in Sri Lanka, the goal of which is the search. However, it also has the authority to coordinate with law enforcement).

### 3 Issue

Despite the complementarity of the aims and the fact that international law prescribes that all actors need to be committed to a logic that ensures that both objectives are met, coordination among the different actors involved in search or criminal investigations can be difficult in practice.

The key reason lies in the fact that both processes look for similar information to comply with their respective mandates: Criminal investigations and the search pursue the same or at least similar type of information (e.g. information from family members, police records and forensic information) and exercise similar investigative powers (e.g. concerning investigation of human remains, access to private and public records). If not integrated or coordinated, they may monopolize information or compete for access and custody of information and impede one another. This is particularly relevant when it comes to the investigation of human remains and gravesites, since they can only be done once and usually only one institution or mechanism has the mandate for this kind of activities. Family members, witnesses etc. can in theory be interviewed several times by different institutions or mechanisms. However, interviewees can be re-victimized if they are requested to provide similar information numerous times and to multiple actors which do not coordinate properly.

Lack of coordination thus results in unacceptable delays in establishing the fate and whereabouts of the disappeared and in the pursuit of justice (e.g., if relevant information is not shared between the actors, if relevant information for the search is not gathered by default by criminal investigations and vice versa, if the potential threat of criminal investigations causes witnesses to go silent or if relevant information is being destroyed unknowingly). It also leads to an inappropriate use of limited resources. A successful coordination must thus effectively acknowledge the relationship between the search and criminal investigations and perceive them as parts of the same, broader and potentially longer-term process.

Where a new humanitarian search mechanism (hereinafter search mechanism)<sup>12</sup> is created, or an existing institution starts new procedures in this regard, potential tensions and conflicts between the search and criminal investigations concerning disappeared persons need to be prevented and addressed from the outset.<sup>13</sup> This document provides elements on how to anticipate these different but complementary aims in a coordinated manner, bearing in mind that there is no one-size-fits-all solution, and that coordination practices must be context specific. Effective interactions and exchanges between institutions depend on the domestic context, including institutional landscape and capacities, legal procedures, geography and resources.

## 4 Factors that can make coordination difficult and considerations to address them

This chapter identifies key factors which can have an impact for coordination. In order to illustrate the complex questions, examples from different domestic contexts are provided, which show how the complexities have been dealt with in these contexts. These examples are intended to be illustrative, and not indicative of good practices.

### 4.1 Different institutional set-ups and sequencing

In many countries, one and the same institution is responsible for the search and criminal investigations (law enforcement authorities). In other contexts, two or more institutions are responsible for the two objectives, namely when a search mechanism is created.

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<sup>12</sup> For the purpose of this guidance note, the term "search mechanism" refers to all national institutions, commissions and other bodies, and processes, that serve a so-called humanitarian objective.

<sup>13</sup> Certain considerations mentioned can also be relevant if one and the same institution is responsible to pursue both objectives.

In practice, we usually encounter a mix between these two scenarios: For example, where a search mechanism is created, its mandate usually only covers specific caseloads and coordination is oriented by the fact that two institutions carry out the search and criminal investigations simultaneously or sequenced on these cases. Regarding cases which are not included in the search mechanism's mandate, search and criminal investigations take place within the prosecuting authorities (e.g. Colombia). In addition, in any institutional set-up, the sequence of the search and criminal investigations bring more challenges for coordination: In most contexts, the same institution was responsible for both the search and the criminal investigation before setting up a new search mechanism, and often tended to prioritize either. In some contexts, prevailing amnesty laws or political constraints prevented criminal investigations from advancing, and only permitted search activities to take place. However, over time, amnesty laws were annulled and political space opened for criminal investigations to be carried out. The following questions will have an impact on coordination and need to be addressed in a given context:

- Are there cases already being investigated and with what objective? What institution(s) has been in charge? Do the activities overlap?
- Which cases will be covered by the search mechanism?
- How will the potential overlaps with cases which are already under investigation be solved?

**Elements to be considered to enhance coordination:**

- If a new search mechanism is created, it should have access to relevant information from previous criminal investigations or search activities.
- If the search mechanism carries out or concludes its work before a criminal investigation commences, due process should be ensured to not hinder the work of future criminal investigations (e.g., gather relevant information for potential future criminal investigations, include indications in its mandate or the national legal and policy framework what happens to the information after its end and/or under what conditions law enforcement authorities or other institutions and actors will gain access) (see also chapters 4.2 and 4.3).
- If criminal investigations may take place at a later stage while the search mechanism still carries out its work (search and criminal investigations being carried out concurrently), put procedures in place to ensure timely coordination of information and activities (see also chapters 4.2 and 4.3).
- Even if amnesty laws or political realities prevent criminal investigations from moving forward at the time of the establishment of the new search mechanism, ensure that there is a minimal scope of coordination and exchange of the search mechanism with authorities in charge of criminal investigations (e.g. exchange mutual information about human remains or unidentified bodies, duty to report potential crimes).

**Mexico**

Before the General Law on Enforced Disappearance of Persons, Disappearance Perpetrated by Private Individuals and the National Search System (*Ley General en Materia de Desaparición Forzada de Personas, Desaparición Cometida por Particulares y del Sistema Nacional de Búsqueda de Personas*) entered into force in 2018, the prosecutors' offices were in charge of both, criminal investigations and searches for disappeared persons.<sup>14</sup>

Based on the *General Law on Enforced Disappearance of Persons, Disappearance Perpetrated by Private Individuals and the National Search System*, which entered into force in 2018, search and criminal investigation concerning disappeared persons were entrusted to different institutions, and, among others, the National Search Commission (CNB) and state search commissions were created. The main obligation of the National Search Commission, a decentralized branch of the Ministry of the Interior, is to carry out and/or coordinate, together with the various federal and state authorities, search activities in order clarify the fate or whereabouts of missing persons. The National Search Commission has a temporarily indefinite mandate and is required by law to search

<sup>14</sup> Coralli, Ana Srovin. "Coordination between the Search and Criminal Investigations Concerning Disappeared Persons. Case studies on Bosnia and Herzegovina and Mexico." swisspeace, June 2021. <https://www.swisspeace.ch/assets/publications/downloads/Reports/Coordination-between-the-search-and-criminal-investigations-concerning-disappeared-persons.pdf>.

for all disappeared persons, past, present and future, as long as she or he falls within the definition of “disappeared”.<sup>15</sup>

### **Colombia**

Before the establishment of the Unit for the Search for Persons Presumed Disappeared and the Special Jurisdiction for Peace in 2017, the Prosecutors Office was responsible for both, search and criminal investigations. To fulfill this task, a separate section responsible for the search was created within the Prosecutors Office.

Based on the Peace Agreement signed in 2016 between the Colombian Government and the FARC-EP, new measures have been implemented in Colombia. Specifically, in 2017 the Comprehensive System of Truth, Justice, Reparation and Non-Repetition (SIVJNR for its Spanish acronym) was established. Three mechanisms make up the SIVJNR: Special Jurisdiction for Peace (JEP for its Spanish acronym), the Unit for the Search for Persons Presumed Disappeared (UBPD for its Spanish acronym), and the Truth, Coexistence and Non-Repetition Commission. The UBPD and the JEP have specific mandates regarding the search or criminal investigations concerning disappeared person.

The UBPD is a humanitarian and extrajudicial authority that leads, coordinates and contributes to the search for persons reported missing until 1 December 2016 in the context of the armed conflict (no official start date). In cases of death, and where possible, it recovers, identifies, and returns the bodies. The UBPD has a mandate of twenty years, extendable by law.<sup>16</sup>

The Special Jurisdiction for Peace (JEP) is the justice component of the SIVJNR. It has the task of investigating, clarifying, judging, and punishing the most serious crimes that were committed in Colombia until 1 December 2016 during more than 50 years of armed conflict. Crimes committed after that date fall under the jurisdiction of the ordinary justice system. The JEP focus on the most serious and representative crimes of the armed conflict (including enforced disappearances), in accordance with the selection and prioritization criteria defined by the law and the judges. The JEP may try crimes committed by former FARC-EP combatants, members of the security forces, other agents of the State and civilian third parties. The existence of the JEP may not exceed 20 years.<sup>17</sup>

In addition to these extraordinary mechanisms, ordinary state institutions are involved in the search and/or criminal investigations processes, such as the Attorney General's Office, the National Forensics Institute, and the National Police.

### **Sri Lanka**

In Sri Lanka a handful of cases involving missing and disappeared persons have been prosecuted before the establishment of the Office on Missing Persons (OMP); however, in such cases the missing and disappeared persons have not been identified nor have their remains been returned to the families. For example, several perpetrators were convicted before the Ratnapura High Court in the Embilipitya abduction and murder case; however, the remains of the victims were not identified and returned to the families.

The OMP established under the Office on Missing Persons (Establishment, Administration and Discharge of Functions) Act, No. 14 of 2016 (OMP Act), has a mandate as per section 10(1) to search for and trace missing persons; make recommendations to state authorities towards addressing the incidence of missing persons; protect the rights and interests of missing persons and their relatives; identify avenues of redress to which missing persons and their relatives are entitled; and collate data related to missing persons. As per section 27 of the OMP Act, the OMP's mandate extends to persons who went missing or disappeared in connection with the conflict, political unrest or civil disturbances or as an enforced disappearance; and personnel of the armed forces or police who have been identified as missing in action.

Criminal or civil liability cannot arise from the findings of the OMP (Section 13(2)). The OMP is also not bound by the Evidence Ordinance and it can admit evidence that might be inadmissible in civil or criminal proceedings (Section 12(c)(iii))

The responsibility for carrying out criminal investigations lies with the Police under the supervision of Magistrates Courts (see Code of Criminal Procedure Act, 1979, Chapter V), and prosecutions are carried out by the Attorney-General's Department before the High Court (see Judicature Act 1979, Section 9).

<sup>15</sup> “¿Qué es la Comisión Nacional de Búsqueda? – Comisión Nacional de Búsqueda.” Accessed April 13, 2022.

<https://comisionnacionaldebusqueda.com/que-es-la-comision-nacional-de-busqueda/>.

<sup>16</sup> “Acerca de La UBPD – UBPD.” Accessed April 13, 2022. <https://ubpdbusquedadesaparecidos.co/acerca-de-la-ubpd/>.

<sup>17</sup> “Jurisdicción Especial para la Paz.” Accessed April 13, 2022. <https://www.jep.gov.co:443/JEP/Paginas/Jurisdiccion-Especial-para-la-Paz.aspx>; Jurisdicción Especial para la Paz. “Conozca la JEP”. <https://www.jep.gov.co/Infografas/conozcalajep.pdf>.



The OMP can refer an offence to a law enforcement authority for criminal investigation. In doing so the OMP can consult relatives, consider the best interests of the victims, relatives, and society. A report forwarded by the OMP “will include information relating to the missing person’s civil status (name, age, gender of the missing person, places or districts where the missing person was last seen and date.” Where the witness consents the OMP may inform the relevant authority of details of the witness, in order to enable the authorities to secure a statement from a witness (OMP Act, Section 12(i))

## 4.2 Gathering, handling, and sharing of information

One of the key challenges related to the coordination between the search and criminal investigations is information, including physical evidence. Criminal investigations and the search pursue the same or similar type of information (e.g. information from family members, police records and forensic information) and exercise similar investigative powers (e.g. concerning the access to private and public records). However, search mechanisms or criminal investigation institutions may also gain access to confidential information, which may not be accessible by any other institution (confidentiality of the source, content of the information and/or who it may be shared with). For these reasons, if not integrated or coordinated, they may monopolize information or compete for access and custody of information and impede one another. This results in limitations of the rights of the families to justice and to know the truth about what happened.

Even if they pursue the same or similar type of information, criminal investigations and the search may use different methods of investigation or lenses through which information is gathered and analyzed which will have an impact coordination efforts: Criminal investigations are likely to focus on collecting information on the causes and circumstances of the disappearance, establishing whether the disappearance resulted in death, whether the disappeared person is alive, as well as the search for any indicia that could help to identify and find potential perpetrator(s) and prove his/her/their guilt. The data substantiating the clarification of the fate and whereabouts of the disappeared are often not collected systematically by default in criminal investigations. By contrast, institutions or mechanisms focusing on the search are likely to focus on collecting data which could assist in establishing the fate and whereabouts of the disappeared, in finding the persons alive or in identifying their human remains if they are dead. This is particularly relevant when the missing person is found dead, and it comes to identification of human remains and gravesites, since usually only one institution or mechanism has the mandate for this kind of activities. A criminal investigation is focused on whether any crimes had occurred before, during or after death. A search is focused on identifying the human remains and enabling the remains to be returned to the families. For example, if a search mechanism takes possession of physical evidence, including the body of a person during exhumations and not all relevant information is gathered or shared with law enforcement authorities, or is not handled in accordance with due process requirements and information is unknowingly destroyed, this can create challenges for the advancement of a criminal investigation and vice versa.

Family members can be re-victimized if they are requested to provide the similar information numerous times and to multiple actors which do not coordinate properly. Additionally, cross-examination in criminal proceedings can further exacerbate the harm suffered by victims: Failure to coordinate between a search and criminal investigation can result in situations where victims are cross examined based on information provided to a search mechanism, potentially causing misunderstandings, further harm and undermining the possibility of a successful prosecution.

Guiding questions in this regard include:

- What are the obligations under the existing domestic legal and policy framework relating to data protection, preserving confidentiality of information, gathering and sharing of information?
- What are the obligations of the search mechanism relating to data protection, preserving confidentiality of information, gathering and sharing of information?
- Who has the authority to investigate, exhume or access human remains and what is the scope of their authority?
- If search and criminal investigations are not carried out concurrently, are procedures in place or foreseen to ensure that ongoing search activities do not hinder potential future criminal investigations and vice versa?

### Elements to be considered to enhance coordination regarding information:

- Agree on a comprehensive list of all missing persons, relevant for search and criminal investigations and share this information between the different actors involved in the search and criminal investigations.
- Develop standard operating procedures to govern the transfer and sharing of information (including physical, testimonial or other) – from the search mechanism to the criminal process and vice versa. In order to facilitate such transfers, set forth clear rules on information and data collection and sharing among different actors (e.g., harmonization and standardization of the information collected, ensure interoperability among databases). These rules should keep in mind the different mandates, existing regulations on data privacy, the safety of the disappeared and their families, and their rights, including to truth and justice as well as to know the fate and whereabouts of missing persons.
- Set forth clear rules on the confidentiality that can be granted to those who provide relevant information and how this information can be used. In case the search mechanism has the power to offer confidentiality for the release of information that may lead to the identification of alleged perpetrators or of whereabouts of disappeared persons, this confidentiality can be restricted to information that points to the identification of the individual who gave the information.
- The scope of the information shared by a search mechanism, when reporting a crime can be limited by their authority to preserve confidentiality. However, it should not prevent them reporting that a crime may have occurred. At minimum, ensure where a search mechanism is aware of a crime, that the basic information is shared with authorities in charge of criminal investigations (e.g., at least inform that they suspect that a crime has been committed). This minimum requirement ensures that if a serious crime occurred in relation to an incidence of a missing person, in addition to a search, a criminal investigation is initiated.
- If the search mechanism has the authority to carry out investigations into human remains, the criminal investigation should have access to minimum information required to carry out its investigation (e.g. cause of death, evidence of injuries that occurred before, during or after death, associated find that maybe relevant to the occurrence of a crime). Where the criminal investigation carries out the investigation into human remains, if it's part of a judicial proceeding, then the key outcomes in the investigation are reported to the judge and are part of the public record of the court. Where a criminal investigation is not subject to judicial supervision, the investigators should be under a duty to share minimum information with the search mechanism, including information relevant to establishing the identity of the deceased.
- If a search mechanism takes possession of physical evidence, including the body of a person during exhumations, remains and associated finds should be investigated and handled in a way that makes identification and prosecution possible (e.g. respecting chain of custody, approach of analysis (e.g. without disregarding associated finds, signs of trauma, evidence of crimes)). The same applies to the documentation (e.g. photos) of the investigation.
- Authorities responsible for search and criminal investigation should be able to request information and assistance from each other and be under a general obligation to cooperate with such requests, subject to specified exceptions.
- Information regarding suspected or confirmed gravesites, including such information received in the past, should be shared between both the search mechanism and the authorities in charge of the criminal investigation.
- Set up regular channels of communication (formal and informal) to provide a space for sharing information and clarifying potential challenges. This can be achieved for example through Memoranda of Understandings or official liaison officers which are tasked to create an effective institutional partnership.
- Where authorities in charge of criminal investigations are aware of human remains, or an unidentified body, this information should be available to the search mechanism and vice versa.

### Elements to be considered regarding methods of investigation:

- A multidisciplinary approach to all aspects of investigations is needed to ensure that information relevant to identification and prosecutions are discovered, managed, investigated, and stored in a manner adhering to due process procedures. Multidisciplinary means that multiple disciplines should be involved in search processes and criminal investigations, in order to gather all relevant information that will help to provide individualized answers on the fate and whereabouts of missing persons, or establish whether a disappearance is the result of a crime and if so, will help to investigate and, if appropriate, prosecute the alleged perpetrators. For example, if a person is found dead, that means that information should be gathered and analyzed from different disciplines (e.g., forensic biology and DNA; forensic anthropology; forensic odontology; forensic pathology, establishing the context and history of a grave site, history of the local area or burial practices). The search mechanism should be equipped with the necessary technical and financial capacity to ensure a multidisciplinary approach or ensure coordination and cooperation with actors with the necessary skills.
- Ideally, all authorities that investigate human remains document all aspects of a recovery, including context in which it was found, associated finds, state of the remains.
- Criminal investigation should be carried out in a way that allows for the establishment of the fate and whereabouts of the missing person be it by the criminal investigation itself or by the search mechanism.
- In order to ensure that there is shared understanding of the different lenses through which the same piece of information may be examined, depending on whether a search or criminal investigation is being carried out, joint capacity building between staff of law enforcement authorities and search mechanism could be provided.
- The search should be carried out in a manner that does not hamper the rights of the families and due process. The handling and preservation of information by a search mechanism or criminal investigation should abide to the highest standards required (e.g. preservation of evidence, chain of custody, quality assurance).

#### Colombia

Due to its humanitarian and extrajudicial nature, the information received and produced by the UBPD to clarify the fate and whereabouts of disappeared persons is confidential and cannot be used as evidence in criminal proceedings and shall not have probative value.<sup>18</sup> In addition, its officials, contractors and seconded staff is exempt from the duty to report and may not be compelled to testify in judicial proceedings, provided that the knowledge of the facts has been in the performance of their functions. However, Article 3 of the Decree states, that

- the activities of the UBPD shall not replace or impede any judicial investigations that may be undertaken. The search for persons reported missing by the UBPD shall not disqualify the competent judicial authorities from carrying out the investigations they deem necessary to establish the circumstances and responsibilities of cases taken on by the UBPD.
- the technical-forensic reports and the physical evidence associated with the corpse may be required by the competent judicial authorities and will have probative value. To guarantee the probative value of this information, Article 10 of the Decree establishes specific rules for securing physical evidence associated with the corpse.

### 4.3 Domestic legal and policy framework, including mandates

An effective coordination between the search and criminal investigations should be governed by a comprehensive legal and policy framework that assigns responsibility to institutions to carry out their work in a manner that facilitates the objectives of both the search and the criminal investigation. The legal and policy framework should promote “cooperation and collaboration among all State bodies and also with

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<sup>18</sup> Acerca de La UBPD – UBPD.” Accessed April 13, 2022. <https://ubpdbusquedadesaparecidos.co/acerca-de-la-ubpd/>.

other States and international agencies”<sup>19</sup>. This means that the existing domestic legal and policy framework may need to be adapted when a mechanism is created.

The framing of mandates deserves specific attention in this regard: When the search and criminal investigation are undertaken by different institutions, it may not be clear how the respective mandates relate to each other and thus how the institutions should coordinate. Lack of clarity, gaps or overlaps in the mandates of different institutions for handling, transferring and preserving information can result in competition between the institutions, confusion among families and victims; and the rights and needs of victims and families not being addressed.

Relevant questions that will guide the elaboration and/or adaption of the domestic legal and policy framework, including mandates, with regards to coordination include:

- Are enforced disappearances, and other crimes resulting in persons going missing proscribed under criminal law; is there an obligation to carry out criminal investigations?
- What is the scope of the duty to report such crimes to law enforcement authorities?
- What is the scope of the duty to report unidentified human remains to state institutions? Is there an obligation to identify them?
- What are the obligations under existing laws and policies relating to management and investigation of human remains? Which state actor(s) has the authority to investigate, exhume or access human remains and what is the scope of their authority?
- Which state actors have the authority to search and monitor places of detention?
- Which persons is the search mechanism looking for, what are its powers and actions?
- What are the obligations under existing laws and policies related to the coordination between the search and criminal investigations?

**Elements to be considered to enhance coordination in view of the general policy and legal framework:**

- Until the relevant crimes are an offence under domestic law, there is no obligation to carry out a criminal investigation. It therefore needs to be ensured that all relevant crimes that can result in persons going missing, such as enforced disappearances as a continuous offence, kidnapping, abduction, extra-judicial killings, murder, etc., are proscribed under the domestic law. Having in place an overarching legal framework that prevents impunity for (international) crimes, including gross human rights violations and serious violations of IHL provides a basis for coordination.
- Ensure there is a general duty to report serious crimes. All state and non-state actors should be required to report serious crimes to institutions responsible for the criminal investigation, especially those that involve the suspicious death of a person (see also chapter 4.2).
- Ensure that all persons and state institutions are obliged to report human remains to state authorities. Especially in contexts where there is no armed conflict, it's important that the state is aware of the existence of human remains, which requires them to initiate an investigation into the cause of death, any crimes that may have occurred and identity of the deceased.
- A general legal obligation to identify human remains should be established and include due processes on how the remains are recovered, handled, investigated, and preserved. At times it may be possible to gather the information necessary for a criminal investigation without identifying the human remains. In such contexts, it is essential that the human remains are preserved and can be accessed by a search mechanism, until they are identified.
- Ensure that there is a general obligation to establish the cause of death whenever human remains are investigated. The cause of death can reveal whether a crime occurred before, during or after the death, which can in turn trigger a criminal investigation.
- Ensure, when determining who has the authority to carry out investigations into human remains, that the legal framework stipulates that all state institutions carry out their work in a manner that

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<sup>19</sup> Guiding Principle 3. UN Committee on Enforced Disappearances (16th sess.2019, Geneva). “Guiding Principles for the Search for Disappeared Persons .” May 8, 2019. [https://tind-customer-undl.s3.amazonaws.com/c3f21cf3-e371-4e32-9e91-82d80cac5268?response-content-disposition=attachment%3B%20filename%2A%3DUTF-8%27%27CED\\_C\\_7-EN.pdf&response-content-type=application%2Fpdf&X-Amz-Algorithm=AWS4-HMAC-SHA256&X-Amz-Expires=86400&X-Amz-Credential=AKIAXL7W7Q3XFWGQKBB%2F20220413%2F%2F%2Faws4\\_request&X-Amz-SignedHeaders=host&X-Amz-Date=20220413T141626Z&X-Amz-Signature=b8758e6ff751b78b151a21569b7a256d12eef23d4ca052cac8522e466a8cc658](https://tind-customer-undl.s3.amazonaws.com/c3f21cf3-e371-4e32-9e91-82d80cac5268?response-content-disposition=attachment%3B%20filename%2A%3DUTF-8%27%27CED_C_7-EN.pdf&response-content-type=application%2Fpdf&X-Amz-Algorithm=AWS4-HMAC-SHA256&X-Amz-Expires=86400&X-Amz-Credential=AKIAXL7W7Q3XFWGQKBB%2F20220413%2F%2F%2Faws4_request&X-Amz-SignedHeaders=host&X-Amz-Date=20220413T141626Z&X-Amz-Signature=b8758e6ff751b78b151a21569b7a256d12eef23d4ca052cac8522e466a8cc658).

supports the objectives of both the search and criminal investigations. As a minimum, it can be ensured that one does not hinder the other.

- As it is needed to establish the objectives of the criminal investigation and the search, the legal and policy framework should ensure a multidisciplinary approach into search and criminal investigations (see also chapter 4.2).
- Mandate all relevant institutions to ensure respect for relevant rights, including the right to know the fate and whereabouts of missing persons and to justice.
- Specify mechanisms and channels of regular communication for handling and sharing of information in the legal and policy framework, so that coordination is not ad-hoc or at the discretion of the institutions or individuals.
- Foresee the development of joint search plans to help align priorities and strengthen coordination between the different institutions and actors.
- Monitoring and evaluation of activities usually focus individually on the search or criminal investigations. As specific evaluation and monitoring activities regarding the coordination could improve coordination, supervision, as well as independent and autonomous monitoring and evaluation of the coordination, could be foreseen in the legal and policy framework.

#### GN 6: The Domestic Legal and Policy Frameworks Dealing with the Missing

##### **Elements to be considered to enhance coordination with view to the mandates:**

- If a search mechanism is created, its obligations to coordinate, especially regarding exhumations, the authority to issue search warrants, search places of detention and seize evidence should be clearly stipulated in order to ensure complementarity. This also includes reviewing and potentially adapting mandates of already existing state institutions or mechanisms.
- If only law enforcement authorities have the mandate to investigate remains pursuant to judicial proceedings, it is recommended that the search mechanisms' mandate allows for it to act as an observer of these activities and make recommendations. The mandate could for example also allow for the search mechanism to support the law enforcement authorities with funding, equipment and technical expertise (e.g. Sri Lanka) and to contribute to the non-forensic parts of the investigation of human remains (e.g. providing training on forensic archaeology and forensic anthropology on how to date the gravesite).
- In case the search mechanism's mandate allows it to exhume, specific rules and procedures that adhere to due process regulations should be in place for the securing of evidence associated with the body and its documentation in order to prevent the destruction of evidence that could be relevant for criminal investigations. These rules could include that the search mechanism should at least inform law enforcement authorities that an exhumation is taking place or that the search mechanism should share its forensic reports.
- If the mandate allows the search mechanism to visit places of detention, it should clearly state that it shall carry out their search without violating a potential crime scene by adapting procedures that adhere to due process regulations. Such rules should consider a) the circumstances in which a search is carried out (e.g., if a missing person is believed to be in detention or to obtain further information regarding persons who may have disappeared following their detention); b) collection of information (e.g., if any physical evidence is seized by a search mechanism it may not be possible to use that same evidence in a criminal investigation).
- Any mandate of a search mechanism should ensure that the activities of the mechanism do not replace or impede criminal investigations that may be undertaken by the corresponding authorities and vice versa.
- If the search mechanism is temporary, its mandate should include provisions that indicate what happens to the information after the end of its mandate and under what conditions law enforcement authorities or other institutions and actors may gain access.

#### GN 1: Missing Persons National Mechanisms: Contextualized Approach and Mandate

##### **Colombia**

According to the Decree establishing the UBPD, its officials, contractors and seconded staff is exempt from the duty to report and may not be compelled to testify in judicial proceedings, provided that the knowledge of the facts has been in the performance of their functions.<sup>20</sup>

The UBPD can excavate, exhume, and carry out an investigation into human remains, but is required to share the technical-forensic reports and the physical evidence associated with the corpse if they are required by the competent judicial authorities. This information will have probative value (see Article 3 of the Decree establishing the UBPD).

### **Mexico**

In the event that during the search any indication of the probable commission of a crime is found, the CNB is responsible to immediately inform the corresponding investigative authorities.<sup>21</sup>

The CNB has no power to file a motion for a search warrant and must request the competent attorney general's office to file a motion. If the CNB has information on the potential location of a grave site, it must share this information with the competent attorney general, who is in charge of requesting the exhumation order from the court.<sup>22</sup>

### **Sri Lanka**

Section 21(a) and (b) of the Code of Criminal Procedure, requires that certain crimes such as murder, homicide, sudden or unnatural deaths, deaths by violence, death by suspicious circumstances must be reported to law enforcement authorities. The OMP is also bound by this requirement. However, when reporting such a crime as it relates to a missing person, the OMP is only required to share minimum information such as the missing person's civil status (name, age, gender of the missing person, places, or districts where the missing person was last seen and date). If a witness consents the OMP may inform the relevant authority of details of the witness, to enable the authorities to secure a statement from a witness. (Section 12(i) OMP Act).

The OMP can apply to carry out an excavation or an exhumation to a local Magistrate; however, such an excavation, exhumation or an investigation must be carried out by the law enforcement authorities and a Judicial Medica Officer, under the supervision of a magistrate.<sup>23</sup> The search mechanism is limited to the role of an observer. Although, the term observer is not defined, the practical role of an observer to an investigation can depend on the availability of human resources, the level of expertise (in the scientific and non-scientific aspects of the investigation); and financial resources available to a search mechanism. As an observer, the OMP has directly observed key stages of investigations into human remains; made technical recommendations to the magistrate regarding substantive aspects of the investigation; and financially supported the investigation.<sup>24</sup> The OMP has also supported families and their representatives to participate investigations into human remains, both within and outside the courtroom.<sup>25</sup>

### **Ireland**

Any remains discovered by the Independent Commission for the Location of Victims' Remains (ICLVR), is not permitted to undergo forensic testing, except for the purpose of an inquest to establish the identity of a deceased person, how and when they died.

<sup>20</sup> Artículo 19, Decreto 589 del 05 de abril de 2017, Republica de Colombia,

<http://es.presidencia.gov.co/normativa/normativa/DECRETO%20589%20DEL%2005%20DE%20ABRIL%20DE%202017.pdf>

<sup>21</sup> Ley General en Materia de Desaparición Forzada de Personas, Desaparición Cometida por Particulares y del Sistema Nacional de Búsqueda de Personas (2017). Artículo 53. [https://www.diputados.gob.mx/LeyesBiblio/pdf/LGMDFP\\_200521.pdf](https://www.diputados.gob.mx/LeyesBiblio/pdf/LGMDFP_200521.pdf).

<sup>22</sup> Coralli, Ana Srovin. "Coordination between the Search and Criminal Investigations Concerning Disappeared Persons. Case studies on Bosnia and Herzegovina and Mexico." swisspeace, June 2021.

<https://www.swisspeace.ch/assets/publications/downloads/Reports/Coordination-between-the-search-and-criminal-investigations-concerning-disappeared-persons.pdf>.

<sup>23</sup> The Office on Missing Persons (Establishment, Administration and Discharge of Functions) Act No. 14 of 2016, section 12(d) (OMP Act). See also Code of Criminal Procedure Act, No. 15 of 1979, Section 9(b), Chapter XXX (Inquests), Part V (Investigation of Offences).

<sup>24</sup> Office on Missing Persons, Annual Report (2019), para 3.31, 3.34- 3.37, 3.39, 3.41 <

<http://ompsrilanka.org/storage/app/uploads/public/601/142/db5/601142db52d27533751009.pdf>>

<sup>25</sup> Office on Missing Persons, Annual Report (2020), para 3.7, 3.8, <

<http://ompsrilanka.org/storage/app/uploads/public/604/847/009/604847009edfb770550416.pdf>>; Office on Missing Persons, Annual Report (2019), para 3.32 < <http://ompsrilanka.org/storage/app/uploads/public/601/142/db5/601142db52d27533751009.pdf>>

## Cyprus

The terms of reference of the Missing Persons Committee of Cyprus prevents it from attempting to attribute responsibility for the deaths of any missing persons or findings as to the cause of such deaths.

### 4.4 Context in which persons went missing or continue to go missing

Needs for coordination between search and criminal investigation depend on the context in which persons went or continue to go missing. The following questions will have an impact on coordination and need to be discussed and addressed:

- Did persons go missing or were they disappeared in recent past and do new cases continue to occur?
- Did persons go missing or were they disappeared years or decades prior?
- Did persons go missing or were they disappeared in a transnational context (e.g. International armed conflict, migration) and is coordination required with actors and institutions of other countries?

In addition, the search and criminal investigations usually take place in difficult contexts, during ongoing or in the aftermath of armed conflicts, or other situations where gross human rights violations and breaches of international humanitarian law occurred. In such contexts, the issue of disappeared persons is highly sensitive. If the search and criminal investigations are thus not implemented in a conflict sensitive<sup>26</sup> manner, there is a risk to (unintendedly) reinforce or create conflict or tensions, that the activities are not effective, and that staff is put at risk.

#### **Elements to be considered to enhance coordination regarding the context:**

- Where persons went missing in the recent hours or days, these cases tend to be prioritized because it is assumed that they may still be alive. In such contexts the ability to trace the person's whereabouts is paramount. Therefore, establishing the details of the circumstances in which the person went missing, establishing their possible location, and potentially searching a place of detention becomes particularly relevant. In such contexts, it's necessary that the criminal investigation and the search authorities coordinate because of the time sensitive nature of the cases. Criminal investigations at times also have the authority to accept information confidentially (for example police hotlines, which receive anonymous tips, in response to offer of a financial reward or based on a plea bargain).
- Where persons disappeared months or years ago, coordination will have to take into account different institutional mandates which were in place at the time of the events (see chapter 4.3).
- Where the persons go missing or were disappeared in a transnational context, its necessary to establish robust avenues of mutual legal and other cooperation. In designing and operationalizing these requests for assistance, delays and onerous bureaucratic requirements should be avoided.
- In order not to reinforce or create conflict or tensions, it is necessary to understand the context in which the coordination is taking place. A comprehensive mapping of stakeholders involved, analysis of domestic legal, policy, regulatory and institutional framework and conflict context helps to understand the tensions or conflict in the context where the search mechanism operates. This analysis should be updated regularly during the implementation. E.g. is there political support for both processes? Can one process benefit from close involvement of the other and/or what are the risks of integrating the two (e.g. search having access to investigative methods used by law enforcement)? If a search mechanism has more political backing than the criminal investigation institutions, the search mechanism may be reluctant to cooperate. Or a search mechanism may be very motivated to work with the law enforcement authorities if those consist

<sup>26</sup> For more information on the conflict sensitivity approach, see "How to guide conflict sensitivity", Conflict Sensitivity Consortium, (<https://www.saferworld.org.uk/resources/publications/646-how-to-guide-to-conflict-sensitivity>).

of vetted, well-recognized experts. Regarding emblematic cases, this assessment on incentives, perceptions and consequences of cooperation should be made case by case.

GN 4: Assessing the Political Context, Building and Ensuring Political Will  
 GN 5: Providing a Comprehensive Response – Existing Authorities and Organizations Dealing with the Missing

#### **Mexico**

The National Search Commission is required by law to search for all disappeared persons, past, present and future, as long as she or he falls within the definition of “disappeared”. In addition, the issue of disappearances in situations of migration has been incorporated in its duties.

#### **Colombia**

The UBPD and the JEP only have a mandate for cases in the context of the armed conflict (until the first of December 2016, no official start date). Other cases do not fall under their jurisdiction. Crimes committed after that date fall under the jurisdiction of the ordinary justice system. Even though Colombia has been impacted by Venezuelan migration in recent years the issue of disappeared persons in a situation of migration has not been incorporated in these mechanisms.

## **4.5 Capacities and resources**

In some contexts, it may be difficult for the institutions in charge to find staff which is trained to investigate cases of disappeared persons. Professionals and institutions with relevant forensic science skills to carry out necessary analysis and tests are scarce and physical resources required to carry out the search and criminal investigations can be expensive. Gaining approvals to carry out relevant tests (especially forensic science related tests) and search warrants can also be difficult. In addition, staff members of search mechanisms or authorities in charge of criminal investigations may not understand the mandate of the other institution and/or what kind of information is relevant to fulfilling their respective mandates. As a result, information relevant for the search or criminal investigations may not be collected by default, shared between the institutions or potential evidence is unknowingly destroyed (see chapter 4.2). The capacity and resources of existing domestic institutions and the new mechanisms therefore has implications for coordination activities.

The following questions may help to decide which capacity building activities are necessary and for which activities resources are required to strengthen the complementarity of the search and criminal investigations:

- What is the capacity of existing state institutions to investigate and prosecute crimes that occur at the system level or involving large numbers of victims?
- What is the capacity of existing state institutions to search?
- Is there capacity within the state to conduct criminal investigations and search using multiple disciplines?

#### **Elements to be considered to enhance coordination:**

- The required resources should be shared between the relevant institutions, to ensure that the search and criminal investigations do not compete with each other or any other state institution, especially given that they operate in challenging social and political contexts. For example, search mechanisms and criminal investigations should not be sending the same sample to different institutions to analyze them. The institutions should have access to information on what kind of forensic analysis and testing of evidence has been conducted.
- In order to ensure that staff of the law enforcement authorities and the search mechanism fully understand the logic behind, extent and value of their own mandate, as well as of the mandate of the other institutions, joint capacity building can be provided. Special focus can be laid on the value of information in both processes (see also chapter 4.2).
- Including capacity building around the multiple disciplines of forensic science can be valuable, as the investigation of the human remains is critical to both the criminal investigation and the search.



#### 4.6 Participation of victims and families

Depending on the context, criminal investigations are at minimum required to facilitate the participation of families, by keeping them informed of available avenues, key dates, and substantive progress of the investigation. Search mechanisms often have the authority to enable broader participation of families. For different reasons, such as capacities, financial, human resources, it can be challenging for both, search mechanisms or authorities in charge of criminal investigations, to guarantee individualized answers and participation in the process, which can lead to frustration on the part of the victims and families. In addition, a multiplicity of actors and institutions involved in search and criminal investigations and overlapping mandates can lead to victims and families being re-victimized or being unaware of the role of the different institutions and where and how they can contribute. This undermines the trust of these actors in search mechanism or authorities in charge of criminal investigations and ultimately impacts coordination. The scope of the rights of victims and families to participate in the search and investigations can also have implications for coordination activities. Coordination is essential to ensure that families are guaranteed their rights, and do not have to choose one right over another. Where there is strong coordination between a search mechanism and a criminal investigation, participation of victims and families can be enhanced. Relevant questions are:

- Does existing law provide broad rights to victims and families to be consulted, informed or make decisions regarding substantive developments in the criminal investigations and the search?
- Is society (particularly victims and families) informed about the mandates of the different institutions involved in criminal investigations and search, as well as of opportunities and ways of participation?
- Who participates in and is consulted on the design and setting up of a new search mechanism?

##### **Elements to be considered to enhance coordination:**

- Coordination should be family and victim centered. Both the search and the criminal investigation should ensure the meaningful participation of victims and families, by including their input, experiences, suggestions, addressing questions and doubts at all stages of the criminal investigation and search. At times this may require institutions to depart from strict adherence to existing institutional practices to enable meaningful participation of families.
- All relevant actors (including victims and families) and institutions involved in the search or criminal investigations should participate in the design and setting up of a new search mechanism. Participation and consultation processes with relevant actors may foster the trust in the new search mechanism and may be conducive to an effective implementation of the two interrelated obligations to search and conduct criminal investigations.
- The state authorities (or the search mechanism) should ensure the greatest level of publicity to, and dissemination of, the respective role and mandate of the search mechanism and other institutions involved in the search and/or criminal investigations in order to foster participation of victims and families.

♀ GN 3: The Needs of Families of the Missing  
 ♀ GN 7: Involvement of Families and Family Associations

#### 4.7 Trust in and between institutions

Coordination can only work if institutions do not stand in competition with one another. Ideally, there is mutual trust between institutions and individuals. A key component of trust is knowledge and appreciation of the mandates, needs and requirements of the search and criminal institutions. In addition, search mechanisms exclusively focused on clarifying the fate and whereabouts of the missing persons may create the perception that they are avenues for impunity rather than opportunities to build trust in national institutions based on the rule of law. Such perceptions may discourage victims, their families and others from supporting or participating in their work. Questions that can have an impact on trust include:

- What are the (perceived) reasons for the creation of a new mechanism? Is it created, because the existing institutions are viewed as overwhelmed with the respective task?

- Does the creation of a new funding have negative implications for the budget of the existing institutions?
- What powers does the new mechanism have with regards to access of information of the other institutions?
- Does the new mechanism hire former staff from the other institutions?

**Elements to be considered to enhance coordination:**

- Capacity building, for example joint capacity building among the institutions to raise awareness about the complementarity of the search and criminal investigations and on what information is relevant for the other process, can assist in increasing trust among institutions.
- Respective liaison officers can contribute to trust-building and thus effective coordination, especially if this is part of their terms of reference.
- Funding and human resources processes should be designed in a way that the institutions do not stand in competition for resources, staff and technical expertise. This can strengthen the trust and coordination between the different actors.

**GN 2: Principles and Enablers for a Successful Mechanism**

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