

**NON OFFICIAL TRANSLATION
PROVIDED BY THE GOVERNMENT OF COLOMBIA**

**LIST OF QUESTIONS THAT NEED TO BE ADDRESSED IN RESPECT OF THE
FOURTH PERIODIC REPORT ON COLOMBIA (CAT/C/COL/4)**

Question No. 1.

Please provide information for the years between 2004 and 2008 with respect to:

- a) The cases alleging torture between 2004 and 2008 and clarify in how many cases respectively the Police, Army and Prison Service are implicated. Please indicate the cases where torture and other crimes are attributed to them and specify which:**

1. The National Institute of Legal Medicine and Forensic Sciences, (through: the basic Quality Monitoring Program; the use of the data base “Epidemiological Surveillance System for External Causes of Injuries (“SIVELCE”); and use of the “Missing Persons and Corpses Information System (“SIRDEC”)¹), detects and registers signs of torture which enables the documentation of cases of torture using international parameters.

2. Possible cases of torture that are documented on these data bases and that are attributable together with homicide, are as follows: in 2004 in relation to allegations involving detention there was a total of 290 cases of which: in 229 cases the perpetrator is unidentified or there is no precise information; in 14 cases the alleged perpetrator was the FARC (illegal armed group) or another guerilla group; in 43 cases the alleged perpetrator was a paramilitary group; in four cases the alleged perpetrator was the military. Additionally, in that same period, there were 62 cases of alleged mutilation of which: in 41 cases the perpetrator was unidentified or there was no precise information; in 13 cases the alleged perpetrator was the FARC (illegal armed group) or another guerrilla group; in 5 cases the alleged perpetrator was a paramilitary group; and in 3 cases the alleged perpetrator was the military. Finally, in so far as the cases where the allegations involved the use of pain, there were 286 cases of which: in 240 cases the alleged perpetrator is unidentified or there is no precise information; in 11 cases the alleged perpetrator was the FARC (illegal armed group) or another guerilla group; in 33 cases the alleged perpetrator was a paramilitary group; and in 2 case the alleged perpetrator was the military. (Table 1.)

3. In 2005, there was a drop in the number of cases. In respect of allegations involving detention in 2005 there were a total of 269 cases in which: in 237 cases the perpetrator is unidentified or there is no precise information; in 3 cases the alleged perpetrator was from the FARC (illegal armed group) or another guerrilla group; in 26 cases the alleged perpetrator was a paramilitary group; and in 3 it was allegedly the Armed Forces. In those cases in which mutilation was alleged there were 30 cases, of

¹ SIRDEC was implemented from January 2007.

which: in 24 the perpetrator was unidentified or there was no precise information; in 2 cases the alleged perpetrator was the FARC (illegal armed group) or another guerilla group; in 4 cases the alleged perpetrators were paramilitary groups; there were no allegations against the armed forces. Finally, in so far as the cases in which the allegations involved the use of pain, during this period there was an increase: 310 cases, of which in 242 the perpetrator was unidentified or there was no precise information; in 20 cases the alleged perpetrator was the FARC (illegal armed group) or another guerrilla group; in 17 cases the alleged perpetrator was a paramilitary group; in 30 cases the alleged perpetrator was the military and in one case the Police. (Table 2.)

Table 1. Possible cases of torture linked to homicide based on external marks left on corpse by the alleged perpetrator. Colombia 2004

ALLEGED PERPETRATOR	DETENTION	MUTILATION	INFLICTION OF PAIN
Number (s) unknown – no information	229	41	240
FARC AND OTHER GUERRILLAS	14	13	11
Paramilitaries – “Autodefensas”	43	5	33
MILITARY FORCES	4	3	2
POLICE	0	0	0
TOTAL	290	62	286

Source: National Institute of Legal Medicine and Forensic Sciences

Table 2. Possible cases of torture linked to homicide based on external marks left on the corpse by alleged perpetrator. Colombia 2005

ALLEGED PERPETRATOR	DETENTION	MUTILATION	INFLICTION OF PAIN
Number(s) Unknown or – No information	237	24	242
FARC AND OTHER GUERRILLAS	3	2	20
Paramilitaries – “Autodefensas”	26	4	17
MILITARY FORCES	3	0	30
POLICE	0	0	1
TOTAL	269	30	310

Source: National Institute of Legal Medicine and Forensic Sciences

4. In 2006 cases once again progressively decrease. Alleged cases involving detention decrease to 158 cases, of which; in 11 cases the perpetrator is unidentified or no precise information exists; in 8 cases the alleged perpetrator was the FARC (illegal armed group) or another guerrilla group; there were no alleged cases committed by the paramilitaries; and neither were there any alleged cases committed by the military. In those cases alleging mutilation there were 71 cases, of which: in 66 cases the perpetrator is unidentified or there is no precise information; in 5 cases the alleged perpetrator was the FARC (illegal armed group) or another guerilla group; finally with regard to the cases in which the allegations involved the infliction of pain, during this period there were 33 cases, of which: in 3 cases the perpetrator is unidentified or there is no precise information; in 17 cases the alleged perpetrator was the FARC (illegal armed group) or another guerrilla group; in 2 cases the alleged perpetrator was a paramilitary group; in 11 cases the alleged perpetrator was the military (Table 3.)

5. During 2007 there were 27 cases reported in the triad of situations that we have developed. According to the figures, there were only 17 recorded cases of alleged detention of which: in 12 cases the perpetrator is unidentified or there is no precise information; and in 5 cases the alleged perpetrator was a paramilitary group. With regard to cases in which the allegations involved the infliction of pain, during this period of time there were only 10 cases and in all cases the perpetrator unidentified or there was no precise information. (Table 4.)

6. Finally, in the last period under question the possible cases of torture linked to homicide vary according to the type of torture identified : there are 511 cases with signs of mistreatment, of which: in 502 cases the perpetrator is unidentified or there is no precise information; in 4 cases the alleged perpetrator was the FARC (illegal armed group) or another guerrilla group; in 5 cases the alleged perpetrator was a paramilitary group; in 6 cases the alleged perpetrator was the military; and in 3 cases the perpetrator was allegedly the National Police. (Table 5.)

Table 3. Possible cases of torture associated according to external signs of the corpse by the alleged aggressor. Colombia 2006

ALLEGED AGRESSOR	DETENTIONINMOVILIZACION	MUTILATION	CAUSED BY PAINCAUSACION DOLOR
Number(s) unknown or - No information	139	66	3
FARC AND OTHER GUERRILLAS	11	5	17
Paramilitaries – “Autodefensas”	8	0	2
MILITARY FORCES	0	0	11
POLICE	0	0	0
TOTAL	158	71	33

Source: National Institute of Legal Medicine and Forensic Sciences

Table 4. Possible cases of torture associated with homicide according to external signs on the corpse left by the alleged perpetrator. Colombia 2007

ALLEGED AGRESSOR	DETENTIONINMOVILIZACION	MUTILATION	PAINCAUSACION DOLOR
Number(s) Unknown or no information	12	0	10
FARC AND OTHER GUERRILLAS	0	0	0
Paramilitaries – “Autodefensas”	5	0	0
MILITARY FORCES	0	0	0
POLICE	0	0	0
TOTAL	17	0	10

Source: National Institute of Legal Medicine and Forensic Sciences

Table 5. Possible cases of torture linked to homicide based on external signs on the corpse left by the alleged perpetrator. Colombia 2008

Type of Torture	FARC	Paramilitaries		Police	Number(s) with no data/unknown	Overall Total
		"Autodefensas"	Military Forces			
SEXUAL ABUSE	0	0	0	0	3	3
NEAR SUFFOCATION	0	0	0	0	26	26
VARIOUS	2	3	1	0	139	145
BEATINGS	0	3	3	1	129	136
FORCED POSITION	0	2	1	0	69	72
BURNS	0	0	0	0	5	5
SUSPENDING IN THE AIRSION??	0	0	0	0	3	3
Overall total	2	8	5	1	374	390

7. Finally, the Single Disciplinary Control Office belonging to the National Prison Institute (INPEC), uses the Disciplinary Information System data base (SIID), which provides the following data on cases in which prison officials were allegedly involved: 102 cases at a national level, of which: 7 were recorded in Prisons under the jurisdiction of Central Headquarters; 54 in prisons in the central region of the country; 16 in the Eastern region; 4 in the Caldas region; 6 in the western region and 15 in the northern region.

Table No. 6. National Prison Institute (INPEC). Disciplinary Control Office: Misconduct: Torture, cruel, inhuman or degrading treatment

PRISON CENTERS	Number of processes in progress
Central Headquarters	072
Central Region	087
Eastern Region	050
Viejo Caldas Region	006
Western Region	014
Northern Region	016
North West Region	012
Total	257

8. Please note that investigations are mainly about physical and verbal abuse and the processes refer to investigations being carried out in accordance with the Single Disciplinary Code. (Law 734 of 2002)

b) The number of cases of alleged torture that were documented by the Institute of Legal Medicine; and the proportion of these cases that correspond to reported incidents.

9. Taking into account the documented cases that have been reported previously, there have been 2,047 documented cases between 2004 and 2008. It is important to point out that all the recorded cases receive their respective support from the competent authority.

c) Progress and results of each Investigation into allegations of reported torture.

10. Committed to the fact that the protection of Human Rights and International Humanitarian Law increasingly requires more effective measures, at the initiative of the Directorate of National Public Prosecutors, the **Public Prosecutors Humanitarian Affairs Unit** was created, with the aim of avoiding convoluted, biased investigations and working for investigations that respect the principles of reasonable time frames, access to justice, the observance of due process, and judicial guarantees that result in substantive legal decisions. Among the areas of exclusive legal competence that these units cover is that of torture.

11. Given that torture constitutes a violation of fundamental rights and must be repudiated by society and punished by the State, the Attorney General's Office has promoted the creation of a system of rigorous control and monitoring of investigations in order to assess progress in this process and the access of victims to the rights of truth, justice and reparation.

12. In addition training is being developed throughout the country for special prosecutors and investigators from the Technical Investigation Body ("CTI") of the Attorney General's Office on the nature of crimes against humanity, its limitations, its definition under international and domestic law, and typical adaptation of behavior, investigation and evidence.

13. Regarding the Investigation of cases, the National Directorate of Public Prosecutors has assigned 518 cases (under Law 600 of 2000) of which: 78 are under preliminary investigation; 40 are now under instruction; 54 indictments, 10 arrest warrants and 64 preventive detention measures have been issued. Since the launch of the new accusatory penal system, the National Directorate of Public Prosecutors has been assigned 245 cases, of which 229 are at the enquiry stage, 2 are under investigation, 12 are now at the trial stage, 2 have been sent for sentencing. In these same cases: 18 arrest warrants have been issued; charges have been formulated in 32 cases; 18 preventive detention measures have been issued; accusations have been issued in 13 cases; and 3 guilty judgments have been issued. (Tables 7 and 8)

Table N° 7 Statistics on cases of torture: Law 600 of 2000

Preliminary enquiries	478
Under Instruction	40
Number of cases	518

Source: National Directorate of Public Prosecutors, Attorney General's Office

Charges	54
Arrest warrants	10
Preventive detention orders	64

Source: National Directorate of Public Prosecutors, Attorney General's Office

Table No. 8 Statistics on cases of torture: Law 906 of 2004

Enquiries	229
Investigations	2
Trial	12

Sentencing	2
Number of cases	245
Arrest warrants	18
Formulation of imputation	32
Preventive detention measures	18
Accusations	13
Guilty judgements	3

Source: National Directorate of Public Prosecutors, Attorney General's Office

Source: National Directorate of Public Prosecutors, Attorney General's Office

14. In addition, in cases of torture the Human Rights and IHL National Unit in the Attorney General's Office in cases of torture have produced the following results: 3 sentences in 2005 in which 6 people were found guilty including 3 members of the FARC; in 2006 there was 1 sentence in which a member of the FARC was found guilty, in 2007 3 sentences in which 4 people were found guilty; in 2008 1 sentence which convicted 5 people; and in the month of February there were 2 sentences which convicted 3 members of the demobilized *Autodefensas Unidas de Colombia* (paramilitaries). (Table 9)

15. In respect of actions by the Inspector General's Office against alleged State officials or members of the security forces implicated in cases of torture, the results are as follows: 49 disciplinary investigations; 51 preliminary Investigations; 5 cases in the process of issuing a first instance judgment; and 2 cases of second instance judgment; 18 cases with decision to close; and 5 have already been closed. (Table 10)

Table No. 9
Statistics of Cases of Torture
National Unit for Human Rights and International Human Rights, Attorney General's Office

No. Convicted	Crime	Security Force (assailant)	Date of Judgement	Decision	Court location
1	Physical and Psychological Assaults	Police	March 2005	11 years imprisonment	Bogotá, D.C.
3 members of the FARC	Homicide, torture of protected people and others	-	July 2005	480 months of imprisonment	Florencia, Caquetá
2	Torture and personal injuries	Police	December 2005	Sentence of 201 months of imprisonment	Bogotá, D.C.
1 member of the FARC	Homicide of protected person, terrorism, torture and others	-	April 2006	38 years and 9 months of imprisonment	Manizales, Caldas
1	Aggravated homicide,	Police	July 2007	32 years of imprisonment	Arauca with temporary

	attempted homicide and torture				base in Bogotá, D.C.
1	Aggravated Homicide torture and other crimes	Police	August 2007	32 years of imprisonment	Arauca with temporary base in Bogotá, D.C.
3	Enforced disappearance, torture and other	Army	November 2007	40 years of imprisonment	Arauca
2 members of AUC	Homicide and torture of protected persons	-	February 2009	40 years of imprisonment	Criminal Court of Cassation in Bogota DC
5	Homicide and torture of protected person	Army	March 2008	Sentence of 34 years of imprisonment	Antioquia
1 member of the AUC	Torture	-	February 2009	108 months of imprisonment	Medellín, Antioquia

Table No. 10
Statistics of cases of Torture
Inspector General's Office

Procedures	No. of Processes in progress
Evaluation of disciplinary Investigation	49
Evaluation of preliminary Investigation	51
In process of designating new official	01
Being commissioned	06
Evidence for defence	09
issue first instance judgment	05
Appeal In process	01
Second instance	02
Case decided and awaiting closure	18
Case closed	05
Referral process because of competence	01

d) Statistics that identify the responsible institutions, the place where the events took place, and the sex, age, and ethnicity of the victims.

16. The entities that are responsible for cases of torture can be found in tables 1, 2, 3, 4, 5 and 6.

The following table which refers to the cases and investigations of the National Human Rights Unit of the Attorney General's Office identifies the events and provides some details about the different types of victims:

Table No. 11
National Human Rights and International Humanitarian Law
Unit in the Attorney General's Office

Year of incident	Type of Crime	Security Force Perpetrator	Victims and place of incident
-	Physical and psychological Attacks	Police	Man in Bogotá, D.C.
2002	Homicide and torture of protected person and other crimes	-	Man (Civilian) and 9 soldiers, in rural area of Caquetá
-	Torture and personal injuries	Police	Man in 11th Police Station in Suba, Bogotá, D.
2004	Homicide of protected person, terrorism, torture and other crimes	-	Various peasant farmers in rural part of Caldas
2002	Aggravated homicide, attempted homicide and torture	Police	2 men in Saravena, Arauca Police Unit
2002	Aggravated homicide with torture and other crimes	Police	2 men in Police Unit of Saravena, Arauca
2003	Enforced disappearance, with torture and other crimes	Army	6 men at road block in rural area of Arauca
-	Homicide and torture of protected persons	-	Multiple victims, southern area of Department of Caquetá
-	Homicide and	Army	Man, his

	torture of protected person		daughter and son, in rural area of Antioquia
2002	Torture	-	Adult woman, Medellín, Antioquia

e) Number of Police, Army and Prison Service officials that have been suspended from duty as a preventive measure or punishment for torture or who have subsequently been dismissed.

17. The Inspector General's Office has acted in three cases and the respective punishment for torture were: (1) in 2006, a ruling against a member of the Police who was removed from office for events that occurred in 2004 related to the infliction of cruel and inhuman or degrading treatment; (2) in 2007, a ruling of suspension from duty against an official from the National Prison Institute (*INPEC*) for events in 2003 that took place in Combita prison; and (3) in 2009, the Inspector General's Office issued a ruling against a member of the security forces for activities related to torture and that were incompatible with the good name and prestige of the security forces. (Table 5)

f) The jurisdiction (ordinary criminal justice system or military criminal justice system) responsible for the investigations.

18. The ordinary criminal justice system is responsible for investigations under the following constitutional and legal provisions:

a) The Constitution: Article 221, amended by Legislative Act No. 2 of 1995, establishes that "*crimes committed by the members of the security forces on active duty, and related to that same service, will be heard by Courts Martial or Military Tribunals, in accordance with the Military Penal Code. Such Courts or Tribunals will be made up of members of the Security Forces on active duty or retired.*" For constitutional reasons, therefore, the military criminal justice system does not form part of the judicial branch of Public Power.

b) Law 522 of 1999 (Military Penal Code): the first chapter of the first heading establishes the rules governing the Military Criminal Law. Article 2 establishes offences related to military service: "*are those military service-related offences committed by members of the security forces resulting from the exercise of proper police or military duty. In accordance with the alleged evidence, the competent legal authority that hears the process will determine competence, in accordance with constitutional and legal provisions and regulations that regulate the activities of the security forces*"².

c) Article 3, referred to as "non service-related offences", provides that "*notwithstanding the provisions in the previous article, in no case can the crimes of*

² The article in its totality was declared ENFORCEABLE by the Constitutional Court through Judgment C-878 of 2000 of 12 July 2000.

torture, genocide and enforced disappearance,³ be considered as service-related as understood in the terms defined in international conventions and treaties ratified by Colombia”.

19. Now, regarding the implementation of the competence of the military criminal judge, Ruling C-361/01, mentions that it is for the military criminal judge to carry out a careful study when facts are presented that may come to his/her knowledge as judicial authority, to conclude whether it is within his/her powers to hear the case that he has been ordered to examine within his competences⁴.

g) The punishment in cases of conviction for torture, cruel, inhuman or degrading treatment.

20. Based on the information shown in sub paragraphs (c) and (e) above it is evident that the Attorney General’s Office and the Inspector General’s Office as the two respective responsible and competent institutions must punish criminally and discipline all those that allegedly participate in torture, or cruel, inhuman or degrading treatment.

h) Cases of alleged torture or cruel, inhuman or degrading treatment that have resulted in exoneration.

21. In the National Human Rights and IHL Unit of the Attorney General’s Office there were 5 cases that were acquitted in 2006, for the crimes of homicide of protected persons, terrorism, torture and other crimes.

**Table No. 12: Statistics of cases of torture
National Human Rights and International Humanitarian Law Unit
Attorney General’s Office**

Year of events	No. Acquitted	Crimes	Security Force (assailant)	Date of Judgment	Decision	Place judgment took place	Victims and location of events
2004	5	Homicide of protected person, terrorism, torture and other crimes	-	April 2006	38 years and 9 months of imprisonment	Manizales, Caldas	Several peasant farmers, In the rural area of Caldas

³ Ruling C-878 of 2000 determined that “although the legislature decided to only make specific express reference to the crimes of torture, genocide and enforced disappearance as conduct unrelated to military service and, as such, the military criminal justice system is prevented from hearing them when they occur, it is clear that these are not the only crimes that have been expressly excluded from being heard by the military justice system. This is because there are other types of conduct that (...) are so clearly contrary to the constitutional function of the security forces that just their perpetration breaks every functional connection between the agent and military service”.

⁴ By May 2009 the military criminal justice system had referred, without bringing about any conflict over jurisdiction, 526 investigations to the ordinary justice system. In May 2009 there were 6 outstanding proceedings for homicide, allegedly attributed to agents of the State, to be resolved in terms of jurisdiction according to the Higher Judicial Council.

Question No. 2.

Please indicate the incidence of allegations of torture in the army especially those affecting persons performing compulsory military service and what are the measures taken to prevent and investigate such occurrences.

22. The Army Personnel Directorate does not have statistics that show the incidence of allegations number of reports of torture in the security forces, especially about those who are performing compulsory military service. Nevertheless, verified information on the data base of the legal section – record of criminal and disciplinary proceedings - , in 2008 and to date shows there have been 4 suspensions of Officers and NCOs for cases related to torture: 3 officers with the rank of Lieutenant and 1 NCO with the rank of Corporal (First Class).

23. The measures and actions taken by the State and the Security Forces in order to prevent these events are framed within the Integrated Policy on Human Rights and International Humanitarian Law (IHL) of the Ministry of Defense. This policy is the framework document that describes the guidelines, sets objectives and establishes programs that, in Human Rights and International Humanitarian Law, the Armed Forces and where appropriate the National Police must understand and develop.

24. The *Integrated Policy* serves three purposes: *to articulate* the system of teaching Human Rights and International Humanitarian Law that for more than a decade has been implemented by the Ministry of National Defense; *to adapt* the methods of instruction in Human Rights and international Humanitarian Law to the needs of the security forces in the current; context; and, finally, *to integrate* all the capabilities available to the security forces to ensure compliance with its obligations regarding Human Rights and International Humanitarian Law. It is about establishing a clear regulatory framework whose teaching and control is an integrated part of all activities of the security forces.

25. The policy is a precise attempt to ensure personal integrity and safeguard human dignity both *inside* and *outside* the security forces within the framework of operations carried out in the midst of the population. That purpose is embodied in two of the five core principles which the Policy includes: teaching and supervision and control.

26. The Ministry of Defense has begun a process of transforming the educational system, implementing measures to enable a greater internalization of Human Rights and International Humanitarian Law, reducing the level of complexity of courses at lower levels, and promoting a crosscutting strategy between teaching and operations. Action surrounding “education” include the following strategies: *The Educational System Strategic Plan (ESSP)*; *Single Teaching Model (STM)*; *Regional Scenario Training Group (RSTG)*; *Lessons Learned*; *Situation Training Workshops*.

27. Some of the main outcomes in respect of education include the establishment of the first Human Rights course in the Tolemaida military base. There are currently nearly

35 Human Rights courses in the Education Centers and Training Schools around the country.

28. In 2008 the process of creating the first Regional Scenario Training Group began, which seeks to establish an education center that combines practical training with the implementation of Rules of Engagement in different operational scenarios. Similarly, a process was begun of implementing the Single Teaching Model that delivers curricular training in Human Rights and International Humanitarian Law, at six different levels, which is aimed at all members of the security forces, according to the different Commands and responsibilities among the ranks. In addition to the obligatory courses that are part of the training schools curriculums, the Ministry of Defense and the General Command provide extracurricular training in Human Rights and IHL. Between 2006 and 2008 the situation training offered to the military was increased by 95 %. During the first two months of 2009, the Directorate of Human Rights and International Humanitarian Law has trained 6,480 members of the Colombian army. To reach these objectives the ties and cooperation have been strengthened with national and international authorities and agencies in pursuit of strengthening the "Social Rule of Law" (*Estado Social de Derecho* which is a concept from the 1991 Constitution).

29. Nevertheless at the same time as trying to invigorate education in order to prevent all violations of Human Rights and International Humanitarian Law, the Ministry of Defense through the Policy also helps to strengthen operational discipline in two ways: through appropriate legal advice to guide operations, and through some institutional and judicial controls to ensure respect for Human Rights and compliance with the rules of International Humanitarian Law.

30. Both in the Armed Forces as well as the National Police a good practical education linked to proper advice and flexible and effective controls on the ground prevents Human Rights violations and breaches of International Humanitarian Law. To that end the following strategies were launched depending on the specifics the mission of each force: • *Doctrine and Advice Office; Operational Legal Advisors; Operational Orders and Rules of Engagement; Delegated Inspectors.*

31. Other actions with the same purpose are: the design and implementation of specialist software for the storage of information related to: progress and decisions in disciplinary, criminal and administrative investigations; and reform of Disciplinary Procedures with the aim of simplifying and ensuring a greater control of Commanders in respect of the actions of their subordinates.

32. Furthermore, Permanent Directive 25 of 2008, by order of the President of the Republic, orders the implementation of a system for receiving complaints at a national level about activities that allegedly involve members of the Security Forces, with the aim of strengthening the Government's policy of "*zero tolerance of cases of alleged abuses in the exercise of their duties by members of the Security Forces.*". The above-mentioned system will address the principles of transparency, trust, accountability, speed and credibility.

33. The directive requires the implementation of a specific complaints system that enables the monitoring, evaluation and review of the procedures developed within the

security forces. On the last working day of each month, the Inspector General's must submit a monthly analysis of complaints received in respect of their processing, monitoring and evaluation together with recommendations to be implemented with the aim of preventing the occurrence of such conduct involving members of the security forces.

34. Control by monitoring the complaints received on the implementation of this system will be done through teleconferences to be broadcast on national television. The system that is implemented in the Directive will receive complaints and/or allegations in three different forms that in no way excludes the current systems operating within the State which are as follows:

Human Rights Offices of Military and Police Units

35. The Human Rights Offices of each Military and Police Unit must make an easily accessible space available to the public for receiving complaints and/or allegations that may involve members of the security forces. Once received, the complaint must be verified to see whether it falls under the jurisdiction of the appropriate criminal and disciplinary authorities and if so it must be brought to their immediate attention with the aim of taking the appropriate actions demanded by the law. Additionally, once received, the complaint must be documented and the administrative actions taken to address it must be verified. At the same time, what also must be done in a timely manner are the requirements carried out by the competent judicial and disciplinary authorities within the framework of investigations that take place into alleged events involving members of the security forces.

36. Every fortnight a consolidated report must be sent to the corresponding Delegated Inspectorate of the allegations received together with an Executive Report on their monitoring, as well as a report on administrative decisions undertaken in order to ensure a transparent, speedy and effective clarification of the facts. The Delegated Inspector will provide a monthly report to the Inspectorate General of the respective Armed Force on the monitoring of these allegations and making recommendations to deter the Armed Force in question from any conduct that implies any abuse in the exercise of the constitutional and legal duty that has been assigned to the security forces.

Free national telephone hotlines to each of the Armed Forces and the National Police

37. Given that, in compliance with article 49 of Law 190 of 1995, in each of the Armed Forces and the National Police there are free telephone hotlines available for use by citizens, a communication strategy must be implemented through the mass media to inform citizens about their existence and that they may be used as a suitable complaints mechanism for reporting allegations against members of the security forces.

38. Complaints and/or allegations received through these hotlines will be forwarded to the Inspectorate General of each Armed Force and of the National Police in order that these are classified and routed through delegated inspectorates for corresponding

military and police units. Each one of the complaints and/or allegations received by this means must provide the same process available for complaints received in the corresponding offices of military and police Human Rights units.

Special link on the web pages of each Armed Force and the National Police

39. To ensure an expeditious means for citizens to easily make a complaint, a special link will be created on the web page of each of the Armed Forces and the National Police. The complaints received by this means must be referred to the Inspectorate General of each of the Armed Forces and the National Police in order that these are classified and routed through the Delegated Inspectorates to the corresponding military and police units. Each complaint and/or allegation received by this means must follow the same procedure established for complaints received in the corresponding Human Rights Offices of military and police units.

40. Through the television program, all citizens may submit complaints they deem appropriate and these will be dealt with by representatives of the Office of the Attorney General, the Office of the Inspector General and by the Commanders of the operational units. The first program was broadcast on 17 November 2008, in which the President of Colombia, the Minister of Defense, and the Commanding Officer of the Armed Forces took part. In addition, through a teleconferencing system, all Brigade Commanding Officers in the country submitted a report on the monitoring of the Integrated Human Rights Policy and responded to enquiries submitted by citizens by a phone or email service to lodge their complaint

41. In the case of the National Police, some of the institutional controls that have been implemented to prevent violations and breaches include:

- The establishment of offices for dealing with citizens in all police departments where complaints are received about inconsistency or irregular services;
- The creation of the post of Regional Police Inspector in each Police Region;
- The establishment of a Human Rights Office in each Police Department;
- The "SIJUR" legal information system, that allows direct control over all disciplinary and criminal proceedings against members of different institutions.

42. In respect of prevention, work is being carried out in conjunction with the Army, Navy, Air Force and National Police Commands to reduce the number of criminal cases and disciplinary offences.

43. Finally, the measures and actions to investigate these events are clear: to the extent to which Military Criminal Judge considers that the cases they are aware of which may constitute a violation of Human Rights or a breach of International Humanitarian Law, must be transferred to the Ordinary Justice System in order to be investigated and prosecuted. In this regard, with the aim of strengthening the Military Criminal Jurisdiction system, officials are being trained on the nature of such incidents to ensure

that, in the event of alleged violations of Human Rights, they are immediately referred to the ordinary justice system through clear and expeditious procedures.

Question No. 3.

Please indicate whether policies and institutional regulations on promotion in the Security Forces include as reasons for not granting such promotion, the violations of Human Rights or serious breaches of International Humanitarian Law

44. The criteria for conferring promotion in the military are laid down in Decrees 1799 and 1790 of 2000. They state that the rating for promotion is based on a study that the Classification Board performs based on evaluations and ratings received.

45. In accordance with the above-mentioned decrees, military officers may be promoted to the next higher level when the following minimum requirements are met:

- a) Minimum length of time served for each rank
- b) Proven professional capabilities with annual regulated evaluations.
- c) Take and pass statutory promotion courses.
- d) Proven psychophysical aptitudes in accordance with existing regulations.
- e) Proven minimum service times in command of troops, aboard ship or in the air for the ranks of: sub-Lieutenant, Lieutenant, Captain and their equivalents in the Navy.
- f) Favorable opinion by the Ministry of Defense Advisory Board.
- g) Qualified for promotion in accordance with the rules of evaluation and rating.

46. According to law 1104 of 2006, NCOs in the Armed Forces may be promoted to the next higher rank when the following minimum requirements are met:

- a) Have completed minimum effective service for each particular rank:
 - i) Professional, proven capabilities with annual evaluations and course and exam grades for promotion as established by the respective Forces Commands.
 - ii) Proven psychophysical aptitudes in accordance with the existing regulations.
 - iii) Proven minimum service times in a troop or aboard ship in accordance with regulations issued by the national government.
 - iv) Have qualified for promotion in accordance with the rules of evaluation and ratings.

47. In the following cases officers and NCOs will not qualify for promotion, unless exempted:

- a) Where there is a preventive detention custody measure against them.
- b) Where there is a judicial decree ("auto") against them.
- c) Where there is an indictment or summons to a court martial or temporary suspension against them in the exercise of their duties or powers

48. In addition, the Ministry of Defense adopted in November 2008 a process of **Human Rights certification** as an enforceable requirement for all officers seeking to participate in the promotion course to the rank of Lieutenant Colonel or General, which will be based on a polygraph test and a thorough review of their Curriculum Vitae (not having undergone formal investigations or sanctions for alleged Human Rights violations or breaches of International Humanitarian Law).

49. Finally, in May 2008, through Directive 142 the Army Command revised the criteria for granting bravery medals or public order medals and now award greater value to demobilizing or capturing members of illegal armed groups or criminal gangs than killing them in combat.

Question No. 4.

Please provide information on investigations of cases of torture and extrajudicial executions of civilian victims that were initially reported by the Army as killed in combat (number of cases, progress and results of investigations, procedural stage, number of cases archived, and any judicial decisions taken).

50. Please find information on investigations of torture in paragraph (c) of question 1. With regard to investigations of cases of homicide of protected person it is important to point out the following results.

51. For the period from 2002 and 15 May 2009, the Presidential Human Rights Program has registered:

- 551 accusations of alleged of murder of protected persons that occurred between 2002 and 2008.
- No accusations have been received for incidents occurring in 2009.
- In the week of 20 April, a report from the *CINEP* Human Rights organization reported the existence of six cases which occurred during the 2008. The Government is conducting relevant investigations to analyze the cases. However, in respect of one of these cases the Minister of National Defense publicly stated that *"it was a 'false positive' case and we are taking all necessary measures"*^[5].

Table No. 13: Accusations of alleged murder of a protected person.

Number accusations/year of occurrence ^[6]	Total ^[7]
2002	15
2003	29
2004	85
2005	134
2006	143
2007	98
2008	47
Grand total	551

Source: Presidential Human Rights Program

⁵ Words of the Minister of National Defense to *Caracol Radio* on 5 May 2009.

⁶ The years refer to the year of the incident not of when the complaint was made.

⁷ The figures are for complaints and not on criminal allegations. The Presidential Human Rights Program has various sources of information for learning of complaints (NGOs, National Police, "CTI", etc). The Presidential Human Rights Program collates the various complaints received by various means and sifts those that repeat the same information on time, manner and place (to avoid duplication of the same complaint about a criminal action)). The presented figures refer to criminal acts of homicide against protected persons of which the Presidential Human Rights Program is aware.

Table No. 14: number of affected people per year of incident.

Number of affected people per year of incident	Total
2002	48
2003	41
2004	116
2005	181
2006	202
2007	140
2008	89
Grand total	817

Source: Presidential Human Rights Program

52. In 2008, the Ombudsman's Office received and processed, nationwide, 140 accusations of alleged violations of the right to life through arbitrary executions allegedly the responsibility of members of the National Army.

53. In the process of these petitions ^[8] -complaints ^[9], the cases are documented with the support of the families of the victims and are referred to the competent authorities so that the corresponding criminal and disciplinary investigations are carried out and that the respective entity is informed about each case.

⁸ The petitions are classified according to their nature as: advice; requests; and complaints.

⁹ Manual for Processes and Procedures in Responding to and Processing Petitions

54. In processing accusations of alleged arbitrary executions, the Ombudsman's Office through the National Directorate for Examining and Processing Accusations, drew the attention of the Attorney General's Office to the need to pay attention to the recommendations of the Office of the United Nations High Commissioner for Human Rights (UNOHCHR).^[10]

55. Equally the Inspectorate General of the National Army was asked to take into account that the UNOHCHR had urged the authorities to issue instructions so that officials within the Military Criminal Jurisdiction do not claim jurisdiction over in proceedings for conduct involving a violation of Human Rights or a breach of International Humanitarian Law.

56. Similarly, such authorities were asked to take into account the right of due process. It was recalled that, in accordance with Ruling C-385 of 1999 by the Constitutional Court, it was considered that *"acts such as massacres, genocide, torture and enforced disappearance, among others, committed by members of the Colombian Security Forces, for being conduct constituting crimes against humanity bear no relation at all to the constitutional role of the security forces. Therefore they can bear no relation to the proper duties of such service, since just the act of perpetrating these criminal offences eliminates any link between the conduct of the agent and the proper military or police discipline and duty, and therefore their jurisdiction corresponds to the ordinary courts"*.

57. The Ombudsman's Office reminded them that both the Constitutional Court and the Higher Judicial Council have reiterated that the jurisdiction of the Military Criminal Justice system is restrictive and exceptional and is only required to investigate and try offences related to military service, understood as those committed by members of the security forces on active duty, when they arise directly from the exercise of military or police functions that the Constitution has assigned to them.

58. From the first moment that there was an increase in complaints in cases of homicide of protected person, the National Government has constantly reiterated the obligation to perform military operations in strict compliance with International Humanitarian Law and to **support the judicial and disciplinary authorities** during investigations, especially by facilitating the taking of evidence; and underlining the jurisprudence of the Constitutional Court on the **restrictive scope of military criminal jurisdiction** .

59. The result of all this work up to April 2009 has been the transfer to ordinary justice, with no conflict of jurisdiction, of **501 processes**, with **87** of them between January and April 2009. It is also important to note that the ordinary courts have referred **95 processes**, with **10 of them in 2009**, to the military criminal justice system because in principle they were service-related matters.

¹⁰ The OHCHR urged the Attorney General's Office to issue clear instructions for Public Prosecutors to act in accordance with the international principle under which the military and police suspected of human rights violations or breaches of International Humanitarian Law must, in all cases, be processed by the ordinary jurisdiction.

60. In addition, the Attorney General's Office set up a sub-unit in support of the Human Rights Unit to investigate alleged killings of protected persons. This sub-unit began its work in January 2008, giving a special impetus to cases in the Departments of Antioquia and Meta. This Sub-Unit has, as of 30 June 2009, 22 public prosecutors and their respective support from the Judicial Police. Today the *CTI* (Technical Investigation Body) go to most of the places where deaths occur in combat.^[11] The Armed Forces continue to provide all possible means to ensure that it is the judicial police authorities which remove the corpses, even under the most adverse geographical and security conditions.

61. Below there is information on the cases under the responsibility of the Sectional Directorate Public Prosecutors of the Attorney General's Office with the proviso that the information on investigations conducted by the National Human Rights and International Humanitarian Law is separate.

a. National Unit of Public Prosecutors

62. By 15 May 2009, the National Unit of Public Prosecutors of the Office of the Attorney-General had pushed forward 317 homicide cases allegedly attributable to agents of the State, with 405 people involved and 908 reported victims. However not all them necessarily correspond to homicides of protected person.

Table No. 15: statistics of homicides allegedly committed by agents of the State

TOTAL CASES	LAW 600	LAW 906
317	130	187

Source: National Directorate of Public Prosecutors: Attorney General's Office. June 2009

Table No. 16. Number of people with links and number of victims

Number of people with links	405
Number of victims	908

Source: National Directorate of Public Prosecutors: Attorney General's Office. June 2009

¹¹Urgent action procedures often require a 1.5 hour flight by two helicopters (45 minutes each way), one for transport and one for protection, at an approximate cost of COP5, 700,000 per hour of flight. The implementation of one urgent action procedure costs more than COP17 million, equivalent to about USD8,500.

Table No. 17. Number of cases

CASES	AMOUNT
LAW 600	130
PRELIMINARY	64
INSTRUCTIONS	63
TRIAL	2
SENTENCE	1
CASES	
LAW 906	187
INVESTIGATION	180
CHARGES	3
SENTENCE	3

Source: National Directorate of Public Prosecutors: Attorney General's Office. June 2009

Table No. 17: Statistics of cases heard by public prosecutors attached to the Sectional Directorates of Public Prosecutors by location and year (Law 600 and Law 906)

LOCATION	
ANTIOQUIA	137
ARAUCA	25
ATLANTIC	1
BOLIVAR	3
BOYACA	10
CALDAS	3
CAQUETÁ	10
CEASE	21
CORDOBA	1
CUNDINAMARCA	5
GUAJIRA	1
HUILA	11
MAGDALENA	2
GOAL	9
NARIÑO	5
NORTH OF SANTANDER	27
PUTUMAYO	9
QUINDIO	8
SANTANDER	8
SUCRE	1
TOLIMA	16
VALLE DEL CAUCA	4
TOTAL	317

YEAR	
1984	1
1990	1
1991	0
1992	1
1993	0
1994	1
1995	2
1996	0
1997	0
1998	0
1999	0
2000	0
2001	3
2002	12
2003	19
2004	18
2005	29
2006	28
2007	86
2008	113
2009	2
TOTAL	317

Table No. 18: statistics of individuals linked to cases heard by public prosecutors attached to the Sectional Directorates of Public Prosecutors (Law 600 and Law 906)

RANKS	
NATIONAL POLICE	
LIEUTENANT COLONEL	1
CAPTAIN	0
NAVY	
SUB-LIEUTENANT	6
LIEUTENANT (CORVETTE)	2
CORPORAL (2nd CLASS – INFANTRY)	2
CORPORAL (3RD CLASS – INFANTRY)	9
CORPORAL (1st CLASS)	0
NAVY INFANTRYMAN/WOMAN	9
SAILOR (2nd CLASS)	0
CORPORAL (2nd CLASS)	16
CORPORAL (3rd CLASS)	19
SOLDIERS	324

ATTACHED TO	
NAVY	2
DAS	0
NATIONAL ARMY	467
NATIONAL POLICE	26
TOTAL	495

b. Human Rights Unit of the Attorney General's Office:

63. As of 1 July 2009, this unit had been assigned 1,160 cases of homicide allegedly committed by members of the security forces.

Table No. 19 National Unit for Human Rights and International Humanitarian Law: assigned cases of homicide allegedly committed by members of the security forces

UPDATED ON 1 JULY 2009

CASES ASSIGNED	LAW 600	LAW 906
1160 ^[12]	724	436

ACTIVE CASES	LAW 600	LAW 906
1,110	674	436
	TRIED AND SENTENCED	
	50	

VICTIMS	MEN	WOMEN	MINORS
1,881	1,710	113	58

¹² 1985-2009

Statistics per stage of investigation of cases under Law 600

ACTIVE CASES	
PRELIMINARY	471
INSTRUCTION	203
	674

Cases under Law 906

ACTIVE CASES	
INVESTIGATION	413
UNDER INVESTIGATION	12
INDICTED	9
DEVELOPMENT OF TRIAL	2

436

CASES ON TRIAL OR CONVICTED	
CASES ON TRIAL	21
CONVICTED CASES	29
	50

SENTENCES	
CONVICTIONS	24
PLEA BARGAIN	9
ACQUITTED	2
	35

Table No. 20: statistics of people involved in cases assigned to the National Unit for Human Rights and International Humanitarian Law (LAW 600 AND LAW 906)

ATTACHED TO	
NAVY	29
DAS	5
ARMY	1,144
POLICE	38
TOTAL	1,216

CONVICTED	
ARMY	46
TOTAL	46

RANKS	
ARMY	
COLONEL	7
LIEUTENANT COLONEL	8
MAJOR	17
CAPTAIN	40
LIEUTENANT	50
SUB-LIEUTENANT	36
SERGEANT (1ST CLASS)	3
SERGEANT (DEPUTY 1ST CLASS)	17
SERGEANT (2nd CLASS)	40
CORPORAL (1ST CLASS)	30
CORPORAL (2nd CLASS)	27
CORPORAL (3rd CLASS)	64
PROFESSIONAL SOLDIER	805

NATIONAL POLICE	
LIEUTENANT COLONEL	2
MAJOR	1
CAPTAIN	1
LIEUTENANT	0
SUBLIEUTENANT	3
QUARTERMASTER	3
SUBQUARTERMASTER	4
PATROL OFFICER	20
AGENT	4

NAVY	
SUBLIEUTENANT	2
LIEUTENANT	1
CORPORAL SECOND CLASS INFANTRY	2
CORPORAL THIRD CLASS INFANTRY	1
CORPORAL FIRST CLASS	1
INFANTRYMAN (PROFESSIONAL)	21
SAILOR SECOND CLASS	1

64. It is important to stress that, as part of the policy of transparency and constant readiness for dialogue with the various levels of the international community, the Colombian Government has, during the past seven years, maintained an open invitation to all the rapporteurs and working groups that form the United Nations Human Rights special procedures and the Inter-American Human Rights system. Under this policy, a number of representatives have visited the country in recent years. In this regard, it is worth highlighting that the United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, made an official visit to Colombia from 8 to 18 June 2009.

65. In his preliminary report, the Rapporteur noted that there has been an improvement in the country's security situation (as demonstrated by the reduction in the homicide rate). He stressed that the Government has made a huge effort in introducing measures to resolve the issue of extrajudicial executions and stated that he found no evidence to indicate that extrajudicial executions were part of the official policy of the Government or were directed or undertaken with the knowledge of the President or successive Ministers of Defense. The Rapporteur welcomed the significant reduction in allegations of such executions in the last 6 to 9 months. Similarly, he made clear that great efforts still have to be made to completely eradicate this problem from the country.

Question No. 5.

Please indicate what measures have been taken to prevent the removal of corpses continuing to be done by members of the army and termed “killed in combat” (number of cases; progress and results of investigations; procedural stage; number of cases archived; judicial decisions taken)

66. In June 2006 the Ministry of National Defense signed a document with the Attorney-General in support of the Military Criminal Justice system, which stated that officials from the Technical Investigation Body (*CTI*) must carry out inspections in places where deaths occur during military operations. Nowadays the results of operations are investigated by the Office of the Attorney General. For this purpose, the Ministry of Defense issued Directive 19 2007, which seeks to guarantee that the Judicial Police conduct the first investigative procedures when deaths occur in combat. It orders the commanders of military units to use all available means to ensure that when events bearing the characteristics of the murder of a protected person exist, the proceedings are conducted by the Attorney General's Office. This was reinforced through the issuing of Directive 10 of 2007, according to which all military commanders are obliged to provide all available means to ensure that when deaths occur in combat, the first investigative proceedings are carried out by the Judicial Police (authorities).

67. The Ministry of Defense has received support from the Attorney general's Office and the Technical Investigation Body (*CTI*) in “first response” training and procedures that require the involvement of the Judicial Police (JP). The format of the “first response” chart, designed by the *CTI* for use by the military was included as a chapter in the Operational Law Manual, which is currently being revised.

68. Under Agreement 025 of 2007, by August 2009, there were 52 investigators from the *CTI* attached to military units. The protection afforded to them by the security forces allow them to perform their duties of investigation in remote parts of the country and, this in turn, enables the optimum handling of military intelligence and the processing of information that can be used in prosecutions by public prosecutors assigned specifically for this task.

69. The Directorate of Joint Operations instructed the Military Operations Directorates, to make available records of operations that had or did not have the presence of Judicial Police and the justifications.

70. Removal of corpses when deaths occur in combat: according to the current military criminal code, it falls to an official under military orders to carry out the judicial inspection and carefully examine the corpse, identify it, and determine the cause of death. ^[13]

71. Taking into account:

a) The entry into force of the accusatory criminal justice system into the ordinary criminal system but not into the military criminal justice system;

b) The jurisprudence of the Constitutional Court whereby military forces do not have jurisdiction to exercise the functions of the Judicial Police;

c) The jurisprudence of the Supreme Court of Justice according to which the public prosecution has overall jurisdiction in respect of the preliminary investigation;

d) The experience and technical resources of the permanent entities of the Judicial Police in investigative work and urgent actions;

¹³The new Military Criminal Code that was approved by the Congress of the Republic and that is awaiting the Constitutional Court and Presidential authorization provided that it will be the *CTI* of the Military Criminal Justice system that carries out the inspection of the site of the incident and the inspection of the corpse (Article 366 and 375).

e) The importance of ensuring absolute transparency in investigations of facts related to military operations, the Ministry of Defense has embarked on efforts to ensure that it is the *CTI* which carries out these activities.

Question No. 6. Please indicate how many elected officials and public servants have been investigated and prosecuted for alleged links with illegal armed groups between 2006 and 2008, as well as the progress made in these processes.

72. In statements obtained under the Justice and Peace Law and through other actions and processes, the Colombian justice system has started investigations aimed at clarifying the links between paramilitaries and different levels of the political community. For example, in the context of obtaining statements through the above-mentioned Law copies have been sent to the various Colombian justice system institutions in order to initiate investigations aimed at discovering the links between paramilitaries and the different areas of the political community. This includes:

- 209 copies of documents concerning politicians (17 Governors, 16 Representatives, 28 Senators, 28 Councilors and 120 Mayors);
- 140 copies of documents concerning members of the security forces
- 40 copies of documents related to public servants;
- 3,983 other cases

73. Investigations made in respect of the concept of aggravated offences related to alleged links with paramilitary groups to date are:

OFFICE OF THE ATTORNEY GENERAL

GOVERNORS

Rad.	Imputed/Accused	Status
Non appealable legal process (“Única Instancia”) 8171-7	William Pérez Espinel Ex - governors of Casanare	Summary. With current preventive detention measure
Non appealable legal process (Única Instancia) 11017-9	Hugo Heliodoro Aguilar Naranjo Ex - governor of Santander	Summary
Non appealable legal process (Única Instancia) 11132-10	Jorge Louis Anaya Hernández, Ex -governor of Sucre	Trial. Criminal Court, Supreme Court of Justice
Non appealable legal process (Única Instancia) 12188-7	Oscar of Jesus López Cadavid Governor of Guaviare	Summary. With current preventive detention measure

CENTRAL GOVERNMENT OFFICIALS

Rad.	Imputed/Accused	Status
Non appealable legal process (Única Instancia) 10028-4	Jorge Aurelio Noguera Cotes Ex - director of the DAS	Trial. Criminal Court of Supreme Court of Justice

SECURITY FORCE GENERALS

Rad.	Imputed/Accused	Status
Non appealable legal process (Única Instancia) 11325-6	Rear Admiral ® Gabriel Arando Bacci	Trial. Criminal Court of Supreme Court of Justice

DELEGATED PROSECUTORS IN COURT

EX MEMBERS OF CONGRESS

Rad.	Imputed/Accused	Status	Office
Non appealable legal process (Única Instancia) 10703-7	Jairo Henry Merlano Fernández Ex senator	Trial. On appeal after acquittal given by 3rd Specialist Court in Bogotá.	7th Delegated Prosecutor in Court

Non appealable legal process (Única Instancia) 11031-11	Álvaro Araujo Castro Ex senator	Trial. 5th Specialist Court in Bogotá.	11th Delegated Prosecutor in Court
Non appealable legal process (Única Instancia) 11204-10	Alfonso Antonio Campo Escobar Jorge Louis Caballero Caballero Ex members of the House of Representatives	Alfonso Campo Escobar <u>sentenced to 60 months in prison by 6th Specialist Court in Bogotá</u> Jorge Louis Caballero Caballero sentenced to <u>39 months in prison by the Single Specialist Court of Santa Marta</u>	10th Delegated Prosecutor in Court
Non appealable legal process (Única Instancia) 11371-1	Miguel de la Espriella Burgos Ex senator	<u>Sentenced to 45 months and 15 days in prison by the 3rd Specialist Court in Bogotá.</u>	1 st Delegated Prosecutor in Court
Non appealable legal process (Única Instancia) 11499-6	Mario Uribe Escobar Ex senator	Indictment	6th Delegate Prosecutor in Court
Non appealable legal process (Única Instancia) 11521-5	Vincent Blel Saad Ex senator	Trial. 6th specialized Court of Bogotá	5th Delegate Prosecutor in Court
Non appealable legal process (Única Instancia) 11561-1	Luis Carlos Torres Rueda Ex senator	Summary	1st Delegate Prosecutor in Court
Non appealable legal process (Única Instancia) 11671-9	Luis Alfonso Gil Castillo Ex senator José Manuel Herrera Cely Alfonso Riaño Castillo Ex members of House of Representatives	Indictment. Accusation against Senators Gil Castillo and Riaño Castillo (on appeal Deputy Prosecutor). With current preventive detention measure. Imprisonment - Dr.Herrera Cely	9th Delegate Prosecutor in Court
Non appealable legal process (Única Instancia) 11755-3	Oscar Leonidas Wilchez C. Ex member House of Representatives	Trial. Specialized Courts of Cundinamarca	3rd Delegate Prosecutor in Court

Non appealable legal process (Única Instancia) 11774-6	Jorge de Jesus Castro Pacheco Ex senator	Trial. Sixth Specialist Court of Bogotá	6 th Delegate Prosecutor in Court
Non appealable legal process (Única Instancia) 11815-1	Enrique Emilio Angel Barco Ex Member of House of Representatives	<u>Sentenced to 45 months in prison</u> by the Specialist Court of Manizales.	1st Delegate Prosecutor in Court
Non appealable legal process (Única Instancia) 11940-4	Ciro Ramirez Pinzón Ex senator	Trial. 1st criminal court of special circuit of Bogotá	4 th Delegate prosecutor in Court
Non appealable legal process (Única Instancia) 11952-11	Luis Humberto Gómez Gallo Ex senator	Indictment. On appeal against imprisonment Deputy Prosecutor	11th Delegate Prosecutor in Court
Non appealable legal process (Única Instancia) 12100-8	Carlos Armando Garcia Orjuela Ex senator	Indictment. On appeal against accusation Deputy Prosecutor with current preventive detention measure	8th Delegate Prosecutor in the Court
Non appealable legal process (Única Instancia) 12101-7	Humberto Builes Correa Ex senator of the Republic	Trial. 1st specialized court Antioquia	7 th Delegate Prosecutor in the Court
Non appealable legal process (Única Instancia) 12118-1	Miguel Pinedo Vidal Ex senator	Indictment. Nullity from closure	1st Delegate Prosecutor in Court
Non appealable legal process (Única Instancia) 12144-2	Ruben Darío Quintero Villada Ex senator of the Republic	Trial. 2nd specialized court of Cundinamarca.	2nd Delegate Prosecutor in Court
Non appealable legal process (Única Instancia) Entering from	Rodrigo Roncallo Fandiño Ex member House of Representatives	Indictment. Current preventive detention measure	8th Delegate Prosecutor in Court

Supreme Court in 2009			
12353-8			
Non appealable legal process (Única Instancia) 12359-2	John Carlos Martínez Sinisterra Ex senator	Indictment. Current preventive detention measure	2nd Delegate Prosecutor in Court
Non appealable legal process (Única Instancia) 12460-1	Miguel Angel Rangel Sosa Ex member of House of Representatives	Trial. Specialized courts of Cartagena	1st Delegate Prosecutor in Court
Non appealable legal process (Única Instancia) 12468-10	Zulema Jattin Corrales Ex senator	Indictment. Current preventive detention	10th Delegate Prosecutor in Court
Non appealable legal process (Única Instancia) 12541-11	Jairo Alberto Llano Gómez Ex member of House of Representatives	Indictment. Current preventive detention	10th Delegate Prosecutor in Court

GOVERNORS

Rad.	Imputed/Accused	Status	Office
Non appealable legal process (Única Instancia) 8937-2	Hernando Molina Araujo Ex Governor of Cesar	Trial. 6 th Specialized Court of Bogotá	Fiscal 2nd Delegate in Court
Non appealable legal process (Única Instancia) 10211-2	Trill Moon Correa Ex governor Magdalena	<u>Sentenced to 44 months and 15 days in prison by the 4th Specialized Court of Bogotá</u>	Fiscal 2nd Delegate in Court
Non appealable legal process (Única Instancia) 11126-3	José Domingo Dávila Armenta Ex Governor of Magdalena	Indicted. Current Preventive Detention Measure	3rd Delegate Prosecutor in Court
Non appealable legal process (Única Instancia) 12243-5	John José Chaux Mosquera Ex Governor of Cauca	Indicted	5th Delegate Prosecutor in Court

74. The investigation into links between political leaders and the then-leaders of the AUC enables results to be given of the ongoing work targeted at the “parapolitica” scandal by public prosecutors and investigators from the Investigation Sub-Unit attached to the National Unit of Prosecutors against Terrorism:

a) Rocio Arias Hoyos, ex member of Congress. Entered plea bargain and was sentenced to 45 months in prison by a Special Court in Medellín for the crime of aggravated conspiracy for having links with the AUC. Serving sentence in *El Buen Pastor* prison in Bogotá.

b) Carlos Clavijo, former Congressman. Entered plea bargain and was sentenced to 43 months in prison for conspiracy.

c) Eleonora Maria Pineda Arcia, former parliamentarian. Pleaded guilty to charges of aggravated conspiracy. She was sentenced by a Special Court in Bogotá to 45 months in prison. On 23 July 2001, Pineda Arcia took part in the meeting in Santa Fe Ralito.

75. In a second instance (“segunda instancia”) process, the Deputy Attorney General confirmed the charges against five of the signatories of the so-called ‘Santa Fe de Ralito Agreement’, signed between politicians, entrepreneurs and paramilitary (AUC) leaders on 23 July 2001 in Córdoba. The indictment was handed down by an antiterrorism public prosecutor for the crime of aggravated conspiracy which has so far achieved the following:

a) Jorge Luis Feris Chadid, Member of the House of Representatives. Call to trial on charges of aggravated criminal conspiracy.

b) Sigilfredo Mario Senior Sotomayor, former Mayor of Tierra Alta, Córdoba. Sentenced by a Judge in Medellín for criminal conspiracy

c) José María Imbert Bermúdez and

d) Edwin José Mussi Reston.

76. By June 2009, the Criminal Cassation Chamber of the Supreme Court of Justice had begun 41 investigations against members of Congress for alleged aggravated criminal conspiracy among other things, for alleged links with members of the paramilitaries. As a result of these investigations there have been 4 convictions against 5 people as detailed below:

a) Eric Julio Morris Taboada (Rad. 26118)

b) Luis Eduardo Vives (Rad 26470 A)

c) Mauricio Pimiento (Rad 26470)

d) Juan Manuel López Cabrales and

e) Reginaldo Montes Alvarez (Rad 26.942)

77. Likewise, through a legal decree (“auto”) of 8 November 2007, the Supreme Court precluded¹⁴ the investigation initiated against House of Representatives member of Jose de los Santos Negrete (Rad. 26942).

78. At present there are 36 active investigations in various stages of development:

Preliminary Investigation: (30)

1. Senator: Manuel Guillermo Mora.
2. Representative: Mussa Besaile Fayad.
3. Senator: Armando Benedetti.
4. Senator: Carlos Emiro Barriga Peñaranda.Radicado.
5. Senator: Javier Cáceres Leal.
6. Representative: Fernando Tafur Díaz.
7. Representative: Fabiola Olaya Rivera.
8. Senator: Oscar Suárez Mira and Representative: Mauricio Parodi Díaz
9. Senator: Nancy Patricia Gutiérrez Castañeda
10. Senator: Dilian Francisca Toro
11. Senator: Luis Fernando Velasco Chaves
12. Representative: José Maria Conde Romero
13. Senator: Juan Carlos Restrepo Escobar
14. Representative: Luis Carlos Restrepo Orozco

¹⁴Preclusion is an abnormal form of terminating a process that removes unconditionally a criminal prosecution that sets it apart from other forms of termination. It constitutes in a wide sense an early acquittal *res iudicata*, provided that the suppositions of the grounds established by the Legislator are proven.

15. Senator: Jorge Ballesteros Bernier
16. Senator: Antonio Guerra de la Espriella
17. Representative: Pedro Pablo Trujillo Ramirez
18. Representative: Pedro Mary Muvdi
19. Representative: Ignacio Antonio Javela
20. Representative: Mauricio Lizcano Arang
21. Representative: Jaime Armando Yepes Martinez
22. Representative: Luis Fernando Vanegas Queruz
23. Representative: Jose de los Santos Negrette
24. Representatives: Edgar Eulises Torres Murillo and Odin Horacio Sanchez Montes de Oca.
25. Senator: Mario Solomon Náder Muskus
26. Representatives: Edgar Eulises Torres Murillo and Odin Horacio Sanchez Montes de Oca
27. Senator: Marco Alirio Cortés Torres
28. Senator: Jorge Visbal Martelo
29. Representative: Jorge Gómez Celis
30. Representative: Fabio Arango Torres

b) Instruction: (3)

1. Representative: Alfredo Ape Cuello Baute. Offence: aggravated criminal conspiracy;
2. Senator: Oscar Josué Reyes. Offence: aggravated criminal conspiracy;

3. Representative: Jairo Llanos Gomez. Offence: aggravated criminal conspiracy;

C. Trial: (3)

1. Representative: Karelly Lara Vence. Offence: aggravated criminal conspiracy;

2. Senator: Luis Fernando Velasco Chaves. Offence: bribery;

3. Senator: Ricardo Elcure Chacon. Offence: aggravated criminal conspiracy.

79. Finally, the Criminal Court of Cassation has referred to the Office of the Attorney-General 39 investigations into Congress members who have resigned their seats, which means that they cannot now depend on the proper jurisdiction of the members of that institution. These investigations involve the following people:

1. Luis Fernando Almario Rojas
2. Oscar Leonidas Wilches Carreño
3. Enrique Emilio Angel Barco
4. Vicente Blel Saad
5. Héctor Julio Alfonso
6. Álvaro Araujo Castro
7. Luis Carlos Torres Rueda
8. Luis Humberto Gómez Gallo
9. José Vicente Lozano Fernández
10. José Manuel Herrera
11. Alfonso Riaño
12. Luis Alberto Gil
13. Mario Uribe
14. William Montes
15. Miguel Alfonso de la Espriella
16. Jorge Castro Pacheco
17. Dieb Malof Cuse
18. Jairo Merlano Fernández
19. Alfonso Campos Escobar
20. Jorge Luis Caballero
21. Álvaro García Romero
22. Guillermo Gaviria Zapata
23. Humberto de Jesús Builes
24. Gonzalo García Angarita
25. Carlos García Orjuela
26. Álvaro Morón Cuello
27. Miguel Pinedo Vidal
28. Dixon Ferney Tapasco Triviño
29. Rubén Darío Quintero Villada
30. Pompilio Avendaño
31. Alonso de Jesús Ramírez Torres

32. Rodrigo Roncallo Fandiño
33. Adriana Gutiérrez Jaramillo
34. Miguel Ángel Rangel Sosa
35. Antonio Valencia Duque
36. Juan Carlos Martínez Sinisterra
37. Zulema del Carmen Jattin
38. Habib Merheg Marun
39. Julio Manzur Abdalá

80. These figures show the independence and progress in the investigative process and the intensive work of the Judicial Branch to achieve the complete truth behind the paramilitary phenomenon.

81. In June 2009, the Attorney General announced disciplinary investigations into Senators Piedad Córdoba Ruiz and Gloria Agnes Ramirez Rios and House Representative, Wilson Borja Díaz for possible links with illegal armed groups, specifically with the FARC. The Inspector General's Office also made a special visit to the criminal proceedings being conducted by the Supreme Court of Justice against the three members of Congress for these events and requested the transfer of evidence. The current situation is as follows:

82. The Supreme Court has also conducted investigations into members of Congress for alleged links with the FARC, including: James Dussán, current President of the Polo Democrático (political party). However the Court filed away the investigations against Jaime Dussán and Gloria Inés Ramirez for lack of evidence that a crime had been committed. So there are, in principle, only two active investigations in this area. The Attorney General's Office also initiated investigations against former Minister Alvaro Leyva, however this was recently precluded.

83. Among other decisions, to highlight is the conviction on 10 June 2009 in Manizales, against Felix Antonio Hernández Alcalde, former Member of the Caldas Assembly and Antonio Arney Tapasco Reyes, former candidate for the Mayor of Supía Caldas, for the crime of rebellion. According to what has been established, the two political leaders were supporters and collaborators of the FARC, a group with which they made political commitments.

Question No. 7.

Please indicate how the provisions of the Convention are applied to military contractors, including foreigners, that operate within its jurisdiction and whether it has informed such personnel and in what way about their obligations in applying the Convention and the other international Human Rights instruments concerning the discharge of their duties.

84. The Colombian Government signs cooperation agreements with foreign States or organizations, but not with "foreign military entities or personnel". If by virtue of the ratification of the above-mentioned treaties, foreign military personnel remain in Colombian territory, they must conform to the Colombian legal system and comply with

the provisions of what has been established as regards respect for Human Rights and international Humanitarian Law.

Question No. 8.

With reference to paragraphs 100 to 107 of the State Party report, please indicate whether the National Plan of Action on Human Rights has been adopted and what actions or activities are planned for the prevention of torture. What measures are envisaged for implementing this Plan at Departmental and Municipal levels? If the Plan has not been adopted, what measures or plans have been initiated to move the process forward?

85. The State of Colombia has not yet adopted the National Plan of Action. However, the (Colombian) State, in compliance with its commitments acquired with the approval of the Declaration and the Plan of Action of the Global Conference on Human Rights held in Vienna in 1993, began the process of drafting a National Plan of Action (NPA) on Human Rights and International Humanitarian Law, which aims to achieve the full enjoyment of Human Rights and Humanitarian regulations.

86. During the first half of 2006, it was agreed to form a space that was called "Coordination Body", consisting of: representatives from the Government; control and investigation agencies; Human Rights platforms; organizations from the London - Cartagena – Bogota process; International Non-Governmental Organizations (NGOs); and 16 representatives from social sectors. Likewise it has the accompaniment of the United Nations Office of the High Commissioner for Human Rights (UNOHCHR), the Embassies of Sweden and Spain and the United Nations Development Programme (UNDP) that acts as the Technical Secretariat.

87. This space was created with the aim of defining the appropriate methodology for the joint preparation of the NPA with civil society and the taking of operational decisions in respect of the NPA. From its inception until April 2008, it met, about once a month. The regulatory process for the "Coordination Body" was adopted during this process as well as the methodology for the coordinated drafting process of the NPA. ^[14].

88. The thematic structure of this paper is as follows:

- a) First: emphasis on promoting a Human Rights culture;
- b) Second: emphasis on ensuring the rights to life, freedom and personal integrity. Implicitly included in this is the prevention of torture;
- c) Third: emphasis on combating discrimination and promoting the recognition of identity;
- d) Fourth: emphasis on the promotion of the focus on rights in public policies in education, health, housing and work;
- e) Fifth: emphasis on the administration of Justice and combating impunity.

89. The institutions that drafted this document, decided that in the chapter on the second theme the following areas would be worked on which will emphasize the strengthening of the State:

- a) Overcoming the lack of an integrated and effective presence of the State;
- b) Eliminating impunity;
- c) Overcoming the lack of ownership of the principles of the concept of the “Estado Social de Derecho” (Social Rule of Law) (Colombian 1991 Constitution) and non-compliance with a regulatory framework and a disregard for legal and regulatory procedures.
- d) Addressing the consequences of the internal armed conflict.
- e) Addressing the impact of organized crime.
- f) Overcoming fragmentation of the social fabric.

¹⁴During 2006 and 2007 an inter-institutional process took place that linked Government institutions responsible for Human Rights with the control entities. As a result of this process, the State prepared a document that contains the features outlined in the United Nations manual.

90. This document represents a first approach to the development of a National Plan of Action, however, the agreement of a final text, as well as its adoption as a National Plan of Action, is a process that is still evolving.

91. Thus on 16 April 2008, civil society organizations that form the “Coordination Body” requested a high-level meeting with Government officials to agree further guarantees for the work of Human Rights defenders and social leaders, for which reason the implementation of the methodology for the agreement of the Plan was interrupted until progress is made on this issue.

92. During the first half of 2009, the Government accepted the creation of a space for dialogue with civil society organizations, Human Rights defenders and with social and community leaders which aims to agree on strategies and actions to strengthen the safeguards for the work of such organizations underway in the country. ¹⁵. [2]

93. In April 2009, the Presidential Program for Human Rights sent a letter to the Technical Secretariat of the Coordination Body to convene a meeting for deciding on the reactivation of the methodology for coordinating the Plan of Action with civil society. No reply has yet been received.

Question No. 9

With reference to paragraphs 100 – 10 of the State Party report please inform the Committee about the results achieved by the National Missing Persons Search Commission since its inception in February 2007. Indicate the measures taken to implement the National Search Plan and indicate the measures taken in the

context of the Missing Persons National Search Plan to boost investigations into incidents of torture as well as into cases of enforced disappearance.

94. The Missing Persons Search Commission (MPSC) is an inter-institutional state agency, with the participation of civil society¹⁶, which aims to support and promote investigation into the crime of enforced disappearance and to formulate, evaluate and support the implementation of search plans for missing persons. THE MPSC has coordinated the design and implementation of the National Register of Missing Persons (NRMP); the National Format for Searching for Missing Persons, the National Search Plan for Missing Persons (NSP), and has regulated and promoted the Urgent Search Facility (USF). Since its inception in 2000, and not 2007, as appears in the wording of

¹⁵So far two meetings have taken place of the National Working Group of Guarantees and 10 Regional hearings in different cities of the country for the purposes of establishing a dialogue on the subject with territorial authorities and with organizations of Human Rights defenders and social leaders both regionally and nationally.

¹⁶La MPSC is made up by the Attorney-General or his/her Permanent Representative, the Inspector General or his/her Permanent Representative, the Ombudsman or his/her Permanent Representative, the Ministry of National Defense or a Representative from the Human Rights Office of that Ministry; the Director of the Presidential Human Rights and International Humanitarian Law Programme or his/her Permanent Representative, the Director of the Presidential Programme for the Defense of Freedom or his/her Permanent Representative; the Director of the National Institute of Legal Medicine and Forensic Sciences or his/her Permanent Representative; a representative from the Association of Families of Missing Detainees and a Representative of HR Non-Governmental Organizations (NGOs) chosen by those same organizations (Colombian Commission of Jurists).

the question¹⁷, the MPSC has agreed with civil society different public policy developments in this area and has set as goals:

- a) To strengthen its Technical Secretariat with specialist staff for producing monitoring reports;
- b) To make 6 monthly assessments of progress and make recommendations;
- c) To promote the creation of a Law for the protection, use and transfer of genetic data related to the search and identification of missing persons;
- d) To establish inter-regional support groups to combat enforced disappearance¹⁸;
- e) To hold outreach seminars and workshops aimed at public servants from various entities, on standards, tools and mechanisms to combat enforced disappearances¹⁹.
- f) To standardize current protocols for the delivery of personal information and the use of biological samples for genetic analysis for identification purposes:
 - i) To push for the regulation of an integrated management of cemeteries (burial, exhumation and cremation);
 - ii) To standardize the system of informed consent for obtaining biological samples;

- iii) To create an inter institutional approach for dealing with cases of enforced disappearance.
- iv) To standardize the protocols for the handing over of human remains to the relatives of victims²⁰.

95. Additionally, within the Commission there has been a discussion of current laws, legal and administrative developments reflected in public policy on the subject, with calls for them to be wider as in the case for the National Search Plan for Missing Persons.

96. National Search Plan for Missing Persons: The National Search Plan (NSP) consists of four phases, as follows:

¹⁷The MPSC was created under Law 589 of 7 July 2000. Its regulation was issued through Decree 929 of 23 March 2007. The MPSC has however worked continuously since its creation in 2000.

¹⁸As of 30 April 2009, three working groups have been formed in Cartago, Buenaventura and Cucuta.

¹⁹During 2008 and 2009, the MPSC has trained approximately 1,020 civil servants

²⁰Between 23 and 27 April 2009, the MPSC supported the handing over of five bodies to their relatives in the towns of Recetor and Chámeza in accordance with the phases arranged under the NSP. For the Commission, the experience of returning human remains showed the need for an Inter-Institutional Protocol for the handing over of corpses.

97. The first phase is aimed at compiling and documenting the information necessary to carry out the search for and identification of missing persons. It also includes gathering information from: State and nongovernmental sources; information provided by relatives of the missing; information collected from testimonies, statements and confessions, as well as from historical archives, the media and academic or professional publications.

98. The second phase aims to verify and analyze information collected in the first phase, establishing plans for immediate liberation if the disappeared person is still alive or to establish a methodology if human remains of the victim are found. This phase involves implementation three components: a) Activation of the Urgent Search for Missing Persons (USM)²¹, b) verification and analysis of information collected, and c) Execution of search activities by conducting reconnaissance visits to potential grave sites; planning the exhumation of human remains; and the overall development of a suitable methodology for the recovery of corpses.

99. The third phase seeks to recover the remains of people who have been missing and to carry out the respective identification processes, for which operational actions are developed involving the planning of exhumations, the conducting of post-mortems on the recovered human remains and identification. Consideration is also given to the activities that need to be carried out by state security agencies when the missing person is located alive, such as arranging for their immediate release and for their psychological or psychiatric assessment, among others.

100. The fourth phase aims to deliver in a timely manner the human remains of forcibly disappeared victims to relatives. This phase includes the confirmation of identification as well as the burial of those human remains that cannot be identified. It also establishes the procedures to be carried out to complete the handing over of

remains, such as indexing the remains and arranging commemorative and memorials activities for the relatives.

101. A special section of the NSP includes the criteria²², strategies²³ and steps²⁴ that the MPSC and other institutions must take into account when acting in emergencies. The established procedure indicates that it is the Commission that must be responsible for determining the circumstances that warrant a direct and effective joint intervention by the entities that make up the Commission, in order to intervene appropriately at the

²¹It is a public action of personal liberty and integrity that enables any interested person or state entity that has knowledge of an enforced disappearance to request its activation, before a public prosecutor, a judge or a magistrate, with the objective of immediately setting in motion the state apparatus to locate the victim of an enforced disappearance.

²²Criteria include: the disfiguring and destruction of corpses and graves by third parties, number of victims, the urgent need to clarify events and respond to families and the lack of capacity of the authorities to address certain issues.

²³The strategy must take into account human resources, technical specialists and support as well as financial, logistical and material resources. It also implies the identification of emergency scenarios and recognizing and securing the area and officials involved in emergency work.

²⁴Among the steps to be taken, it is worth highlighting the procedures for dealing with the scene of the incident: creating a temporary field morgue; temporary custody and storage of unidentified remains; and the formation of an interdisciplinary group of assistance for the family members.

scene of the crime and establish the special procedures for the recovery of the remains and for the identification of the alleged victims as well as to provide timely information and provide psychosocial care to family members.

102. The MPSC intervened directly in the implementation of the first phase of the NSP, without prejudice to institutional jurisdictions of the entities that are part of it. In relation to other phases of the NSP, the MPSC plays a role of coordination, advice and supervision.

103. The MPSC has supported the implementation of the Plan in its first phase via a pilot project in the Department of Casanare, through identifying the socio-political context of the region²⁵. Cases, involving the enforced disappearance of persons that have not been sent to court have been documented; and clandestine graves have been located. Families of victims have been contacted from a psychosocial perspective, and the media has been contacted to discuss the issue of this type of disappearance.

104. Urgent Search Mechanism: Law 971 that governs the Urgent Search Mechanism allows judicial authorities to immediately take all necessary steps towards locating the person who has allegedly disappeared, as an effective mechanism to prevent the crime of enforced disappearance. The MPSC continuously monitors activated mechanisms and consolidates reports on them.

105. In order to more effectively monitor the activities of the legal bodies, an information and monitoring table has been created on the activation of the Urgent Search Mechanism (USM) that shows the activities of the different Public Prosecutor²⁶ offices for the period from 1 January 2007 to 3 September 2009:

Table No. 21: Number of activated Urgent Search Mechanisms

Indicator	No. of Activated Mechanisms
Women	519
Men	2,934
Total	3,453

Source: MPSC - NRM

106. Inter-institutional support and coordination in identification processes: For the activities to support identification, the MPSC hired several fingerprint technicians in order to process 23,500 post mortem fingerprints in the alphabetical and fingerprint file of the Technical Consultation Center (TCC) of the National Civil Registry²⁷

²⁶By encouragement from the MPSC through Memorandum 0095 of 2 July 2008 issued by the National Directorate of Public Prosecutors of the Attorney General's Office, Sectional Directorates were required to provide existing data on USM activations. In addition, in order to keep the information relating to USM activations updated, on 10 February 2009, monthly reports had to be sent on the activation of the Mechanism and their results. Currently the MPSC and the National Institute of Legal Medicine and Forensic Sciences promote the training of judicial officials on the implementation of the NRM.

²⁷ Please note that this section refers to the category of "unidentified bodies" including the unidentified remains of missing persons and unidentified bodies as a result of regular crime, traffic accidents, etc.

107. The development of the project was structured in three phases and allowed the identification of 1,350 unidentified corpses and the entry onto the system of 14,137 cases²⁸. This support mechanism by the MPSC constitutes one of the success stories in the institution and verifies technical and operational shortcomings for these types of procedures, both at the National Institute of Forensic Medicine and the National Civil Registry.

Table No. 22: Phases and results of identification project

Fingerprint Report 2007	Technicians contracted	Post mortem fingerprints processed	Identified cases (includes verification of identity and completely unidentified)	Identified cases of unidentified bodies	Cases admitted to the system
First phase-	10	35,500	21,214	1,200	6,387
Second phase	5	0	0	100	6,750
Third phase	2	3,000	1,000	50	1,000
Total	17	38,500	22,214	1,350	14,137

Source: Report from the National Institute of Legal Medicine and Forensic Sciences

108. National Register of Missing Persons (NRM): The need to be able to rely on a centralized and unified information storage and processing system on missing persons with information from the different state institutions and civil society organizations²⁹, led to the creation of the National Register of Missing Persons (NRM)³⁰. At present, the system is comprised of four technology platforms, namely: Network Information System of Missing Persons and Corpses (“SIRDEC”); Internet-based Information System for Mass Consultation (“SICOMAIN”); Public Consultation System; and Indirect System for Entry of Statistics (ISES)³¹.

109. For the Commission, the consolidation of the four platforms constitutes the first step in a joint, coordinated action by the entities involved in accordance with their functions. As such it is a useful, timely and accurate information tool. To consolidate the registration process, the MPSC in conjunction with the National Institute of Legal Medicine and Forensic Sciences is promoting the granting of access codes and provides training to civil servants.

²⁸Ombudsman’s Office. Fifteenth Report of the Ombudsman’s Office of Colombia to Congress. *Imprenta Nacional*. January to December 2007. p. 616 to 618.

²⁹Different NGOs with the help of the MPSC have entered about 100 cases onto the NRM during 2009.

³⁰Articles 1 to 3 of Decree 4218 of 2005

³¹The four platforms can be accessed through the webpage of the National Institute of Legal Medicine and Forensic Sciences – www.medicinalegal.gov.co

110. To date, there is information on 33,155 known cases of missing persons³², of which 8,483 relate to alleged enforced disappearances³³. This information is currently being refined by the National Institute of Legal Medicine and Forensic Sciences which is responsible for administering the NRM³⁴.

111. Currently 2,173 users have been trained, of whom 760 are from various public bodies and 1,413 are from the National Institute of Legal Medicine and Forensic Sciences.

112. As a result of this effort, various State agencies and some civil society organizations have transferred their databases to the NRM and are now making effective use of the NRM as the official and unified information system.

Box no. 23: Unified information system

ENTITY	ALLEGEDLY FORCED	NO INFORMATION	TOTAL
“ASFADDES” COLOMBIA	4	3	7
MISSING PERSONS SEARCH COMMISSION	263	144	407
DAS	2	3	5
OMBUDSMAN	47	30	77
ATTORNEY GENERAL’S OFFICE (TECHNICAL	4,057	12,506	16,563

INVESTIGATION BODY)			
ATTORNEY GENERAL'S OFFICE - NATIONAL DIRECTORATE OF PROSECUTORS	1	2	3
ATTORNEY GENERAL'S OFFICE - JUSTICE AND PEACE UNIT	2,911	603	3,514
LEGAL MEDICINE	1,180	10,823	12,003
"PERSONERIA" (Government Office)	15	7	22
NATIONAL POLICE	9	561	570
INSPECTOR GENERAL'S OFFICE	8	7	15
TOTALS	8,497	24,689	33,186

Source: MPSC – National Institute of Legal Medicine and Forensic Sciences (NILMFS)

³² National Registry of Missing Persons on 3 September 2009.

³³ National Registry of Missing Persons on 3 September 2009.

³⁴ Article 9 of Decree 4218 of 2005.

113. Network Information System for Missing Persons and Corpses ("SIRDEC): Implemented on 1 January 2007 and available for access by those entities that form part of the MPSC, since the second half of 2007. As of 10 March 2008 access was also given to the Judicial Police.

114. The National Institute of Legal Medicine and Forensic Sciences (NILMFS) has been working within the framework of "SIRDEC" with the following results: the post mortem processing of 35,500 outstanding fingerprints; the identification of 1,350 unidentified bodies from 1992 to 2007; and the verification of the identity of 21,214 corpses received by the Institute between 1992 and 2007³⁵.

115. In 2008 the project was discontinued, but the NILMFS recruited two fingerprint practitioners, who helped in the post mortem processing of fingerprints at a national level and officials from the Bogota Lofoscopy Laboratory³⁶ assumed the job of providing national support to the identification processes. Since they started 5,461 cases have been processed and identified from all over the country.

116. At present there are a total of 19,468 unfingerprinted unidentified corpses in the National Civil Registry information systems awaiting processing

117. With the aim of consolidating the National Register of Missing Persons, the MPSC wants to document the cases from victims' organizations. **By 30 April 2009 a total of 4,759 cases had been entered.**

118. During 2009, 500 officers from different agencies will be trained in the operation of the National Registry of Missing Persons and 500 access codes to the National Register will be authorized by 31 December 2009³⁷

119. Public Policy: On 1 June 2009 the document of the National Council for Economic and Social Policy ("Conpes 3590) was approved and it is called "Consolidating the mechanisms for tracing and identifying missing persons in Colombia." The central aim of this social policy paper is to increase the effectiveness of the mechanisms for tracing, identifying and handing over persons missing as a result of violence.

120. The above mentioned document was compiled in consultation with the MPSC, the Ombudsman's Office, DAS (Department of Administrative Security), the National Police, the Attorney General's Office, the National Institute of Legal Medicine and Forensic Sciences, the National Planning Department and the Ministry of Finance and Public Credit. The 2009-2014 action plan in this paper contains 3 strategies containing 27 actions and 13 recommendations, which are listed below:

³⁵These figures correspond to the results of a project conducted in 2007 with funding from the MPSC, for hiring 15 fingerprint practitioners who processed the post mortem fingerprinting with the information systems available from the National Civil Registry.

³⁶Lofoscopy is that part of forensic science which studies grooves in the form of fine reliefs (epidermal depressions and epidermal definitions), known as lofograms or papillary groove drawings. They are found on the fingertips, palms of the hand and the soles of feet and the. The purpose of all this is identification.

³⁷ By 30 April 170 officials had been trained and 170 access codes for the National Registry of Missing Persons have been authorized.

a) Strategies

1. Protection and conservation of vital sources of information for finding, identifying and handing over human remains to relatives;
2. Generation of and availability of information that is critical for the processes of searching, finding, identifying and reporting
3. Increased capability to completely identify exhumed remains

b) Recommendations

1. Harmonization of sources of international cooperation support the leverage of the Plan of Action contained in the "Conpes" document;
2. Drawing up and processing of information for monitoring the implementation of the Plan of Action contained in the "Conpes" document;
3. Optimizing data or information collection which use as its primary source, the relatives of missing persons;
4. Adoption of approved "Conpes" document by the National Council of Judicial Police (NCJP);

5. Dissemination of the approved “Conpes” document to those responsible for the operation of mechanisms for tracing and identifying missing persons and the implementation of intervention processes included in the Action Plan;
6. Harmonizing regional plans for tracing missing persons with State strategies and programs for providing psychosocial care and legal assistance to victims of violence;
7. Establishment of technical contacts between the Missing Persons Search Commission (MPSC) and the National Council of Judicial Police (NCJP);
8. Coordination of protective measures for missing person families at risk and their communities with the National System for the Protection of Witnesses, Victims and others;
9. Integration of the protective support operations by the security forces with the programming and coordination of the exhumation processes;
10. Development of a public policy document specifically targeted at enforced disappearances;
11. Inclusion of data of unidentified people in cemeteries in the National Register of Missing Persons (NRM);
12. Prioritization of investment and operational resources for the development and financing of the Action Plan of the “Conpes” document.
13. Regulation of Law 589 of 2000;

c) Actions for coordination between investigating cases of torture and enforced disappearance: Although the focus of the implementation of the NSP has not included linking cases of torture with cases of enforced disappearance, the autopsy of a missing person does include looking for possible signs of torture and this is evaluated by the Attorney General's Office on reviewing the report along with the other elements of the investigation. Doctors from the Legal Medicine Service who conduct forensic autopsies are trained to implement the respective protocols, enabling them to look for physical signs of injury inflicted prior to the execution of a missing person.

121. Additionally, the necessary corrective measures have been taken to ensure that the judicial authorities immediately carry out the procedures leading to the location of someone presumed to be missing.

122. Furthermore, the National Directorate of Public Prosecutions (NDPP) of the Attorney General's Office in a memorandum of June 2008 referred to Law 971 of 2005, which regulates the USM and urged Sectional Directors to issue clear instructions to public prosecutors.

123. In order to more effectively monitor the activities of law officers a table has been

created that contains information on the USM activation in different public prosecutor offices³⁸:

Table No.24: Management of Urgent Search Mechanisms in missing person cases

Persons reported missing in USM	362
Missing Persons found alive in USM	90
Missing Persons found dead and referred for homicide investigation	14
Missing persons not found and referred for investigation of enforced disappearance or other types of crime	65
Active USM cases and pending information	122

Source: National Human Rights Unit
Attorney General's Office

³⁸ Memorandum 0095 of 2 July 2008, requested the Sectional Directorates of Public Prosecutors to provide the existing data in each case of the activities provided. In addition in order to keep information on the Urgent Search Mechanism updated, on 10 February 2009, they were required to send monthly reports on the activities and results of the Mechanism.

Question No. 10.

Please indicate: what measures have been taken to expedite the Early Warning System (EWS), particularly in respect of the budget; what regulations have been implemented to regulate the functions of the Inter-Institutional Early Warning Committee (IEWC), the procedures for responding to registered reports, and that establish penalties for ignoring warnings.

124. The IEWC was regulated by Decree 2862 of July 2007. That Decree established that IEWC is the working group responsible for coordinating an orderly and timely response to risk reports and notes from the EWS of the Ombudsman³⁹. Article 5 of Law 1106, of December 2006 states that early warnings should be urgently addressed by the local authorities in order to prevent possible Human Rights violations. The Presidential Agency for Social Action and International Cooperation (*Acción Social*) is also part of the IEWC and has the following obligations:

- a) To provide timely information to the IEWC: designed to show the behavior and dynamics of forced displacement in areas related to Risk Reports and notes issued by the EWS of the Ombudsman's Office.
- b) Verify Risk Reports and Notes issued by the EWS: Through the Territorial Units of *Acción Social*, obtain information about security conditions in these areas and verify the risk factors, particularly those that can generate forced displacements. Specifically, risk reports and notes must be verified within the framework of the "Municipal Committees for an Integrated Response to the Displaced Population" so that all bodies

concerned with prevention of and care of displaced people at the local level know the risk scenarios posed by the EWS and adopt decisions and actions to mitigate these for the protection of the population.

c) Complete all verification sheets: to be delivered to the Technical Secretariat of IEWC in the framework of regular sessions

125. It should be noted that reflected in the official format of the verification record, which must be completed by all entities of the IEWC, are the *Accion Social* program activities that operate in the municipalities in the risk report or notes as follows:

- a) Verification of risk factors identified in the Risk Report or Note;
- b) Report on actions by the entities that are part of the territorial *SNAIPD* on issues of prevention of, care for and rehabilitation of the displaced population;
- c) Number of households / persons displaced in the municipality;
- d) Brief description of the phenomenon of displacement;
- e) Operations by *Accion Social* prior to the displacement;
- f) Emergency humanitarian assistance;
- g) Actions to reestablish displaced people

³⁹ The EWS is made up of Representatives from the: Vice Presidency of the Republic; Ministry of Defense; Department of Administrative Security; and the Ministry of the Interior and Justice.

126. Finally, in the evaluation of the Risk Report or notes from the EWS within the framework of the IEWC, a representative of *Accion Social* takes part in the ordinary and special meetings of the IEWC, where the full committee evaluates the information contained in the EWS document. Within the same framework it is decided whether the risk scenarios documented in the EWS and those identified by members of the IEWC merit the issuing of an early warning. Any early warning is issued at a national level; compliance monitoring is done of the measures concerning the alert issued since they are seen as appropriate strategies to counter the risk factors and vulnerabilities of the territories that have been warned.

127. Modification Process: It is important to note that the Ministry of Interior and Justice, as Technical Secretariat of the IEWC, has started work with Representatives from:

- Presidential Human Rights Program;
- Ministry of National Defense;
- *Accion Social*;
- Department of Administrative Security (DAS);
- Advocacy Officer for the Risk Assessment of Civilians with the technical accompaniment of the United States Agency for International Development (USAID),

lasting more than five days, in which progress has been made on the internalization by entities and officials of the Colombian State responsible for preventing Human Rights violations and breaches of International Humanitarian Law, which have facilitated :

- i) Reflection on the role of IEWC, as the body that articulates the State's response to prevent, avert and mitigate risky situations;
- ii) Progress in the construction of mechanisms for identifying risks to which a population is exposed, through the adoption of a unified methodology for the analysis of objective criteria that facilitate the identification of threat and vulnerability factors;

128. The end result of this process will be the drafting of "protocols" that will be an integrated part of the proposed amendment to the regulatory decree for the IEWS. It has to be emphasized that the above proposal has been jointly put together by all entities that are part of the IEWS and by the Advocacy Officer for the Risk Assessment of the Civilian Population.

129. Regarding the topic of "sanctions applicable when warnings are ignored" it is important to note that this is seeking to strengthen the enforcement of "preventive and protective measures" recommended by the IEWS in the face of a particular risk. Hence in the proposed amendment of the decree, it incorporates participation by "the Attorney General's Office", both in preventive and disciplinary matters, so that it accompanies and encourages the various authorities in the process of implementing the recommendations of prevention and protection.

130. In relation to budgets, the EWS has been receiving resources from the National General Budget⁴⁰ since 2006 as shown in the table below:

Table no.25: Investment project "Implementation of Early Warning System for the Prevention of Mass Violations of Human Rights in Colombia "- National General Budget.

2006	2007	2008	2009
\$ 336.834.616	\$ 309.880.419	\$ 500.000.000	\$ 700.000.000

Source: National Planning Department [\[41\]](#)

131. Efforts and progress to achieve EWS sustainability: since its implementation, the EWS project has been supported financially and technically by the Human Rights Program of the United States Agency for International Development (USAID). However, the International Development Agency, in the second phase of the program that was launched in September 2006, determined the final institutionalization of projects financed with their resources, including the Early Warning System of the Ombudsman within the so-called "Colombianization" strategy. This consists of the gradual reduction of cooperation contributions so that the State can start the appropriate allocations from the National General Budget.

132. To do this, goals were established for this project: for the period between October 2007 and September 2008, that corresponds to year 2 of implementation according to the fiscal periods of the development agency a reduction of 30%; for the period between October 2008 and September 2009 a 50% reduction; and for the period between October 2009 and September 2010 a 70% reduction; and in August 2011 the project funding will end.

133. In turn, the amount allocated in 2008 to the EWS through the National General Budget, was five hundred million pesos (\$ 500,000,000). In 2009, this budget allocation amounted to seven hundred million pesos (\$ 700,000,000). The Ombudsman's Office submitted to the Ministry of Finance and to the National Planning Directorate a minimum budgetary requirement, for the EWS for the 2010 fiscal year, of two thousand two hundred and seventy-two million nine hundred and seventy-nine thousand pesos (\$2,272,979,000) . This request is awaiting the necessary procedures from the Ministry of Finance and for notification of the amount being included in the draft National General Budget to be presented at the regular sessions of Congress that began on 20 July 2009.

⁴⁰The EWS also receives International Cooperation resources for its operation.

Question No. 11.

Please indicate the measures taken to strengthen the presence of the Ombudsman's Office at a national level and what is the budget allocation from the State for community advocates, whose role in prevention, especially of torture, has been recognized by various International Human Rights entities.

134. The main measures adopted have been:

a) Regional specialist care team: As part of the specialized care offered to the displaced population, the Ombudsman's office ensures a permanent presence in high-risk areas and in situations of forced displacement through a team of Community Advocates and Regional Advisors for responding to situations of forced displacement. These act for the Ombudsman's office, under the coordination of the Regional Advocates and the National Coordination Office for Forced Displacement. While Community Advocates do their work directly with communities, Regional Advisers are based in the headquarters of the Regional Ombudsman's Offices, institutionalizing the issue and influencing territorial public policy.

135. Currently, accompaniment is developed through the Regionalized Program of the Ombudsman, an institutional strategy whose central purpose is to ensure the presence in those regions inhabited by communities: (i) seriously affected by widespread violence or by a weak state presence and (ii) with precautionary or provisional measures ordered through the Inter-American System of Human Rights. It is noticeable that there is a high presence of the institution, especially through the community advocates in indigenous

communities or in those communities of African descent.

136. Today, the cover provided by community advocates, extends to 142 municipalities through a team of 34 professionals. Furthermore, it has regional advisers located in 14 Departments, and 8 consultants for training the public in Human Rights.

137. The work of the community advocates is done in the field and fulfills the following functions:

- a) Diagnosis of living conditions of communities and the impact of the conflict on them;
- b) Raising awareness of and training communities on their rights and the mechanisms for exercising their rights;
- c) Receiving and processing complaints from the population for follow-up action and control of the management of public institutions;
- d) Highlighting to the national and international community, the risks and vulnerabilities that exist for the victim communities

⁴¹Current average exchange rate: US\$1 = COP2,000.00

- e) Advising the displaced population on the exercise of their rights, ensuring access to attention and the judicial system
- f) Carrying out verification missions in respect of situations surrounding Human Rights and International Humanitarian Law and providing accompaniment to the communities at risk of forced displacement.
- g) Promoting, monitoring and controlling compliance with the legal obligations of the entities that are part of the National System for Integrated Attention to the Displaced Population (“SNAIPD”) of territorial authorities.
- h) Reporting on and documenting situations that might cause Human Rights violations and promoting the adoption of prevention measures by territorial authorities⁴².

138. Despite the financial commitments made, it is still not possible to ensure the permanent presence of community advocates in all regions of the country where indigenous peoples, Afro-Colombian communities and other vulnerable communities live, or in all the areas which have been provided with special protection measures.

b) Budgetary management: The Ombudsman's Office finances the operation of the Regional Program of Ombudsman's Offices through the National General Budget; investment resources and international cooperation⁴³.

139. For 2009, the budget for implementing the Regionalized Program is:

a) Regionalized Program for prevention, care and protection of communities in areas affected by violence is 76% funded by international cooperation as follows:

- i) Agreement with SIDA: field operation, equipment, communications and insurance for 22 community ombudsmen, equivalent to 49% of the annual cost.
- ii) Agreement with UNHCR: field operation, field equipment, communications and fees of 19 community ombudsmen especially in border areas, equivalent to 27% of annual cost
- iii) Resources from National General Budget: 14 Regional Advisors for attending to and influencing public policy on forced displacement, equivalent to 24% of the annual cost.

⁴² Task that is performed with regional analysts of the Early Warning System through the Delegated Advocate for Risk Prevention, in so far as the issuing of risk reports and follow up notes.

⁴³Agreements: Ombudsman's Office – Swedish International Development Agency (SIDA) and Ombudsman's Office – United Nations High Commission for Refugees (UNHCR)

There is a commitment to financial sustainability that requires the Ombudsman's Office to assume the costs that will ensure not only the placement of community advocates and field operations but also widen the cover.

141. Below is a table which reflects the presence of community advocates in the country:

REGIONAL	CARGO	SEDE	COBERTURA
Antioquia	Defensor Comunitario	Dabeiba	Dabeiba
			Peque
			Urumita
	Defensor Comunitario	Caucasia	Cáceres
			Caucasia
			El Bagre
			Nechi
			Taraza
			Zaragoza
Defensor Comunitario	Granizal	Casa de Derechos (Granizal)	
Arauca	Defensor Comunitario Zona de Frontera	Arauca	Oubará (Boyacá)
			Tame
			Saravena
			Arauquita
			Fortul
			Arauca
	Defensor Comunitario	Arauca	Oubará (Boyacá) C. Indígenas
			Tame C. Indígenas
			Saravena C. Indígenas
			Arauquita C. Indígenas
Atlántico	Defensor Comunitario	Barranquilla	Barranquilla
			Malambó
			Soledad
			Galapa
			Puerto Colombia

			Barrancas
			Urumita
			Villanueva
			El Molino
Guaviare	Defensor Comunitario	El Retorno	Calamar
			El Retorno
			San José
	Defensor Comunitario	Santa Marta	Aracataca
			Ciénaga
			Fundación
			Santa Marta
Magdalena Medio	Defensor Comunitario	Barrancabermeja	Aguachica
			Barrancabermeja
			Yondo
			Landazuri
			Morales
			Puerto Wilches
			Sabana de Torres
			San Alberto
			Cantagallo
			San Pablo
			Santa Rosa del Sur
			Smiti
			Roviejo
Meta	Defensor Comunitario	Granada	Granada
			Puerto Leras
			Puerto Rico
			Vista Hermosa
			Costa Nariñense
	Defensor Comunitario	Pasto	Cumbitara
			La Ilanada
			Leiva
			Linares
			Los Andes(Sotomayor)
			Policarpa
			Samaniego

	Defensor Comunitario Zona de Frontera	Pasto	Mallama
			Ipiales
			Ricaurte
			Barbacoas
			Oumbal
			Carlozama Zona de Front. Tumaco
	Defensor Comunitario	Ocaña	Convencion
			El Carmen
			La Playa
			Ocaña
			San Calixto
	Defensor Comunitario Zona de Frontera	Úcuta	Zona de Frontera Convención
			Tibú
			El Tarra
			Herrán
			Villa del Rosario
Putumayo	Defensor Comunitario Zona de Frontera	Puerto Asis	Ragonvalia
			Úcuta
			Toledo
			Los Patios
			El Zulia
			Puerto Santander
			Orito
			Puerto Asis Puerto Leguizamo

			San Miguel
			Valle de Guamuez
	Defensor Comunitario	Snoelejo	Carmen de Bolívar
			San Jacinto
			San Juan Nepomuceno
Tolima	Defensor Comunitario	Chaparral	Ataco
			Chaparral
			Coyaima
			Natagaima
			Planadas
			Río blanco
Urabá	Defensor Comunitario	Riosucio	Carmen del Darién
			Riosucio
	Defensor Comunitario	Apartadó	San José de Apartado
	Defensor Comunitario	Apartadó	Acandí
			Apartadó
			Carepa
			Carmen del Darién
			Chigorodó
			Mutatá
		Necodí	
		Río Sucio	
		Turbo	
		Uguía	
Valle	Defensor Comunitario	Buenaventura	Costa Pacífica
			Costa Vallecaucana
			Buenaventura

Translator's note:

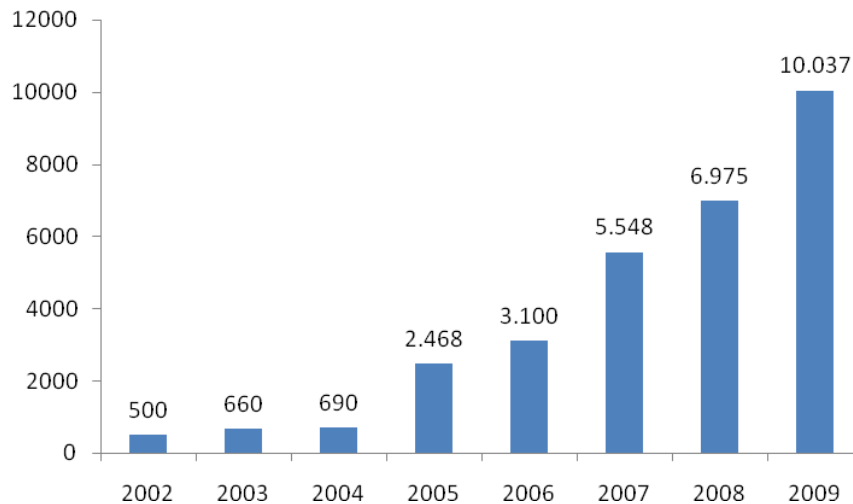
DEFENSOR COMUNITARIO = COMMUNITY ADVOCATE

DEFENSOR COMUNITARIO ZONA FRONTERA = COMMUNITY ADVOCATE,
FRONTIER ZONE

142. One of the main measures that has been implemented to strengthen the missionary-type work of the Office of the Ombudsman is to increase the investment budget of that body. Since 2002, the Ombudsman's Office has received allocations from the National General Budget which have increased from 500 million pesos (about 250 thousand US dollars) to 10,037 million Pesos (about 550 thousand US dollars).

Table 25
Changes in Ombudsman's investment budget.
(2002-) (2009)

Millions of Pesos



Source: National Planning Directorate

Question No. 12.

Please explain what steps have been taken to prevent, monitor, investigate and punish acts of sexual violence, specifically against women and girls, in the context of the armed conflict as well as in places where persons are deprived of their liberty. Please indicate whether the protocols for autopsies include the requirement to establish whether the person was the victim of some form of sexual violence. Please indicate the measures taken to promote the definition and investigation of sexual violence as torture.

143. Violence has a differential impact on women, particularly those who are in vulnerable situations, such as those belonging to ethnic minorities or those who are displaced and, therefore, who require special protection measures in order to prevent gender-based violence (GBV), especially sexual violence. That is why the Colombian State has a gender policy that includes affirmative actions in favor of women, an equal opportunities social policy and the crosscutting inclusion of gender issues in public policies.

144. In recent years there have been significant legislative advances made in preventing sexual violence. These include Laws 1142 of 2007⁴⁴, 1236 of 2008⁴⁵ and 1257 of 2008⁴⁶.

145. Among other actions that contribute to preventing violence against women, are:

(i) Literacy programs aimed at improving the knowledge of the female population of their rights, highlighting the importance of denouncing violence against victims so that it does not go unpunished and highlighting the services offered by different institutions to address issues surrounding violence;

(ii) The Integrated Strategy to Combat Gender Based Violence, 2008-2011, which includes three components: prevention, care to victims and a legal framework;

(iii) The development of Departmental plans, training leaders and public officials;

(iv) Promoting and monitoring the rights of women in the early warning system, which were incorporated into the process of gathering information on 31 indicators on gender violence;

(v) The creation of the Observatory for Gender Issues, which through the theme of violence against women, conducts a periodic monitoring of statistical information produced by the various State institutions on the various forms of violence against women, including sexual violence⁴⁷.

146. Additionally, Directive No. 001 of 2008 was issued by the National Army Command which launched the institutional campaign "Year of strengthening respect for Human Rights."⁴⁸

147. The public accountability on issues of Human Rights (HR) by the security forces and the establishment of offices to receive complaints are additional mechanisms to deter the use of sexual violence and to punish any cases that may arise where the perpetrators are members of the security forces.

⁴⁴Increased the penalty for the crime of domestic violence, eliminated benefits for the perpetrators (house arrest, release) and removed the need for a complaint, so that now the investigation must be initiated and sustained officially and not only with the acquiescence of the victim.

⁴⁵Amended some articles of the Penal Code concerning crimes of sexual abuse, increasing the punishment if the deed is committed against the spouse or partner or former partner, or against the person with whom he had fathered a child.

⁴⁶The third embodies the concept of violence against women in accordance with the provisions of the Convention of Belem do Para and action plans of the Conferences in Vienna, Cairo and Beijing. In those are structured the classification of the offense of sexual harassment, aggravation of punishment for crimes of personal injury and homicide by reason of being a woman, and development of prosecution measures to facilitate economic alternatives for victims of gender violence.

⁴⁷Indicators of sexual violence include: number of annual sexual diagnoses by sex and age; number of women raped or forced to have sex by type of offender; percentage of women raped or forced to have sex by someone other than the spouse, and other selected characteristics of the aggressor.

⁴⁸From which different actions are developed such as those that sought to counter the various forms of violence used by illegal armed groups to damage the enemy through the use of women and to counteract the sexual violence that accompanies the forced recruitment of women by illegal armed groups.

148. To ensure the rights of women, the Ministry of Defense issued Standing Circular No. 630134 of 7 May 2009⁴⁹.

149. The Council for Women's Equality (CFWE) that participates in the joint program of United Nations agencies and the Government is funded by the Spanish Agency for International Cooperation (AECI) for the period 2008 to 2011. It seeks to contribute to the eradication of all forms of GBV, with particular emphasis on violence between couples, sexual violence, people trafficking, violence by illegal armed actors and traditional practices. This program focuses on developing three areas:

- a) Prevention, detection, recording and monitoring of GBV
- b) Care of surviving victims
- c) Development of a legal framework and public policies on GBV in line with international instruments

150. The program recognizes the multidimensional nature of GBV and proposes a multi-sectoral and inter-institutional intervention, with a focus on rights and cultural sensitivity, based on the critical path model of the Pan American Health Organization.

151. The National Directorate of Public Prosecutors (NDPP) of the Attorney General's Office promotes the Integrated Program of Action for the Defense of Women's Rights. This is how measures have been adopted to ensure a dignified treatment of victims, achieve clarification of the facts, identify and punish those responsible and ensure the rights of victims to truth, justice and reparation⁵⁰. The above program has six components, namely:

a) Implementation of interdisciplinary and inter institutional models of integrated care to victims:

152. The Attorney General's Office has sought to ensure access to justice, by proposing the effective investigation of crimes against freedom, integrity, sex education and trafficking of women whose victims are young women and girls, especially of African and indigenous descent.

⁴⁹These instructions are given concerning the "Policies of the Command on the observance and respect for the Human Rights of women" in order to strengthen their rights and to monitor conduct that is inside the military and that may constitute a violation of the rights and freedoms of women.

⁵⁰ In defending the rights of women, the Attorney General's Office has conducted an investigation of formally reported cases, and has officially assumed the investigation of those events in which the violations of their fundamental rights is manifest, especially when it comes to specially protected subjects such as indigenous and afro-Colombian women.

153. With the aim of providing integrated care to victims of sexual abuse, and working together on prevention, education, help and eradication of sexual violence, the Attorney General's Office has implemented management models, aimed at protecting and assisting victims. Therefore it has promoted the dignified treatment of victims in proceedings through the implementation of inter disciplinary and inter institutional models of care oriented at avoiding cases of double victimization. By virtue of and in response to the mandate contained in Article 44⁵¹ of the Constitution, in accordance with Article 10 of the Children's and Adolescents' Code , which makes reference to the principle of shared responsibility, the Attorney General's Office has led a process which involves other state institutions⁵².

154. The objective of this model of care and investigation is to coordinate the various institutions in order to simplify procedures and efforts and optimize human and financial resources, thus avoiding institutional mistreatment, especially of children, adolescents and women.

155. The Centers for Integrated Care and Investigation for Victims of Sexual Violence (CICIVSV)⁵³ is a model of effectiveness for people dealing with crimes against freedom, integrity and sex education and human trafficking, within a framework of respect for human dignity. The aim is to offer victims and their family group proper and timely psychological, social, legal, legal-medical and investigative care and attention in a way that fosters recovery and also creates mechanisms to prevent crime.

156. In addition, this system provides evidence for the criminal investigation process, because audio and video recordings can be made which can be used as evidence in the accusatory criminal justice system. Thus, the testimony recorded by the Gessell Dome equipment serves as a basis for preliminary hearings and other proceedings in the criminal investigation process, especially when a child is going to be interviewed or is a witness in criminal proceedings.

⁵¹Article 44. The fundamental rights of children: life, physical integrity, health and social security, a balanced diet, their name and nationality, having a family and to not be separated from it, care and love, education and culture , recreation and free expression of opinion. They will be protected against all forms of neglect, physical or moral violence, abduction, sale, sexual abuse, labor exploitation and hazardous work. They will also enjoy the other rights enshrined in the Constitution, laws and international treaties ratified by Colombia. The family, society and the State have an obligation to assist and protect the children to ensure their harmonious and comprehensive development and the full exercise of their rights. Any person may request compliance from the competent authority and the punishment of offenders. The rights of children outweigh the rights of others

⁵² Among those included are the Colombian Family Welfare Institute (ICBF), National Institute of Legal Medicine and Forensic Sciences, the Technical Investigation Body of the Attorney General's Office and the Secretaries of Health and Education from the Office of the Mayor.

⁵³ The CICIVSV have an interview room, where Gessell cameras were installed in order to: prevent contact between the victim and the aggressor; to avoid suffering of the victims, mainly children, of these crimes; and to ensure respect for their dignity and ensure their best interests. Additionally, with the cameras, investigators and specialists who deal with the cases from a legal, criminal and administrative perspective, can see and listen to the minor from a room while the minor is talking to a forensic psychologist in another room.

157. It is worth emphasizing that strategic alliances with entities such as the *ICBF* (Colombian Family Welfare Institute) have enabled the obtaining of human, logistical and technical resources to develop a better working dynamic in the *CICIVSV*⁵⁴. It should be noted that work continues with the implementation in other cities and the carrying out of periodic assessments.

b) Special investigative methodologies:

158. Given the need to sensitize and train officials to deal with the complexities of cases of sexual violence, investigative strategies were designed that are based on a psychosocial approach. The main ones are:

a) Resolution 0266 of July 2008, through which the National Directorate of Public Prosecutors of the Attorney General's Office:

-To develop a register of victims of crimes of sexual violence, as a gender risk, using as an initial input, the 183 cases reported by the Constitutional Court in judicial decree (*Auto*) 092 of 2008⁵⁵.

- To analyze the legal feasibility of reopening investigations into filed away cases
- To study the feasibility of assigning special investigations to the National Unit for Human Rights and International Humanitarian Law of the Attorney General's Office.
- To appoint a Public Prosecutor, preferably female, to learn about the investigations.
- To generate spaces for dialogue with different women's social organizations in order to establish channels of communication and to obtain more information to enable the documenting of cases in order to increase the chances of success in investigations.

b) Memorandum 0117 of November 2008, whereby the National Directorate of Public Prosecutors (NDP) of the Attorney General's Office promoted a guide to the

⁵⁴To date, these management models are in operation in the Offices of the Attorney General in Bogota, Cali, Bucaramanga, Medellín, Cartago, Palmira, Manizales, Neiva, Cartagena, Santa Marta, Sincelejo, Quibdo, Pasto, Popayan, Armenia, Cucuta, Ibague, Fusagasugá, Villavicencio, Tunja and Florence.

⁵⁵Cases relating to the Constitutional Court in the Judicial Decree (*Auto*) 092 of 2008, were assigned to the Human Rights Unit of the Attorney General's Office that in November 2008 had 65 cases assigned, of which 2 were with a formal investigation, 1 with charges and 1 case on trial. In April 2009 the Unit had 72 cases of which 4 are with a formal investigation and 2 cases are in court. There is already 1 guilty verdict with 1 conviction.

investigation of crimes of sexual violence.⁵⁶ This document includes strategies for making effective progress in investigations and differential interview techniques from the perspective of using a psychosocial approach to victims.

c) Study Days on sexual violence:

159. In 2008, in coordination with the National Human Rights Unit of the Attorney General's Office several workshops were held related to strategies for investigating crimes of sexual violence aimed at public prosecutors and judicial police officers.⁵⁷

160. Additionally, in December 2008, with the support from the International Justice Center, 22 officials from the Attorney General's Office attended a workshop given by the international expert, Charles Martin Berinstain, to improve practices regarding the humane, proper, dignified and integrated treatment of victims.

161. It was decided that during 2009, the School of Criminal Investigation and Forensic Sciences of the Attorney General's Office will include in its training plan the subject of sexual violence. This is to ensure a dignified, respectful and differential relationship with the victims.

162. With support from the Office of the United Nations High Commissioner for Human Rights, a workshop was held on sexual violence cases that took place in June 2009, with Dr. Patricia V. Sellers, an International expert on sexual violence. There was also a tele-conference for public prosecutors and investigators on investigative methodologies for making effective progress in cases and for promoting the proper treatment of victims.

d) Implementation of Technical Committees for driving forward Prosecutions:

163. On the initiative of the NDPP of the Attorney General's Office technical committees were set up for driving forward prosecutions, in order that prosecutors and investigators are able to assess the investigations and identify obstacles and failures that have affected their progress and therefore implement solutions. This institutional exercise is done in sectional Prosecutor's offices and the National Humans Rights Unit, and in some special cases there is accompaniment by NDPP advisers

⁵⁶From joint efforts by: the Office of the High Commissioner for Human Rights; the National Unit for Human Rights and International Humanitarian Law and the National Unit for Justice and Peace of the Attorney General's Office; and some NGOs.

⁵⁷These seminars were held in the cities of Cartagena, Villavicencio, Pereira, Medellin, Barranquilla, Santa Marta, Manizales and Antioquia.

164. The obligation to have Committees and optimize these spaces has been reiterated by the NDPP in accordance with the progress of the investigations that is reported in the monthly monitoring controls. Thus in 2009, committees have met monthly to discuss sexual violence cases. With the aim of giving cogency to this strategy and give a greater impetus to the investigations, the Human Rights Group of the NDPP of the Attorney General's Office has carried out an analysis of the minutes of the meetings of these Committees, with the aim of identifying common problems and strategies and to establish investigative precedents to guide public prosecutors in the future.

165. As explained earlier at the start of this questionnaire, at the initiative of the NDPP, the Humanitarian Affairs Prosecutor Units were created and included within their jurisdiction are cases of sexual violence. These units were created with the aim of providing victims an effective resource for enabling them to access their right to truth, justice and reparation within a reasonable timescale and with full guarantees. The specialist prosecutors in these units receive special training so they take an integrated approach to the investigations for which they are responsible.

e) Inter institutional Coordination:

166. Significant efforts have been made to achieve inter-institutional coordination. The NDPP of the Attorney General's Office is working on the design and implementation of the truth, justice and reparation program for displaced women, victims of sexual violence. This is coordinated by the Ministry of Interior and Justice. Similarly, the Attorney General's Office works with the Presidential Office on Women's Equality in relation to the monitoring of commitments made to the Inter American Human Rights Commission in 2008, in connection with the cases under Judicial Decree (*Auto*) 092 of 2008. It should be noted that, with Memorandum 046 of June 2009, the NDPP of the Attorney General's Office established a mechanism for institutional coordination in respect of the defense of the rights of women.

167. It is also worth mentioning the measures taken in relation to cases of sexual violence within the framework of the Justice and Peace law. The Attorney General's Office has always assumed that regional knowledge about the modus operandi of illegal groups is a decisive factor for the success of the methodology and the conduct of investigations. In fact, since the creation of the Justice and Peace Unit of the Attorney General's Office a regional investigation policy has been designed that has allowed the grouping of criminal typologies and their victims. Following this the Head of Unit has designed, as a working strategy, the documenting of information on these groups as preliminary work aimed at finding the truth, analyzing this criminal phenomenon, carrying out consultations and collating data in real time.

168. In this regard and in order to specially train the Prosecutor delegates that make up the National Prosecutor's Unit for Justice and Peace, the Directorate of the Unit has sent to each of the offices information on the genesis, structure, area of influence, members, funding sources, assets, attributable facts and victims, in respect of different organized illegal groups. At the same time, in order to invigorate the work of verification and investigation, the Public Prosecutor groups together, for example the cases of:

massacres; forced displacement; forced disappearance; homicide against trade unionists, members of political parties, Human Rights advocates, indigenous people, members of NGOs, journalists and civil servants, among others; recruitment of minors; gender crimes; and violent or fraudulent seizure of land.

169. One of the strategies implemented by the Unit in its activities, including processes such as “*version libre*” (free version), is the grouping together of acts of criminal behavior; this includes the recruitment of minors and sexual violence as a gender based crime: The case Public Prosecutor conducts interrogations in these cases without prejudice whether the deeds are admitted to or not. This has meant that, unlike what happens in prosecutions in ordinary courts, those being interrogated have admitted to the crime of recruiting children in over 1,020 cases. The same occurs, though to a lesser extent with cases sexual violence, of which there have been 227 reported victims but so far with only 27 confessions. It is, however, important to note that while the number of accusations reported in the Attorney General’s Office is still small in relation to crimes involving sexual violence, it is striking that, up to April 2009, in respect of requests for administrative reparation, the total number of these related to sexual offences is greater: 460 men and 910 women, making a total of 1370.

170. Of course, the investigative challenge is to find general and systematic patterns, which is facilitated by the regionalization of the various activities for the reconstruction of events in different areas of the country.

171. In activities developed by the Ombudsman’s Office in the judicial area, this entity it incorporated in the institutional guide “Legal representation for victims in the Justice and Peace process” a module which considers the definition of evidentiary criteria about the harm done to women in their status as a subject with rights that demands reparation. Some aspects that are considered vital are: (i) taking account of the specific harm suffered by the female victim (ii) the appropriate conditions for facilitating the participation by the woman in justice (iii) appropriate legal handling of that which is referred to as crimes against women (iv) how to incorporate flexible evidentiary criteria in the case of certain crimes against women, (v) the type of gender- based reparation and what are the reasons for arguing that this type of reparation is made in response to criteria of: suitability, effectiveness, timeliness, and proportionality, in accordance with the rights that have been violated, and the magnitude of the effects and damage from an integrated point of view, i.e. physical, moral, emotional (mental) and material damages

172. From the psycho-legal orientation process, the Ombudsman has raised the need to introduce into the psycho-legal route, which is used nowadays, a particular guidance protocol in the context of sexual offenses committed within a scenario of violence by illegal armed groups. This special procedure is expected to be ready at the end of this year so that it can be introduced in 2010.

173. Additionally, the National Institute of Legal Medicine and Forensic Sciences, through the National Referral Center for Violence, together with the Center for Research and Popular Education is conducting research on sexual violence against women perpetrated by illegal groups. It is also attending to the judicial requirements for

carrying out forensic evaluations in cases of suspected sexual offenses. Likewise, the existing protocols and guidelines in the Institute, for carrying out autopsies and medico legal assessments in hospital provide for an assessment to be made about possible sexual violence.

174. It is important to note that acts of sexual violence against women and girls in places where people are deprived of their liberty are punishable. In the case of the National Prison Institute (*INPEC*) these accusations are received by the Judicial Police group of *INPEC* and are processed with in accordance with standard procedures for Judicial Police units.

175. In connection with measures taken to promote investigation of sexual violence as a form of torture, it is worth highlighting the series of workshops on investigations of torture, done with the Attorney General's Office and the National Institute of Legal Medicine in Bogota, Medellin, Barranquilla and Bucaramanga under the auspices of the United Nations and the British Embassy during the months of February and March 2009.

Question No. 13.

With reference to paragraphs 279-291 of the State Party report, , in article 3, paragraph 1, of the Convention in cases of expulsion, return or extradition, please indicate whether there is a mechanism for assessing the potential danger of that person being subjected to torture in the receiving country. Can the person appeal the decision before a judicial authority, and if so how and in what way Please provide statistics on the number of cases since 2004.

176. Decree 4000 of 2004 lays down provisions for the issuing of visas, the control of foreigners and makes other provisions relating to migration matters. Article 101 stipulates that: "The Director of the Department of Administrative Security, DAS, or his/her Representatives, when justified, may order the deportation of a foreigner who falls within any of the grounds set out in the following article of this Decree. Against said administrative act there are remedies [...]"

177. Article 104 of Decree 4000 is also applicable in cases of expulsion: "The Director of the Department of Administrative Security (DAS), or his/her representatives, without prejudice to criminal sanctions that may have taken place, may order, when justified, the expulsion from the country of a foreigner who falls within any of the grounds listed below [...] Against the administrative act of expulsion there are remedies to suspend it. "

Table 26 Persons Deported and Expelled between 2004 and 2009

YEAR	DEPORTED	EXPELLED	TOTAL
2004	567	106	673
2005	469	46	515
2006	421	60	481
2007	614	77	691
2008	779	90	869
2009	391	54	445

Source: DAS-Aliens
21 July 2009

178. It is Important to highlight that through the administrative remedies, which are *established* in the Administrative Code (*Código Contencioso Administrativo*) the affected person who considers that a decision violates his/her rights can appeal to that same body that issued the decision so that it has the opportunity to review its own actions and, if appropriate, amend, clarify and even revoke the original ruling. This gives the opportunity to correct mistakes and restore rights. The administrative remedies provide for: (i) reappearing before the same officer who made the decision, for clarification, modification or revocation; (ii) an appeal to the immediate administrative superior for the same purpose; and (iii) a complaint, when the appeal is rejected.

179. With regard to cases of extradition, Article 105 of Decree 4000, states that: "[...] *when the extradition a foreign citizen has been requested by their country of origin and the foreign citizen agrees to appear before the authorities of that country, the expulsion may proceed and the person surrendered to the authority of the requesting country, so long as that Government so wishes to the effect that the Attorney General's Office may suspend enforcement of the arrest warrant for the purpose of extradition, or remove the detention order under which the person is held [...]* "

180. In relation to cases of extradition, and taking into account that it may be requested, conceded or offered in accordance with international treaties, and failing that in accordance with the law⁵⁸, each one of the bilateral and multilateral international instruments ratified by Colombia on extradition contain a number of specific guarantees for the persons to be extradited, such as that of not being subjected to torture, or cruel punishment or treatment⁵⁹.

181. Here too, there are administrative remedies provided for in the Administrative Procedures Code, as the means available to attack the "administrative act" granting the

⁵⁸Article 490 of the Criminal Procedure Code

⁵⁹ARTICLE 494. CONDITIONS FOR THE OFFER OR GRANT. The government may make the offer or grant of extradition subject to the conditions it deems appropriate. In all cases it is a requirement that the person subject to the extradition request is not going to be tried for a prior and different event to that which motivated the extradition request, or be subjected to sanctions other than those imposed by the sentence.

If according to the law of the requesting State, the offense giving rise to the extradition corresponds to the death penalty, delivery of the person subject to the request will only be made subject to the commutation of such punishment, and also, on condition that the extradited person is not subjected to enforced disappearance, torture or cruel, inhuman or degrading treatment or punishment, or to exile, perpetual imprisonment or confiscation. Article 510: a right to defense. From the moment the extradition process begins the person is entitled to appoint counsel and if not done then counsel will be appointed ex officio.

extradition, against which there is the remedy of reinstatement. Finally, there is the possibility of recourse to the constitutional action of the "tutela" as another mechanism for the protection of fundamental rights.

Question No.14.

Please inform the Committee whether legislation prohibiting torture and other cruel, inhuman or degrading punishment or treatment. by classifying the behavior as contrary to the Convention, takes into account gender.

182. Colombia has adopted into domestic law the Convention against Torture and other cruel, inhuman or degrading treatment or punishment, as well as the Inter-American Convention to Prevent and Punish Torture. Additionally, Articles 12⁶⁰ of the 1991 Constitution and 137 and 178⁶¹ of the Colombian Penal Code are very significant. In that sense It is worth highlighting the two major regulatory advances in Colombia: (i) widening of the active subject of the offense to "individuals"; and (ii) the purpose.

183. In this criminal legislation, there is a gender approach, particularly for pregnant women, by increasing the penalty for the crime of torture (even to a third party), when committed against a pregnant woman. This means that committing acts of torture on a pregnant woman can lead to a term of imprisonment of up to 30 years.

184. Finally, the main section of the Penal Code considers punishable acts that are motivated by sex discrimination and intolerance as among the circumstances providing for greater punishment. Under this legal provision, carrying out acts of torture on the grounds of gender make such an act punishable by the upper limit of the penalty considered for that type of crime.

Question No.15.

Please indicate if the State Party has medical staff for identifying and documenting cases of torture as well as providing assistance for the integrated rehabilitation of the victims. If affirmative, it must be stated if training programs have been designed and implemented for those medical staff, how many doctors have benefited from such programs and what is the content of such programs.

⁶⁰ No one shall be subjected to enforced disappearance, torture or cruel, inhuman or degrading treatment.

⁶¹ Article 137. Torture of a protected person. Anyone who, in the course and conduct of armed conflict, inflicts severe physical or mental pain or suffering on a person, in order to obtain from him or a third person information or a confession, punishing him for an act committed or suspected of having committed, or intimidating or coercing him for whatever reason that involves some kind of discrimination shall incur a prison sentence ... "and" Article 178. Torture. The person who inflicts severe pain or suffering, whether physical or mental on a person, in order to obtain from him or a third person information or a confession, punishing him for committing an act committed or suspected of having committed, or intimidating or coercing that person for whatever reason that involves some sort of discrimination will incur a prison sentence of... Whoever commits the said act (of torture) but with different aims to those described in the paragraph above will incur the same penalty. Torture shall not be understood as pain and suffering that arises only from legal sanctions or that are a normal or inherent consequence of them. "

185. In expert methods both on living persons as well as on the deceased, forensic medical personnel have the technical and professional capabilities to document cases of possible torture. Circulars 04-2006 of 23 February 2006 and 06-2006 of 17 March 2007, from the General Directorate of the National Institute of Legal Medicine and Forensic Sciences (NILMFS) gave instructions for the compulsory implementation of the Istanbul and Minnesota protocols, in cases where there is a suspicion of or evidence of possible torture or ill-treatment.

186. Training and certification Programs have also been pushed forward for forensic experts among which the following can be highlighted:

a) In 2007, a certification program on forensic pathology was started and it was continued in 2008. During the same time an expert-certification program was started in respect of clinics and dentistry which includes the Protocols of Istanbul and Minnesota. Up to July 2009, that program had registered for certification: 266 experts for forensic clinics; for forensic pathology, 113 experts; and for dentistry, 13 experts from the Institute and 9 external dentists.

b) In 2007 a Diploma course took place with the Javeriana University on Human Rights and International Humanitarian Law which saw the participation of 35 forensic experts.

c) In 2008, there were five clinical forensic meetings involving the participation of 293 experts and there was a detailed study of the Istanbul Protocol.

d) In 2008 the XIV Congress of Legal Medicine and Forensic Sciences "In favor of Life and Human Rights" took place, with the central focus being on Human Rights and torture. There were approximately 450 participants and presentations were made on national cases involving torture.

e) In 2009 there was a Forensic Psychiatry workshop in which 45 expert forensic psychiatrists and psychologists took part; the workshop included Human Rights and Torture.

f) During the months of February and March 2009, with the support of the United Nations Office on Drugs and Crime, there were several workshops on the implementation of the Istanbul Protocol in the cities of Bogota, Medellin, Barranquilla and Bucaramanga. Those participating were Public Prosecutors, members of the Judicial Police and experts from the Institute.

g) 12 May 2009 saw the start of the "Virtual Course for Forensic Doctors of the NILMFS - Human Rights" and currently 270 experts are participating at a national level.

h) September 2009 sees the start of a virtual module for forensic experts from the Institute of "International Humanitarian Law."

i) In the review and updating process of the forensic technical regulations concerning: personal injury; the assessment of victims of sexual crimes; forensic psychiatry; and the manual for the identification of corpses that has taken place during

2008 and 2009, it has included issues surrounding the implementation of the Istanbul Protocol.

Question No.16.

What kind of central register of detainees exists in Colombia? Are there plans to improve or adopt such a system? "If so, have the necessary resources been allocated?

187. The National Prison Institute (*INPEC*) uses the "Integrated Systematized Prison Information System "(*SISIPEC*), which is centralized and receives information on-line⁶² from each of the 139 State detention facilities.

188. It currently has 21 modules that summarize the information from the moment a person enters *INPEC* until that person is released. A record is kept of every procedure during that time.

189. Through an investment project formulated with the National Planning Department, a series of activities have been planned to improve the current information system platform, in terms of equipment as well as backup and support. In addition, Phase I of the biometric component will be initiated that will enable each prisoner to be identified on that.

190. Likewise, the installation of the module for handling visitors will be completed. It is currently functioning in 45 establishments. This module enables the effective control of the entry of visitors to inmates.

191. For the 2009 period, allocated resources amount to about COP3,379,350,620 (approximately USD1,689,000) and for 2010 COP 1,975,000,000 (approximately USD 987,500) has been allocated.

Question No.17.

Please provide updated statistics on the prison population, broken down by prison, indicating sex, age and ethnicity as well as whether they are convicted prisoners or are being held in preventive detention. Please also provide the figures for prison overcrowding for 2007 and 2008

192. Tables are attached showing the prison population by: gender, legal situation (accused and convicted), prison capacity and overcrowding index, broken down by: national level; regional level; correctional facility; and showing figures for December 2007, December 2008 and June 2009.

⁶²SISIPEC has been developed with Oracle tools and the final product is deployed on Oracle 10g Release 2 as database handler and Oracle Application Server (OAS) as an application server under a high-availability scheme that consists of two nodes with identical configuration (one active and one passive). In the event of a failure of the active node, the second node automatically assumes the operation of the database, down to a small window of time that varies according to the file transfer frequency between active and passive nodes.

193. Tables are attached showing inmates broken down by age groups at a national and regional level and by correctional facility for December 2007, December 2008 and May 2009.

194. Table is attached which contains the number of inmates by gender and by ethnic groups (indigenous and Afro-Colombians), at a national and regional level and by correctional facility in July 2009. (Annex)

195. "CONPES" document 3277 approved provision for the construction of 11 prisons throughout the country in order to reduce the level of overcrowding. Additionally the Electronic Surveillance System is now working and about a hundred people are benefitting from this.

Question No. 18.

What progress has been made concerning the revision of the military nature of the National Prison Institute of Colombia (*INPEC*) with the aim of it becoming a fully civilian, transparent and accountable institution in order to ensure it has a democratic institutional structure.

196. *INPEC* is a national public order institution attached to the Ministry of Interior and Justice, with a legal status, administrative autonomy and independent assets. *INPEC* is responsible for: executing custodial sentences imposed by a criminal conviction: the control of security measures; electronic security mechanisms: and the implementation of unpaid social work.

197. The National Prison Surveillance and Custody Service (*CCVPCN*) is an armed, permanent, civil organization that plays an essential role for the State in the service of *INPEC*, and is composed of a uniformed, organized hierarchical staff with special rules and discipline.

198. Members receive training, capacity building, updating and specialization in the National Prison School. They may not participate in the activities of political parties and movements or become involved in political disputes and must observe complete political impartiality in the exercise of their duties.

199. The *CCVPCN* must maintain and ensure order, safety, discipline and social care programs and provide appropriate treatment for prisoners in detention centers: In addition it must provide the safe custody and surveillance of prisoners, protect their fundamental rights and other guarantees established under the Constitution and under international Human Rights treaties ratified by Colombia and also ensure the development of the activities in prisons.

200. To aspire to be part of the *CCVPCN* those interested must take part in open competitions as provided for in Law 909 of 2004 which is why there are rules that govern public employment, administrative careers, public management, and make other provisions and courses must be passed and other requirements met.

201. With regard to administrative and executive prison employees and facility managers they are attached to *INPEC* on merit, without regard to their previous employment. In some cases staff who previously worked in the security forces have been attached to *INPEC*, but their new job profile is purely civilian in nature.

202. Additionally substantial progress has been made in implementing mechanisms for the prevention of torture in detention centers such as creating the post of Human Rights "Consul"⁶³ who is an officer, usually from the Custody and Surveillance Service and is responsible for receiving and addressing the grievances of the inmates either directly or through the Human Rights Committee.

203. The "Consuls" have been trained on Human Rights in the "Enrique Low Mutra" National Prison School. This exercise has been made equally important as it has been appropriated by the custodial staff.

204. It is worth noting the joint efforts being made by the Ombudsman's Office and the Inspector General's Office in the development of these prevention programs.

205. It is also worth highlighting the creation of Human Rights Committees⁶⁴ in prisons, which are made up of, among others, inmates recognized for their good behavior and those who are elected by popular vote. In addition, these Committees include participation by the Ombudsman's Office and the Inspector General's Office. The Committee has produced important results, because of their appropriation and participation in them by inmates as a tool for communicating with management.

Question No.19.

Please indicate the current policies and standards on the use of isolation of prisoners and the main reasons for its use.

206. The Directorate General, in Circular 056 of August 2007 in order to standardize the management of the Special Treatment Units (STUs) in prisons and to improve the care provided to inmates in them, gave instructions for their proper use and operation by those responsible. This is based on respect for the human dignity of persons deprived of their liberty. It must be remembered that inside prisons there is respect for human dignity, constitutional guarantees and universally recognized rights. Finally, based on Law 65 of 1993, physical, and psychological violence and violence against moral integrity is banned.

207. Serious misconduct leads to the use of isolation measures up to a maximum of 60 days in accordance with the provisions of Law 65 of 1993. In such cases, the individual receiving the punishment will be entitled to two hours of sunlight per day and may not have visitors. The conditions of isolation will be controlled by the prison doctor.

⁶³ The initial recipients of the training, started at the request of OHCHR, were Consuls and Surveillance Commanders in establishments around the country. They are primarily responsible for progress in efforts to disseminate and apply, where possible, and with institutional support, the training and the channeling of concerns regarding human rights.

⁶⁴ The Directorate General of *INPEC*, concerned about democratic and pluralistic participation, and equal conditions by and for inmates, issued through the Human Rights Committee Circular 030 of 16 May 2006, in which are described the steps and methodology for the formation and work of the Human Rights Committee.

Any inmate who becomes sick while in isolation must be taken to the infirmary, but, once well enough in the opinion of the doctor, the inmate must continue with the punishment.

208. These sanctions are intended to channel and correct the behavior of those who have broken the rules of coexistence in prison. The Director of the Prison may use those coercive means established by regulations in the following cases:

- (a) To prevent inmates escaping or using violence
- (b) To prevent inmates harming themselves or other persons or damaging property and
- (c) To overcome passive or active resistance by inmates to the orders of prison staff in the exercise of their duties.

209. In exceptional and duly justified cases prison staff may isolate the inmate by giving immediate notice to the director. The use of these measures will be aimed solely at restoring normality and only for as long as necessary.

210. Isolation as a preventive measure may be imposed in detention centers in the following cases: (i) For health reasons, (ii) When required to maintain internal security, (iii) As a disciplinary measure and (iv) On request by an inmate but with the prior permission of the Director of the establishment.

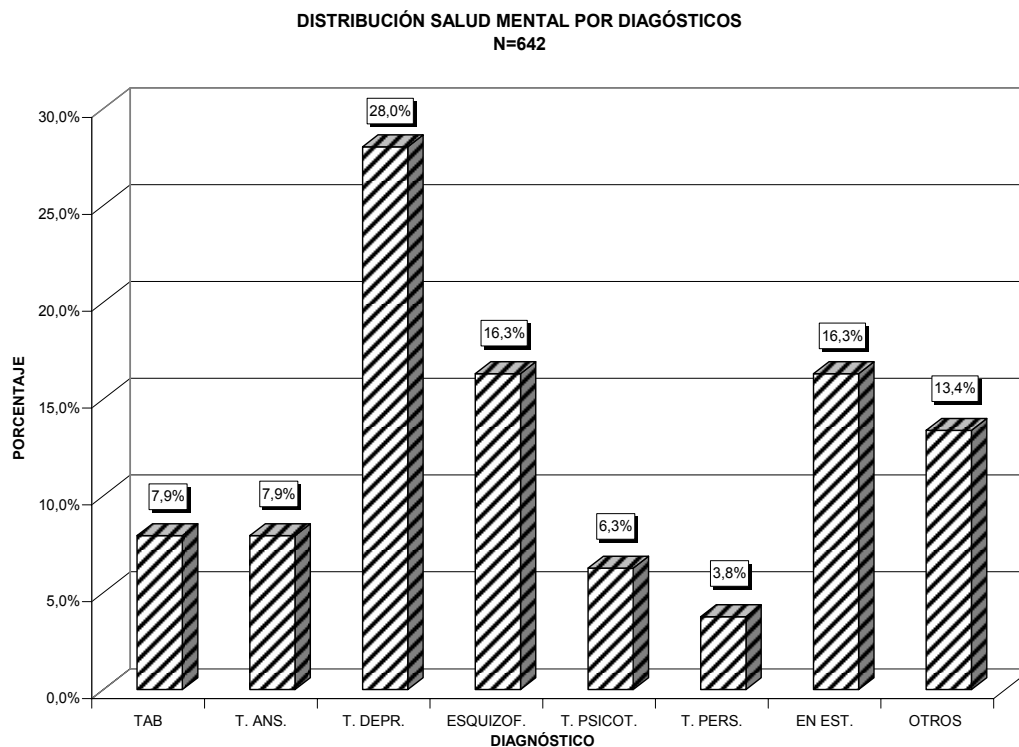
Question No.20.

Please inform the Committee of the measures taken to provide treatment and care for people with mental and psychiatric problems in prisons. How many specialist personnel have been recruited to deal with this situation?

211. It is important to highlight that *INPEC* has a mental health program. According to the latest mental health diagnosis census of inmates there are 642 held in national detention facilities with a diagnosed psychiatric illness. It should be noted that these cases do not include people with personality disorders or users of psychoactive substances.

212. *NPEC* has three Mental Health Units (MHU) and they are located in the detention facility in Bogotá, the medium-security prison in Medellín and the medium security prison in Cali. They have an interdisciplinary team for the care of people with mental disorders and it consists of a psychiatrist, a clinical psychologist, a social worker, an occupational therapist and nursing auxiliaries in addition to guards.
Table 27 Distribution of mental health problems

Distribution of mental health problems by diagnosis



PERCENTAGE

213. In those establishments without a Mental Health Unit (MHU) people with mental health problems are looked after by public or private institutions engaged by the Prison for the provision of external health services (i.e. those services that cannot be delivered inside the prisons). Generally, care is ambulatory and includes medication and monitoring by the professional carer. In a crisis, the patient is referred to a hospital with an MHU or to an institution specializing in mental health until such time as the patient is in a stable situation.

214. The mental health specialist staff recruited directly by *INPEC* are as follows: five (5) psychiatrists, three (3) clinical psychologists, five (5) occupational therapists, and four (4) social workers, plus three (3) general practitioners, three (3) dentists and auxiliary nursing staff.

215. The Health Division of the Sub-Directorate for Treatment and Development has issued guidelines relating to the mental health program, which are annexed to this document.

Question No. 21.

Please indicate what progress has been made to reform the military justice system to guarantee observance of relevant international standards, especially from the perspective of complying with Human Rights obligations and of incorporating the recommendations made to Colombia in respect of the independence and legal training that military tribunals must have.

216. This process has been led by the Ministry of Defense (MOD) and forms part of the Democratic Security Consolidation Policy. It is worth noting that the reform and strengthening of the Military Criminal Justice system (MCJ) are the main objectives regarding structural reforms within the security forces. Here are some of the main and most significant advances made and that mark a new chapter for the MCJ:

217. The Colombian State has made important efforts to implement substantial reforms to the Military Criminal Justice system (MCJ) to ensure that it operates under the strictest norms for the administration of justice and that cases of violations of Human Rights such as the homicide of protected persons does not go unpunished. Those efforts include:

a) Creation of an Internal Working Committee: By order of the Ministry of Defense, this committee was created with the aim of conducting studies and projects necessary for a substantial reform of the MCJ system. In turn, a Temporary Accompaniment Commission ensures that projects that come to fruition include the national jurisprudence and international obligations on Human Rights and IHL that the Colombian State is committed to.

b) Constitutional reform: This reform aims to place the MCJ system in the Judicial Branch outside the Executive Branch, as a special jurisdiction to which military and police officers, on active service and retired, belong. In 2008 the legislative bill amending the Constitution was introduced by the Minister of Defense, with a view to having a new Special Military Criminal Jurisdiction located together with the Indigenous Jurisdiction and Peace Judges.

As a result of the limitation of the legislative conciliation phase (16 December 2008) the Colombian Congress archived the project. But the Government has expressed its political desire to resubmit the legislative bill in the future.

c) New Military Criminal Code: at the end of 2005 a bill was tabled in the Colombian Congress entitled "Why a Military Criminal", which seeks approval of the new code that will regulate the actions of the military in respect of criminal matters. Judge Jorge Ivan Palacio Palace from the Constitutional Court is reviewing the amendments to the articles made in Congress in order to begin implementing this new code which is planned to come into effect in 2010. The purpose of the MCJ reforms is to consolidate a system that meets the needs of the security forces as well as the standards of national and international courts.

d) Constitutional Reform: Bill No 04 of 2008 was presented to Congress and its aim is to place the MCJ within the Judicial Branch. This initiative was rigorously debated, however because of a procedural error it was shelved in Congress. However, the government will continue with the reform.

e) Transition and optimization plan: this is a plan that seeks to stabilize and improve important components of the system to ensure the sustainability of reforms. One of the most significant changes introduced so far is to strengthen the judicial autonomy and independence and a reinforcement of inter institutional relations with the other state entities of control and investigation.

f) During 2007 and 2008 military judges received more than four training programs that were decisive in improving the MCJ and this is seen in the decongestion of the courts and the impetus given to investigations.

218. The integration of the international community into the process is a significant achievement because support and cooperation have been received in the development of training programs. In addition there have been visits by delegations from the USA, Spain and Britain who have contributed with experiences and best practices.

Question No.22.

Please report on the creation and performance of the Monitoring Committee, proposed in 2006 by the Ministry of Defense to monitor Human Rights compliance by the Army.

219. In June 2007, the **Complaints Monitoring Committee** was created in order to give an impetus to investigations, to provide a diagnosis of situations and to strengthen preventive measures and so far the Committee has met on 13 occasions. This Committee is made up of the Minister of Defense, the Deputy Minister, Military Commanders and Inspectors, the Director of Military Criminal Justice and the Heads of Human Rights. It has also benefited from the permanent accompaniment by: the United Nations; the ICRC; the Vice-President's Office; the Attorney General's Office; and the Attorney General's Office. The most recent meeting of the Committee took place in June 2009.

220. Since the introduction of the Complaints Monitoring Committee there has been a constant analysis of the support and collaboration mechanisms with investigation bodies. No effort has been spared to conclude investigations as quickly and effectively as possible. As stated earlier, a plan was developed for the Military Criminal Justice system to sensitize and train judicial officers on incidents that may constitute violations of Human Rights. 210 staff have been trained in 7 different cities on: homicide in combat and homicide of a protected person; development of jurisprudence on the issue of a conflict of jurisdiction; training on the Minnesota Protocol in respect of the investigation of arbitrary and / or summary executions. In addition, training was provided to 77 Military Commanders in everything related to the development and management of disciplinary investigations. Those responsible for the training are: the Presidential Program for Human Rights; the Directorate of Military Criminal Justice; the Inspector

General's Office; and the Attorney General's Office.

221. From June 2007 until August 2008, at the initiative of the Commander of the Army, there were 21 visits to the 7 Army Divisions accompanied by the Office of UN High Commissioner for Human Rights, during which a review was done of each case raised by the OHCHR.

222. The above Committee also worked on the implementation of a mechanism for a rapid response to complaints. Thus, in late 2008, a "mobile team" was created in Bogota which travels to the unit involved as soon as a complaint is received. The Immediate Inspection Commission examines the case from an operational point of view and makes recommendations to the Inspector to take administrative actions and to conduct reviews of operational procedures and intelligence as appropriate.

Question No.23.

Please advise how Colombia has implemented the review action prescribed by Article 192 of the Criminal Procedure Code, which requires the reopening of cases where perpetrators of Human Rights violations have been exonerated. Please state: how many requests have been received; the procedure for processing them; and how many cases have been reopened.

223. The National Directorate of Public Prosecutors has no statistical information on Human Rights violation cases where there has been a request for them to be reopened and reviewed. Nor is there statistical information on the number of such cases that have been reopened.

224. In the search for alternatives to the review action to reactivate Human Rights violation cases and particularly with the aim of reducing impunity for the crime of enforced disappearance, the National Directorate of Public Prosecutors of the Attorney General's Office, in Memorandum 019 of 9 February 2009 asked public prosecutors to assess the legal feasibility of reopening investigations into archived cases of this type of crime.

225. By July 2009, as a result of this strategy **1326** cases of enforced disappearance were reported to have been reopened. The following table shows the statistics of reactivated cases in the respective Sectional Directorates of the Attorney General's Office:

Table No. 28. Reactivated cases of Enforced Disappearance

BUCARAMANGA	420
PASTO	186
MANIZALES	182
CUNDINAMARCA	164
ANTIOQUIA	118
SINCELEJO	1
BUGA	50
CUCUTA	49
IBAGUE	30
POPAYÁN	11
NEIVA	3
CALI	1
TOTAL CASES	1,326

Source: National Directorate of Public Prosecutors of the Attorney General's Office

Question No. 24:

Please indicate the measures taken to ensure the physical integrity of prosecutors and judges. Please also indicate how many prosecutors and judges have been murdered since 2004.

226. The assessment of the threat or risk to, and the protective measures to safeguard the life, physical integrity and personal security of judges and other judicial branch officials is implemented by the Advisory Office for Security of the Judicial Branch in accordance with Article 2 of Agreement 194 of 1996 by the *Sala Administrativa del Consejo Superior de la Judicatura* (Administrative Chamber of the Supreme Judicial Council) and paragraph 6 of Article 114 of Law 906 of 2004.

227. Security measures for officials from the Attorney General's Office are the responsibility of the Office for Protection and Assistance, which comes under the Program for Protection and Assistance.

228. Following an assessment, when the report determines that there is a high risk to the life of an official of the Office of the Attorney General, the program will recommend to the head of the competent authority to take one of the following measures: (i) reallocate the case; (ii) provide financial resources to transfer the official to elsewhere in the country; (iii) implement relevant administrative decisions.

229. When the risk level study concludes that the risk is extreme, the following measures can be taken: (i) devise a necessary security plan and (ii) implement relevant administrative decisions.

230. Based on the information from the "SIJUF" and "SPOA" information systems of the Attorney-General's Office, since 2004, there have been 14 cases of investigation into the homicide of judges or prosecutors under Law 600 and 7 cases have been assigned under Law 906 of 2004.

Table No. 29: Investigations processed under Law 600 of 2000

Activity	Total
SPECIALIST PROSECUTOR	3
LOCAL PROSECUTOR	3
SECTIONAL PROSECUTOR	3
MUNICIPAL CIVILIAN JUDGE	1
PEACE JUDGE	1
CRIMINAL CIRCUIT JUDGE CIRCUIT	1
CRIMINAL AND CIVIL CASE JUDGE	2
Total	14

Source: ATTORNEY GENERAL's OFFICE, June 2009

Table No. 30: cases processed under Law 906 of 2004 – accusatory system -

ACTIVITY	Total
SPECIALIST PROSECUTOR	1
LOCAL PROSECUTOR	2
ADMINISTRATIVE JUDGE	1
CIVIL CIRCUIT JUDGE	1
MUNICIPAL CIVIL JUDGE	2
Total	7

Source: ATTORNEY GENERAL's OFFICE, June 2009

Question No.25.

Please indicate the number of paramilitaries demobilized under Law 975 of 25 July 2005 that have been investigated, prosecuted and punished for the crime of torture given that "the interpretation and application of the provisions available under this law must be done in accordance with the constitution and international treaties ratified by Colombia".

231. Law 975 of 2005, referred to as the Justice and Peace Law, aims to facilitate the peace processes and the individual and collective reintegration into civilian life of members of illegal armed groups, ensuring the rights of victims to truth, justice and reparation. Those who have not committed war crimes or crimes against humanity are dealt with under Law 782 of 2002 and other appropriate regulations.

232. Among peace processes developed in the world, this is the most exacting law as it does not allow amnesties or pardons for war crimes or crimes against humanity. However it does offer perpetrators a reduced term of imprisonment in exchange for truth, justice and reparation for victims, and the fulfillment of commitments to disarm and to not reoffend. It is worth stating that, as regards all facts that are not voluntarily clarified through the use of the mechanisms provided under the Justice and Peace law, the State is obliged to find out them and continue the investigations through the ordinary justice system.

233. The Justice and Peace Law has been approved at all institutional levels including by the Constitutional Court. This Court has used its constitutional powers on thirteen occasions in respect of the Law in the light of the Constitution and the International Human Rights treaties ratified by Colombia. [\[65\]](#)

234. The National Unit of Public Prosecutors for Justice and Peace has accused 26 people, listed below, of committing the crime of torture against:

⁶⁵ See following rulings of 2006: C-319, C-575, C-719, C-370, C-650, C-127, C-455, C-531, C-670, C-400, C-476 y C-426. See ruling C-080 of 2007.

NAME	NUMBER OF CASES
1.ADAN ROJAS MENDOZA	13
2.ADAN ROJAS OSPINA	10
3.CARLOS MARIO MONTOYA PAMPLONA	6

NAME	NUMBER OF CASES
4.CRISTIAN GEOVANNY OCHOA PINZON	1
5.EDGAR IGNACIO FIERRO FLOREZ	1
6.EFRAIN HOMERO HERNANDEZ PADILLA	1
7.ELISEO BELTRAN CADENA	6
8.ELKIN CASTAÑEDA NARANJO	1
9.FERNEY ALBERTO ARGUMEDO TORRES	5
10.FREDY RENDON HERRERA	2
11.HEBERT VELOZA GARCIA	1
12.HENRY ARDILA SARMIENTO	1
13.JHON JAIRO ACUÑA RODRÍGUEZ.	2
14.JHON JAIRO ESQUIVEL CUADRADO	13
15.JOSE ALIRIO CASTAÑEDA RODRIGUEZ	2
16.JOSE BARNEY VELOZA GARCIA	1
17.JOSE GREGORIO MANGONEZ LUGO	11
18.LENIN GEOVANY PALMA BERMUDEZ	2
19.OMAR ENRIQUE MARTINEZ OSSIAS	3
20.OMAR MARTIN OCHOA BALLESTEROS	2
21.PABLO JOSE MONTALVO CUITIVA	1
22.RIGOBERTO ROJAS	16
23.ROLANDO RENE GARAVITO ZAPATA	3
24.SALVATORE MANCUSO GOMEZ	5
25.NO NAME	1
26.WILSON SALAZAR CARRASCAL	1
TOTAL	111

Question No. 26.

With reference to paragraphs 108-119 of the State Party report, please provide up-to-date information on the concrete results of the actions of the project of the Office of the Vice President to combat impunity in cases of torture and cruel, inhuman or degrading treatment.

235. As has been reiterated in various scenarios and political forums, the Colombian Government has a very strong commitment to fight against acts of violence and so long as there even just a single case we cannot be satisfied. That is why the Government has reiterated its full commitment to offer the greatest institutional and financial guarantees so that investigation and control bodies punish, within a reasonable timescale, crimes committed against any citizen, including trade unionists.

236. Recently, according to the first report monitoring the Policy on Combating Impunity in Cases of Human Rights Violations and Breaches of International Humanitarian Law, that was presented in July 2009, its main achievement has been the strengthening of institutions conducting the investigation, prosecution and punishment of those involved and the reparation of the victims. Although the report notes that there are still shortcomings in the implementation and results of the policy to fight impunity developed in “Conpes 3411”, it highlighted in a positive way that *“inter-institutional coordination brings advantages, since it has become a meeting point for those entities participating in the policy [...] The coordination in certain areas, such as in all the efforts made to take forward cases of HR violations and IHL breaches have been of great importance and represent progress on matters that affect many citizens and that are of interest to the State not only at a national level but also internationally”*^[66].

237. These results, highlighted in the report, show one of the areas where the Government has placed most emphasis and where it will continue to work for an effective implementation: that to the extent that it strengthens institutions, not only are the rights to justice and truth being guaranteed but further violations are also being prevented.

238. The Policy of Combating Impunity (in future referred to as the Policy) is composed of 24 projects defined in the document from the National Council for Economic and Social Policy (“Conpes 3411”^[67]). These projects have been built round four strategies aimed at solving specific problems and meeting related policy objectives:

- 1. Institutional and organizational development
- 2. Management of resources, especially development of human resources
- 3. Taking care of victims and witnesses
- 4. Specific operational conditions for the investigation, prosecution and punishment.

⁶⁶ First Report on Monitoring the Policy for Combating Impunity in cases of Human Rights Violations and Breaches of International Humanitarian Law, Vice Presidency of the Republic, Presidential Program for Human Rights, Netherlands, *Corporación Excelencia para la Justicia*.

⁶⁷ 22 at present, due to changes that have merged the activities of some.

239. Participating in the implementation of the Policy are: the Office of the Attorney General Office; the Office of the Inspector General; the Supreme Judicial Council; the Office of the Ombudsman; the National Institute of Prisons (*INPEC*) and the Office of the Colombian Vice President, through the project of the Policy for Combating Impunity (PFAI).

240. The Ministry of the Interior and Justice helps in programming and monitoring the implementation of the *INPEC* projects. It also helps to secure resources for certain projects that are the responsibility of the Supreme Judicial Council. This is especially so for projects to strengthen the justice sector in relation to reducing impunity in Colombia, which receives support from the European Union.

241. The implementation of the Policy has made possible the strengthening of the capacity of State entities to perform investigations, prosecutions and punishments in cases of Human Rights violations and breaches of international Humanitarian Law (IHL). This is how specific projects oriented at institutional and organizational development, management of its human, physical and financial resources and the improvement of operational conditions have been implemented. This institutional strengthening is reflected in the generation of inter-institutional activities and univocal criteria at the investigative stage that generate progress in cases of Human Rights violations and breaches of International Humanitarian Law.

242. Training of law officers in the investigation, prosecution and punishment of Human Rights violations and breaches of International Humanitarian Law: The strengthening of specialist legal training of law officers contributes to faster, more effective and more consistent investigation processes in cases of Human Rights violations and breaches of International Humanitarian Law. Because of this, a protocol was designed for identifying Human Rights violations and International Humanitarian Law breaches and 2000 copies of it were distributed and 12 socialization workshops were held at a national level ^[68]

243. Another legal training and inter-institutional coordination strategy for law officers was the creation of three training modules aimed at strengthening the completion of the mission of those responsible for the investigation, prosecution and punishment of cases of Human Rights violations and breaches of international Humanitarian Law ^[69] This academic and methodological tool has been included in the training plans for 2009 in the schools of the Attorney General's Office, the Inspector General's Office and the Judicial Branch, and has been incorporated into the curriculum of each one of them.

244. Interinstitutional Coordination: The Extended Working Group (EWG) has been consolidated as an entity for inter-institutional articulation to monitor the Policy. Similarly, this scenario has proved favorable for giving impetus to cases through permanent communication between institutions responsible for the investigation, prosecution and punishment of violations of Human Rights and breaches of IHL.

⁶⁸ In Medellín, Barranquilla, Cali, Neiva, Villavicencio, Bucaramanga y Bogotá with the participation of 350 officials from the Attorney General's Office, the Inspector General's Office, the Judicial Branch and the Military Criminal Justice system.

⁶⁹ 7 training events have taken place in Bogotá, Cali, Montería, Neiva, Villavicencio and Barranquilla with the participation of 290 officers from the Attorney General's Office, the Inspector General's Office, the Judicial Branch and the Military Criminal Justice system

245. Another project focuses on the definition, building, and implementing of an interoperability solution between the state information systems related to knowledge, processing and monitoring of cases of Human Rights violations and breaches of International Humanitarian Law. In this regard, the information systems map of the participating entities in the project has been identified; the necessary technical, semantic, cultural and organizational agreements have been established and,

consequently the interoperability solution to be implemented has been defined. These agreements are essential for continuing with the implementation of the interoperability solution that will enable a more effective monitoring of the cases of HR violations and breaches of IHL.

246. Attorney General Units for Humanitarian Affairs: Within the framework of the Policy support ^[70] has been given to these units which constitute a basis component of this policy and have been very important as explained in the reply to question No. 12. ^[71]

247. These Units will assume exclusive jurisdiction over knowledge of criminal cases arising from the following conduct: extrajudicial killings; torture; enforced disappearance; forced displacement; illegal recruitment of minors; sexual violence in the context of widespread violence; killings of indigenous people and trade unionists, and threats against Human Rights defenders.

248. Care for victims: The Policy has attached great importance to care for victims of Human Rights violations and breaches of International Humanitarian Law. In this area the following has been achieved:

a) The production of a model of institutional assistance to victims and a strategy of internal and external communications for victims, officials and alleged perpetrators.

b) Support for the Justice and Peace Unit of the Ombudsman's Office in the implementation of its program "Route to Psycho-Legal Care" in the regions of Nariño, Magdalena, Atlántico, Cesar, Meta and the Region of Urabá that has provided care for 40,256 victims. This strategy enabled the organization of psychosocial care workshops and the advance of the processes and to provide guidance and counseling for victims the whole time.

c) Support for the Justice and Peace Unit of the Office of the Ombudsman through the appointment of litigant lawyers will ensure that Public Defender's Office has sufficient documentation for a satisfactory judicial representation. The support of the department (Unity) of Justice and Peace of the Peoples' Ombudsman, through the appointment of litigant lawyers, will make sure that the Public Defense has sufficient documentation for a satisfactory judicial representation.

⁷⁰ Created by Resolution No. 0-7478 and 0-7479 of December 18, 2008

⁷¹ Its implementation has been gradual. Phase I, which started in March 2009, has provided branches in the cities of Cucuta, Bucaramanga and Santa Rosa de Viterbo with coverage in the Departments of Norte de Santander, Arauca, Santander, Boyaca and Casanare. Phase II, which came into operation in May 2009, has four branches in the cities of Cartagena, Quibdo, Santa Marta and Monteria covering the Departments of Bolivar, Choco, Cordoba, Sucre, Magdalena, Atlántico, Cesar, Guajira and the island of San Andres. Phases III and IV will be launched in the coming months.

d) Support for the satellite transmission of proceedings scheduled by the Unit for Justice and Peace of the Attorney General's Office to mobile units for victims with a total of 33 in 2008 and 125 so far in 2009.

Question No. 27.

Please provide information on investigations of mass graves found since 2004 based on the statements of demobilized paramilitaries. Please indicate the total number of exhumed bodies and how many of them have been identified and what measures are being taken to ensure the identification of the bodies.

249. The National Unit of Public Prosecutors for Justice and Peace began work in 2006. In order ensure the rights of victims to truth, justice and reparation, the Attorney General’s Office has carried out searches for missing persons. These activities have resulted in the identification of victims and the delivery of remains to families. Thus families and the community have been able to begin to discover the truth and alleviate the years of suffering. With this objective in mind, a special structure was established dedicated exclusively to the search for missing persons. This entity has the support of judicial police-type institutions with suitable experience in criminology ¹⁷².

250. In fact, the confessions of the accused in their “versions libres” (free version) have enabled the achievement of some significant results given the number of relatives of disappeared persons that have now received the remains of their loved ones, found to a large extent because of statements and confessions. So between March 26 2006 and 30 June 2009 it has been possible to exhume 1,997 graves and successfully exhume 2,439 corpses. Through the work of the Attorney General’s Office it has been possible to partially identify 686 bodies; 50 bodies have been fully identified for handing over to family members; and finally 571 bodies have been handed over to family members.

Table No. 31 Results of exhumations by Justice and Peace Unit of Attorney General's Office

Exhumed graves	1,997
Corpses Found	2,439
Bodies with partial identification (sample of DNA awaiting results of laboratory)	686
Corpses identified and awaiting handing over to family	50
Corpses handed over to families	571

Source: National Unit of Public Prosecutors for Justice and Peace ¹⁷³

⁷² Within the methodological plan for searching for missing persons, prosecutors obtain information from various sources in order to consolidate information necessary for the discovery of graves, the identification of a body and the location of the relatives of the victims. Once collected, the information is submitted for verification and analysis. Before recovering remains all the pre-death information is obtained as well as data on the causes, circumstances, those responsible and the motives for the criminal behavior. Within the field work and investigation, emphasis is placed on searching for and informing relatives of missing people in order to obtain samples. From these a DNA bank is formed that provides more possibilities for fully identifying the bodies found during the exhumation process.

⁷³The information relating to the search for missing persons that has been received by the National Prosecutor's Unit for Justice and Peace, has been made available to the authorities that take forward cases in the permanent justice system and this has enabled an impetus to be given to investigations.

Question No. 28.

Please provide additional information about the measures of protection granted to witnesses and victims of torture for their personal security and integrity. With reference to paragraphs 79-83 and 95-98 of the State Party report, please indicate how many people are currently benefiting from the protection program of the

Ministry of the Interior and Justice and from the Program of Protection for Victims and Witnesses of the Office of the Attorney-General.

251. As indicated in the report, the Protection Program of the Ministry of the Interior and Justice was established in 1997. It is the result of a joint effort between the Government and civil society to address the consequences of the violence against vulnerable population groups. Decree 2816 of 2006 included as the target population of the Protection Program witnesses in cases of Human Rights violations or breaches of International Humanitarian Law among which are the witnesses to cases of torture.

252. The Protection Program's information system reports that as of 30 June 2009, 24 witnesses in cases of Human Rights violations and breaches of International Humanitarian Law are beneficiaries of the program, without specifying the type of violation or breach witnessed.

253. The Attorney-General's Office, through the Protection and Assistance program must ensure protection for victims, jurors, witnesses and other others involved in criminal proceedings. Integrated protection and social assistance is also granted to relatives with fourth degree consanguinity and second degree affinity as well as cousins by marriage and spouses or permanent partners.

254. To date 1,051 people have been protected by the program of whom 287 are victims or witnesses. The others are relatives and included as part of the extended risk.

Question No. 29

Please indicate the number of victims covered by Law 975 of 25 July that have suffered harassment or threats. What measures have been taken to protect these victims?

255. The Government maintains a strict commitment to the security of victim witnesses under the Justice and Peace Law. Pursuant to Decree 3570 of September 2007, a protection program for victims and witnesses under Law 975 of 2005 was created which covers individual and collective measures to guarantee the life, integrity, freedom and security of victims or witnesses under threat or at risk as a direct consequence of their involvement in the process of Justice and peace. This protection program is led by three entities: the Office of the Attorney General, the National Police and the Ministry of the Interior and Justice and has the following bodies:

- a) Executive Directorate: Ministry of the Interior and Justice Directorate of Human Rights serves as the inter institutional link.
- b) Risk Assessment Technical Group: DAS, National Police, Office of the Attorney General and the Ministry of the Interior and Justice.
- c) Sub-committee for the Protection of Victims and Witnesses: DAS, National Police, the Office of the Attorney General, the Ministry of the Interior and

Justice, NPD, Presidential Programme for Human Rights and International Humanitarian Law, Inspector General's Office, and the Ombudsman's Office.

256. From its implementation, the total budget for its operation by the competent institutions has been substantial: COP32,788,805,198 of which COP445,459,000 had been executed by March 2009.

Table No. 32: Program Budget for Justice and Peace Victims and Witnesses

ENTITY	2007 / 2008
National Police	25,455,573,198
Attorney General's Office	5,620,486,166
Ministry of the Interior and Justice	1,712,745,834
TOTAL	32,788,805,198

Source: Ministry of the Interior and Justice

257. In pursuit of these efforts, in 2008, the Protection Program, in its three regions, looked after 462 cases as follows:

Region	Women	Men	Total
Antioquia	23	33	56
Barranquilla	86	85	171
Bogotá	99	136	235
Total	208	254	462

258. The following protective measures were taken:

Measures	Antioquia	Barranquilla	Bogotá	TOTAL

1/2 Cell phone	0	35	26	61
Periodic reviews	9	35	34	78
Air tickets	3	8	64	75
“Godfather” plan	1	42	10	53
Transport support	0	6	8	14
Mobile scheme	1	2	2	5
Temporary relocation	2	9	29	40
Final relocation	1	11	25	37
Referral to another program	6	26	34	66
Initial assistance	1	2	17	20
Self-protection	30	83	39	152
TOTAL	54	259	291	601

259. As of 30 June 2009, the protection program, has dealt with 235 cases, as follows:

Regional	Women	Men	Total
Antioquia	12	16	28
Barranquilla	30	33	63
Bogotá	65	79	144
Total	107	128	235

260. The following protective measures were taken:

Measures	Antioquia	Barranquilla	Bogotá	TOTAL
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1/2 Cell phone	1	16	6	23
Periodic reviews	9	14	3	26
Air tickets	2	6	13	21
“Godfather” plan	1	7	3	11
Transport support	0	8	3	11
Mobile scheme	0	2	3	5
Temporary relocation	4	8	16	28
Final relocation	3	6	17	26
Referral to another program	1	15	20	36
Initial assistance	2	1	8	11
Self-protection	27	48	12	87
TOTAL	50	131	104	285

261. Additionally, as of 30 June 2009 in the Office of the Attorney-General, 990 people have reported threats. 73 have been incorporated into the Attorney General’s Protection Program; 306 have not been incorporated; 109 have had an initial assistance study; and 502 are being processed ^[74].

262. Nevertheless, the National Government, consistent with the reality that in many cases it has to deal with victims and witnesses in a situation of reclaiming their lands, and in order to comply with the minimum principles and elements of jurisprudence (Ruling T-496 of 2008 of the Constitutional Court) and international practice, is conducting an integrated review of the program through a survey of institutions to define possible solutions, the development and discussion of a proposed organization of the services of a national protection system and the hiring of a consultant to develop a proposal for a differential approach, especially in respect of gender.

⁷⁴ In accordance with the provisions in Article 4 of Decree No. 315 of 2007, they must certify or verify the status of victim of an organized illegal group.

263. As result of the above a new draft decree was produced that amends some parts of the Decree (3570 of 2007) that created the protection program and which is awaiting signature by the Ministry of Finance.

264. Another of the strategies developed to strengthen the program has been the creation a been prioritized for preventive care of the risks in which the target population find themselves. The results of this methodology tool, which is under constant review to improve it, are risk maps which are updated every four months.

265. The updating process is carried out through the definition of ten variables which have been prevalent in identifying the level of risk in 1,102 municipalities of the country. The Directorate of Human Rights of the Ministry of the Interior and Justice, by virtue of the powers assigned to the Program for the Protection of Victims and Witnesses under Law 975 of 2005, provides the following information in respect of the measures adopted:

Question No. 30.

Please provide information on the measures of protection provided to individuals and communities which have been the subject of interim or provisional measures of the Inter-American System of Human Rights. In particular, indicate the collective measures that have been taken to protect the integrity of the indigenous and Afro-Colombian communities.

266. The Colombian State is responsible for one hundred and forty five (145) measures requested or ordered respectively by the Inter-American Human Rights Commission and Court. These measures cover - among other populations - communities, trade unionists, organizations and Human Rights advocates, journalists, members of the prison population, public officials, victims and witnesses within the framework of criminal or disciplinary processes.

267. The Colombian State has a wide institutional provision of domestic protection measures that are available to the beneficiaries of precautionary and provisional measures of the Inter-American System of Human Rights, where necessary, according to the risk. This institutional provision has the following components:

I. Protection programs offered by the State to protect certain especially vulnerable population groups.

A. Ministry of the Interior and Justice Protection Program

268. Decree 2816 of 2006 "*under which the Human Rights Protection Program of the Ministry of the Interior and Justice is designed and regulated and which adopts other provisions*", conceived the Human Rights protection program with the aim of supporting the National Government in safeguarding the life, integrity, freedom and the security of the target population of the program that is living in situations of definite imminent and exceptional risk, as a direct result of exercising their political, public, social or humanitarian activities or duties.

269. Article 2 of the outlined provision states that the beneficiaries are the following people:

"Article 2 Target population. The Program will provide protection to persons included in the following groups:

- 1 Leaders or activists of political groups and especially opposition groups.*
- 2 Leaders or activists of social, civic and community organizations, trade associations, Trade Unions, peasant farmer groups and ethnic groups.*
- 3 Leaders or activists of Human Rights organizations and members of medical missions.*
- 4 Witnesses in cases of Human Rights violations and International Humanitarian Law breaches, regardless of whether the respective administrative, criminal and disciplinary processes under current regulations have started or not.*
- 5. Journalists and social communicators.*
- 6 Mayors, Deputies, Councilors and Representatives.*
- 7 Leaders of organizations for displaced people.*
- 8. Officials responsible for the design, coordination, or implementation of the Government Policy on Human Rights or Peace.*
- 9 Ex officials who were responsible for the design, coordination or implementation of the Government Human Rights or Peace policy?*

Paragraph. In the case of publicly elected people who are the target of this program, the protection measures shall be only be granted when the State security agencies or the public corporations to which they belong, do not have the resources or the means to provide protection. These measures will always be temporary".

270. Additionally, the Ministry of the Interior and Justice currently has two specific protection programs aimed at: i) the displaced population and (ii) victims and witnesses within the framework of Law 975 of 2005, referred to as "the Justice and Peace Law".

271. The Decree also provides a catalogue of measures according to the particular circumstances of a beneficiary, and these measures are classified as follows:

(a) Preventive Measures. Generally recommended for all beneficiaries:

(i) **Course in self-protection and security.** This type of training is given to people that are listed in article 2 of this Decree, in order to introduce them to the most suitable ways for preventing attacks and the procedures for safeguarding life, integrity, freedom and security.

(ii) **National Police Patrols.** These are regular preventive patrols mounted by the National Police to provide security around the home or office of the person in question.

(iii) **Instruction in preventive measures.** A set of written recommendations that the protection program gives to the beneficiary to inform him/her of suitable ways to prevent attacks and of procedures to reduce risk factors.

(b) Protection Measures. Divided into soft or hard options:

(i) Soft options:

- **Communication methods.** Communication equipment provided as means of protection, in order to allow access to timely and effective communication by the beneficiary with State agencies that are part of the Human Rights Protection Program and the organizations to which they belong; for the purpose of communication in an emergency situation to provide information on their security situation and avoid the risks in using other means of communication.

- **Transport methods.** Ways of moving about that are authorized for a beneficiary in order to safeguard their life, integrity, freedom and security and for minimizing the risk posed by moving them from one place to another. These methods can be one of the following:

- **National Air Transport.** Provided through the delivery of air tickets for domestic routes and are granted to the recipient and/or their nuclear family, when faced with a risk situation when the person should be moved somewhere that offers better security conditions. Exceptionally and for reasons of security, this measure will be granted to beneficiaries that need to be moved by this means, subject to authorization by the *CRER* (Committee for the Regulation and Evaluation of Risks).

- **Help with Land Transport .** Help that is given to the beneficiary to defray the cost of transport previously authorized by the *CRER* so that the beneficiary can enjoy better security conditions where they work or carry out their activities

- **Help with temporary relocation.** This is the allocation of and delivery of a sum of money equivalent to the sum of up to three (3) current legal monthly minimum salaries to the beneficiary up to a maximum of three (3) times in response to an urgent need to leave the area of risk and to facilitate his/her movement to and settlement in a different place. In exceptional circumstances, temporary relocation support may be granted for an additional (3) times for half the normal amount.

- **Help with moving expenses.** Help authorized to beneficiary that given the level of risk or degree of threat, needs to relocate to a different place away from the area of risk. This amount will be paid direct to the person providing the removal service.

(ii) Hard options:

- **Protection schemes.** These are the physical and human resources granted to the beneficiaries of the program for their protection. The National Police or the Department of Administrative Security, DAS, will implement these schemes, and monitor their proper use, control and maintenance.
- **Individual Schemes.** These are protection mechanisms composed of bodyguards, a normal or armored vehicle, bullet-proof vests, arms and methods of communication authorized for two or more beneficiaries.
- **Collective Schemes.** These are protection mechanisms composed of bodyguards, an ordinary or armored vehicle, bullet-proof vests, arms and methods of communication authorized to two or more beneficiaries.

The use of these schemes must be coordinated among the beneficiaries of the schemes.

- **Reinforcement of buildings and installation of technical security systems.** These are made up of elements and equipment of integrated security for the control of access to the property of the organizations where the main offices are located. In exceptional cases these elements can be installed in the homes of the beneficiaries of the Program. In all cases, this measure will be implemented in accordance with the recommendations of a security study done by the National Police or the Department of Administrative Security and which takes into account the risk level of the members of these organizations.

- **Bullet-proof vests.** This is the allocation of an item of protected clothing to protect the person.

- **Armor-plating of vehicles.** Armor plating recommended by the security agencies may be installed in vehicles owned by municipalities or by municipal or Departmental public corporations.

- **International air tickets.** This is the assignation of an international air ticket to the beneficiaries of the program and/or their nuclear family and will be offered as an exceptional protection measure. It will be given to persons who have been accepted by the receiving country for a period of more than one year and when the level of risk warrants it.

272. The Human Rights Protection Program of the Ministry of the Interior and Justice has an advisory body called the Committee on the Regulation and Evaluation of Risks (CRER) composed of Representatives of various State entities, groups representing target populations, and international agencies, who recommend by consensus the adoption of the most suitable measures for protecting a person, taking into account the circumstances of each case as the result of a risk evaluation study done by the Department of Administrative Security (DAS) or the National Police, as the competent security agencies in this matter.

273. The National Police or the Department of Administrative Security (DAS) at the request of the Human Rights Protection Program of the Ministry of the Interior and Justice, carry out the risk evaluation and threat level study which is submitted to the

CRER as part of the analysis and recommendation process for the corresponding security measures.

274. This evaluation of the request for protection done by the Committee of Regulation and Evaluation of Risks (CRER) in turn addresses a series of criteria laid down by the regulations in this matter to meet the circumstances of time, method and place of the risk to the potential beneficiaries, and so the Committee must take account of the following:

- a) Source of threat and reason. The threat must stem from organized armed violence and because of or as a direct consequence of the exercise of the functions, responsibility or activity of the person making the request.
- b) Status. The petitioner must belong to one of the categories described in the Article 2 of Decree 2816 of 2006.
- c) Circumstances of risk. The risk to which the petitioner for the Protection Program is subjected must have the following characteristics:
 - i) It must be specific and individual, i.e. it must not be a generic risk;
 - ii) It must be concrete, in other words, it is based on particular actions or facts, and not on abstract assumptions;
 - iii) It must be real, not remote or possible
 - iv) it must be significant, i.e. it is a threat to damage property or legal interests that are of value to the subject, such that it cannot be treated as a minor risk
 - v) It must be a serious risk, likely to materialize because of the circumstances of the case, such that it cannot be seen as unlikely to occur;
 - vi) it must be a clear and discernible, risk not a contingency risk or a diffused hazard risk
 - vii) it must be an exceptional risk that could not be normally dealt with by an individual;
 - viii) it must be disproportionate to the benefits that the person derives from the situation which generates the risk.
- d) Risk Zone. The risk situation must occur in the national territory (of Colombia) and the risk zone must be identified and delineated in each specific case.
- e) Time scale. The request must be submitted to the Ministry of the Interior and Justice Human Rights Protection Program within a maximum time limit of three (3) months from the date on which the events occurred.

275. For the implementation of the protective measures there is a planned normal procedure which consists of the following stages:

- a) Receipt of written request from the affected person or a third party.
- b) Analysis and verification: that the applicant belongs to the target population referred to in article 2 of Decree 2816 of 2006; of the existence of a reason for the risk; of duration of the risk; of the location or permanence of the risk, among other things. If necessary, a personal interview will be conducted with the applicant, in order to obtain more information.
- c) Conducting a risk evaluation study and threat level study by the National Police or the Department of Administrative Security (DAS).
- d) Presentation of the particular situation to the Committee of Regulation and Evaluation of Risks (CRER) so that they make the appropriate recommendations.
- e) Notification of recommendations to the beneficiaries.
- f) Implementation of the measures recommended by the Committee of Regulation and Evaluation of Risks (CRER).

276. It should be stressed that in an emergency (i.e. in cases of imminent danger), the Ministry of the Interior and Justice Protection Program may adopt and/or request - without the need for a risk level study and threat level study and prior recommendation by the Committee of Regulation and Evaluation of Risks (CRER) - temporary protection measures for the recipients of the Program and will inform the CRER at the next meeting so that the Committee knows what has happened and can recommend definitive measures.

277. For the purpose of adopting these emergency protection measures, Decree 2815 of 2006 states that the Program should perform an initial assessment of the risk to which the petitioner is exposed, through a verification system carried out with the authorities of the area and with representatives of the target population by the Committee of Regulation and Evaluation of Risks (CRER)

B. Protection Program of the Office of the Attorney-General and assistance to victims and witnesses

278. Since the entry into force of the 1991 Constitution, the Colombian State seeks to establish mechanisms for an effective justice system that ensures the entry into force of the “Estado Social de Derecho” (social rule of law) (concept from the 1991 Constitution) and to guarantee the fulfillment of the rights and freedoms recognized in the Constitution. The Witness Protection Program is one of them.

279. The Witness Protection Program Programme began in 1992 and is currently under the control of the Office of the Attorney-General. It is responsible for providing integrated protection and assistance to witnesses and victims involved in criminal

proceedings by contributing information that leads to a successful criminal investigation. and who because of the help that they have given to justice system are threatened or suffer from a high risk.

280. Its main function is to adopt measures of protection that are aimed principally at guaranteeing the life and integrity of persons that are part of the Program. Basically the beneficiary is moved away from the area that is identified as a major risk to the life of the beneficiary, resulting in them restarting their lives elsewhere from a social, work and financial point of view.

281. The protection measures that are implemented by the Office for Protection and Assistance are executed in favor of the witness or victim who have taken part in the procedures and can be extended to their nuclear family, to dependents and to those people whose direct relationship with the witness or victim generates proven threats and risks.

282. It should be noted that the Program excludes persons that are already protected by another State Agency and those who do not volunteer and consent to be included in the Program.

283. The procedure for accessing this program requires that a request for protection be made. The Threat and Risk Evaluation Group, within a maximum period of ten (10) days, will investigate the situation and issue a viable plan or an unfavorable assessment. In other words, the Program verifies if the person or group of persons meet or do not meet the requirements necessary to be incorporated in the program, in accordance with the provisions of the Law.

284. If the view of the investigator is incorporation into the program, the legal section will, within a maximum of five (5) days, prepare records of commitment which contain a series of obligations to be met by both the Office of Protection and Assistance and the protected person.

285. In addition the commitment document describes the extent of protection to be implemented in favor of the protected person. Only after this document is signed is the person considered to be incorporated into the Programme.

286. Subsequently, this document is sent to the Operational Coordination Section, to organize the logistics necessary to incorporate the protected person together with his family.

287. Finally, an induction process is carried out whereby an official of the Protection and Assistance Office informs the protected person about the conditions of the program.

288. This Program provides for the immediate relocation of the beneficiary as a protective measure i.e. the removal of the protected person from the risk zone to another place within the national territory - with the financial assistance provided for under the program the beneficiary can start another life - plan. Additionally, the Program offers as a protection measure the incorporation that is the transfer of the incorporated

person to another place within the national territory, on a temporary basis somewhere that is decided by the Program. This is always subject to the security measures that are decided upon.

289. As can be seen from the description of both Programs, the result of the risk level study and threat level study is - in principle - the element that judges whether to grant access to the programs since these are intended for those persons who are in a situation of exceptional risk.

290. To this extent, for the Colombian State it is essential to analyze the mechanisms, criteria and legal and jurisprudential considerations that take into account the national legal system for such studies.

C. Institutional offer of security measures by the National Police

291. Likewise, the Colombian State may present the institutional offer by the National Police regarding security measures. The National Police will lead on the following matters:

- a) Strategic security alliances: These are preventive mechanisms for safeguarding life and personal integrity. Strategic security alliances include the following: patrols, reviews, coordination, communication between the authorities and beneficiaries, a “Godfather” plan, training in self-protection and security, telephone network, citizen security alliances.
- b) Patrols and reviews: These are preventive periodic patrols performed by the National Police to provide security around homes, offices and headquarters of organizations.
- c) Internal Coordination: There is periodic communication between the Police Commander and Heads of Police Stations, Sub-Stations and Immediate Response Centers in order to maintain control over the security measures to follow in a particular sector in agreement with the protected persons.
- d) External Coordination: The necessary coordination is carried out with other entities in order to implement or adjust the police service.
- e) “Godfather” Plan: Designation of a Police Unit to keep permanent contact with the beneficiary of the security measure and for verifying the security implemented by the National Police. All this is to create a channel of communication between the protected person and the police.
- f) Citizen Security “Alliance”: This is a joint program between the community and the police which shapes the social fabric needed to remove spaces for crime. It is found in urban areas in business environments and it is hoped to take it out to rural areas.
- g) Risk level studies: The National Police in complying with national Government policies for safeguarding life, integrity, freedom and security of people in situations of

risk as a direct result, and because of the exercise of their political, public, social, humanitarian, and normal activities or functions ????welcomed the concepts and categories of risk levels established by the Constitutional Court, through Rulings T 719/03 and T-976/04, which must be taken into account by the agencies???? with responsibilities for security and protection programs by making the necessary internal adjustment of these parameters for conducting security studies and adopting protection measures that guarantee the rights of people. ???

292. The Risk Level Evaluation Committees of the Directorate for Protection and Special Services, Metropolitan Units and police departments may recommend the termination or suspension of the security and protection services in the following circumstances:

a) Standing Directive 020 of 31 August 2007 lays down the responsibilities of beneficiaries of protection measures from the Ministry of Interior and Justice program. The aforementioned directive also establishes rating values for each one of the studies conducted as: Minimum, Ordinary, Extraordinary, Extreme and Consummated and the minimum requirements that must be met for a specific rating.

b) Self-Protection Recommendation: This is the training provided to persons who are at some sort of risk in order to show them suitable ways of preventing attacks and procedures to follow for safeguarding their life, integrity, freedom and security.

c) Methods of communication: this is the communication equipment for protection, with the aim of allowing access to timely and effective communication if help is needed in an emergency.

D. Guarantees of protection and security offered by the National Prison Institute Penitentiary to the prison population

293. Based on Law 65 of 1993, the parameters are established which must be complied with when depriving someone of their liberty, among which are the following:

a) **ARTICLE 4. Sentences and security measures.** No one shall be subjected to a sentence or security measure that is not previously established by current law. The law foresees custodial sentences, such as imprisonment and arrest for people. These are security measures applicable to the accused in accordance with the Criminal Code.

b) **ARTICLE 5. Respect for human dignity.** In detention facilities respect for human dignity, constitutional guarantees and universally recognized Human Rights are paramount. Any form of psychological, physical or moral violence or abuse is prohibited.

c) **ARTICLE 9. Functions and purpose of a sentence and security measures.** The sentence has a protective and preventive role, but its fundamental purpose is resocialization. Security measures aim to cure, protect and rehabilitate.

d) **ARTICLE 10. Purpose of imprisonment.** Imprisonment is intended to achieve the resocialization of the criminal law offender through an examination of his personality and through discipline, work, study, spiritual training, culture, sport and recreation and in an atmosphere of humanity and solidarity.

e) **ARTICLE 11. Purpose of preventive arrest.** The presumption of innocence will prevail during pre-trial detention. Pre-trial detention seeks to ensure the appearance of the accused in the process and the subsequent effectiveness of criminal punishment.

f) **ARTICLE 14. Functions of the National Prison Institute.** The Government is responsible through the National Prison Institute for the execution of criminal sentences and preventive detention, the implementation of security measures and the regulation and control of ancillary punishments laid down in the Penal Code.

294. In line with the above, the National Prison Institute must "*administer the prison system ensuring compliance with prison sentences, preventive detention, security, social care and treatment of the prison population, in the context of Human Rights.*"

295. This is how a management culture has been consolidated within the framework of the Quality Management System as well as respect for and promotion of Human Rights and constitutional guarantees for persons deprived of their liberty. For specific security reasons some specific procedures and parameters have been established that have enabled guarantees for the life and physical integrity of the prison population.

296. Like the other entities responsible for providing protection measures and security, the National Prison Institute (*INPEC*) evaluates in the Security Council what the security environment of the prison population is in order to proceed to assess their level of risk. In this regard, on detecting a particular risk for any of the persons held in prison the following measures, amongst others can be adopted:

- a. Providing procedures for custodial and supervisory staff to guarantee life and personal security.
- b. Analyzing everything to do with care, complaints, coexistence and level of security level in relation to this person.
- c. Where the internal vulnerability level is considered to be high, the prison establishment immediately sends notification of the security situation so that consideration is given to transferring this person.
- d. Taking preventive actions that are necessary to protect fundamental rights
- e. Analyzing in the Management Committee the particular case of each prisoner and issue necessary instructions for guaranteeing the fundamental rights of these people.
- f. Taking strategic decisions in relation to security, treatment and health of all prisoners.

297. Additionally, the National Prison Institute (*INPEC*) through Resolution 0501 of 4 February 2005 - *by which the internal organization of "INPEC" prison establishments is updated* - created the figure of **Human Rights Consul**, in order to develop the promotion and dissemination of Human Rights, as well as protection mechanisms for the prison population, custodial and supervisory personnel and the administrative staff of the Prison establishments.

F. Project for the Promotion and Protection of the Human Rights of Communities at Risk

298. This initiative is due to the desire of the national Government to develop a project for taking care of communities at risk of violence that will raise the level of protection of their Human Rights and prevent breaches of International Humanitarian Law. It also addresses recommendation No. 3 of the UN Office of the High Commissioner for Human Rights (2004) regarding the need to protect communities at risk from violence.

299. The project "Promotion and Protection of Human Rights of Communities at Risk" seeks to bring the 1991 Constitution concept "Estado Social de Derecho" (Social Rule of Law) to the whole of the country to guarantee enjoyment of the rights enshrined in the Constitution, and at the same time implement the National Development Plan policy on Human Rights and International Humanitarian Law.

300. To do this it strengthens the protection capacity of national, regional and local public institutions as well as prevention and self protection mechanisms for communities at risk to prevent violations of the Human Rights. All this by strengthening spaces for consultation between public authorities and the communities in which:

(a) The authorities make an assessment of the humanitarian situation of the communities at risk in their jurisdiction and make their proposals;

(b) The communities, in a separate process, carry out their own risk assessment exercise and propose preventive, protective and self protection measures;

(c) Then, in a space between local authorities and the community, action plans are formulated on prevention and protection based on the proposals arising from the two previous processes.

301. During this whole process there is a permanent presence of the Presidential Program for Human Rights and International Humanitarian Law and of the Ministry of the Interior and Justice in the areas through Regional Coordinators that permanently monitor the humanitarian situation and accompany the proposals that emerge from the action plans.

302. Likewise *Accion Social* is present through its institutional mechanisms in all targeted zones; and the Office of the Ombudsman systematizes the process

G. Some clarifications concerning Risk Level and Threat Level Studies

303. In accordance with the provisions of Decree 2816 of 2006 the Risk level and threat level studies as well as their periodic re-evaluations-, are the basis for determining the continuity, suspension, withdrawal or strengthening of implemented physical protection measures.

304. Moreover, from the jurisprudential point of view, the Colombian Constitutional Court has defined, in relation to determining the level of risk to which a person is allegedly exposed, a typology of risks that, according to each case, would justify the adoption of special protection measures by the State ^[75]. Special protection measures - according to the Constitutional Court – are justified in cases where a person is exposed to an *extraordinary* type of risk or an *extreme* risk.

305. According to the Constitutional Court, in determining whether a risk known to the authorities has a sufficient intensity to be *extraordinary*, the official concerned must consider whether some of the following characteristics come together:

- a) It must be *specific* and *identifiable*, in other words, it should not be a *general risk*;
- b) It must be *concrete*, i.e. be based on particular manifested actions or facts and not on *abstract* assumptions;
- c) It must be *present* i.e. not *remote* or *possible*;
- d) It must be *important*, i.e. threatens to damage property or legal interests that are of value to the subject, such that it cannot be treated as a *minor* risk;
- e) It must be a *serious* risk, likely to materialize because of the circumstances of the case, such that it cannot be seen as *unlikely*;
- f) It must be a *clear* and *discernible* risk, not a contingency risk or a *vague* danger;
- g) It must be an *exceptional* risk that could not be *generally* borne by an individual; and
- h) It must be *disproportionate*, to the benefits that the person derives from the situation which generates the risk. ^[76]

306. In addition, according to the Court Constitutional, an **extreme risk** level that threatens the life and personal integrity is the level of risk which, by its intensity, falls within the orbit of direct protection of the rights to life and personal integrity. In this sense the Constitutional Court of Colombia notes that "In this category fundamental rights such as life and personal integrity are also put in danger. So that the individual can obtain special protection from the State at this level, the risk must include the characteristics set out in relation to the previous level, and moreover it must be serious

⁷⁵ CONSTITUTIONAL COURT OF COLOMBIA, Ruling T-719/03, Judge : Dr. Manuel José Cepeda Espinosa, 20 August 2003

and imminent. A risk that threatens a weighty or important legal right is serious. Imminent means something that is going to happen soon. Thus, the extreme risk is one that at any time can stop being a threat and becomes a violation of the right to life or personal integrity, which are clearly fundamental for a person” ^[77]

II. Collective measures that have been taken to protect the integrity of indigenous and Afro-Colombian communities

307. In respect of this it should be stated that currently the Inter-American Commission on Human Rights has requested the Colombian State to adopt preventive measures in favor of five (5) indigenous communities, fifty (50) indigenous leaders, two (2) Afro-Colombian communities and twenty-nine (29) Afro-Colombian leaders. For its part, the Inter-American Court of Human Rights has ordered interim measures in favor of (1) indigenous community and a (1) Afro-Colombian community.

a) Precautionary Measures in favor of indigenous leaders and indigenous communities

1. Precautionary measures in favor of the Embera Katio indigenous community of Alto Sinú, requested by the Inter-American Commission for Human Rights on 4 June 2001.
2. Precautionary measures in favor of the Embera Chami Reserves and settlements in Caldas and Risaralda, requested by the Inter-American Commission for Human Rights on 15 March 2002.
3. Precautionary measures in favor of the Communities of the indigenous Pijao people, requested by the Inter-American Commission for Human Rights on 2 December 2003.
4. Precautionary measures in favor of 9 leaders of the Wayuu indigenous people requested by the Inter-American Commission for Human Rights on 23 September 2004.
5. Precautionary measures in favor of the Naya Association of Displaced Peasant Farmers and Indigenous People (*ASOCAIDENA*), requested by the Inter-American Human Rights Commission on 14 October 2004.
6. Precautionary measures in favor of the Indigenous Wiwa people of the Sierra Nevada de Santa Marta, requested by the Inter-American Human Rights Commission on 4 February 2005.
7. Precautionary measures in favor of the 9 leaders of the Association of Indigenous Assemblies of North Cauca (*ACIN*) requested by the Inter-American Human Rights Commission on 31 October 2005.

⁷⁶ Ibid.

⁷⁷ CONSTITUTIONAL COURT OF COLOMBIA, Ruling T-976/04, Judge: Dr. Jaime Araujo Rentería, 8 October 2004

8. Precautionary measures in favor of 32 leaders of the Indigenous Regional Council of Cauca (*CRIC*) and their advisers, requested by the Inter-American Human Rights Commission on 16 January 2009.

b) Precautionary measures in favor of Afro-Colombian leaders and Afro-Colombian communities

1. Precautionary measures in favor of the Cacarica Community requested by the Inter-American Human Rights Commission on 17 December 1997.
2. Precautionary measures in favor of the Afro-Colombian communities in the Naya river basin, requested by the Inter-American Human Rights Commission on 2 January 2002.
3. Precautionary measures in favor of 7 members of the Black Communities Process requested by the Inter-American Human Rights Commission on 7 March 2003.
4. Precautionary measures in favor of 13 leaders of the Council for Integrated Development of Black Communities of the Nariño western mountain range (*COPDICONC*) - requested by the Inter-American Human Rights Commission on 24 July 2007.
5. Precautionary measures in favor of 9 members of the Central Committee for Displaced Persons and spokespersons for displaced communities in Quibdó, requested by the Inter-American Human Rights Commission on 22 May 2000.

Provisional measures for indigenous communities

308. Provisional measures in favor of the Kankuamo indigenous people ordered by the Inter-American Court of Human Rights on 5 July 2004.

Provisional measures for Afro-Colombian communities

309. Provisional measures in favor of the Jiguamiandó communities and the families of the Curvaradó ordered by the Inter-American Court of Human Rights on 6 March 2003.

III. Protective and prevention measures implemented in favor of leaders and beneficiary communities with precautionary and provisional measures

310. In this regard, it should be pointed out that the Protection Program for safeguarding the life, integrity, freedom and security of the target population of the program which is led by the Directorate of Human Rights of the Ministry of the Interior and Justice and is supported by the National Government, has been implemented in favor of the different beneficiaries of precautionary and provisional protection measures.

311. Likewise some indigenous communities that benefit from precautionary and provisional measures are included in the framework of the project for the Promotion and Protection of the Human Rights of the Communities at Risk

A) Measures adopted and implemented in favor of indigenous leaders and communities

a) Precautionary measures in favor of the indigenous Embera Katio Community of Alto Sinú

312. Protection for several Embera Katio leaders through help for temporary relocation and national air tickets with the aim of responding to a collective emergency situation.

b) Precautionary measures in favor of the Embera Chamí Reserves and settlements in Caldas and Risaralda

313. Protection of 40 Embera Chamí leaders and members of the *CRIDEC* through the implementation of collective protection schemes with: ordinary and armored vehicles, mobile phones, special collective transport, bullet-proof vests, help with temporary relocation and national air tickets in response to emergency situations.

314. Additionally, as a measure to strengthen prevention and protection measures for the Embera Chamí communities, the project for the Promotion and Protection of the Human Rights of the Communities at Risk was implemented. It was focused on the indigenous Reserves of San Lorenzo, Cañamomo Lomapieta and Nuestra Señora Candelaria de la Montaña, and the Escopetera – Pirza community that are all beneficiaries of precautionary measures.

c) Precautionary measures in favor of the Pijao indigenous people

315. Protection of several Pijao leaders through the implementation of a scheme with ordinary vehicles, mobile phones, Avantel communication equipment, special help for land transport, support for temporary relocation and domestic air tickets for responding to emergency situations.

d) Precautionary measures in favor of 9 leaders of the Wayuu indigenous people

316. Protection for several Wayuu leaders through the implementation of protection methods through mobile phones, special help for land transport, help with temporary relocation, help with moving expenses and with domestic air tickets for responding to emergency situations.

e) Precautionary measures in favor of the Naya Association of Displaced Farmers and Indigenous People (ASOCAIDENA)

317. Protection for several leaders of the Association through help with mobile phones, special help with collective transport and domestic air tickets to respond to emergency situations.

f) Precautionary measures in favor of the Wiwa indigenous people of the Sierra Nevada de Santa Marta

318. Protection of several Wiwa leaders through the implementation of differential help with transport with an ethnic approach, special help with land transport, mobile phones, help with temporary relocation and domestic air tickets to respond to emergency situations.

319. Additionally, as a measure for strengthening mechanisms of prevention and protection for the Wiwa indigenous people, the Project for the Promotion and Protection of the Human Rights of Communities at Risk was implemented in the Sierra Nevada de Santa Marta.

g) Precautionary measures in favor of 9 leaders of the Association of Indigenous Councils of the North of Cauca (ACIN)

320. Protection for 9 leaders of the Association through the use of mobile phones, support for special collective transport and help with domestic air tickets to respond to emergency situations.

h) Precautionary measures in favor of 32 leaders of the Cauca Indigenous Regional Council (CRIC) and their advisers

321. Protection for 32 leading members of the *CRIC* through the implementation of schemes with ordinary and armored vehicles, mobile phones, and special help with transport, bullet-proof vests and help with domestic air tickets in emergency situations.

i) Provisional measures for the Kankuamo indigenous people

322. Protection for several Kankuamo leaders by implementing a scheme with armored vehicles, mobile phones, Avantel communications equipment, satellite communications equipment, special help with land transport, help with temporary relocation, support with moving costs and help with domestic air tickets for emergencies.

323. Additionally, as a measure of strengthening the mechanisms of prevention and protection for the Kankuamo indigenous people, a project for the promotion and protection of human rights of communities at risk was implemented in the Sierra Nevada de Santa Marta.

B) Precautionary and temporary measures requested for Afro-Colombian leaders and Communities

a) Precautionary measures for the Cacarica community

324. Protection for several leaders of the Community through the implementation of collective maritime and river protection schemes, mobile phones, satellite communication equipment and domestic air tickets for emergencies.

b) Precautionary measures for Afro-Colombian communities in the Naya river basin

325. Protection for several leaders of the Council through the implementation of a collective river and maritime protection scheme, mobile phones and satellite communication equipment.

c) Precautionary measures for 7 members of the Black Communities Process

326. Protection for several leaders of the Organization through the implementation of a collective scheme with ordinary vehicles, special help with land transport, reinforcement of headquarters building, mobile phones, Avantel communication equipment, satellite communications equipment, help with temporary relocation, help with moving expenses and with the cost of domestic air tickets for in emergencies.

d) Precautionary measures for 13 leaders of the Council for the Integrated Development of Black Communities of the Nariño western mountain range (COPDICONC)

327. Protection for several leaders of the Council through help with individual and collective land transport, mobile phones, Avantel communication equipment, temporary relocation and with domestic airline tickets in emergencies.

e) Precautionary measures for 9 members of the Central Committee for Displaced People and spokespersons for displaced communities in Quibdó

328. Protection for several leaders of the Association with land transport and mobile phones.

f) Provisional measures for the Jiguamiandó communities and families of the Curvaradó

329. Protection for several leaders of the Council by implementing differential transport help with an ethnic approach, mobile phones, satellite communication, special help with land transport and help with temporary relocation and with domestic air tickets in emergencies.

Question No. 31.

Please provide information on the work of the National Commission for Reparation and Reconciliation, created by the Justice and Peace Law (Law 975 of

2005) and on measures that have been taken with regard to the regional commissions and the establishment of a regional network of care for victims. Please also indicate progress made on the implementation of an institutional collective reparation program.

330. Law 975 of 2005, in respect of property restitution, indicates that a primary function of the National Commission for Reparation and Reconciliation is to preside over, coordinate and guide the activities of the Regional Property Restitution Commissions that are responsible for facilitating procedures related to the claims by victims of the ownership and tenancy of property^[78].

331. On 10 June 2009 the first Property Restitution Commission was established in Medellín, with: the handing over of 110 title deeds for land located in four villages (Turbo); the preparation of and request to award more than 60 uncultivated plots of land; and providing support for those victims through the recognition of and compensation for their violated rights and support in rebuilding their life projects.

332. A schedule has been planned for setting up various Commission offices in different cities of the country during the remainder of 2009. The first in Cartagena on 11 September, Bogotá on 9 October, Bucaramanga on 20 October and Sincelejo on 28 October. It is important to clarify that these Regional offices cover a much greater area than the capital city. One of the objectives of these offices is to travel round the area they cover and train, guide and assist victims with their claims. The NCCR hopes to be able to soon set up Regional Property Restitution Commissions in other cities of the country.

333. As a second restitution function of the NCCR, in Decree 4760 of 2005, it was assigned the task of designing and formulating a Program for the Restitution of Property with the help of the Regional Property Restitution Commissions and the technical support of the Special Technical Committee. The program consists of proposing dialogue mechanisms aimed at strengthening coordinated State action, related to information about the restitution of property, in accordance with Decree 3391 of 2006. Thus, a document was produced entitled “Contributions to the structure and components of the Program for the Restitution of Property”^[79], in which there is some policy and regulatory guidance as well as strategic definitions of victims, property, restitution measures, compensation and indemnity, etc. It suggests the creation of a baseline to make up for the lack of information on the work of restitution.

⁷⁸Article 52 of Law 975 of 2005

⁷⁹This document was used in the drafting of the Proposed Land and Territories Policy Guidelines for the Victim Population of Forced Displacement, at risk of Forced Displacement and of Dispossession.

334. In the framework of land restitution done with the accompaniment of the NCCR it is worth noting:

- a) During the opening ceremony of the NCCR Regional Office in the city of Medellín, in October 2006, it handed over the title deeds of property to 22 victim families that formalized the award of land to them.^[80]
- b) In June 2008, in the Department of Córdoba, 58 families received land of which they had been dispossessed by the former head of the Cordoba block of the

“United Self Defense Forces of Colombia” (paramilitaries) Salvatore Mancuso Gomez.

- c) In August 2007, a plot of land was assigned to the Salabarría family, and on 30 May 2009 they were awarded the title deeds along with a productive livestock project.

335. As inputs for the construction of response protocols the NCRR decided to carry out three property restitution pilot projects:

- a) Pilot project TURBO-ANTIOQUIA
 - oBeneficiaries: 120 organized families from the Association of victims of Turbo.
 - oType: dispossession: Forced displacement and fraudulent sales.
- b) Pilot project CHENGUE-MONTES DE MARIA
 - oBeneficiaries: 100 organized families- from the Association of victims of the settlement of Chenge.
 - oType: dispossession: Forced displacement of owners and tenants of land and abandonment of lands
- c) Pilot Project CHENGUE-MONTES DE MARIA
 - oBeneficiaries: 245 families organized in an association.
 - oType: dispossession: massacre and forced displacement of owners and tenants.

336. Finally, it is worth stating that despite the concerns raised by various sectors about the lack of cooperation by and legal obligation on the demobilized to hand over illegally obtained property to compensate victims, the Consolidated Reparation Fund figures would seem to dispute that interpretation: as of April 2009 there were 27 properties held by the Fund that amount to 7,800 hectares with a value of COP17,836,296,082.

337. With regard to the Regional Land Restitution Commissions it is important to put this discussion in the context of other actions that are being taken on land issues in Colombia. The Constitutional Court, in judicial decree (*Auto*) 008, resolution number 8 of 26 January 2008 ordered the Ministers of the Interior and Justice and the Minister of Agriculture and Rural Development, the Director of *Accion Social* and the Director of National Planning (according to their respective areas of authority, and after a participatory process that will include other organizations that express their interest to the Follow Up Commission) to reformulate the land policy in accordance with the parameters indicated in paragraphs 82 to 85 of the above-mentioned Decree (*Auto*). The reformulation of the policy means

⁸⁰The Antioquia headquarters has received 848 cases, of which 801 relate to dispossession in Uraba and 47 in other municipalities. There are 257 cases filed in Turbo; 512 registered dispossessed properties corresponding to 22,644 hectares and 79 cases lost because of dispossession.

- (a) The definition of guidelines that will guide the new policy;
- (b) The design of the policy and the establishment of mechanisms for its instrumentalization
- (c) A timetable for its execution, and
- (d) Its implementation and follow up. The diagnostic process and the definition of the policy guidelines (stage (i)) must be finished by 30 June 2009, at the latest. The implementation of the new policy, following its design and establishment of the means for its instrumentalization, must be started by 31 August 2009, at the latest (stages (ii) to (iv)). Other national or territorial entities considered appropriate may be asked to participate in the reformulation process. The Ministers of the Interior and Justice and the Minister of Agriculture and Rural Development, the Director of *Accion Social* and the Director of National Planning will submit to the Constitutional Court on 30 October 2009 and 1 July 2010, a mutually agreed report on (i) the characteristics of the new policy and its mechanisms, defined targets and the adopted timetable and (ii) the description of the actions put forward, fulfilled goals and results achieved in such a way that it will be possible to assess whether the new land policy is adequate for making reasonably rapid progress so that displaced people can effectively enjoy their rights and also whether it meets the fixed targets.

338. In pursuance of this, the aforementioned entities created an interdisciplinary working group for producing guidelines on reforming the land policy. The document ⁸¹ includes: a diagnosis of displacement in general and about the land situation for the persons at risk of displacement (PRD) and displaced persons (DP); the overall goal and the specifics of the policy; the target population; principles and characteristics; and the strategies to achieve the objectives which include:

- a) Improving mechanisms for preventing dispossession.
- b) Improving the land protection system for the displaced population
- c) Facilitating access to land by displaced population
- d) Restitution of property as reparation measure
- e) Formalizing and guaranteeing legal rights to land
- f) Increasing institutional capacity
- g) Improving information systems on property and land

⁸¹The delivery date to the Constitutional Court of the proposed guidelines for reforming the land policy is 30 June 2009

339. Subsequently the working group will be responsible for defining the mechanisms for initially defining the institutional capacity and the budget that is required for this purpose; from this the joint state effort will be deduced for generating a genuinely articulated land policy.

340. On the other hand, in relation to implementing a program of collective reparations, Article 49 of Law 975 of 2005 states that the National Government must implement an institutional program in accordance with the recommendations made by the National Commission for Reparation and Reconciliation (NCRR). To get an overview of the serious human rights violations perpetrated collectively and systematically by members of illegal armed groups and to be able to make recommendations to the Government, the NCRR initiated a pilot project in the following communities:

PILOT PROJECT	TERRITORY
El Salado, Carmen de Bolívar, Bolívar	Settlement of El Salado (Carmen de Bolívar municipality, Bolívar); people from Santa Clara (settlement of El Salado, Bolívar), that currently inhabit Canutalito (settlement of Ovejas, Sucre); La Peñata (El Salado settlement); El Bálsamo (settlement of El Salado); San Pedrito (El Salado settlement; La Sierra (settlement of Córdoba. Tetón, Bolívar)
La Gabarra, Norte de Santander	Axis of main road (includes the settlements of La Carbonera, El 18, El 20, El 25 Caño Raya, 28, El Mirador, Casa de Zinc, Vetas, Caño Troce Caño Toneles, La Guaya, La Neiva - or Matadecoco-, La Gabarra – centre of settlement - El 60, El 40, Las Timbas, Caño Madera, Caño Tomas, Filoseco and Rio de Oro – La Pista -); upper River Catatumbo axis (settlements of Los Cuervos Caño Guadua, Bocas de San Miguel, Caño Salado, El Silencio, Bocas del Castillo, Barrancas, La Misión, and El Matillo); San Miguel river axis (settlements of San Martín, Guadeloupe, El Progreso, La Vaquera, - La Calavera – Rio Chiquito and La India); and the lower River Catatumbo axis (settlements of Trocha Ganadera, La Trinidad, Francisco de Paula Santander and La Colombiana.
El Tigre, Valle Guamuez, Putumayo	Cabecera de Inspección El Tigre, and settlements of Naranjito, Maravélez, Paraíso, Villa Arboleda, Villa Hermosa, Las Brisas, Argelia and Palmeras
Buenos Aires, Cauca	Settlements of La Balsa, San Miguel, Cascajero, Palo Blanco, Munchique, Chambimbe, Honduras, Timba, Ventura and Alsacia
Associations of <i>Caminos de Esperanza - Madres de La Candelaria</i>	Organization with 500 members, mainly third-age women
<i>Asociación de Trabajadores Campesinos del Carare ATCC</i> (Farmer's Association)	36 zones within 6 municipalities of the Department of Santander with the following settlements: 1. Cimitarra: Santa Rosa, Caño Tilia, Valiente and Vinagre; 2. Landázuri: settlement of La India; 3. Bolívar: La Arena, El Horta, La Corcovada and La Guinea; 4. Sucre: la Pedregosa and La Caoba; 5. La Belleza, La Ceiba and 6. De El Peñón: Danubio and Amarillo Sonora
Libertad, San Onofre - Sucre	Center of settlement - Libertad and Arroyoseco and Sabanetica

341. Currently the inputs obtained from the various collective reparation pilot projects are being consolidated so that some recommendations can be made to the plenary session of the NCRR for the institutional collective reparation program. The institutional collective reparation program has not yet been designed and, therefore, it has not begun to be implemented.

Question No. 32.

With reference to paragraph 348 of the State Party report, what State resources have been allocated to the Victim Reparation Fund (Article 52.6 of Law 975 of 2005?)

342. In relation to State resources allocated to victim reparation in accordance with the Justice and Peace Law, it is worth recalling that the Constitutional Court in ruling C-370 of 2006 noted:

"Only in a case where the State is responsible - by action or omission - or when the resources of those responsible are insufficient to pay the reparation does the State assume the subsidiary responsibility that all this implies"^[82]

And it adds that:

"Before turning to State resources for the reparation of victims, the perpetrators of crimes, or the "Blocs" of "Fronts" to which they belonged, must be told to pay from their own assets for the damage and harm caused to the victims of their crimes. The State only becomes involved in a residual role to ensure the rights of victims, especially in those cases without a court decision that sets the amount of compensation to which they are entitled (second paragraph of Article 42 of Law 975 of 2005) and in the event that the resources of those responsible are sufficient"^[83].

Question No. 33.

What State funds are assigned to the Program for Individual Administrative Reparation (Decree 1290 of 2008) and how many victims have benefitted from this program.

343. In essence, Colombia now has one of the most ambitious victim reparation programs. With the aim of complying with its obligation to allocate internal resources to the reparation of alleged violations of human rights, the Colombian State offers two forums which families of victims can access, namely:

(a) Criminal proceedings either through establishment of a civil action or within the criminal process developed under Law 975 of 2005 or by following the individual administrative reparation route (Decree 1290 of 2008);

⁸² Constitutional Court ruling C 370 of 2006, 6.2.4.12, 6.2.4.13.

⁸³ Constitutional Court ruling C 370 of 2006, 6.2.4.11.

(b) Direct reparation action before the administrative courts.

344. As was recently acknowledged in the Annual Report of the United Nations Office of the High Commissioner for Human Rights on Human Rights in Colombia, the adoption by the Colombian Government of Decree 1290 which created an administrative reparation program for victims of illegal armed groups "was a positive step towards achieving the right to reparation" (paragraph 64).

345. The Individual Administrative Reparation Program was conceived by the Government of Colombia with the aim of realizing the right to reparation for victims that prior to 22 April 2008 had to suffer the violation of their fundamental rights by illegal armed groups.

346. This constitutes a historic event. In the last 40 years that Colombia has suffered violence by illegal armed groups, no Government has taken action for the reparation of victims. By the end of the current year, 10 thousand victim families will receive compensation, for a total value of USD100 million. It is estimated that the total cost of the program will rise to 7 billion pesos, amounting to more than USD3.3 billion.

347. For 2009, 200 thousand million pesos was allocated and 3,116 reparation payments have been made in respect of compensation to 1,079 families, worth COP19,641,378,753.50. For 470 minors who were victims of illegal recruitment and who are under the protection of the Colombian Institute for Family Welfare (*ICBF*), COP7,006,209,000 has been allocated as compensation.

Question No. 34.

Please provide statistics broken down by sex, age, ethnicity, and geographical origin in respect of compensation paid to victims of torture or cruel, inhuman or degrading treatment or punishment committed by agents of the State since 2004.

348. In relation to administrative processes that have been issued since 2004 to date, in which judgments have been handed down against the Ministry of National Defense – Armed Forces, it is not possible to provide the statistics requested for the following reasons:

349. Article 236 et seq of the Constitution establishes administrative jurisdiction and the authority of the Council of State, which is the Highest Tribunal of this jurisdiction. This Tribunal is the competent judicial authority for actions of unconstitutional nullity, simple nullity, direct reparation, contractual actions, nullity, and restoration of a right (article 128 et seq administrative code).

350. The plaintiffs in the administrative proceedings for failures by the Armed Forces make demands in accordance with the rules of liability that have been developed by the jurisprudence of the State Council in the implementation of Article 90 of the Constitution.

351. This is why two kinds of liability - objective liability and subjective liability - are provided for. The difference is that objective liability is based on hazardous activities

performed during active military service which is any activity related to the official use of arms or explosives, vehicles, aircraft or boats as well as compulsory military service, where it is assumed that the entity is liable and the plaintiff must only prove the damage.

352. Subjective liability is based on the failure of the service where the parties must prove the failure by action or omission (it is not assumed) and where the burden of proof lies with the plaintiffs.

353. Given the concept that the Administrative Jurisdiction is something requested (i.e. the Judge just pronounces on the aspirations of the claim), there was no pronouncements about torture or degrading treatment, since the pronouncements simply related to the consequence of the failure of the service without detailing the events that shaped it, as requested by the representatives. For example the Ministry of Defense is declared liable for the death, injury, or detention.

354. Thus, for ruling purposes, the administrative jurisdiction pronouncement on liability is based on the rules of responsibility, by declaring the existence of a failure of the service or objective liability in accordance with the aspirations of the claim.

355. It is only during about the last two years that, as a result of the publicity surrounding the civil actions before the Inter-American system and its subsequent rulings, the Representatives of the victims have been seeking compensation, within the terms of the claims, for violations of fundamental rights, including torture.

356. The same has happened with the administrative jurisdiction which has also recently been analyzing cases based on human rights. Given the principle that this jurisdiction is one of request (it only pronounces on what is requested), it has not moved towards this concept but this is under review.

357. Thus, in a judgment (file 30.340, plaintiff Sandra Milena Garcia) in 2009 issued by the Council of State, the Ministry of Defense - National Police were convicted of torture.

358. For this reason, to date the Ministry of Defense statistics contain no information regarding compensation paid for events related to torture or degrading treatment, since the reasons for judgments are classified under other concepts.

Question No. 35.

Please describe the measures taken to return land belonging to peasant farmers and other forcibly displaced persons who have been illegally dispossessed of these lands. Under protection: what measures have been taken by the State to produce a general register of land ownership.

359. Although this question is considered to be outside the competence of the Committee Against Torture and the topic comes directly under the responsibility of the UN Secretary General's Special Representative for the Human Rights of Internally Displaced Persons with whom the Colombian State has been working ^[84], Colombia

wishes to report that it has developed some public policies which are reflected as follows:

360. The Colombian Institute for Rural Development (*INCODER*) brought forward a national program for caring for Displaced Persons (DPs), which consisted of two basic components: (i) Prevention and protection and (ii) socio-economic stabilization.

a) Prevention and protection:

361. With the aim of protecting the rights of the DPs in relation to assets, *INCODER* directed its efforts at issuing guidance on DP land rights and offering effective protection through the implementation and application of mechanisms such as the Single Land Register and the legalization of ethnic community territories.

362. As a result of the joint efforts of the entities in the National System for Integrated Care for the Displaced Population (*SNAIPD*), there was a significant advance in the consolidation of the Inter-Institutional Network for the Protection of Property of Displaced Persons (DPs) with the aim of articulating the procedures, mechanisms and instruments that will enable an effective protection of the property abandoned by DPs.

363. Together with the Presidential Agency for Social Action and International Cooperation, (*Accion Social*) the Single Land Register system was designed, developed and implemented, now the Single Register for Abandoned Property and Land (*RUPTA*). This system has allowed the competent authorities to prevent any action of disposal or transfer of ownership titles of these properties and to register "the declaration of abandonment", in case of ownership, tenancy or occupation.

364. To date, the register has a total of 29,515 requests, of which 20,592 are fully processed and 5,498 are noted on property registration folios. The system draws up the information that is available around the country, under the responsibility of the Agustin Codazzi Geographical Institute and the Public Instrument Registry Office.

365. With regard to the protection of property and land under collective ownership, the Institute helps the Departmental and Territorial Committees for Integrated Care for the Displaced Population in issuing the Risk of Displacement Declarations and Displacement Declarations, and in the preparation of the land (property) reports. Similarly, in compliance with Law 387 of 1997 and Decree 2007 of 2001 ^[84], and with the aim of offering legal security over the lands in the declarations, progress is being made on procedures related to title deeds for uncultivated land, the setting up, restructuring and/or extending of indigenous Reserves and the collective title deed process for black communities.

^[84]In response to an invitation from the national Government, Walter Kálin UN Secretary-General Representative for the Human Rights of Internally Displaced Persons, visited Colombia in November 2008, as a follow up to his visit to our country between 15 and 27 June 2006.

b) Socioeconomic stabilization:

366. This program was designed for the relocation of the displaced population onto new lands for which *INCODER* acquired the title deeds. In the award of land there is a support component of "seed capital" for the implementation of productive projects.

c) Restitution Program:

367. This is currently being put together by the Ministry of the Interior and Justice, the Ministry of Agriculture and Rural Development, *INCODER*, the National Planning Department, *Accion Social*, the Agustin Codazzi Geographical Institute (*IGAC*), the Notary and Registrar Superintendency, and the National Commission for Reparation and Reconciliation (*NCRR*).

368. In the Special Technical Committee ^[86] a strategy is being designed for the urban and rural register and land register of restituted property that will enable clarity to be given to the ownership of real estate, as a guarantee of access and security of tenure and respect for the right to property and decent housing.

369. Accordingly, in response to Constitutional Court legal decree (*auto*) 008 of 2009, a first paper has been presented: "Proposal for Policy Guidelines on Lands and Territories for Victims Populations of Forced Displacement, At Risk of Forced Displacement, and At Risk of Being Dispossessed."

370. The paper is divided into six chapters: 1. Diagnosis of the problem. 2. The policy objective. 3. Scope of the policy. 4. Target populations. 5. Guiding Principles and Characteristics 6. Strategies for achieving the established objectives.

371. In turn, the Inter-Institutional Working Group has been making progress in putting together the other components of the policy, namely: design of the policy and the establishment of the means for its instrumentalization, defining the timetable for its execution and its implementation and follow up.

372. The national Government considers that it is becoming increasingly more possible to have favorable security and welfare standards for people in the regions. These levels of security and welfare have helped in the recovery of territorial control and have equally been reflected in the positive results of the policies and actions for guaranteeing the restitution of the right to the ownership of their lands and its effective

^[85] Decree No. 2007 of 2001, which partially regulates articles 7, 17 and 19 of Law No. 387 of 1997, with regard to timely care for the rural population displaced by violence, within the framework of the voluntary return to their place of origin or their resettlement elsewhere and the adoption of measures to prevent this situation.

^[86] Art. 6 Decree 176/08. The National Special Technical Committee will be made up by a national permanent delegate with decision-making powers from the following entities: Colombian Institute of Rural Development (*INCODER*), National Unity of Rural Lands, Ministry of the Interior and Justice, Ministry of the Environment, Housing and Territorial Development, Banco Agrario, National Directorate of Narcotics, Agustin Codazzi Geographical Institute (*IGAC*) or the Land Registration Authority for the decentralized Land Registries in Bogotá, Cali, Medellín and Antioquia, Notary and Registrar Superintendency, Presidential Agency for Social Action and International Cooperation and a member of the National Justice and Peace Unit of the Attorney General's Office. The National Special Technical Committee will be convened by the National Commission for Reparation and Reconciliation.

enjoyment for the displacement victim population of the violence of the illegal armed groups. Between 2002 and 2009, 37,086 households have been accompanied during their return, in accordance with plans coordinated with the community. During 2008 3,215 displaced households were accompanied during their return or relocation. Between January and April 2009, 1,171 households have been accompanied.

373. Additionally, Ministry of Defense Directive No. 01 of 2007 is continuing to be implemented. It establishes the security protocols for the armed forces in coordination with the National Police to facilitate the return processes for displaced populations and thus ensure their physical integrity and the integrity of the property of those who have returned to their places of origin or who have been relocated.

374. As part of the same way of guaranteeing the right to property, *Accion Social* is leading a land protection project which ensures effective protection of the rights over dispossessed or abandoned land and territories or land and territories at risk of abandonment that belongs to displaced people. Since the beginning of the program, 118,387 rights have been protected in respect of 87,543 people and 94,632 pieces of land, which cover an estimated 3,238,486 hectares. In addition 70,543 persons have been given guidance on their rights over land.

375. It must also be recognized that the security efforts and the actions for protecting abandoned lands mean that it is increasingly easier in practice to allow the return of IDPs to their places of origin. However, the Government recognizes that there is still work to be done in respect of the legal mechanism for property which has been held by third parties to be eventually handed over or returned to their original owners.

Question No.36.

Please indicate what type of care, medical, psychological as well as rehabilitation is available for victims of torture or cruel, inhuman or degrading treatment. Please provide information about the care provided by State institutions and also about the activities developed by non-governmental organizations. What is the budget from State resources that have been allocated for that purpose? Give information on inter-institutional coordination between the State and non-governmental organizations to promote medical as well as psychological care for victims of torture or cruel, inhuman or degrading treatment.

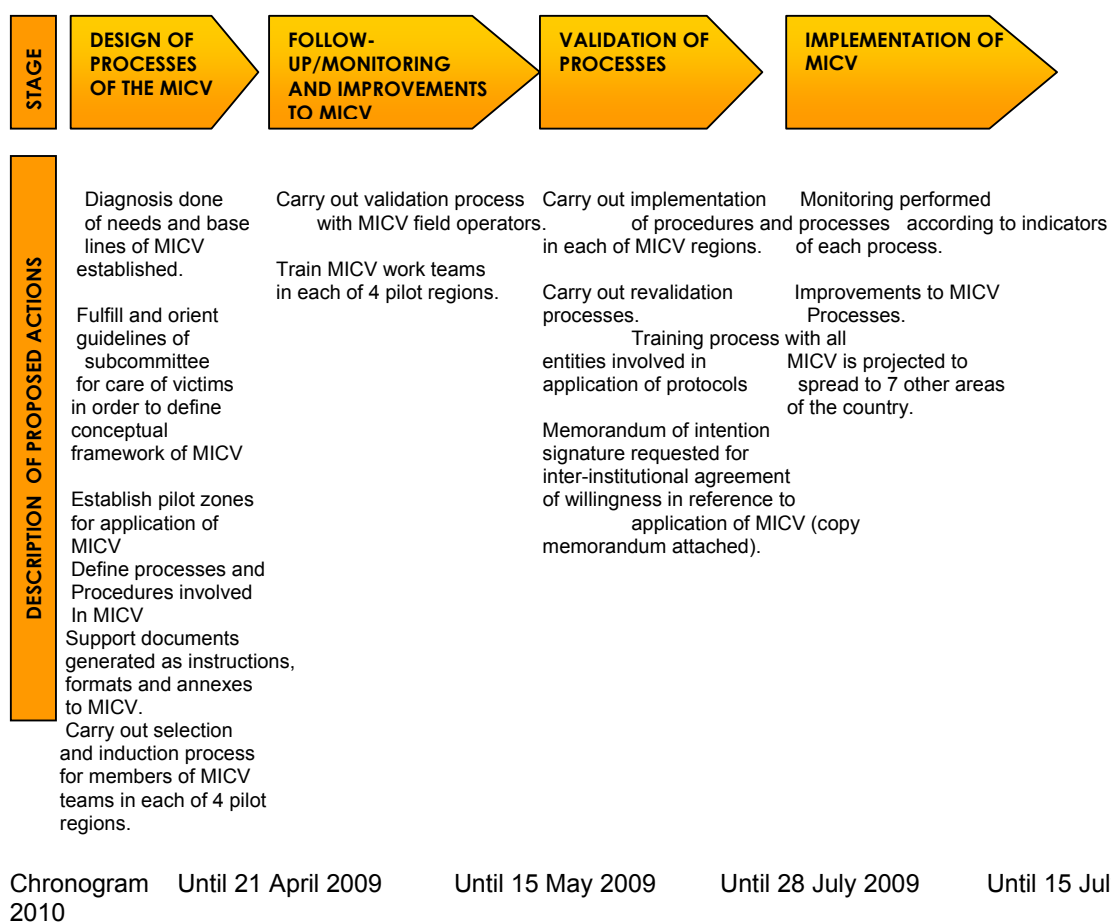
376. The intervention by the National Institute of Legal Medicine and Forensic Sciences, in relation to the care provided to possible victims of torture, cruel, inhuman or degrading treatment consists of conducting a medico legal evaluation at the request of a judicial authority, to identify and document signs of torture, both physical and psychological. This is done in order to provide elements for use by a law officer in identifying the type of crime committed. The doctors, psychiatrists and psychologists from this Institute do not provide treatment or rehabilitation for the victims.

377. The National Commission for Reconciliation and Reparation (NCRR) has worked in co-ordination with other entities of the State, on the Model of Integrated Care for Victims (MICV) available to victims of torture, cruel and inhuman treatment. The MICV is

a strategy that aims to build inter-institutional coordination for creating mechanisms for the care, counseling, referral, follow up and accompaniment of victims to facilitate the exercise of their rights to truth, justice and reparation.

378. In the Model of Integrated Care for Victims (MICV), the interdisciplinary intervention seeks to rigorously monitor the actions of the institutions along the route taken by victims seeking access to their rights to truth, justice and reparation. One result of the actions of the Subcommittee was the invitation to a firm of consultants to develop processes and procedures in support of each one of the care nodes. In the Subcommittee for Care for Victims, the role of the NCCR has been to supervise and monitor the management of the pilot bases for the implementation of the MICV. It has also served as a bridge to the Subcommittee, while at the same time that it has served as a bridge between the Subcommittee and the donors: Sweden and UNDP

Stages for the development and implementation of the MICV:



379. Objectives and Scope of the MICV: The MICV has two priority lines around which will be developed the implementation of the integrated care procedures in the deployment stages of the model. To ensure uniformity in the information provided to victims, these procedures use the Inter-institutional Model Document of Tools and Protocols for the care of victims.

Line 1. Direct care actions:

380. This is a description of the direct care actions which are described below:

- with the **guidance actions** the intention is to provide an overall view that clarifies the expectations of the victims and directs them towards the competent entities that can provide the care which is outside the scope of the MICV.
- with the **counseling actions** it seeks to provide an overview using simple and understandable language on the available legal mechanisms for access: to truth, justice and reparation; to other rights that the care petitioners have for basic rights such as health, education and housing, as well as how to access those rights and the importance of becoming actively involved.
- With the **accompanying measures**; it will lead the victim through each one of the procedural stages that laws cover such as law 975 of 2005 and Decree 1290 of 2008. The accompaniment is intended to assist the needs of victims at specific times during their participation in the different stages of the criminal process.
- With the actions of training and/or intervention, this tries to provide the victims with psychological and legal tools for dealing with the legal process, by reason of the physical and emotional vulnerability that participants can be exposed to during these proceedings.

Line 2: Actions of reference and referral processes such as:

381.

- Facilitate referral route for accessing violated rights such as health, education, etc.
- Follow-up and accompaniment to referral process.
- Facilitate access and follow-up to the participation and access to the reparation processes.
- In this line care actions are underwritten that are complementary to the direct care, such as:
 - With the **referral actions**, the MICV intends to make a formal request to activate the legal or administrative processes so that victims can access their rights. The referral implies that the victim already has some awareness of the violated right and of the mechanisms and routes towards reparation.
 - With the **follow-up actions**, the MICV will seek to lobby institutions, to whom victims were referred, to fulfill their functions in line with Law 975 of 2005 guidelines and regulatory decrees, as well as those of Decree 1290. Follow-up

actions require the application of legal mechanisms that are part of and support the empowerment of the victim as regards the enforceability of rights, given that they are oriented by legal advisers and are signed by victims themselves.

Deployment and enlargement stages for 2010:

382.

1. Institutional (care centre) in some of the regional headquarters of the NCRR.
2. Motive, to coordinate actions in the care nodes planned in the Model and to have wider coverage of integrated care for victims through mobile workshops.
3. Strengthening inter-institutional care networks at the regional level, where the routes and protocols, which are designed within the model framework for an integrated response to the needs of victims, are implemented.

383. **The care nodes.** 4 nodes have been generated for the operation of the MICV processes:

a) The characterization and registration Node is the door into the MICV for the victim. Its aim is characterize and register the victims attended to and to define the route of care within the MICV for the development and activation of the psycho-legal, psychosocial and access processes to rights.

b) The main objective of the psycho-legal node is to empower the victim and give the victim the resources to actively participate in the juridical or legal processes. This is achieved through the development of guidance, advice, accompaniment and intervention aimed at fulfilling three specific objectives, according to the work plan defined in the characterization and registration node:

□.Access to rights as a victim: get the victim to participate in the reparation process under Law 975 of 2005 through prioritizing the intervention that the victim requires and empowering their participation in that process and facilitating decision-making about their participation in the process of individual reparation through the administrative route.

□Contribute to the enjoyment of basic rights (health, education, employment opportunities and child and teenage protection), through orientation and referral to these services via the entities responsible for guaranteeing their rights.

□Advise the victim on accessing rights and the specific routes available for the re-establishment of rights in the face of specific violations such as: forced displacement, sexual violence, enforced disappearance, threats and protection needs and the protection and restitution of property.

c) The main objective of the psychosocial node is the emotional recovery of victims. This is achieved through the development of counseling, accompaniment and intervention aimed at achieving two specific goals, according to the work plan defined in the characterization and registration node.

- Mitigate the resultant damage from the violent episode through the joint identification and strengthening of the resources (individual, family, community and social) of the victims, enabling them to development skills as active subjects in the exercise of their rights to integrated reparation and the re-signifying of their life project.

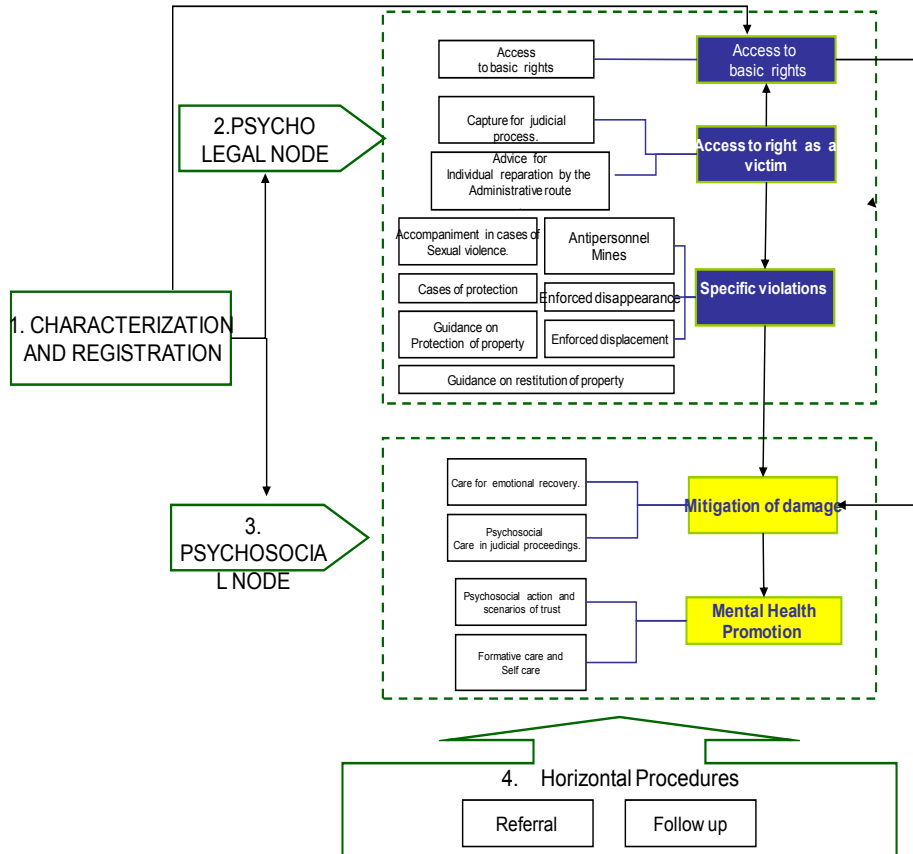
- Promote follow up scenarios and psychosocial accompaniment through the mobilization of people, organizations or social networks to strengthen inter-institutional actions within the framework of the MICV.

- Promote mental health through the generation of follow-up and psychosocial accompaniment processes through the mobilization of persons, organizations or social networks that strengthen inter-institutional actions within the framework of the MICV.

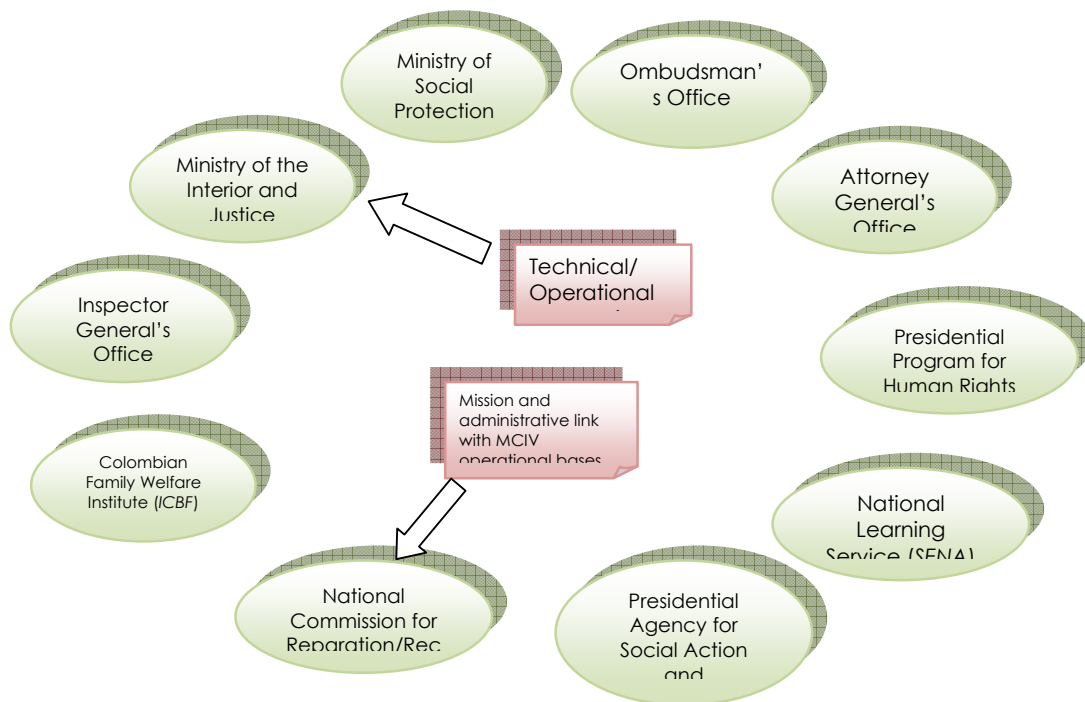
- Prevent the occurrence of a crisis in professionals who work in the MICV through: information and disclosure of symptoms of work fatigue, personal self-care and that of the team.

d) Horizontal node of referral and follow-up, which aims to activate institutions involved in the activation of processes related to the restitution of the rights of victims and the development of mechanisms for monitoring the management of inter-institutional articulation of the MICV in respect of the degree of effectiveness of the response by the institutions involved in responding to requests from victims. This node has a horizontal role in identifying the needs for inter-institutional activation that derive from the psycho-legal and psychosocial nodes.

Box no. 33 Flow chart of the care route



384. Furthermore, the Subcommittee for the Care of Victims tries to guide the care of victims through a model of care that will operate in an Inter-Institutional way. That model is composed of the Ministry of the Interior and Justice, the Office of the Ombudsman, the Office of the Attorney-General, Colombian Family Welfare Institute (ICBF), Presidency of the Republic, Office of the Inspector-General, the National Learning Service (SENA), NCCR, International Organization for Migration (IOM) and the United Nations Development Programme (UNDP).



385. By checking that procedures and mechanisms are effective and avoiding the situation whereby the responsibility for the procedures rests solely on the victims, the aforementioned Subcommittee for Integrated Care for Victims, has sought to plan and coordinate the actions that under its jurisdiction and in compliance with Law 975 of 2005, direct its efforts to the building of a model of integrated care based on inter-institutional articulation, as a strategy that significantly contributes to the participation by the victim in accessing processes that allow access to truth, justice and reparation throughout the country.

Question No. 37.

Please indicate the steps taken nationally to implement Law 288 of 1996; "which establishes instruments to compensate victims for violations of their human rights", under the provisions of certain international human rights bodies. How many claims have been based on this law, what are the decisions taken by judicial officials and how have these decisions been implemented with regard to violations of torture.

386. Firstly, we need to clarify some central aspects of the procedure stipulated in law 288 of 1996 to compensate the victims of human rights violations.

387. The aforementioned Law establishes that it will be applied in cases of human rights violations when the following requirements are met:

- a) That there is a prior written and express decision by the Human Rights Committee of the International Covenant on Civil and Political Rights and the Inter-American Human Rights Commission which concludes in respect of a specific case that the Colombian State has committed a violation of human rights and establishes that the corresponding damages must be compensated.
- b) That a prior concept exists in favor of complying with the decision of the International Human Rights body made by a Committee comprising of:
 - The Minister of the Interior;
 - The Minister for Foreign Affairs;
 - The Minister of Justice;
 - The Minister of National Defense.

388. Once the Committee of Ministers issues a favorable concept to comply with the decision of the international body, the Government or the interested parties requesting an audience of conciliation with the Representative of the Public Ministry attached to the Court of Administrative Justice or competent Tribunal, in accordance with domestic law, with the aim of settling the dispute that is the subject of the conciliation.

389. Upon receipt of the application, the agent of the Public Ministry must summon the interested parties in order that they appear before him and submit the evidence available to them to demonstrate their legitimate interest and the amount of damage.

390. The above-mentioned audience of conciliation may also take forward the administrative process, started to obtain compensation for damages arising from the same facts referred to in the decision of the International Human Rights body.

391. Once agreement is reached, the parties sign a record that will be sent immediately to the respective Administrative Court or Tribunal in order that the corresponding Magistrate or Judge decides whether to the conciliation or whether it is damaging to the interests of the State, or whether it can be found void. In any of the above cases, the Judge will issue a corresponding reasoned ruling.

392. The judicial decree (*auto*) approving the conciliation will have the scope of a legally recognized reaches a judicially recognized credit and effect of *res judicata* and therefore, put an end to all processes against the State by the beneficiaries of the compensation in relation to the facts of the reconciliation.

393. If a ruling is produced that declares a reconciliation agreement as injurious to the interests of the State or null and void, interested parties may:

- (a) reformulate before the magistrate or Judge the terms of the conciliation for possible approval;

(b) if the nullity is not absolute, correct it and resubmit the conciliatory agreement for consideration by the Magistrate or judge.

394. If an agreement is not reached after a conciliation process, the interested parties may appeal to the competent Administrative Tribunal for settling the damages through the incidental route.

395. To date, the Committee of Ministers has pronounced in favor of 26 cases processed before the Inter-American Human Rights system of and in favor of 7 cases processed before the Committee of the International Covenant on Civil and Political Rights.

396. The procedure of law 288 of 1996 does not presuppose the filing of claims since it is a mechanism which seeks, through expedited procedures, compensation for victims of Human rights violations. Therefore, what it takes forward are conciliation hearings or regulation of damages.

397. Since the start of applying the above-mentioned law, 23 cases of conciliation hearings have been held. There are currently three cases of regulation of damages because the parties did not reach a conciliatory agreement or because the conciliations were not approved by the appropriate tribunals.

398. Additionally, there are four cases for which it has not been possible to hold a conciliation hearing despite the fact that there is a favorable concept from the Committee of Ministers for the implementation of Law 288 of 1996. This is because it has not been possible to establish the whereabouts of the beneficiaries of the compensation. In this vein, in order to apply the law the Colombian State has taken steps to locate to the beneficiaries, such as publishing notices in high circulation newspapers as well as in Colombian Embassies or Consulates overseas. These notices state that the victims or the families of the victims are being sought in order to give them compensation.

399. In most rulings that approve conciliations the importance of law 288 of 1996 has been stipulated as a special and expeditious procedure not governed by traditional norms and therefore it allows conciliation, even when, internally, the actions have expired.

400. Thus in the ruling that approved the conciliation in the case dealt with before the Inter-American Human Rights system of Jesus Maria Valle and others against Colombia, the Council of State declared:

“..by means of Law 288 of 1996 instruments were established for compensation for the damage caused to the victims of human rights violations and, by virtue of said Law, **the procedure was introduced to follow for the purposes of prejudicial and judicial conciliation in these special cases, which, it should be noted, do not apply under the traditional rules and jurisprudential guidelines outlined by this Jurisdiction**, especially on issues such as compensation for damages

that are commonly recognized to those who have suffered different kinds of damage, which must be made good by the Administration".(Bold out of text)

401. Likewise, the Council of State, on approving conciliation in the case of Santos Mendivelso dealt with before the Inter-American system of Human rights, stated:

a) However, Law 288 of 1996 "By which instruments were established for the compensation to victims for the violation of their human rights, by virtue of provisions made by certain international human rights bodies, establishes that the National Government must pay, upon completion of the envisaged procedure, the compensation for damage caused by human rights violations that have expressly been declared by international human rights bodies, even though the actions laid down in the legal system to obtain the corresponding compensation for damages is ongoing or has expired (...)

b) According to the above, this is so even when the corresponding action, as provided for in article 86 of the Administrative Code, has expired; the State must make amends and compensate the victims of human rights violations when this has been announced by an international human rights body and whenever the Inter-Ministerial Committee issues a favorable concept. For this purpose the parties may sign a judicial or extrajudicial conciliatory agreement (...).

402. With regard to how such decisions are implemented with regard to human rights violations related to torture, of the cases outlined above, 26 declared the Colombian State to be responsible for violations against personal integrity, which have a favorable concept from the Committee of Ministers, created by law 288 of 1996 and the majority have been conciliated.

Question No. 38.

Please indicate the regulations that apply to minors deprived of their liberty and provide information about their content and application. Report on how, according to the recommendations issued by the Committee on the Rights of the Child (2006), their separation from adults in the average prison is guaranteed.

403. In the institutions responsible for the execution of custodial measures, the rights and fundamental guarantees must be fully respected.

404. The rules established within the institutions, by law, must have a pedagogical character and are framed within a program of participation under the principles of concertation, fairness, justice and respect for difference.

405. Each institution that cares for adolescents must have a manual of coexistence that determines the agreements for daily contacts inside the institution. Additionally the internal regulations of custodial institutions must be complied with and are defined by the Colombian Family Welfare Institute (*ICBF*) and have the following criteria:

a) The adolescent from the moment of entry has the right to know the internal rules of the establishment and to have them explained.

b) Clearly establish the seriousness of offences and the application of penalties.

c) The adolescent will never be punished more than once for the same disciplinary infringements or subjected to a: isolation in dark cells; any form of solitary confinement; deprivation of food or beverages; deprivation of sleep at night; corporal punishment; collective punishments; work in favor of the establishment; imposition of punishments not provided for in the Regulation for custodial institutions

406. Law 1098 of 2006 (Child and Adolescent Code) creates the new system of criminal responsibility for adolescents in our country; it is underpinned by the principles of the integrated protection of children and the preservation of the prevailing and best interests of minors to ensure their integrated development.

407. In the implementation of the system of criminal responsibility for adolescents, the Colombian State effectively meets universal guidelines for the care of adolescents in conflict with the criminal law.

408. Specifically paragraph 5 of article 188 of the aforementioned law establishes as a right of adolescents deprived of their liberty, "*that they are always kept separate from adults*".

409. By the above, Colombian national legal system law has established that custodial punishments for adolescents are executed in Special Care Centers for Adolescents which are institutions that are different from the establishments intended for the adult prison population.

410. In the Special Care Centers for Adolescents, adolescents are not admitted without a prior order, written and signed by the competent judicial authority. Likewise, in the centers adolescents with preventive detention measures are kept physically separate from those adolescents who have been punished.

411. Finally, when the adolescent becomes an adult during the execution of his punishment, that adolescent must be kept physically and materially separate from the other adolescents that are still under the age of 18, with the aim of compliance with the guarantee of having to be kept separate from adults.

Question No. 39.

Please indicate the specific measures taken within the prison system in the framework of the Justice and Peace Law that guarantee the personal safety of all persons deprived of their liberty.

412. The National Prison Institute (*INPEC*), in coordination with the Office of the Attorney-General set out in a progressive policy, the creation of two establishments for

Justice and Peace; one located in the medium security prison (*EPMSC*) of Chiquinquirá for those demobilized from the guerrillas and another located in the medium security prison (*EPMSC*) of Tierralta for those demobilized from the Self Defense Forces of Colombia (*AUC*). In a similar way nine new Justice and Peace ^[87] wings were established. That's where are sent those who are internally nominated by the national Government to the procedures and benefits established under Law 975 of 2005.

413. Based on Decree No. 1733 of 15 May of 2009, it was established that *INPEC*, in its, general regulation^[88] will establish the essential conditions so that representatives members of the organized illegal armed groups that have collectively demobilized and those nominated by the national Government to the procedure and benefits established under Law 975 of 2005 having contact with the outside world and to fulfill the purposes of this law, according to their degree of participation in the process of Justice and Peace.

414. Therefore, through the Management Council of *INPEC* Agreement No. 02 of June 2009 ^[89] was issued, and the General Directorate of the *INPEC* issued resolution No. 06305 of June of 2009, establishing the special regulation system of the Inmate Rules for the Justice and Peace establishments and wings, whose primary purpose is to ensure the safety of the nominated inmates and standardize the special conditions of detention for this population.

415. In addition, the General Directorate of the *INPEC* develops the technical study for the level of risk to persons deprived of their liberty, a procedure which is pushed forward when there is knowledge or awareness of a risk or threat to an inmate and preventive measures and security measures are established to ensure life and integrity.

Question No. 40.

Measures that have been taken in respect of the prevention of torture, in particular with regard to the recruitment or use of children, ensuring that they are not subject to interrogation by the army on being captured. What medical care and specialized psychosocial care is provided for disengaged children and also for children who have been victims of landmines. What is the legal time limit and the actual average time for demobilized children to be handed over to the *ICBF* (Colombian Family Welfare Institute) authorities?

416. On this particular topic it should be highlighted that, in September 2008, the Colombian Government presented the 1st Report of the Optional Protocol of the Convention on the Rights of the Child on the involvement of children in armed conflict and accepted voluntarily, in December 2008, the implementation of the Supervision and Reporting Mechanism on Children and Armed Conflict, referred to in resolution No. 1612 of 2005 of the United Nations Security Council.

^[87] In the following establishments: Bogotá prison establishment (*EC*) "La Modelo"; Bogota penitentiary and prison establishment (*EPC*) "La Picota"; *EPC* Medellín; High and Medium Security Penitentiary Establishment (*EPAMS*) Itaguí; *EC* Barranquilla; *EPC* Bucaramanga; *EPC* Cúcuta; *EPC* Ibagué; and *EPAMS* Palmira.

^[88] Which should be subjected to the internal regulations of the different detention establishments

^[89]Which is why some articles are added to the Agreements No. 0011 of 1995 and no. 008 of 1997 and resolutions are adopted.

417. Nevertheless, the Colombian State wishes to report the following: since 1999, the Colombian regulatory framework prohibits the recruitment of minors (persons under 18 years of age) into the security forces. Since the entry into force of the Convention on the Rights of the Child, several measures have been put in place to prevent and combat the recruitment of children by illegal armed groups that are active in the territory ^[90].

418. In combating child recruitment, Colombia has ratified and incorporated eight international human rights treaties specializing in the protection of children's rights and has defined national standards that go even further in the protection of these rights. These provisions include: the constitutional provision which since 1991 gives prevalence to the rights of children over those of any other citizen; the Criminal Code, which in 1997 established a new crime that severely punishes persons or illegal armed groups that recruit or use children under the age of 18; Law 1098 2006 (Code for Children and adolescents) that defines as a right of the child, that of being protected against the recruitment and use by illegal armed groups; the rules governing peaceful coexistence (Law 1106 of 2006) and that declares that children under the age of 18 that participate in any way in the activities of illegal armed groups are victims. In addition, society has been mobilized to watch for and reject the recruitment of minors and under the leadership of the Office of the Vice-President, an inter-sectoral policy has been launched to prevent the linking of children to illegal armed groups.

419. An example of the commitment of the Colombian State to the protection of the rights of their children, is the Justice and Peace Law (Law 975 of 2005), which states that legal benefits may not be granted to those illegal groups that have recruited persons under the age of 18 groups but rather will have additional benefits if they deliver to the protection of the State any children that they have in their ranks.

420. In addition, Decree 1290 of 2008 (on administrative reparation for the victims of violence by illegal armed groups), defines the offence of the recruitment of children under the age of 18 years and benefits those who have left such groups, reiterating their characteristic of being victims of violence, without prejudice to the judicial process which is ensuring their right to the truth and justice to more than 3,800 children. ^[91] This initiative provides technical and operational capacity to provide care and ensure the restitution of violated rights to all children in this situation by three lines of action: prevention, care and follow-up. ^[92] This program provides suitable care for children and adolescents and also provides with skills and competences for social and productive integration. ^[93]

421. Also, in December 2007, through Decree 4690 the inter-sectoral Commission for the prevention of the recruitment and use of children and young people by organized illegal groups was created. The aim is to articulate and guide the implementation of actions for preventing child recruitment. To do this, it promotes the guarantee and the

^[90]That is mainly engaged in the crimes of drug trafficking, extortion, kidnapping and terrorist acts.

^[91]ICBF Report for the Follow-up of Commitments and Recommendations of the Universal Periodic Review May 2009.

421. Also, in December 2007, through Decree 4690 the inter-sectoral Commission for the prevention of the recruitment and use of children and young people by organized illegal groups was created. The aim is to articulate and guide the implementation of actions for preventing child recruitment. To do this, it promotes the guarantee and the fulfillment of the rights of children, and the design and execution of public policies for integrated protection and institutional, social and family strengthening to reduce risk factors that give rise to the recruitment and use of the child population. So far, the Commission has executed its plan of action in 107 targeted municipalities, 30 departments and 5 localities in Bogotá, through the implementation of the strategies and lines of action designed in the Prevention Policy. ^[94]

422. In addition, Directive No. 078 of 2009 of the National Army was issued on the Integrated Handling of the Protection of the Rights of Minors involved with illegal armed groups. The different parts of the Armed Forces are executing Standing Directive No. 046 of 2009 of the General command of Armed Forces on the implementation of the virtual classroom to train members of the Armed Forces on the rights of children and adolescents including those disengaged and recovered from illegal armed groups.

423. Likewise the Ministry of Defense has been working with the *ICBF* on an Inter-administrative Cooperation Agreement with the aim of strengthening measures for the protection of children and preventing them being affected by the fight against widespread violence. This Convention has areas of action: education and prevention, evaluation and follow up, and strengthening of the policy of prevention of child recruitment.

424. Prohibition of use of minors by the security forces: Law 1098 of 2006 (Code for Children and Adolescents) prohibits the interview and use in intelligence activities of children and adolescents disengaged from illegal armed groups by the security forces. The failure to comply with this provision may generate dismissal from the service and criminal charges.

^[92]These lines of action are developed in the following way: -Prevention: objective is to prevent links and use of children in organized illegal armed groups through the implementation of the following: support for the formulation of departmental and municipal public policies on children and strengthening of institutional responses; Institutional and community information, awareness and mobilization; social investment focus in municipalities with high percentage of recruitment; and promotion of initiatives for youth participation in the development of preventive projects as a guarantee of rights. - Care: the objective is to contribute to and support the process of consolidation of the life path of children and adolescents disengaged from organized illegal armed groups in the framework of guaranteeing and restoring the rights of children, the building of citizenship, democracy and with a gender perspective and a focus of social integration and co-responsibility with an emphasis on preparing for a social and productive life. Therefore have available a model of care that is half institutional and half socio-family. - Follow up and accompaniment. Once adolescents leave the care service, implement in each region one of the following strategies for the follow up: Youth Referral and Opportunity Centers and Units of Support with the aim of caring for children and adolescents in an integrated and specialized way with a definitive measure of location with the family and their families, to accompany the return processes to the nuclear families; making possible the restoration and repair of effective bonds.

^[93]For example, to May 2009 68 children and adolescents have been looked after and are developing basic competencies through the methodology for vulnerable populations "Learning circles" in coordination with the Ministry of National Education; 177 children and adolescents identified for general training for work and citizenship; and 60 children and adolescents have been identified for training in productive business projects.

^[94]Within the framework of this policy, programs of prevention and care have been concluded with indigenous authorities; there have been 25 departmental projects for the prevention of all kinds of violence committed by illegal armed groups; 1,470 children have been taken care of in the Referral and Opportunity Centers of the *ICBF*; and 4,702 educationalists, 373 families and 710 children have been trained in behaviors positive social behavior.

425. The Ministry of Defense has, in turn, issued Directives 500-2 of 2005, 137 of 2007 and Circulars 151758 of 2004 and 30743 of 2007 prohibiting any military intelligence operation with children, and in particular with those disengaged from illegal armed groups. Likewise the Ministry of Defense has demanded compliance with Directive 013 of 2004 of the Public Ministry (Inspector General's Office, which provides that any public servant must give notice immediately to the *ICBF* when receiving a minor who wants to disengage, and clarifying that only a Family Advocate (civilian from the *ICBF*) can interview disengaged persons under the age of 18, such that disengaged children are not required to offer help or to collaborate in any way with military operations.

426. There is a need to clarify one of the difficulties that has been reported in this regard. In the processes of judicial reintegration, the administrative restoration of rights and social reintegration that a child must attend when leaving an illegal armed group in whatever way, that child must be interviewed by a Family Advocate, who must ask a series of questions to the child so that the child can be confirmed as disengaged from the armed group by the Committee for the Relinquishing of Arms. Some of the questions put by the Family Advocate to the child are related to the armed group in the area where the child was, the action of the group commanders and the activities. So, in some cases it could sometimes be considered as military intelligence, not so much by who puts the questions (this can only be done by the Family Advocate and the interdisciplinary team by law), but by who is in the team) (they come from Committee for the Relinquishing of Arms - *CODA* (which is partly from the Attorney General's Office and partly from the Security Forces). The point is that these questions are necessary for proving group membership and the subsequent status of being a victim minor, in order to be able to obtain a certificate from the Committee for the Relinquishing of Arms and thus to be able to obtain socio-economic benefits that are given by legal right by the High Council for Social and Economic Reintegration.

427. Another point of concern that has been reported from the Office of the Ombudsman is that in most cases of disengaging children, these are brought to the Military Brigades to ensure their physical protection from the group they abandoned. Even though the law clearly states that a child can only stay at the Brigades or military posts for 36 hours ^[95], in many cases these 36 hours are exceeded because the Family Advocates cannot arrive within the given timescale: because of the distance; because of the security in the area; because of the impossibility of making a vehicle available immediately; because there is no official in the zonal center available at the time; or because the brigades or military posts or police take more time to warn child protection authorities that they have under their care a child that has disengaged.

^[95] Decree 128 of 2003 establishes in article 22 as follows: handing over of minors. Minors that disengage from illegal armed organizations armed in accordance with existing legal provisions shall be delivered to the Colombian Institute for Family Welfare (*ICBF*) by the civil, military or judicial authority which confirms their disengaging from the respective armed group, no later than thirty-six (36) hours following their disengaging in order to receive relevant specialized integrated care and protection.

428. To address these problems, the Inspectorate General of the armed forces has been ordered to coordinate training for members of the security forces, in respect of the rights of children, in particular of those that have disengaged from armed groups with their status as victims of violence; to train members of the security forces in the international standards which protect the rights of children and push forward a follow up and strict control of complaints and investigations that are presented of cases in which the responsibility of members of the security forces is compromised. Likewise it is hoped that the control will be more rigorous in the transfer of children to the *ICBF*, not only in terms of time but in the contact they have with the authorities and questions that are put to them. It must not be forgotten that the officials involved in these practices are subject to punishment that includes their removal from office, as mentioned above.

429. It should be made clear that the above references are in respect of discussions with a high level of specificity about real and difficult cases and situations.

430. Special Medical and Psychosocial Care: Since 1999 the *ICBF* has run a special care program oriented at ensuring the effective restoration of the rights of children, girls and adolescents who disengage from groups outside the law and contribute to the building and consolidation of their path of life and social integration.

431. The model of care envisages the development of three phases:

- a) Identification and diagnosis.
- b) Intervention
- c) Consolidation.

432. The children and adolescents are cared for in an institutional setting ^[96] and/or a socio-family setting ^[97].

433. The program develops the care by areas of law and components and in the area of life and survival, which includes the rights of children and adolescents to life, to survival, to have adequate levels of health and nutrition, to have access to health services and social security and to have a standard of living adequate for their physical mental, spiritual, moral and social development. The following components are developed:

- a) Health and nutrition ^[98] component.
- b) Psychosocial component^[99].

^[96] Transitional home Specialized Care Center and Youth Centre

^[97] Home Tutor or substitute family. Home Manager or family of origin, and the strategy of Regional Support Units.

^[98] Comprises set of actions aimed at the organization and management of health care. Noteworthy among them are the assessment, diagnosis and treatment of psychiatric, physical, mental, auditory and visual problems and disabilities. Including medications, orthopedic apparatuses, prostheses, lenses, etc

^[99] Comprises of actions aimed at rebuilding vital processes, restitution of links with the objective of enabling personal, family and social development of the or adolescent as well as his/her emotional stability.

Question No. 41.

Please provide the number of cases of alleged police abuse against children that were documented by the Institute of Legal medicine between the years of 2004 and 2008.

434. With regard to information on the number cases of alleged police abuse against children that were documented by this Institute between the years 2004 and 2008, our information systems have the following figures:

Table 34. Minors injured by an alleged member of the police broken down according to sex Colombia 2004-2008

2004		2005		2006		2007		2008	
male	female	Male	Female	male	Female	Male	female	male	Female
533	80	576	102	632	98	844	115	1096	100

Source: National Institute for Legal Medicine and Forensic Science

Table 35. Opinions of sexologists of incidents against minors allegedly committed by a member of the police broken down according to sex Colombia 2004-2008

2004		2005		2006		2007		2008	
male	female	male	Female	male	Female	Male	female	male	Female
0	16	0	14	0	14	2	12	1	18

Source: National Institute of Legal medicine and Forensic Science

435. With regard to information on sexologist advice, it should be noted that it is the victim who reports to the doctor who makes an assessment about the minor allegedly assaulted by a member of the police or security forces, and it is the judicial authority who determines whether or not a sex crime was committed.

Question No. 42.

Please specify the number of children handed over by demobilized paramilitaries in the framework of Law 975 of 2005. Which were under 15 years of age? (broken down by age and sex)

436. Within the framework of the peace process developed with the now demobilized United Self-Defense Forces of Colombia and during the period of collective demobilization pursuant to the agreement of Santa Fe Ralito, there were a group of 307 disengaged persons under the age of 18, of which 274 were male and 33 were female. They were released into the protection of the Colombian Institute for Family Welfare (ICBF) a State entity competent in the matter. To this group must be added a group of 84 children handed over by the self defense groups prior to the start of the demobilization who were also entered into the programs offered by the ICBF.

437. At the time of disengagement, according to the Colombian Institute of Family Welfare a total of 11 children were under the age of 15: 1 of 12 years old; 3 of 13 years old; and 7 of 14 years old.

Question No. 43.

Please indicate what measures have been taken to promote the investigation and punishment of those responsible among the paramilitary and guerrilla groups for having recruited children.

438. Child recruitment is listed in the Colombian legal system as an offence punishable with up to 15 years of imprisonment (art. 162, Criminal Code). To investigate it, in 2008 a special group of prosecutors was created in the National Unit of Human Rights and International Humanitarian Law (IHL) of the Attorney General's Office. In April 2009 the National Unit of Human Rights and International Humanitarian Law (IHL) had assigned 156 cases with the formal opening of investigation into 23 cases: there were 17 case with accusations, 2 cases at trial and 3 cases with convictions with 13 convicted persons. Additionally a Follow up Committee looks at the cases every 2 months, in order to obtain better results from investigations and to overcome the difficulties that are presented during investigations

439. Although this topic belongs to the Attorney General's Office, the Colombian Family Welfare Institute (*ICBF*) has developed working groups with the aim of coordinating and articulating actions.

440. Currently the signing of an inter-institutional cooperation agreement is being developed for the "*strengthening of investigations into the crimes of the recruitment of minors and other analogous conduct committed during the armed conflict*". Those involved are the Attorney General's Office, the National Police, the Department of Administrative Security (DAS), the Office of the Inspector General, and the *ICBF*.

441. Within the implementation of Law 975 of 2005, in order to fulfill its purpose in respect of events attributable to organized illegal groups, whose victims were minors the following strategies were adopted:

- a) Establishment of areas of influence of each one of the organized illegal groups that demobilized collectively and the eras (periods of time) when they had a presence in each of the areas.
- b) Review all judicial processes.
- c) Request for information from *ICBF* about minors demobilized or recovered. Institution has refused on several occasions to provide this information arguing confidentiality. The Head of Unit made the first request on 22 May of 2006; however positive response not received until July 10, 2008 and only because the Attorney General's Office insisted.

- d) Review of versions rendered by each collective demobilization in order to establish who joined the group still minors. This meant reviewing and analyzing approximately 30,000 folders.
- e) Review of processes in courts of minors to establish possible links with illegal groups.
- f) Workshops for care to victims in municipalities with influence from organized illegal groups to make a record of events that made them victims.
- g) Interview the community and those who demobilized about deeds carried out by organized illegal groups.
- h) Request information from nongovernmental organizations.
- i) Review of national and local press
- j) Request official databases
- k) Documentation of facts known to the Inter-American Human Rights Commission or Court.
- l) Request information collected or known by the Church.
- m) Once analytical work done on information collected, the Delegated Prosecutors in the processes surrounding the “versions libres” (free versions) ask those who made these about what happened in order to find out the truth.

442. As such, the unit has 1,020 documented facts concerning recruitment, which has resulted in imputing the following:

Name	No. cases
Fredy Rendón Herrera	399
Salvatore Mancuso	118
Ramon Maria Isaza	37
Johnson Veloza Garcia	34
Edgar Ignacio Fierro	6
José Baldomero Linares	1
Indalecio Sánchez Jaramillo	1
TOTAL	596

Question No. 44.

Please indicate if NGOs have been consulted in the preparation of this report and, if so under what modality and in what context.

443. Non-governmental organizations were not consulted in the preparation of the Fourth Report IV but account was taken of information provided by such organizations.

Question No. 45.

Please indicate whether the State Party legislation prevents and prohibits the production, trade, import, export and use of equipment specifically intended to inflict torture or other cruel, inhuman or degrading treatment. If affirmative, please provide information about its content and application. If not, indicate if it the possibility of enacting such legislation is being actively studied and under what time scale.

444. The law does not expressly provide any substantive criminal offense for the production, importation or possession of instruments of torture. However, in addition to what is set out in response No. 14, the following articles should be highlighted:

"Article 142 *Use of illegal means and methods of war*. Anyone who in the course and conduct of armed conflict, uses prohibited means or methods of warfare or intended to cause unnecessary suffering or losses or superfluous injury ^[100] will incur by that act alone imprisonment of six (6) to ten (10) years a fine of one hundred (100) to two hundred (200) current minimum legal monthly salaries force, and disqualification from the exercise of the rights and functions of public office from five (5) to ten (10) years."

"Article 179 *Aggravating Circumstance*. The penalties prescribed in the previous article shall be increased by one third in the following events:...

"If committed using State property ^[101]..."

445. Additionally, the law provides criminal penalties for anyone who has, uses, manufactures or traffics in dangerous substances or objects ^[102].

Question No. 46.

Please indicate when Colombia plans to deposit the Declaration referred to in Article 22 of the Convention thereby recognizing the competence of the Committee to receive and consider individual communications.

446. No plans.

^[100] The underlining is ours

^[101] The underlining is ours

^[102] articles 358 and 359 of Law 599 of 2000 (Criminal Code)

Question No. 47. Please indicate in what timescale Colombia considers it will be in a condition to sign and ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and if measures have been taken to establish or designate a national preventive mechanism for periodic visits to places of detention for the purpose of preventing Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

447. No plans.
