

1 June 2011

Reference: Recommendations to the European Union on Colombia

In 2010, Oidhaco sent a series of recommendations to the Spanish and Belgian Presidencies of the European Union, supported by some 90 European and international human rights organisations, development agencies, solidarity groups and church organisations. On 18th and 19th May 2011, the *International Office on Human Rights Action on Colombia* (Oidhaco) held its General Assembly, composed of 32 European and international organisations, and Colombian human rights coordination groups. We believe that the recommendations we made in 2010 (please find attached) are unfortunately still all too relevant this year, and so we attach them once again for your consideration.

In August 2010 the new government in Colombia expressed a public commitment to the promotion and defence of human rights as a “*profound democratic, ethical and human conviction*”; promised to address the structural causes of poverty; and showed openness to the possibility of dialogue as a path to peace within Colombia. Civil society organisations in Europe and Colombia alike have been asking for these statements to be quickly translated into substantial, concrete and effective policies that will make a real difference in the lives of victims of human rights violations and their defenders. However, to date, some 8 months into the administration, we find that massive human rights violations persist, that Colombia still remains an extremely dangerous place in which to defend human rights, and that there has been no real improvement in the lives of poor and marginalised communities.

We believe that now is the time to insist that the Colombian government takes bold and effective steps to advance in the fulfilment of the human rights of all Colombians. We ask that the European Union continues to closely monitor the situation in Colombia, and develops all relevant EU policy decisions, with the aim of guaranteeing full respect for the rights of the Colombian population. We noted with interest the intervention of the European Union during the UN Human Rights Council Session in March 2011, which echoed the UN High Commissioner’s annual report on Colombia, by highlighting “*a number of continuing challenges in the area of human rights, notably related to the continued ascendance of new illegal armed groups, the upsurge of violence against civilians and the continued killings and threats against human rights defenders*”¹.

Below we offer a short update on each of the three sections covered in our 2010 recommendations. We thank you for taking the time to read this letter and the information it contains. Should you require further information on any of the points mentioned, please do not hesitate to contact us.

Patricia Verbauwhede (President)

International Office on Human Rights, Action on Colombia (Oidhaco)

¹ United Nations Human Rights Council, 16th Session, Item 10, Statement by HE Ambassador Andras Dekany, Permanent Representative of Hungary to the United Nations Office in Geneva, on behalf of the European Union, 23 March 2011

Human Rights

In the first three months of 2011 alone, 9 human rights defenders were killed, 68 were threatened and 4 were disappeared². The High Commissioner for Human Rights “*is concerned about the continuing homicides, threats, attacks, information theft, illegal surveillance and intimidation targeting human rights defenders and their organizations in different parts of the country*”. In addition, “*(...) the killing of trade unionists continues to be of concern. In 2010, 26 persons were killed, compared to 25 in 2009. The deaths of non-affiliated teachers increased from 4 to 11 (...)*”³. Another report stresses the increased criminalisation and judicial persecution of social protest and defence of human rights as a strategy of repression, to such an extent that at least 130 human rights defenders were the victims of detentions, trials and/or investigations between 10 December 2009 and 10 December 2010⁴.

In general, levels of impunity in cases of killings of human rights defenders remain extremely high. Some 60% of killings of trade unionists in the world take place in Colombia, and impunity in these cases stands at 94%⁵. It is also worth remembering that Colombia has one of the highest numbers of recorded cases of “forced disappearances” in Latin America. As the UN office in Colombia for Human Rights has reported, the *Fiscalía General de la Nación* (State Prosecution Service) is investigating 27,300 cases of forced disappearance⁶. It is a source of alarm that 1,130 new cases have been reported in the last three years, representing more than one person forcibly disappeared each day⁷.

There are also serious concerns about the Colombian state’s Protection Programme, the objective of which is to ensure the safety of human rights defenders. In recent weeks, several organisations have been forced to reject what are known as “protection schemes” (“*esquemas de protección*”) provided by the state because of what they describe as “*the government’s silence in the face of [...their...] repeated requests for increased protection measures*”⁸. The organisations have also expressed their distrust of the private security firms proposed by the State to carry out this protection work and the fact that the Ministry of the Interior’s Protection Programme has been “*used to persecute us and monitor our activities as human rights defenders*”⁹. These factors place the human rights defenders affected in a highly vulnerable position and we regard it as vital that the Government addresses these concerns as a matter of urgency.

It is important that the Colombian government has pronounced on the need to respect human rights organisations and to cease to use aggressive and defamatory language in relation to them (literally, ‘to disarm its language’). Nonetheless, the Commander-in-Chief of the Army, General Alejandro Navas, recently stated that “*indigenous people are manipulated by the illegal armed*

² “*Acción Urgente: 90 días, 96 defensores (as) agredidos en Colombia*”, (“Urgent Action: 90 days, 96 defenders attacked in Colombia”) National and International Campaign for the Right to Defend Human Rights in Colombia, April 2011, <http://www.colombiadefensores.org/noticias/item.asp?n=12571> (In Spanish only)

³ See “Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia, 2010”, February 2011, paragraphs 10 and 12, at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/105/73/PDF/G1110573.pdf?OpenElement> .

⁴ “*Criminalización y judicialización de la protesta social y de la defensa de los derechos humanos en Colombia*”, (“Criminalisation and judicial persecution of social protest and defence of human rights in Colombia”) National and International Campaign for the Right to Defend Human Rights in Colombia, November 2010 (in Spanish).

⁵ database of the Escuela Nacional Sindical - National Trade Union School

⁶ <http://www.semana.com/nacion/onu-insiste-impunidad-casos-desapariciones-forzadas-colombia/153767-3.aspx> article in Spanish

⁷ See report Breaking the Silence, in search of Colombia’s disappeared, USOC and LAWG, December 2010

⁸ Press release: “José Alvear Restrepo Lawyers’ Collective returns protection scheme to the DAS” 7 April 2011 <http://www.colectivodeabogados.org/Jose-Alvear-Restrepo-Lawyers>

⁹ Ibid.

groups (...). They are also tools of the judicial war which sets them against the army.”¹⁰ These statements recall those of Santos, the current president, while Minister of Defence, when he declared in Colombia’s Congress that the reports of extrajudicial executions were part of a “judicial war” against the government¹¹.

Successor groups to the paramilitaries continue to act despite their demobilization process which formally ended in 2006. The Colombian NGO Instituto de Estudios para el Desarrollo y la Paz estimates the groups have 6,000 armed combatants, and have expanded operations to 29 of Colombia’s 32 departments¹². In addition, the results of the Justice and Peace law are highly unsatisfactory and most of the crimes committed by paramilitaries remain unpunished. As of November 2010, more than five years after the law was approved, there have only been two convictions¹³. According to the Inter-American Commission for Human Rights¹⁴ “of the more than 30,000 persons who demobilized between November 2003 and mid-2006, 4,346 expressed an interest in receiving the benefits of the Justice and Peace Law.¹⁵”. However, with regard to the more than 2,500 applicants who are still part of the process, a total of 2,431¹⁶ voluntary statements have been initiated, of which 1,514 have been formally completed, but only 228 ended in a full confession.¹⁷”

There continue to be a number of particularly vulnerable groups in Colombia, including indigenous peoples and women. According to the December 2010 report of the National Indigenous Organisation of Colombia (ONIC) 122 indigenous people were killed during 2010, an increase compared with 2009 (114 killings)¹⁸. Many indigenous peoples continue to face extinction, and the state has not implemented Constitutional Court Ruling 004 (2009). The Situation has been likened to a possible genocide by the UN Special Rapporteur on the Rights of Indigenous Peoples¹⁹.

Between 60 and 70 per cent of women in Colombia have suffered either physical, psychological or political violence²⁰. All of the actors in Colombia’s armed conflict continue to use sexual violence as a strategy within the war to instill terror. 489,687 women were victims of sexual violence between 2001 and 2009 with 140 cases each day, or six every hour²¹. Women’s organisations say that law 1257 (2008) has not been fully implemented. The UN Special Rapporteur on the Situation of Violence against Women has not visited Colombia since 2001, we consider it vital that she receives an official invitation in the near future.

¹⁰ “Intensifican ofensiva contra grupos subversivos y criminales”, (“Offensive against subversive groups and criminals intensifies”) in *El Liberal* newspaper, 4 March 2011. See also : <http://www.ejercito.mil.co/?idcategoria=279193> (in Spanish only)

¹¹ Congress of the Republic, Plenary of the House of Representatives, debate on political control of extrajudicial executions committed by members of the armed forces, 29 August 2007.

¹² Instituto de Estudios para el Desarrollo y la Paz <http://www.indepaz.org.co/>

¹³ Human Rights Watch Annual Report, 2011

¹⁴ ANNUAL REPORT OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS 2010, OEA/Ser.L/V/II, 7 March 2011

¹⁵ National Unit of Justice and Peace Prosecutors, information under consolidation and verification proceedings updated to June 30, 2010.

¹⁶ National Unit of Justice and Peace Prosecutors, information under consolidation and verification proceedings updated to June 30, 2010.

¹⁷ National Commission for Reparation and Reconciliation, Justice and Peace Bulletin: Caminos, Issue No. 2, April of 2010, figures updated to March 18 of 2010. Available at: <http://www.cnrr.org.co/new/boletin-justiciapaz/EDI-2/justicia%20y%20paz-EDI2.pdf>. The figures do not clarify whether there was a total or a partial confession.

¹⁸ ONIC, Informe annual Derechos Humanos, December 2010 (in spanish)

¹⁹ <http://www2.ohchr.org/english/issues/indigenous/rapporteur/docs/A-HRC-15-34.doc>, UN Special Rapporteur on the Situation of Indigenous Peoples, THE SITUATION OF INDIGENOUS PEOPLES IN COLOMBIA, 8 January 2010

²⁰ VIOLENCIA SEXUAL EN CONTRA DE LAS MUJERES EN EL CONTEXTO DEL CONFLICTO ARMADO COLOMBIANO” COLOMBIA 2001-2009, Intermon Oxfam.

²¹ Op Cit.

Peace and a negotiated political solution to the armed conflict

The armed conflict continues to take a heavy toll on Colombia's civil population. There are widespread infractions of the International Humanitarian Law (IHL), amongst them the frequent use of antipersonnel landmines, killings of civilians, taking of hostages and the recruitment of minors. From 2008 to date, 134 civilians (including 31 children) were killed by landmines and 702 were injured²². In a recent clash between the Colombian army and FARC guerrillas, on 26 March, around 15 people were killed by shelling, most of whom were children.

It is important that there are steps towards a negotiated solution to the conflict. We welcome recent signs that the government is including the existence of an armed conflict within its discourse in the context of the victim's law. The absence of the concept of armed conflict in the Colombian government's recent official statements, has been of extreme concern to Oidhaco, such as the statement made by Vice-President Angelino Garzón before the United Nations Human Rights Council on 28 February 2011, at the beginning of its 16th session. Denying the existence of the armed conflict has serious consequences. It undermines the rights of victims of this conflict, makes it difficult to demand that all armed actors should respect International Humanitarian Law, and represents an obstacle to progress in finding the paths to dialogue and negotiation which Colombian society so badly needs.

Aid and trade

We continue to ask that Aid from the EU and its member states to the Colombian government be subject to criteria, agreed with civil society, which guarantee that it is applied in line with the principles and objectives of the EU and with international human rights treaties. Aid should contribute to the search for a politically negotiated solution to the armed conflict based on human rights. It is important that the EU puts into place strong mechanisms to ensure that their aid does not benefit those responsible for human rights violations. It is fundamental that aid remains separate from the civic-military programmes and those for the '*recuperación social del territorio*' (regaining of territory through social strategies) which are inspired by military objectives and are coordinated on the ground by the army, thereby increasing the risk of the civil population getting caught in cross-fire. European aid should also directly fund strategies for the defense and protection of the lands of subsistence farmers, indigenous peoples and afro-descendants, and for the protection of human rights defenders. It is also important that Aid includes a clear gender focus. We ask that the rights of vulnerable communities are addressed in the new *Country Strategy Paper on Colombia 2014-2020*, including the rights to land, food sovereignty and prior consultation.

We are dismayed that the EU plans to push forward with the ratification of the Commercial Agreement with Colombia while the human rights situation continues to be so serious, and the return of lands to displaced people remains unresolved, as described below. In these circumstances we do not see any guarantees that EU companies in Colombia will not be investing in land seized from displaced people during the 'agrarian counter-reform' of recent decades,

²² <http://www.accioncontraminas.gov.co/Paginas/AICMA.aspx>

thereby profiting from massive human rights violations. It is estimated that over six million hectares of land were illegally expropriated from rural communities in Colombia. According to estimates, Colombia currently has between 3.3 and 5.2 million displaced people²³, a number which is increasing constantly (280,000 people were displaced in 2010 according to CODHES, the leading NGO monitoring internal displacement in Colombia). The alarm expressed by the High Commissioner for Human Rights is relevant in this respect: *“Of particular concern are the homicides against those advocating for the rights of displaced persons and for the restitution of lands”*. Over 50 murders have been committed in the last 3 years²⁴, and it is a tragedy which continues under the new government – 3 leaders were assassinated on 23 and 24 March 2011, 2 in the Urabá region and 1 in Sucre. To date, the return to lands is taking place without guarantees: the figures on the constant assassinations of leaders of land restitution processes highlights the need to take urgent measures to guarantee the security of those who seek to return to their land. In response to this situation, the government has announced the creation of an integrated intelligence centre for the protection of these leaders (CI2-RT) which aims to provide security to those reclaiming their lands, however, this puts the protection and lives of threatened people in the hands of the very same intelligence services whose legitimacy has been compromised because they have carried out activities against human rights organisations.

Once again, we thank you for taking the time to read this letter and the information it contains, and the attached document which contains concrete recommendations for your consideration. Should you require further information on any of the points mentioned, please do not hesitate to contact us.

²³ According to the Colombian government there are 3.3 million people internally displaced (without taking into account refugees), while according to Codhes there are almost 5.2 million. The differences can be explained by the fact that the Codhes figure is cumulative since 1985, while the government's is cumulative only since the year 2000, and because the government statistics do not include intra-urban displacement or displacement caused by crop fumigations.

²⁴ *“Van más de 50 líderes de restitución de tierras asesinados en 3 años”*, (“Over 50 land restitution leaders murdered in the last 3 years”) *El Tiempo* newspaper, 24 March 2011 at: http://www.eltiempo.com/justicia/ARTICULO-WEB-NEW_NOTA_INTERIOR-9064506.html (in Spanish)