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UNIVERSAL PERIODIC REVIEW

Report of the Working Group on the Universal Periodic Review *

Colombia

Addendum

**Views on conclusions and/or recommendations, voluntary commitments
and replies presented by the State under review**

* The present document was not edited before being sent to the United Nations translation services.

COLOMBIAN MISSION TO THE UNITED NATIONS, GENEVA

The numbers with letters refer to recommendations stated in the section I of the Working Group report, entitled “Summary of the proceedings of the review process”.

- 22 (b)** Accepted ratification of the Convention, which has been consigned as a voluntary commitment (paragraph 38 of the National Report).
- 22 (c)** Non acceptance of the jurisdiction of the related Committee. The Interamerican System of Human Rights of which Colombia is a part provides a strong framework to guarantee prosecution and reparation in case of violations of this crime, in case the National justice system fails to do so.
- 29 (a)** Accepted as consigned in comment 22 (b)
- 23 (c)** Accepted ratification of the Convention as consigned in comment 22 (b)
- 23 (d)** Non acceptance of the ratification of the Optional Protocol to the Convention Against Torture. Internal Directives of the National Penitentiary Institute - INPEC- (Res. 5927 / 2007) provide a mechanism that guarantees prisoners' human rights through a discussion and decision-making process within committees in each penitentiary establishment, with direct participation of detainees and the Office of the Procurator and the Ombudsman.
- 35 (c)** Non acceptance of ratification as consigned in comment 23 (d)
- 40 (e)** Not Accepted as consigned in comment 23 (d)
- 23 (e)** Not Accepted as consigned in comment 22 (c)
- 23 (b)** Non Acceptance. Colombia wishes to keep all possibilities open to reach a negotiated peace with illegal armed groups, and that requires a favourable environment. The National Justice System investigates and prosecutes war crimes.
- 40 (g)** Accepted. Standing invitation is in vigour and being fully implemented on an individual basis.
- 23 (f)** Accepted. WG on Arbitrary Executions visited Colombia in October, 2008. Invitation to Special Rapporteur on Extrajudicial Killings will be extended immediately. Invitations to SR on HR Defenders and Independence of Judges and Lawyers will be scheduled promptly.
- 58 (a)** Accepted. Invitation will be extended immediately.
- 57 (b)** Accepted, as consigned in comment 23 (f)
- 54 (c) and 33 (d)** Accepted. Follow up mechanisms are being fully implemented.
- 27 (a)** Accepted. The Colombian Government has consistently reiterated its commitment to advance in this dialogue. Several Civil Society Organizations have chosen to refrain from participating, despite having an open invitation from the government.

- 56 (b)** Accepted. See comments consigned in comment 27 (a)
- 25 (b)** Accepted. See comments consigned in comment 27 (a)
- 54 (d)** Accepted. See comments consigned in comment 27 (a)
- 26 (a)** Accepted. Human Rights education programs for the armed forces are fully under way and a “Comprehensive Human Rights and International Humanitarian Law Policy of the Ministry of Defense” was launched in January, 2008, that adapts these programs to the current needs.
- 30 (e)** Accepted. Consigned in voluntary commitments (paragraphs 38 and 57 of the National Report).
- 19 (d)** Non Acceptance. The system of rewards is implemented within the Colombian Legal framework and adequately regulated, and is subject to the supervision of the Procurator General’s Office. Furthermore, it has permitted improvement of security conditions, has strongly weakened illegal armed groups and their criminal structure, has helped solve cases of kidnapping and has contributed in the fight against impunity.
- 19 (e)** Non Acceptance. Recommendation is not applicable. Incentives for the military are not provided on the grounds of the number of deaths inflicted in combat. General Command of the Armed Forces Directive (300-28, Nov. 2007) orders all military units to privilege demobilisations and captures.
- 30 (d)** Accepted. Is being fully implemented.
- 49 (c)** Accepted. A written explanation will be provided to the United Kingdom in order to clarify the concept of “paramilitary groups”, as Colombia deems the term not applicable in the current situation, after the demobilisation of the self-defense / paramilitary groups.
- 60 (b)** Accepted. The Government of Colombia has consistently reiterated its will to initiate dialogues with the illegal armed groups towards a demobilization, disarmament and reintegration process. Despite the many offers the Government has made, these groups have refrained themselves from participating in such a process.
- 60 (c)** Accepted. A written explanation will be provided to Uruguay in order to clarify and precise the concept of “paramilitary groups”, as Colombia deems the term is not applicable in the current situation. The Demobilisation, Disarmament and Reintegration of self-defense Groups was carried out within a time frame that is no longer applicable.
- 37 (b)** Accepted. The Judicial System, the Colombian Family Welfare Institute and the High Presidential Counsellor for Reintegration are currently undertaking steps in that direction.
- 40 (d)** Accepted. Colombia is currently undertaking dialogues with the Office of the SG Special Representative on Children and Armed Conflict with a view to initiate implementation of the Monitoring and Reporting Mechanism contained in Res.

1612. In that context, Colombia reiterates what has been expressed to the Office of the SG Special Representative, in the sense that any contact with illegal armed groups requires the previous expressed consent of the National Government.

- 45 (e)** Accepted, as consigned in comment 40 (d)
- 46 (d)** Accepted. CRC's recommendations are being followed up by the Colombian National Welfare Institute.
- 37 (c)** Not Accepted. The Program is not contrary to the principle of distinction and it does not convert civilians into military objectives. The Program aims to strengthen relations between the civilian population and State Forces, and has permitted the State to provide social services in rural communities where the State's only presence is the State Forces.
- 51 (b)** Accepted. The Colombian Constitutional framework and legal system provide for fully independent functioning of the executive and judicial powers, and institutional capacities have been and will continue to be strengthened to guarantee its efficiency.
- 19 (a)** Accepted. Recommendation is being currently fully applied.
- 19 (b)** Accepted. Colombian legal framework prohibits amnesty.
- 42 (b)** Accepted. Recommendation is currently being implemented.
- 27 (b)** Accepted. Recommendation is currently being implemented.
- 30 (c)** Accepted. Recommendation is currently being implemented.
- 45 (c)** Accepted. According to the analysis and studies made by Colombian authorities previously and during the discussion of the Justice and Peace Law, information from various sources was collected on the implementation of transitional justice systems around the world. Given the substantial differences among each of the cases object of study, Colombia would be grateful to receive a definition of the "international standards" referred to in this recommendation.
- 60 (a)** Non acceptance. A written explanation will be submitted to Uruguay in order to clarify and precise the concept of "paramilitary", term that does not apply in the current situation.
- 45 (b)** Accepted. A written explanation will be submitted to Canada in order to clarify and precise the concept of "paramilitary", as Colombia deems that this term does not apply in the current situation.
- 46 (b)** Accepted. A written explanation will be submitted to Malaysia in order to clarify and precise the concept of "paramilitary", as Colombia deems that this term does not apply in the current situation.
- 55 (b)** Accepted. A written explanation will be submitted to Australia in order to clarify and precise the concept of "paramilitary", as Colombia deems that this term does not apply in the current situation.

- 19 (f)** Accepted. The content of this recommendation is contained in the voluntary commitments expressed by Colombia (see paragraph 67, National Report).
- 49 (d)** Accepted. Contained in the voluntary commitments expressed by Colombia (see paragraph 67, National Report).
- 43 (a)** Accepted. Full implementation of this recommendation is currently being undertaken under the *Full Enjoyment of Rights* envisaged in the Constitutional Court Provision (T-025 / 2004).
- 42 (a)** Accepted. Recommendation is currently being implemented.
- 20(a), 21(a), 21(b), 27(c), 30(f), 32(b), 34(a), 35(d), 38(a), 40(a), 45(d), 47(a), 49(a), 54(a), 55(c), 55(d), 57(a), 60(d)** Accepted. Colombia reiterates its full commitment to provide guarantees and protection measures for HR Defenders to carry out their work and to promote investigations and sanctions to crimes committed against them. The Colombian State wishes to engage into a constructive relation with HR Defenders, which does not exclude open and honest debate on differences of opinion.
- 37 (a)** Non acceptance. The Colombian Constitution and the legal framework establish that all citizens have the obligation to enroll in the military service when the circumstances so require to defend the National sovereignty and the public institutions and to provide security conditions for all citizens. This obligation has been upheld on several occasions by the jurisprudence of the Constitutional Court.
- 22 (a)** Accepted. This recommendation is being progressively implemented. A written explanation will be submitted to Argentina on the steps taken so far.
- 43 (b)** Accepted. This recommendation is being progressively implemented. A written explanation will be submitted to Brazil on the steps taken so far.
- 35 (a)** Accepted. System of previous consultations is fully applied. A written explanation will be submitted to Denmark with precise information on the scope of such consultations in the light of internal legislation and the application of ILO Convention No.169.

VOLUNTARY COMMITMENTS

Colombia undertakes as commitments the intentions expressed in paragraphs 31, 38, 42, 48, 57, 62, 67, 71, 76, 77, 91, 95, 102, 106 and 114 of the UPR National Report

(A) Prevention of violence and maintenance of public order

31. Colombia will continue to make efforts to protect the general public from these bands. It appeals for international support in combating the drug trafficking which supports their existence and ensuring that the logistics, money and individuals involved in the violence have nowhere to go. Particular attention will be paid to the pursuit of strategies to prevent recruitment and the effects of doing so on women and girls.

(i) Killings of protected individuals, forced disappearances and torture

38. For all the steps taken by the State to combat the crimes discussed above, there are still sizable collective challenges:

- Boosting information systems and consolidated, interconnected data bases on such crimes: here Colombia considers that international technical assistance is important.
- Inclining towards proper investigations and trials of all perpetrators.
- Consolidating a policy of offering comprehensive care to victims and their families.
- Giving the Office of the Public Procurator a greater role in disciplinary investigations of police and army personnel.
- Buttressing the Commission on the Search for Missing Persons and increasing its capacity to follow up on forced disappearances and formulate policy proposals.
- Initiating the ratification by Congress of the International Convention for the Protection of All Persons from Enforced Disappearance.

(ii) Anti-personnel mines

42. Among others, Colombia undertakes the following commitments in this area:

- To offer better care to victims.
- To train and graduate 1,000 community outreach workers to deal with mines every year.
- To train 10 new 40-member humanitarian demining teams.
- To set up an emergency response team.
- To adapt policy to new challenges.
- To destroy the remaining 26 minefields by 1 March 2011.

(B) Resisting impunity and guaranteeing access to justice.

48. Nonetheless, large challenges remain:

- Improving coverage in rural and remote areas.
- Expanding protection programmes to cover third parties involved in criminal proceedings.
- Setting up the data system and designing a means of making the State information systems on human rights violations interoperable.
- Increasing technical investigative capacity.
- Boosting confidence in the judiciary.
- Improving coverage in rural and remote areas.
- Expanding protection programmes to cover third parties involved in criminal proceedings.
- Setting up the data system and designing a means of making the State information systems on human rights violations interoperable.

- Increasing technical investigative capacity.
- Boosting confidence in the judiciary.

Proceedings under the Justice and Peace Act

57. Despite the progress made in implementing the Act, major challenges remain to be overcome:

- Speeding up the process of establishing the truth.
- Speeding up the identification of human remains so that they can be handed over to family members.
- Inquiring into and investigating crimes committed by demobilized individuals against
 - women and children (sexual violence and recruitment of children especially).
- Promoting the National Reparation Programme.
- Expanding the Victim and Witness Protection Programme.
- Giving more publicity to victims' rights and taking steps which will include promoting the activities that the National Reparation and Reconciliation Commission has been carrying out.
- Getting the regional property restitution committees into operation.
- Completing the historical commemorative document which the Act has assigned the National Reparation and Reconciliation Commission to produce.

(C) Discrimination and vulnerable population groups

(i) Indigenous and Afro-Colombian population groups

62. There are, however, challenges to be overcome:

- Completing the policy-formulation process in conjunction with the indigenous authorities
- Entrenching prior consultation procedures in accordance with the most recent constitutional jurisprudence.
- Improving the communication channels established between the Government and the ethnic authorities,¹⁶ and relations at all levels.
- Strengthening the indigenous and Afro-Colombian authorities.
- Ensuring that the indigenous and Afro-Colombian communities really do have a right to land.
- Combating the poverty that affects the indigenous and Afro-Colombian communities.
- Defining mechanisms for coordination between the ordinary and indigenous court systems.

(ii) Forcibly displaced population groups

67. There are, however, enormous challenges:

- Effectively preventing displacement.
- Making rights-enjoyment indicators consistent.
- Consolidating the income-generation, re-housing and return programmes and the time forcibly displaced persons have access to them.
- Reinforcing the differentiated approach.
- Applying reparation policy to the displaced population.

(iii) Women

71. The above notwithstanding, Colombia acknowledges major challenges in seeking to restrain displays of violence against women. To that end, it must:

- Strengthen semi-official investigation in the event of sexual and domestic violence.
- Guarantee female victims of such violence full access to justice.
- Guarantee a safe setting and favourable environment for the exercise by women of their
- Rights.
- Safeguard the rights of women affected by violence by armed outlaw bands.
- Apply the gender perspective to victim care policies and make public servants aware of that perspective.

(iv) Children

76. The challenges facing the State are:

- To give full effect to the new Code in all areas.
- To provide backing for the Social Protection System to safeguard boys' rights.
- To bolster policies on comprehensive social and family protection so as to prevent
- Recruitment.
- To bring child labour indices down to 5.1 per cent by 2015.

(v) Lesbians gays, bisexuals and transvestites

77. The subject of special protection for same-sex couples has appeared on the public agenda in Colombia, and has led to important developments in jurisprudence. The Constitutional Court has on various occasions upheld the right of same-sex couples to equality. It has recognized that a de facto marital union (and the ensuing property rights), access to the mandatory health scheme and access to a survivor's pension must be safeguarded for same-sex couples on the same terms as for heterosexual couples. Colombia now faces the challenge of continuing to advance in this area.

(vi) Human rights defenders, trade unionists and reporters

91. The Colombian State gives the following undertakings in respect of human rights defenders, reporters and trade unionists:

- To improve guarantees of the exercise of their rights.
- To remain in communication with them.
- To act on its commitments in the case of the tripartite agreement with ILO
- To encourage investigations of crimes against these groups.
- To foster a culture in which it is easier for human rights defenders, reporters and trade unionists to operate.

(vii) Individuals deprived of their liberty

95. The State does, however, recognize that there are still challenges to meet. It has undertaken to expand national prison capacity by 24,331 places by building ten new prison complexes. It is also designing and introducing new means of restricting liberty such as electronic tagging as an alternative to a [prison] sentence, and the urban farming programme, which is intended to train inmates to provide enough food for themselves and their families when they are freed.

(D) Economic, social and cultural rights**(i) Poverty and inequality**

102. The aim with these programmes is to reduce the poverty index to 28 per cent and the extreme poverty index to 8.8 per cent by 2015, as called for by the first of the eight Millennium Development Goals.

(ii) Education

106. Despite the State's efforts, many challenges remain. According to the report on the attainment of the Millennium Development Goals, by 2015 Colombia should have:

- Attained universal basic education.
- Reduced illiteracy among 15- to 24-year-olds to 1 per cent.
- Reached gross coverage levels of 100 per cent for basic education (preschool, primary and lower secondary) and 93 per cent for higher secondary (middle school) education.
- Established an average of 10.6 years' schooling among the 15- to 24-year-old age group.
- Reduced the repeat rate in basic and middle education to 2.3 per cent.

(iii) Health

114. Health challenges include:

- Universal coverage by 2010.

- Establishing 90 telemedicine stations for remote locations.
- Standardizing the Mandatory Health Plan for children of all social strata as a first step towards compliance with Constitutional Court order No. T-760 of 2008, which requires benefits for children, adults and citizens in general to be standardized.
- Reducing maternal and infant mortality in accordance with the Millennium Development Goals.
- Putting the national public health plan and the sexual and reproductive health plan into effect.
- Improving nutrition levels among girls.
- Combating HIV/AIDS, malaria and other serious illnesses.
