



# Convention on the Rights of the Child

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Committee on the Rights of the Child

## Consideration of reports submitted by States parties under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

Initial reports of States parties due in 2007

**Colombia\***

[24 September 2008]

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\* In accordance with the information transmitted to States parties concerning the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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## I. Introduction

1. The Republic of Colombia hereby submits its initial report to the Committee on the Rights of the Child pursuant to article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

2. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (hereinafter referred to as “the Protocol”) was adopted in New York on 25 May 2000 and was signed by Colombia in that same city on 6 September 2000. In accordance with the procedure established for such purposes in the Constitution, it was then approved by means of the passage of Act No. 833 of 2003. On 25 May 2005, Colombia deposited the instrument of ratification with the Secretary-General of the United Nations. The Protocol was promulgated by the Ministry for Foreign Affairs in Decree No. 3966 of 8 November 2005.

3. Upon ratification of the Protocol, Colombia deposited a binding declaration, in accordance with article 3, paragraph 2, in which it stated that the minimum age at which it permits voluntary recruitment into its national armed forces is 18 years of age.<sup>1</sup>

4. This report has been prepared jointly by a number of different agencies and units of the Government of Colombia. It describes the legislative, administrative, judicial and other measures provided for by Colombia in order to guarantee the rights set out in the Protocol.

5. The content, format and presentation of the report adhere to the guidelines regarding initial reports to be submitted by States parties under article 8, paragraph 1, of the Optional Protocol that were adopted by the Committee at its 736th meeting on 3 October 2001 (CRC/C/OPAC/1) and to the revised guidelines issued by the Committee on 19 October 2007 (CRC/C/OPAC/2).

6. The State agencies and units concerned have publicized the Protocol in order to familiarize people with it and thereby contribute to its implementation. Ongoing activities in this connection have been conducted in the police and armed forces. In addition, in preparation for this report’s submission, a two-day workshop was held in February 2009 in the Ministry of Foreign Affairs. This workshop was coordinated by Ms. Rosa María Ortiz, a current member of the Committee on the Rights of the Child, and Mr. Norberto Liwski, a former member of the Committee and now a consultant to the Inter-American Children’s Institute. Government agencies and NGOs wishing to promote the broad dissemination and application of the Protocol also participated. The discussions held at this workshop made a valuable contribution to the preparation of this report.

## II. Background information on Colombia

7. Colombia is a social State subject to the rule of law. It is organized as a unitary, decentralized, democratic, participatory and pluralist republic composed of autonomous territorial entities. The republic is founded upon respect for the human dignity, labour and solidarity of the persons comprising it and on the primacy of the general good.

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<sup>1</sup> “The military forces of Colombia, in application of the norms of international humanitarian law for the protection of the best interests of the child and in application of domestic legislation, do not recruit minors in age into their ranks, even if they have the consent of their parents.”

## A. Political structure

8. The Constitution<sup>2</sup> establishes three branches of government: the executive, the legislature and the judiciary. The President, who is the Head of State, Head of Government and the country's highest administrative authority,<sup>3</sup> is elected by popular vote for a four-year term. In accordance with the constitutional amendment set forth in Legislative Act No. 02 of 2004, the President can be re-elected to a second, consecutive term. Following his first term in office (2002–2006), in May 2006 Álvaro Uribe Vélez was re-elected to another term, which will end in 2010.

9. The number and designations of the ministers and heads of administrative departments who direct and oversee the civil service are determined by law. The governors of the country's departments and the mayors of its cities are elected by popular vote. Public establishments, State-run commercial and industrial enterprises, the corresponding superintendencies and semi-State enterprises also form part of the executive branch.

10. The national legislature consists of the two chambers of Congress, which amends the Constitution, enacts laws and is responsible for political oversight of the Government and the Administration. The Senate is the upper house of Congress and is composed of 100 senators elected by national constituencies and two additional senators elected by special constituencies for the indigenous peoples. The lower house, or House of Representatives, consists of 241 representatives elected by regional constituencies and special constituencies. Members of Congress are elected for terms of four years.

11. The administration of justice is independent and autonomous. The judicial branch of government is composed of the Constitutional Court, which is responsible for safeguarding the integrity and primacy of the Constitution; the Supreme Court, which is the highest court of ordinary jurisdiction (criminal, civil and labour divisions); the Council of State, the highest administrative court and advisory and civil service division; the Higher Council of the Judiciary, which is the highest administrative and disciplinary authority of the judicial branch; the Office of the Attorney-General, which includes the Attorney-General and a number of deputy attorneys-general and serves as the chief investigative unit; the higher district courts (usually located in the departmental capitals); the circuit courts and municipal courts; and military criminal courts, which try offences committed by members of the public security or military forces on active service and offences relating thereto.

12. Government oversight bodies include the Office of the Comptroller-General and the Office of the Public Prosecutor. The latter is attached to the Office of the Procurator-General, who is elected by the Senate. It is the Procurator-General's duty to enforce the Constitution as well as laws, judicial decisions and administrative acts, to defend human rights, to protect the collective interests of society and the environment, to monitor the official conduct of public office holders, including elected officials, and to serve as the main disciplinary authority by carrying out the necessary investigations and imposing the corresponding penalties.

13. The Office of the Ombudsman ("Defensor del Pueblo"), under the supervision of the Office of the Procurator-General, ensures the promotion, exercise, dissemination and defence of human rights. The Ombudsman is elected by the House of Representatives.

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<sup>2</sup> Constitution of Colombia of 1991, title V on the structure of the State, arts. 113 et seq.

<sup>3</sup> Article 114 of the Constitution.

## B. Geography

14. Colombia is a geographically, ethnically and culturally diverse country. Its territory of 1,141,748 square kilometres is divided into departments, districts, municipalities and indigenous territories. The municipality is the fundamental administrative and political unit. There are currently 32 departments, 4 districts and 1,099 municipalities.

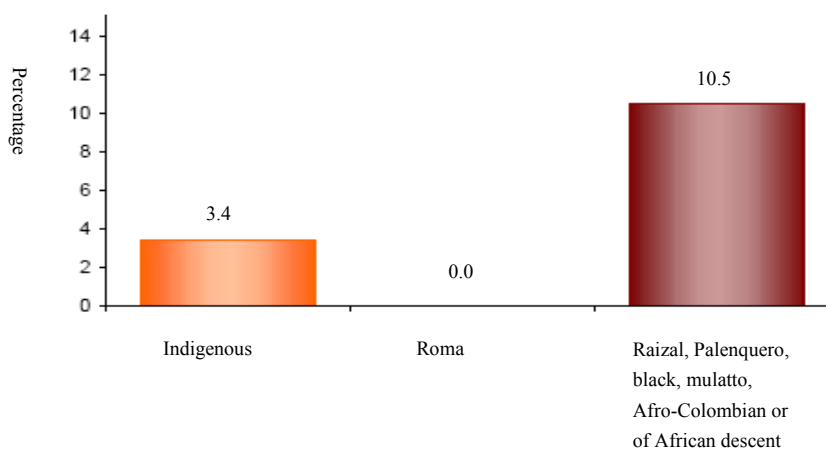
## C. Culture and religion

15. Colombia is a pluri-ethnic, multicultural country. There are three major ethnic groups which are culturally distinct from the bulk of the (*mestizo*) population: the Afro-Colombian communities and the *raizal* communities of San Andrés and Providencia, which account for 10.5 per cent of the total population; indigenous peoples, who make up 3.4 per cent; and the Roma.<sup>4</sup>

16. Article 10 of the Constitution states that Spanish is the official language of Colombia but that the languages and dialects of ethnic groups are also official in their territories. The country also has great linguistic wealth in its indigenous communities, with 64 languages belonging to 22 indigenous language families having been identified. The *raizal* communities of San Andrés and Providencia have an Afro-Anglo-Antillean culture and use English as their standard language and San Andrés Creole at home. Along Colombia's Caribbean coast, the people of San Basilio de Palenque speak Palenquero, another Afro-Colombian language. The Roma, who come from eastern Europe, speak their own language: Romany.

17. In the most recent nationwide census, conducted in 2005, 10.5 per cent of the members of Colombia's resident population described themselves as *raizal*, Palenquero, black, mulatto, Afro-Colombian or of African descent and 3.4 per cent described themselves as indigenous peoples.

### Ethnic groups



Source: National Administrative Department of Statistics (DANE), 2005 general census.

<sup>4</sup> National Administrative Department of Statistics (DANE), 2005 census.

18. The 1991 Constitution upholds freedom of religion. All people therefore have the right to profess their religion freely and to disseminate it individually or collectively. According to the Public Registry of Religious Bodies, Colombia currently has nearly one thousand organizations of this kind, although the predominant religion is Christianity, and most of the people are Catholics.

## D. Sociodemographics

### 1. Population

19. According to the most recent general census, taken in 2005, the country has 42,090,502 permanent residents.<sup>5</sup> This means it has the third largest population in Latin America, after Brazil and Mexico, and ranks as the twenty-eighth largest in the world. In all, 51.2 per cent of the population is female and 48.8 per cent male; 75 per cent live in urban areas and only 25 per cent in the countryside.

#### Results of the 2005 general census

Census population, adjusted for omissions in geographical coverage and late reporting

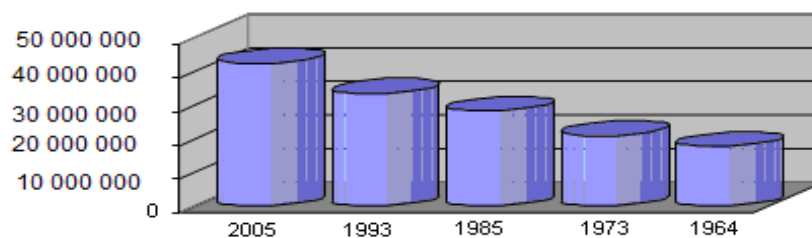
<i>Colombia</i>	
Population	42 090 502
Main town	31 566 276
Other	10 524 226
Male	20 668 157
Female	21 422 345
Households	10 731 044
Dwellings	10 537 735
Economic units	1 591 043
Farming units <sup>1</sup>	1 742 429

Source: DANE, 2005 general census.

<sup>1</sup> Units associated with rural dwellings.

20. The rate of population growth may be determined by comparing the 2005 census data with the data from the censuses conducted in 1964, 1973, 1985 and 1993:

#### Population censuses for 2005, 1993, 1985, 1973 and 1964



Source: DANE, 2005 general census.

<sup>5</sup> *Población Compensada Geográfica*, 22 November 2006, 2005 census, DANE.

## 2. Fertility rate

21. The data point to a decline in Colombia's fertility rate and a steady decrease in its mortality rate. The fertility rate has dropped by 4.2 children per woman<sup>6</sup> over the past 50 years. This development can be attributed to the general increase being seen in Colombia, as in many other countries, in people's ability to exercise their sexual and reproductive rights. In fact, Colombia is one of the Latin American countries with the least unsatisfied demand for family planning (about 6 per cent).<sup>7</sup>

## 3. Life expectancy

22. Life expectancy at birth has increased as health conditions improve. This has led to a decline in the overall and infant mortality rates: the overall rate has fallen by 68 per cent over the past 50 years and the infant mortality rate by 80 per cent. The reduction in the infant mortality rate is due to a decline in the number of deaths caused by infections, parasites and respiratory problems. This, in turn, has led to an increase in life expectancy at birth, which rose from 50.6 to 72.2 years between 1950 and 2005, thereby contributing to the country's demographic transition.<sup>8</sup>

### Fertility rate, life expectancy at birth and mortality rates

<i>Year</i>	<i>Total fertility</i>	<i>Life expectancy</i>	<i>Crude death rate</i>	<i>Infant mortality</i>
1950–1955	6.8	50.6	16.7	123.2
1955–1960	6.8	55.1	13.3	105.3
1960–1965	6.8	57.9	11.5	92.1
1965–1970	6.2	60	10.1	82.2
1970–1975	5	61.7	8.7	73
1975–1980	4.3	64	7.6	56.7
1980–1985	3.7	66.8	6.8	48.4
1985–1990	3.2	67.9	6.1	41.4
1990–1995	3	68.6	5.9	35.2
1995–2000	2.8	70.7	5.7	30
2000–2005	2.4*	72.2	5.5	25.6

*Source:* CELADE, *Demographic Bulletin*.

\* National Demographic and Health Survey, 2005.

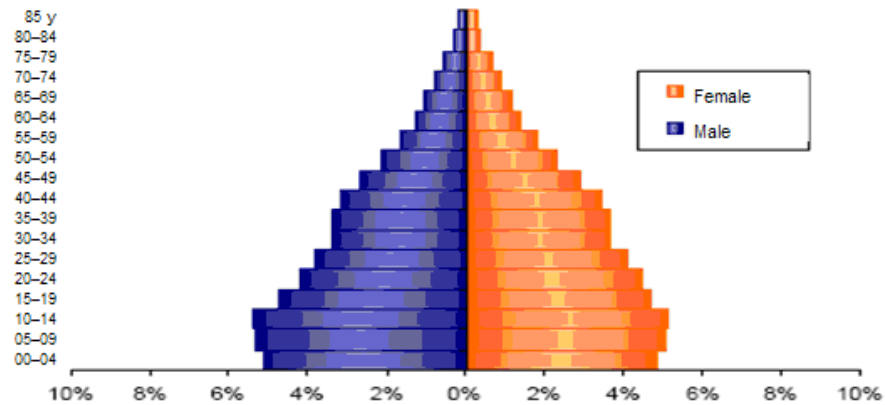
23. The ageing of the population has become a clear trend. According to the results of the 2005 general census, the number of middle-aged people has increased owing to an improvement in people's health, which is reducing the mortality rate, and a decline in the fertility rate.

<sup>6</sup> Number of children born to each woman between the ages of 15 and 49.

<sup>7</sup> *Salud Sexual y Reproductiva en Colombia*, National Demographic and Health Survey, 2005.

<sup>8</sup> *Ibid.*

**Population structure, by sex and by age group**



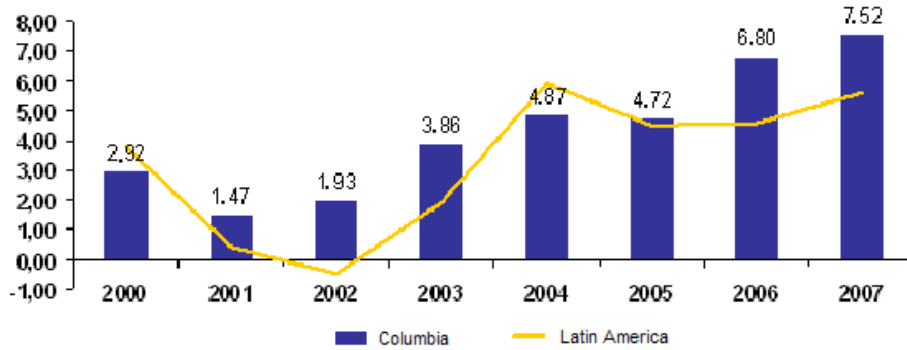
Source: DANE, 2005 general census.

**4. Quality of life**

24. In pursuing its social policies,<sup>9</sup> the Government has focused on reducing the vulnerability of population groups that have historically been subject to inequitable conditions. These policies, together with the economic growth seen between 2002 and 2005, has permitted the country to make major strides in reducing poverty and extreme poverty rates. Colombia has enjoyed steady economic growth, as is shown in the following figure:

**GDP growth: Colombia v. Latin America (2000–2007)**

(Percentages)



<sup>9</sup> National Development Plan, 2002–2006, “Hacia un Estado comunitario”, Act No. 812 of 2003, National Planning Department; and National Development Plan, 2006–2010, “Estado comunitario: desarrollo para todos”, Act No. 1151 of 2007.



## 5. Poverty<sup>10</sup>

25. The poverty rate fell by 7.8 percentage points to 49.2 per cent in 2002–2005, which is equivalent to a 2.3 million reduction in the number of poor people. This was made possible by a rise in per capita income and improved income distribution.

26. Meanwhile, the extreme poverty rate fell from 20.7 to 14.7 per cent, which means that 2.2 million Colombians emerged from extreme poverty. The number of extremely poor people thus declined from 8.8 to 6.6 million between 2002 and 2005.

27. These indicators continued to improve in 2006. The Task Force on the Elimination of Poverty and Inequality (MERPD) reported reductions in poverty nationwide and in both urban and rural areas. In urban areas, the poverty rate fell from 50.4 per cent in 2002 to 39.1 per cent in June 2006, while in rural areas the rate dropped from 70.1 to 62.1 per cent.

28. Estimates of extreme poverty indicate that the nationwide figure fell by 10 points, from 22 per cent in 2002 to 12 per cent in the second quarter of 2006. In rural areas, the reduction amounted to 13 points, with the rate declining from 34.7 to 21.5 per cent, while in urban areas it was down by 8 points, from 16.7 to 8.7 per cent.

29. This positive trend notwithstanding, a review of the long-term poverty and extreme poverty indicators shows that progress has been slow in the past 10 years. This is accounted for by the reversal experienced in the late 1990s, when Colombia's gross domestic product (GDP) contracted for the first time since the 1930s.

30. When the statistics on poverty and extreme poverty are disaggregated by sex, no significant differences are found at the national or urban levels. A considerable differential between the poverty and extreme poverty rates for women and men is consistently in evidence in rural areas, however, where the rates for women are higher by between three and four percentage points.

### Poverty and extreme poverty

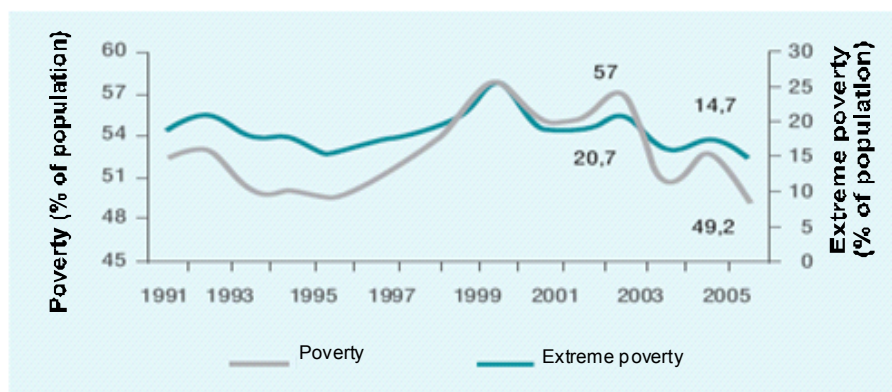
Year	National total				Urban				Rural			
	Extreme poverty		Poverty		Extreme poverty		Poverty		Extreme poverty		Poverty	
	M	F	M	F	M	F	M	F	M	F	M	F
2002	21.2	20.2	57.3	56.9	16.0	15.0	50.8	50.1	33.6	35.6	73.0	77.2
2003	15.6	16.2	50.5	51.0	12.2	12.9	46.2	46.3	24.0	25.7	61.0	64.9
2004	17.1	17.7	52.3	53.2	13.3	14.0	46.9	47.7	26.6	28.6	65.9	69.3
2005	14.3	14.8	49.0	49.0	9.7	10.3	41.8	42.0	25.8	28.7	65.7	70.3

Source: National Planning Department.

31. The following graph illustrates the trends in poverty and extreme poverty indicators seen between 1991 and 2005.

<sup>10</sup> Performance reports series, No. 29, National Development Plan, "Hacia un Estado comunitario", Overview of results for August 2002–August 2006, National Planning Department.

### Poverty and extreme poverty



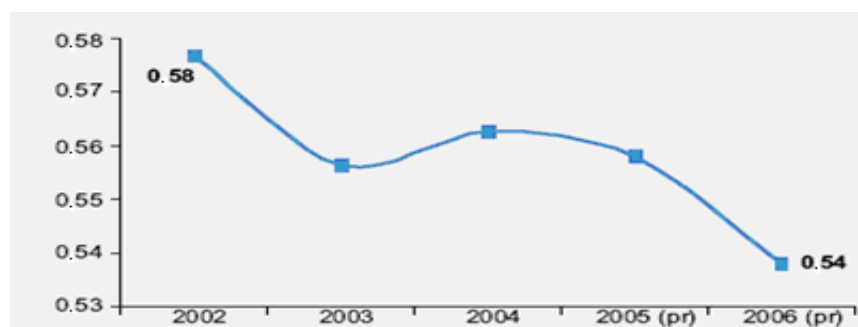
Source: MERPD, National Household Survey and LCH estimates.

32. The results for 2002–2007 indicate that the Colombian economy grew by 6.8 per cent in 2006 and by 7.5 per cent in 2007, while it expanded by an average of 5 per cent over the period 2003–2006. These rates are far higher than they were in 1996–2001 and in the 1990s. Furthermore, this growth was accompanied by a decline in inflation to levels below 5 per cent and a reduction in poverty of more than 10 percentage points (from 56 to 45 per cent), while extreme poverty fell by 9 points (from 21 to 12 per cent). This means that more than 3 million Colombians ceased to be poor and that a further 3 million rose above the extreme poverty line. In addition, income inequality decreased by four percentage points during the same period.<sup>11</sup>

### 6. Income redistribution

33. In 2002–2006, inequality, as measured by the Gini coefficient, declined from 0.58 to 0.54. This means that the share of total income of the poorest 50 per cent of the population climbed by 36 per cent, while the share of total income of the richest 20 per cent shrank by 8 per cent. Middle-income households increased their share of the total by 8 per cent.<sup>12</sup>

#### Gini coefficient 2002–2006 (second quarter)



Source: MERPD, National Household Survey and LCH estimates.

<sup>11</sup> Performance reports series, No. 31, National Development Plan, 2006–2010, “Estado comunitario: desarrollo para todos”, National Planning Department.

<sup>12</sup> Ibid.

34. The income inequality indicator, which is watched closely by the Government, fell by four points in 2002–2006.

35. In view of the deterioration in social indicators and the scant progress made towards reducing inequality and poverty as a consequence of various economic crises, particularly those experienced in the 1970s and 1980s, the Government set up an anti-poverty task force to design a poverty and inequality reduction strategy for Colombia for 2004–2015. This strategy was drafted jointly by the Inter-American Development Bank (IDB), the National Planning Department and the Ministry for Social Protection and was presented in 2004. The proposal was developed in consultation with experts and representatives of civil society, officials of the National Planning Department, the Ministry for Social Protection and the Ministry of Finance and Public Credit, former ministers of State, academics, NGOs and international consultants.

36. The task force's overall objective is to produce studies that will lead to a deeper understanding of the underlying mechanisms of poverty and inequality in Colombia and of the role played by the public and private sectors within the existing institutional structure. This will then serve as the foundation for a proposal for moving ahead with the design of long-term poverty reduction policies.

## 7. Health

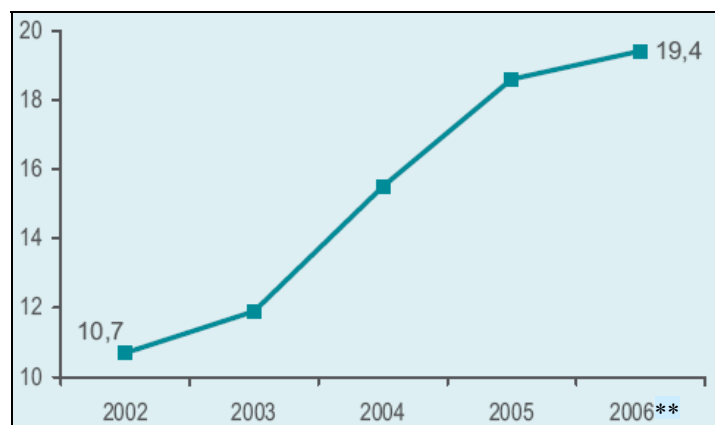
37. In order to combat inequality and expand the provision of health services for the neediest members of the population, the portion of the budget of the Solidarity and Guarantee Fund (FOSYGA)<sup>13</sup> allocated for subsidized health services was increased by 214 per cent between 2002 and 2007 (for a total allocation of 6.8 trillion pesos). The allocation for 2007 alone was \$1.84 billion pesos. This made it possible to increase the number of persons enrolled in the subsidized plan from 11.4 million in 2002 to 20.2 million by December 2006. As of August 2007, the subsidized plan covered 81 per cent of the population in SISBEN categories 1 and 2<sup>14</sup> (i.e., the lowest-income groups) throughout the country.

<sup>13</sup> Solidarity and Guarantee Fund of the Ministry for Social Protection.

<sup>14</sup> The Beneficiary Identification System (SISBEN) employs a set of rules, standards and procedures for obtaining reliable, updated social and economic information from specific groups in the country's districts and municipalities. It is a basic tool for the accurate socio-economic classification of specific population groups and is applied to non-collective households. This is a very useful system for formulating municipal social development plans and for selecting the beneficiaries of social programmes on a technically sound, objective, standardized and equitable basis in accordance with their particular socio-economic situations as determined by a summary quality-of-life indicator known as the SISBEN index.

**Members of the subsidized health plan\***

(Millions of people)



Source: National Planning Department and Ministry for Social Protection.

\* Includes full and partial subsidies.

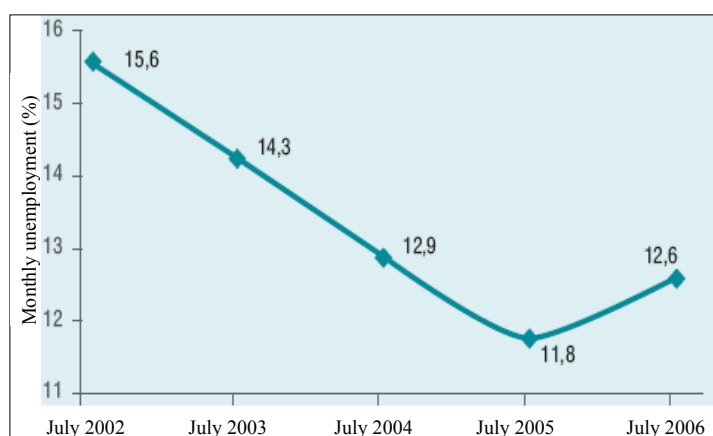
\*\* Data available as of 31 July.

**8. Employment**

38. The improvement in poverty and inequality indicators seen since 2002 has been bolstered by a strong upswing in jobs and incomes. Unemployment has fallen to around 12 per cent, labour income has risen by nearly 10 per cent, and the trend has been even more positive in the case of the poorest workers.<sup>15</sup>

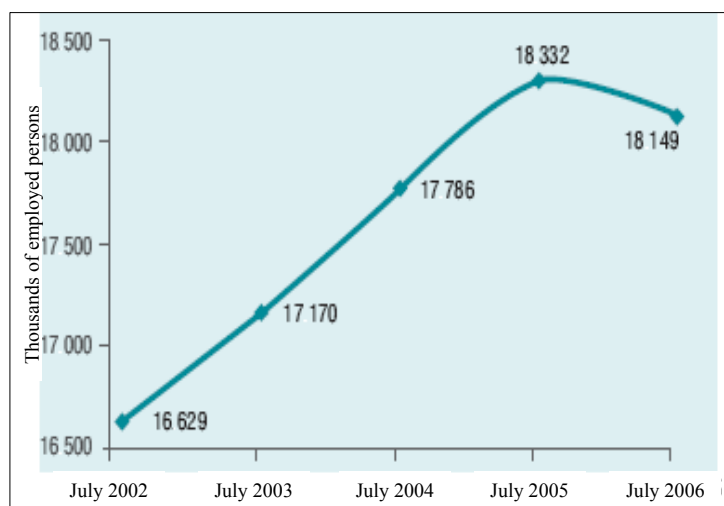
39. Conditions in the labour market have improved substantially over the past four years thanks to the economic upturn. The monthly unemployment rate fell by three percentage points, from 15.6 per cent in July 2002 to 12.6 per cent in July 2006. During that same period, the number of employed persons rose from 16.6 to 18.1 million, for an increase of 1.5 million. It is nevertheless clear that greater efforts must be made in this area in coming years, since this indicator has not improved as much as would be expected during an economic recovery of the sort experienced by the country in recent years.

<sup>15</sup> National Development Plan, *Hacia un país comunitario. Balance 2002–2006*, National Planning Department.

**Unemployment rate (monthly average – July\*)**

Source: DANE.

\* Monthly figures for July.

**Employed persons\***

Source: DANE.

\* Monthly figures for July.

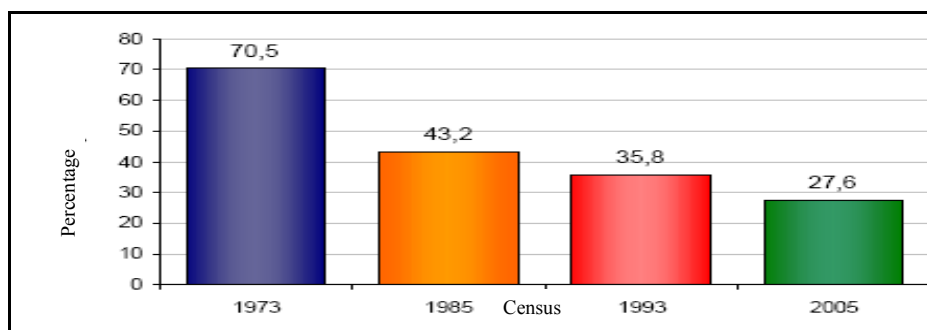
**9. Unsatisfied basic needs**

40. The 2005 general census results signal an improvement in the indicators of unsatisfied basic needs. A total of 27.6 per cent of the population had unsatisfied basic needs, marking a decline of 8.2 points since the 1993 census, when 35.8 per cent of the population was in that category.<sup>16</sup>

<sup>16</sup> DANE, *2005 Boletín Censo General: Necesidades Básicas Insatisfechas*.

**Percentage of persons with unsatisfied basic needs**

Nationwide total, 1973, 1985, 1993 and 2005 censuses



Source: DANE, 2005 general census, section on unsatisfied basic needs.

**Percentages of population with unsatisfied basic needs**

Persons with unsatisfied basic needs	Census year			
	1973	1985	1993	2005
Persons with unsatisfied basic needs	70.5	54.4	35.8	27.7
Two or more unsatisfied basic needs	44.9	22.8	14.9	10.6
Inadequate housing	31.2	13.8	11.6	10.4
Inadequate public services	30.3	21.8	10.5	7.4
Critical overcrowding	34.3	19.4	15.4	11.1
Non-attendance at school	31.0	11.5	8.0	3.6
High degree of economic dependence	29.0	15.9	12.8	11.2

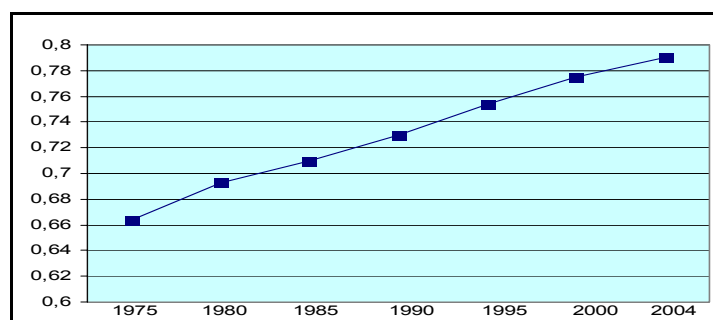
Source: DANE.

**10. Human Development Index**

41. Colombia’s Human Development Index has been improving steadily. From a level of 0.730 in 1990, it had risen to 0.790 by 2004, placing Colombia in the seventieth position among 177 countries, after Brazil, in the global Human Development Index. In 2005, its ranking climbed to 0.791. In view of the upturn in economic growth in recent years, it is hoped that this trend will continue.<sup>17</sup>

<sup>17</sup> UNDP, Human Development Index (HDI), 2006 and 2007.

### Human Development Index



Source: United Nations Development Programme (UNDP).

## E. Economic situation

42. In 1996–2001, Colombia’s economy grew at an average rate of barely 1 per cent per year, and in 1999 it experienced its first contraction (-4.3 per cent) in almost a century. Levels of confidence, investment and private consumption fell steadily during those years, slumping to record lows in 2000. The social impact of the crisis was enormous: the urban unemployment rate climbed to over 20 per cent, while household incomes, especially those of the poorest segments, shrank.

43. Since 2002, the increased confidence generated by improvements in the security situation, together with policies to promote economic development and a favourable international market environment, have helped to consolidate economic growth. Thanks to the sustained increase seen in GDP since 2002, Colombia attained an annual growth rate of over 5 per cent in 2005, the highest in the past 10 years. This upward trend was maintained in 2006 and 2007.

44. This improved outlook was mirrored in credit spreads, which reflect foreign investors’ perception of the Colombian market. Following a peak of 1,096 basis points in September 2002, spreads began to narrow, shrinking to 197 points on 7 August 2006. This reduction has given investors greater confidence in Colombia when compared to other Latin American countries.

45. Strengthening confidence and growth, improved market perception, together with greater liquidity and low interest rates, acted as the driving force behind increased investment. Private investment rose by 8.5 points of GDP (from 8.6 to 17.1 per cent), while public investment climbed by 1.3 percentage points.

46. Total exports displayed an average annual growth rate of 15.2 per cent between 2002 and 2005, reaching a record US\$ 21.185 billion in 2005, for a total increase of 76.9 per cent over the US\$ 11.975 billion recorded in 2002. Between January and July 2006, total exports amounted to US\$ 13.65 billion (an increase of 15.2 per cent over the same period of 2005). Most of this growth was driven by traditional exports, which had expanded by 95.2 per cent since 2002, but non-traditional exports also rose by a remarkable 62.3 per cent (from US\$ 6.666 billion in 2002 to US\$ 10.819 billion in 2005).<sup>18</sup>

<sup>18</sup> National Development Plan, “Hacia un país comunitario”, Overview of results for 2002–2006, National Planning Department.

## GDP growth (quarterly)



GDP measurements include illicit crops.

Source: DANE.

## F. Armed violence

47. Armed groups operating outside the law pose a threat to the stability of Colombian society. These groups generate a climate of violence by creating a war economy based on kidnapping, extortion and drug production and trafficking. This situation has had heavy social, economic and political costs for the nation.

48. The persistence of these unlawful activities bears witness to practices that are at odds with recognition and respect for the principles and values underlying the guarantee and exercise of human rights, as well as to the lack of any concrete commitment to the application of international humanitarian law on the part, in particular, of the Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo (FARC-EP) (Revolutionary Armed Forces of Colombia – People’s Army) and the Ejército de Liberación Nacional (ELN) (National Liberation Army).

49. According to the Judicial Police and Intelligence Directorate of the National Police, in 2006 FARC-EP was responsible for 16.2 per cent of the massacres that occurred,<sup>19</sup> 62.9 per cent of accidents caused by anti-personnel mines,<sup>20</sup> 27 per cent of all kidnappings for ransom<sup>21</sup> and 72.4 per cent of all terrorist attacks.<sup>22</sup> In addition, the 16 attacks launched on towns during that year were also attributed to this armed organization.

50. The collective demobilization of the so-called self-defence forces culminated in 2006 with the surrender of 31,671 combatants’ weapons.<sup>23</sup> The leaders of these organizations were detained and held, their collaborators were prosecuted, and the Justice and Peace Act (Act No. 975 of 2005) was enforced in order to provide a framework for ensuring progress towards truth, justice and redress.

<sup>19</sup> In 78.4 per cent of all massacres, the perpetrators were not identified. There were a total of 37 massacres that left a toll of 193 victims.

<sup>20</sup> A total of 320 such accidents.

<sup>21</sup> A total of 76 cases.

<sup>22</sup> A total of 401 attacks. This figure excludes the use of the small incendiary explosives known as “potato bombs”, pamphlet bombs and anti-personnel mines.

<sup>23</sup> Demobilized members of self-defence groups handed over 18,051 arms and 13,117 grenades, in addition to 2,716,401 units of ammunition. See *Proceso de Paz con las Autodefensas, Informe Ejecutivo*, Office of the President, Office of the High Commissioner for Peace, December 2006, p. 102.



51. For its part, ELN is becoming weaker militarily and is therefore less able to launch violent attacks against the civilian population. It continues to violate international humanitarian law, however, and in 2006, according to information from the National Fund for the Defence of Individual Freedom (FONDELIBERTAD) and the Anti-Personnel Mines Watch, it was responsible for 15.6 per cent of all kidnappings for ransom and 3.9 per cent of the casualties caused by anti-personnel mines.

52. In addition, these groups continued their campaign of forced displacement, which, according to the National Registry of Displaced Persons (RUPD),<sup>24</sup> resulted in a total of 2,577,402 forcibly displaced persons in 2002–2007.

53. The civilian population, especially certain ethnic groups, has been adversely affected by restrictions on the transport of food, medicines and persons, acts of sexual violence against women and girls, and the recruitment of children. Refusing to allow medical personnel to go about their work is a practice employed by illegal armed groups to ensure their control over strategic corridors and zones of influence.

54. This situation is clearly a challenge for Colombia and calls for the deployment of both human and economic resources to tackle the insurgency effectively in order to secure peace and ensure that the citizens of Colombia can exercise their rights fully. As evidence of the Administration's commitment to human rights and as part of State policy, 55 per cent of the resources appropriated between 2002 and 2006 were allocated to the creation of conditions of peace and development in depressed areas and to assistance for victims of violence, to the protection and promotion of human rights and international humanitarian law, to strengthening the justice system, to the enhancement of social cohesion and values, and to the reinforcement of the bodies working to attain these objectives.

### III. General measures of implementation

55. Prior to the ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Legal Office of the Ministry of Foreign Affairs consulted the Department of Human Rights and International Humanitarian Law, the Department of Multilateral Political Affairs of the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of the Interior and Justice and the Colombian Family Welfare Institute (ICBF). All the departments and bodies consulted agreed to the ratification of the Optional Protocol.

56. Bearing this in mind, the Legal Office asked the Ministry of Defence to provide the information needed in order to comply with article 3, paragraph 2 of the Protocol. This information was furnished by the Ministry and reproduced in full in the declaration made by the Colombian Government upon its ratification of the Optional Protocol. In this declaration, the Government stated that persons under the age of 18 years are not called up for military service, nor are they accepted as volunteers in the armed forces of Colombia. The declaration reads as follows:

The military forces of Colombia, in application of the norms of international humanitarian law for the protection of the best interests of the child and in application of domestic legislation, do not recruit minors in age into their ranks, even if they have the consent of their parents.

<sup>24</sup> National Registry of Displaced Persons, 30 June 2008.

Act 418 of 1997, extended through Act 548 of 1999 and amended by Act 642 of 2001, stipulates that persons under 18 years of age shall not be recruited to perform military service. Students in the eleventh grade who are minors, in accordance with Act 48 of 1993, and who are selected to perform such service, shall defer their enlistment until they have reached age 18.

If, on reaching majority, the youth who has deferred military service shall have been matriculated or admitted to an undergraduate programme in an institution of higher education, he shall have the option of serving his duty immediately or deferring it until completion of his studies. If he should choose to serve immediately, the educational institution shall reserve a space for him under the same conditions; if he should choose to defer, the corresponding degree may be granted only when his military service has been completed as ordered by law. Interruption of higher-level studies shall entail the obligation of enlistment into military service. Civilian or military authorities who disregard this provision shall be subject to dismissal on grounds of misconduct.

The youth recruited who has deferred his military service until completion of his professional studies shall fulfil his constitutional duty as a graduate professional or technician in the service of the armed forces in activities of social service to the community, public works and tasks of a scientific or technical nature as required in the respective unit to which he has been assigned. In such case, military service shall be of six months' duration and shall be credited as the rural service year, practicum, industrial semester, year of court internship, obligatory social service or similar academic requirements that the programme of study establishes as a degree requirement. For those entering a law career, such military service may replace the thesis or monograph for the degree and in any case shall replace the obligatory social service referred to in article 149 of Act 446 of 1998.

57. Congress approved the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (adopted in New York on 25 May 2000) by Act No. 833 of 10 July 2003, published in *Diario Oficial* No. 45248 of 14 July 2003.

58. Subsequently, the Constitutional Court ruled that this act was enforceable<sup>25</sup> in its decision No. C-172 of 2004, which reads as follows:

For the Court, this international instrument is intended to extend greater protection and guarantees to children and adolescents by prohibiting their direct participation in hostilities and requiring States parties, and the international community as a whole, to cooperate to ensure its implementation. Its provisions are in line with the precepts set forth in the Constitution and, in fact, reinforce them. The international instruments and existing subsidiary legislation on the subject share the same aims as those espoused by the framers of the Constitution. Furthermore, given the provisions contained in the Convention on the Rights of the Child concerning recruitment, the Court considers that the Protocol provides additional safeguards and gives greater consideration to children and adolescents in the presence of armed conflicts.

59. The President issued Decree No. 3966 in 2005, which enacted the Protocol.

<sup>25</sup> When the Constitutional Court declares legislation enforceable this means that the legislation is constitutional, i.e. that it is in conformity with the Constitution.

60. In accordance with their constitutional and legal functions, some of the governmental organizations charged with implementing and enforcing the Protocol are, notably, the Ministry of Defence, the High Council for the Social and Economic Reintegration of Armed Insurgents, ICBF, the Office of the Ombudsman and the Intersectoral Commission to Prevent the Recruitment and Use of Children, Adolescents and Young Persons by illegal groups.

61. The Ministry of Defence designs, develops and implements national defence and security policies and policies governing the legitimate use of force. These policies guide the armed forces and the national police force in the performance of their duty to uphold national sovereignty, independence, territorial integrity, the constitutional order and to help to safeguard the exercise of rights, obligations and civil liberties.

62. Under article 5 of Decree No. 1512 of 2000, the Ministry of Defence, in addition to participating in the definition, development and implementation of national defence and security policies, is responsible for helping to maintain peace and order for Colombians by safeguarding the nation's security and thus paving the way for economic development, the protection and conservation of natural resources, and the promotion and protection of human rights.

63. As the body responsible for overseeing Colombia's armed forces, the Ministry of Defence is deeply committed to human rights, particularly those of persons given special protection under international law, such as children and adolescents.

64. In the last few years, the Ministry of Defence has heightened the impact of its efforts to defend and protect human rights through information campaigns, practical activities and general directives designed to combat the involvement of children and adolescents with illegal armed groups.

65. ICBF is a public institution committed to the comprehensive protection of the family and, in particular, children. It is responsible for coordinating the National Family Welfare System (SNBF) and, as such, proposes and implements policies and provides advisory services and technical and socio-legal assistance to communities as well as public and private organizations at the national and regional levels.

66. In addition, some of the entities that comprise SNBF are called upon to apply some of the Optional Protocol's provisions in the course of their work. For example:

- (a) The Ministry for Social Protection, as the supervisory body of ICBF;
- (b) The nation's administrative departments<sup>26</sup> when complying with child and family policy;
- (c) Districts and municipalities, when complying with child and family policy and, given that family welfare services are provided at this level, when facilitating the exercise of the constitutional rights of children, adolescents and families within their jurisdiction; and
- (d) Communities and private individuals who are legally authorized to provide family welfare services.

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<sup>26</sup> Under article 286 of the Constitution, Colombia is comprised of the following territorial entities: "departments, districts, municipalities and indigenous territories".

67. The Family Welfare Service seeks to protect children in need through ongoing activities to provide preventative and special care. ICBF heads up a special programme to provide care for children and adolescents extricated from illegal armed groups.

68. Under article 2 of Decree No. 3043 of 2006, the High Council for the Social and Economic Reintegration of Armed Insurgents has, among other responsibilities, the duty to:

(a) Support and advise ICBF in defining policies and strategies to prevent the recruitment of minors by illegal armed groups, to extricate them from such groups and to reintegrate them into society; and

(b) Coordinate, follow-up and evaluate the actions of State bodies which carry out activities or play a role in facilitating the reintegration of children and adolescents who have been extricated from illegal armed groups and of adults who voluntarily lay down their arms, either individually or as a group.

69. As Colombia is a democratic, participative and pluralistic State based on the rule of law, the Office of the Ombudsman is responsible for promoting the effective exercise of human rights through the following integrated actions: (a) Promotion and dissemination of human rights; (b) Defence and protection of human rights; and (c) Dissemination and promotion of international humanitarian law.

70. The Division for the Rights of Children, Women and Senior Citizens is responsible for advising the Ombudsman on the dissemination, protection and promotion of children's human rights, as well as for monitoring public policies that foster their effective implementation. The Division achieves this aim by:

(a) Continuously evaluating the human rights situation in Colombia with regard to children and assisting the Ombudsman in preparing general observations or writing up complaints;

(b) Maintaining ongoing contact and sharing information with governmental and non-governmental organizations that protect and defend human rights in particular fields; and

(c) Preparing and submitting reports.

71. The Division has undertaken various investigations and studies on the effects of violence on children and adolescents with the support of the United Nations Children's Fund (UNICEF). In December 2006, it presented a report on the social and productive reintegration of children and adolescents extricated from illegal armed groups from a human rights point of view. In this report, it outlined situations existing in Colombia which inhibited vulnerable children or adolescents from exercising their human rights prior to, during and after being involved with illegal armed groups.<sup>27</sup>

72. Colombia considers it a priority to respect, promote and safeguard the human rights of each and every one of its citizens, as prescribed in the Constitution of 1991. Human rights are fundamental to government policy, and article 44 of the Constitution gives children's rights precedence over all others.

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<sup>27</sup> For further information, see: [http://www.unicef.org/colombia/pdf/co\\_resources\\_IDI\\_introduccion.pdf](http://www.unicef.org/colombia/pdf/co_resources_IDI_introduccion.pdf).

73. Furthermore, by virtue of the “constitutional corpus”<sup>28</sup> (articles 93 and 214 (2) of the Constitution), international treaties and agreements ratified by Congress that recognize human rights and that prohibit their limitation in states of emergency have priority in Colombian law. The rights and duties set forth in the Constitution are to be interpreted in accordance with international treaties on human rights that have been ratified by Colombia. The regulatory force of international instruments such as the Protocol is recognized in the country’s jurisprudence, as is the need for compliance at national level by nationals as well as foreigners,<sup>29</sup> and particularly by public authorities.<sup>30</sup>

74. Colombia honours and fulfils its international commitments, in particular with regard to human rights, and stands ready to cooperate with others; hence its openness to international scrutiny.

### A. Definition of “child” and “adolescent” in national legislation

75. The Convention on the Rights of the Child, assimilated into Colombian law by Act No. 12 of 1991, defines a child as every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.

76. In accordance with article 3 of the Code on Children and Adolescents (Act No. 1098 of 2006) and article 34 of the Civil Code, a child is defined as every human being between the ages of 0 and 12 years and an adolescent as being between the ages of 12 and 18 years.

77. The Minor’s Code (Decree No. 2737 of 1989), which was in force prior to the promulgation of the Code on Children and Adolescents, did not differentiate between children and adolescents but rather referred to minors as being all human beings under the age of 18 years.<sup>31</sup>

### B. Applicability of the Protocol in Colombia

78. The Constitution of Colombia sets forth a long list of rights. The provisions regarding those rights have been developed on the basis of the laws of the Republic and other statutory norms and are interpreted in the extensive case law of the Constitutional Court. These rights are:

- (a) The right to life (art. 11);
- (b) The right to be protected against bodily harm (art. 12);
- (c) The right to freedom and equality before the law (art. 13);

<sup>28</sup> The constitutional corpus is composed of the rules and principles which, without appearing as such in the Constitution, are used as parameters for verifying the constitutionality of legislation. They have been incorporated as constitutional rules by various means and on the authority of the Constitution itself.

<sup>29</sup> Article 4 of the Constitution: “The Constitution is the supreme law. In any case of incompatibility between the Constitution and a law or other legal regulation, the provisions of the Constitution shall be applied. It is the duty of citizens and of aliens in Colombia to abide by the Constitution and the law and to respect and obey the authorities.”

<sup>30</sup> Article 6 of the Constitution: “Every person shall be individually accountable to the authorities for violations of the Constitution and the laws. Public servants shall be responsible for such acts, for omissions and for exceeding their powers in the exercise of their functions.”

<sup>31</sup> Article 28: “Minor means anyone who has not yet reached the age of eighteen (18) years.”

- (d) The right to be recognized as a legal person (art. 14);
- (e) The right to personal and family privacy and to a good name (art. 15);
- (f) The right to the free development of personality (art. 16);
- (g) The prohibition of slavery (art. 17);
- (h) Freedom of conscience (art. 18);
- (i) Freedom of religion (art. 19);
- (j) Freedom of thought and opinion (art. 20);
- (k) The right to dignity (art. 21);
- (l) The right to peace (art. 22);
- (m) The right of petition (art. 23);
- (n) Freedom of movement (art. 24);
- (o) The right to work (art. 25);
- (p) Freedom to choose a profession or occupation (art. 26);
- (q) Freedom of education, research and professorship (art. 27);
- (r) The right to personal freedom (art. 28);
- (s) The right to due process (art. 29);
- (t) The right to habeas corpus (art. 30);
- (u) The right to *non reformatio in peius* (art. 31);
- (v) The right not to testify against oneself (art. 33);
- (w) The right to asylum (art. 36);
- (x) The right of assembly (art. 37);
- (y) Freedom of association (art. 38);
- (z) The right to form and join trade unions (art. 39);
- (aa) The right to political participation (art. 40);
- (bb) Family rights (art. 42);
- (cc) Gender equality (art. 43);
- (dd) The rights of children (art. 44);
- (ee) The rights of adolescents (art. 45);
- (ff) Protection of the elderly (art. 46);
- (gg) The right to social security (art. 48);
- (hh) The right to health and a clean environment (art. 49);
- (ii) The right of children aged under 12 months to free health care (art. 50);
- (jj) The right to decent housing (art. 51);
- (kk) The right to leisure and recreation (art. 52);
- (ll) The right to decent working conditions (art. 53);
- (mm) The right to occupational training (art. 54);

- (nn) The right of collective bargaining (art. 55);
- (oo) The right to strike (art. 56);
- (pp) The right of workers to participate in the management of enterprises (art. 57);
- (qq) The right to private property (art. 58);
- (rr) Intellectual property rights (art. 61);
- (ss) The right to education (art. 67);
- (tt) The right to autonomy of institutions of higher education (art. 69);
- (uu) The right of access to culture (art. 70);
- (vv) The right of access to the electromagnetic spectrum (art. 76).

79. One of the essential goals of the State is to guarantee the effectiveness of the rights and duties enshrined in the Constitution. Colombia spares no effort to ensure the full enjoyment of children's and adolescent's rights. The Government is deeply committed to guaranteeing child welfare and to promoting and protecting children's rights through institution-building in fulfilment of its fundamental role of protecting and ensuring the well-being of all children in Colombia.

80. With regard to the legal status of the Protocol in domestic law, it should be noted that, by virtue of the "constitutional corpus" (art. 93 of the Constitution), international treaties and agreements ratified by Congress that recognize human rights and that prohibit their limitation in states of emergency have priority in Colombian law. Consequently, the Protocol, once ratified by the Government of Colombia, is an integral part of the constitutional legal order and has been so ever since its entry into force for Colombia.

## **C. Implementation of the Protocol in line with the general principles of the Convention**

### **1. Non-discrimination (art. 2 of the Convention)**

81. The principle of equality before the law and the right to non-discrimination are established in article 13 of the Constitution, which states that all individuals are born free and equal before the law and are entitled to equal protection and treatment by the authorities and to the same rights, freedoms and opportunities, without discrimination on the basis of gender, race, national or family origin, language, religion, political opinion or philosophy.

82. Article 44 of the Constitution, which details the rights of children and adolescents, does, however, state that their rights "take precedence over the rights of others".

83. In accordance with jurisprudence and national regulations,<sup>32</sup> the principle of precedence for children's rights exemplifies values and principles that should govern the interpretation and application of all legal regulations dealing with children and adolescents,

<sup>32</sup> Art. 9 of the Code on Children and Adolescents: "Primacy of rights. In every administrative, legal or other act, decision or measure taken with regard to children or adolescents, their rights shall have primacy (...)."

as well as the promotion of policies and implementation of specific measures to ensure their well-being.<sup>33</sup>

84. The constitutional precedence of the rights of children and adolescents should, however, infringe as little as possible on the rights of others.

## **2. Best interests of the child (art. 3 of the Convention)**

85. The primacy of the best interests of the child is a guiding principle in Colombian legislation. In accordance with this principle, it is the obligation of all persons to ensure the comprehensive and simultaneous satisfaction of children's human rights, all of which are universal, predominant and interdependent.<sup>34</sup>

86. In accordance with national jurisprudence, the former Minors' Code and the current Code on Children and Adolescents (art. 6), the best interests of the child, as outlined in the Declaration of the Rights of the Child (1959) and the Convention on the Rights of the Child, are an essential guide to the interpretation and implementation of regulations concerning children.

## **3. Right to life, survival and development (art. 6 of the Convention)**

87. The right to life is fundamental, as it is imperative to the enjoyment of other rights. This is why the Constitution defines it in article 11<sup>35</sup> as an inviolable right. Furthermore, article 2 provides that one of the essential goals of the State is to protect the lives of all persons residing in Colombia.

88. Article 4 of the former Minors' Code of 1989 provided that every minor had the inherent right to life and the State had an obligation to ensure his or her survival and development. Furthermore, article 5 stated that every minor had the right to the necessary protection, care and assistance to reach an appropriate level of physical, mental, moral and social development.

89. The current Code on Children and Adolescents has adapted the Minors' Code text to international standards; article 17 therefore states that: "Quality of life is essential to full development in accordance with the demands of human dignity. The fulfilment of this right requires that the necessary conditions must be in place to ensure that, from the point of conception onward, children receive care, protection, a nutritious and balanced diet, access to health care, education, adequate clothing, leisure time and safe housing with access to essential public services in a healthy environment."

90. The family plays a vital role in ensuring the proper development of children and adolescents. To this end, article 44 of the Colombian Constitution establishes every child's right to have a family and to not be separated from it. This is the logical outcome of the importance which the Constituent Assembly of 1991 placed on the family and its role as a key institution in the development of the human personality.

## **4. Respect for the views of the child (art. 12 of the Convention)**

91. Freedom of expression is covered in article 20 of the Constitution, which states that every individual is guaranteed the freedom to express and disseminate his or her thoughts

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<sup>33</sup> Constitutional Court of the Republic of Colombia, Judgement C-019 of 1993.

<sup>34</sup> Art. 8 of the Code on Children and Adolescents.

<sup>35</sup> Art. 11: "The right to life is inviolable. There shall be no death penalty."



and opinions. Moreover, article 44 provides that children have the fundamental right to express their opinions freely.

92. Respect for the views of the child is a legal principle that permeates all administrative and legal proceedings. This was provided for in article 10 of the former Minors' Code<sup>36</sup> and has been retained in the second paragraph of article 26 of the Code on Children and Adolescents, which states that "In any administrative, legal or other proceedings involving children or adolescents, they have the right to be heard, and their opinions are to be taken into consideration."

93. Furthermore, article 31 of the Code on Children and Adolescents provides that children and adolescents have the right to participate in activities carried out in their family, educational institutions, associations, as well as in public national, departmental, district or municipal programmes which are of interest to them.

#### **IV. Prevention**

94. State policy prohibits the recruitment of minors.

95. An early warning system has been designed for communities at risk. This system is designed to monitor and give warning of violent situations that put the civilian population at risk and to promote preventive action with a view to protecting and guaranteeing the fundamental rights of individuals.

96. The system identifies and assesses situations of risk for the civilian population resulting from the violence being experienced in Colombia and gives early warning to the authorities of the likelihood of human rights violations. It analyses situations in which public order is threatened, their regional and local specificities, the type of violence involved, the interests that underlie or drive illegal action and the security-related factors that heighten communities' vulnerability or contribute to their protection.

97. The Colombian Family Welfare Institute (ICBF) is developing strategies to prevent children and adolescents from being mobilized by illegal organized armed groups. Its efforts in this area are based on the principle of comprehensive protection and focus on recognizing and guaranteeing human rights.

98. Recruitment is a complex, dynamic phenomenon with many causes. In order to address this problem, the State must coordinate preventive measures at the national, departmental, district and municipal levels and in the cultural, economic, social and educational spheres.

99. As part of this coordination effort, ICBF has worked on identifying common denominators with a view to producing a general description of risk factors and using it to develop a prevention strategy, especially in departments or municipalities where recruitment is a particular problem. The Institute has identified the following risk factors associated with recruitment: the existence of illicit crops, receipt of mining royalties, presence of illegal armed groups, domestic violence and ill-treatment, and poor socio-economic conditions.

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<sup>36</sup> Art. 10, Decree No. 2737 of 1989 (Minors' Code): "All minors shall have the right to express their views freely and to know their rights. Therefore, in all legal or administrative proceedings that may affect them, children must be heard in person or through a representative, in accordance with the regulations in force."

100. As the next step after the identification of risk factors, progress has been made in focusing programmes and social services on the municipalities and departments which, based on the information compiled on the locations where minors benefiting from the ICBF special care programme have been recruited, are believed to have the highest rates of recruitment.

101. ICBF, in coordination with international cooperation institutions (UNICEF and the International Organization for Migration (IOM)), is pushing forward prevention campaigns through support projects in communities in the departments of Antioquia, Bolívar, Cauca, Cesar, Córdoba, Chocó, Guajira, Magdalena, Nariño, Norte de Santander, Sucre, Santander, Cundinamarca, Putumayo, Meta, Valle and Bogotá.

102. ICBF also provides technical support to departmental and municipal social policy councils and to inter-agency and intersectoral prevention working groups, the latter in the departments of Meta and Antioquia. Currently, working groups on prevention are being set up in the departments of Bolívar, Sucre and Casanare.

103. The policies and plans for implementing and coordinating these measures in different fields include the Facts and Rights Strategy, in conjunction with UNICEF, the Procurator-General's Office and the Young Colombia Presidential Programme; the National Policy on Family Coexistence – ("Make Peace"); the National Sexual and Reproductive Health Policy; the Youth Policy; the National Education Policy; the National Action Plan for the Prevention and Eradication of the Sexual Exploitation of Children and Adolescents; and the National Plan for the Eradication of Child Labour.

104. Finally, it is important to mention that Decree No. 4690 of 3 December 2007 established the Intersectoral Commission to Prevent the Recruitment and Use of Children, Adolescents and Youth by Illegal Groups. The Commission is attached to the Office of the Vice-President of the Republic and includes representatives of the Ministry of the Interior and Justice, the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry for Social Protection, the Ministry of Education, the Presidential Agency for Social Action and International Cooperation, the High Council for the Social and Economic Reintegration of Armed Insurgents, ICBF and the Young Colombia Presidential Programme, which acts as the technical secretariat. The Commission met for the first time on 14 December 2007.

105. The goal of the policy to prevent the recruitment of children, adolescents and youth by illegal armed groups, which the Commission coordinates, is to strengthen national, departmental and municipal public institutions, reinforce and consolidate protection networks and family environments, and help to shift child-rearing patterns towards a culture of respect for children's rights. The aim is to discharge the shared responsibility of the family, society and State to guarantee the human rights of children, adolescents and youth and to ensure the re-establishment of those rights when violated, the prevention of threats to, or violations of, those rights, and the design and implementation of public policies for children, adolescents and youth, pursuant to the Code on Children and Adolescents and the Youth Act.

106. Following adoption of the Commission's action plan at its first meeting on 14 December 2007, its technical secretariat arranged with the 9 institutions making up the Commission to target 50 municipalities in 26 departments for the start-up of the prevention policy. As outlined in article 1 of Decree No. 4690 of 2007, the aim of this policy is to safeguard the rights of children and adolescents, promote comprehensive protection policies and strengthen family, social and institutional environments in order to prevent violations of, and threats to, their rights. This targeting exercise took into account the factors present in some regions of Colombia which increase the risk of children's involvement in harmful activities, including their recruitment and use by illegal armed groups, such as the presence

of illicit crops, armed groups, organized crime, forced displacement, anti-personnel mines and high levels of violence against children and adolescents.

107. Upon the completion of this exercise, the technical secretariat, with the approval of the Chairperson of the Commission, submitted the definitive list of municipalities and strategic lines of action for the implementation of the recruitment prevention policy in the selected municipalities to the Commission at its plenary session in May 2008. These strategic lines of action, which are currently being implemented, are:

108. **Strategic line of action No. 1: Dialogues with communities.** The objective is to build a new culture in the family, community and public spheres as a basis for taking a fresh look at children's and adolescents' rights and to propose new measures and models with a central focus on children as subjects of rights. This work is undertaken through community meetings, where the aim is to consolidate or create child protection networks in the communities identified as being the most vulnerable by the mayors of the selected municipalities. The community groups involved in this initiative are: ICBF "community mothers", ICBF family educators, ICBF youth club leaders, the Families in Action Programme, reintegrated families and their host communities, the educational community, community leaders and the staff of local institutions.

109. **Strategic line of action No. 2: Workshops on preventing violence and monitoring children's rights.** The objective here is to train families and communities selected by the corresponding mayor's offices to detect and prevent violence against children, in particular sexual, physical and psychological violence. This work is undertaken within the framework of mediation centres or reconciliation centres by inviting families, communities, children and adolescents, and representatives of State institutions to take part in workshops led by experts on the prevention of violence against children. The participants are drawn from those locations identified by each mayor's office as being the most vulnerable. The aim is to publicize procedures for reporting cases to the competent authorities and, using the social networks set up under strategic line of action No. 1, to establish children's and adolescents' rights watchdogs.

110. **Strategic line of action No. 3: Involving children in mapping human rights.** This area of endeavour has two components. The first focuses on assembling all the quantitative information available for each town concerning institutional services, protective and risk factors (such as common crime, organized crime or political violence) and the analysis prepared by each territorial authority under the Code on Children and Adolescents as an input for municipal and departmental development plans. The second involves the development of a qualitative mapping tool by adolescents who attend ICBF youth clubs or, where these do not exist, schools in the target community. The idea here is to gather information on the extent to which adolescents feel that their rights are being upheld and exercised. The systematized outputs of both components will be presented to each of the Social Policy Councils established under the Code on Children and Adolescents so that the mayor and members of this council can take policy decisions both to safeguard children's rights and to prevent threats to, or violations of, their rights, including recruitment and use by illegal armed groups.

111. **Strategic line of action No. 4: Public policies for children and adolescents.** The objective is to support the Social Policy Councils in designing public policies for children and adolescents and in implementing action plans developed using the combined quantitative and qualitative information compiled under line of action No. 3 and the data available from approved development plans.

112. **Strategic line of action No. 5: Strengthening Social Policy Councils and working groups on the prevention of the recruitment of children by illegal armed groups.** The protection of children's rights, including their right to be protected against recruitment and

use by illegal armed groups, is the obligation of the State as a whole. When this right is violated, it is the State's duty to ensure the restoration of their rights, their social and economic reintegration, full reparation as victims of the offence of illegal recruitment, the prevention of their involvement in activities that violate their rights (including recruitment and use by illegal armed groups), and the initiation of a reconciliation process that will support their integration into their family and society. It is thus vital for this policy to transcend the scope of local government administrations and to be addressed by each Social Policy Council. This strategic line of action therefore focuses on setting up working groups on prevention, along with the relevant annual action plans.

113. **Strategic line of action No. 6: Follow-up and monitoring systems.** All measures promoting implementation of the strategic lines of action will be systematized so that the national institutions making up the Intersectoral Commission, adolescents, community members, public and indigenous authorities in each target municipality and international cooperation agencies can all be informed about them, assess them and follow them up. To this end, a systematized model is being developed that will provide a basis for ongoing monitoring and analysis.

114. **Strategic line of action No. 7: Social mobilization to prevent children from becoming involved with illegal armed groups.** The objective of this line of action is to create a culture in Colombian society as a whole and in its component regions that firmly rejects the violation of children's and adolescents' rights, particularly their recruitment and use by illegal armed groups, and that promotes the reporting of such violations.

115. Implementing this policy involves three cross-cutting areas of endeavour. Work is being done in these areas in parallel with the above strategic lines of action. They are:

116. **Area No. 1: Institutional visits. Objective: Empowering local authorities to fulfil their obligations.** Steps taken in this area are intended to assist State officials in providing comprehensive protection for children, which includes: promoting their rights; safeguarding and fulfilling those rights; preventing violations of, or threats to, those rights; restoring them when they have been violated; and designing and implementing public policies for children and adolescents through the Social Policy Councils. To advance this work, the technical secretariat team carries out an initial institutional visit and meets with municipal authorities along with national bodies working on youth-related issues at the regional level, such as ICBF, the Presidential Agency for Social Action, mediation centres, prosecution services, judges and security forces, and social organizations.

117. **Area No. 2: Reparation for child victims of violence. Objective: Promoting the reporting of cases of recruitment and reparation for victims.** This work has been undertaken by the technical secretariat of the Intersectoral Commission and Fundación Social with financial support from IOM and expert assistance from the technical secretariat. The aim is to develop a component on full reparation and reconciliation as part of the ICBF special care programme for demobilized children. This programme seeks to prepare adolescents to work with their family and the community to achieve genuine reconciliation, to become reintegrated into society and thus to avoid becoming victims again, once they have completed the special care programme.

118. The National Reparations and Reconciliation Commission and the Intersectoral Commission were actively involved in drafting Decree No. 1290 of 2008, which established the Individual Programme of Administrative Remedies for Victims of Illegal Armed Groups. Illegal recruitment is included in this decree as an act giving rise to the right to administrative reparations, without prejudice to any judicial remedies which victims might seek.

119. **Area No. 3: Promoting the involvement of children. Objective: Ensuring that public policies for children and adolescents are designed and implemented with the**

**involvement of children and adolescents.** In order to secure this objective, strategic line of action No. 3 includes a mapping component that is to be developed solely by children, adolescents and youth using information based on their own perceptions. A permanent seat with voting rights in each of the Social Policy Councils is also reserved for children, adolescents and youth.

120. In short, the Intersectoral Commission's strategy is to mobilize the nation as a whole into condemning the recruitment of children and supporting all the efforts of the State and society to prevent threats to, and violations of, the human rights of children, adolescents and youth in Colombia. This is especially important in the case of all forms of violence against children, such as domestic violence, sexual violence, political violence, social violence and exploitation.

## A. Definition of direct participation in hostilities

121. Direct participation in hostilities is defined in international law. This concept should be considered in the light of the constitutional corpus (art. 93 of the 1991 Constitution) and Act No. 5 of 1960, by which Colombia ratified the Final Act and the Conventions adopted at the Diplomatic Conference of Geneva on 12 August 1949. It is further developed in Act No. 171 of 1994, by which Colombia approved the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), adopted in Geneva on 8 June 1977.

122. Colombian legislation does not explicitly define direct participation in hostilities, nor does the jurisprudence of the Constitutional Court (decisions C-511 of 1994, SU-200 of 1997, C-339 of 1998, C-340 of 1998 and C-456 of 2002). However, at the national level the term has been used in accordance with the Convention on the Rights of the Child and the Optional Protocol.<sup>37</sup>

<sup>37</sup> **Decision C-511 of 16 November 1994**

These international conventions (Convention on the Rights of the Child), ratified by Colombia, are binding on the State under the Constitution and are incorporated into Colombian law with respect to the special protection granted to minors, especially with regard to those over the age of fifteen (15) years but below the age of eighteen (18) years so that this special protection is accorded to them during the performance of military service and with respect to its risks.

### **Decision SU-200 of 17 April 1997**

It is clear that, as a general rule, high-school graduate conscripts who are minors are not allowed to participate in combat without violating their fundamental rights and contravening clear standards of international law that have been duly incorporated into domestic legislation; only in extreme cases, and when there is no adult able to fulfil a dangerous assignment, can they be accepted as volunteers for tasks other than administrative or social service activities in view of the States's obligation to provide them with special protection.

(...)

Both the physical and psychological condition of underage high-school graduate conscripts and the special protection accorded to them under domestic and international law make their deployment in public order zones an unreasonable requirement. Their presence in such zones would go beyond the limits of military service requirements, given their young age and almost complete lack of military experience.

Taking into account the absolute need to differentiate between age groups, which, as set out above, are recognized by the judicial system as having different legal statuses and in view of the fact that this differentiation ultimately gives effect to a real and effective system of justice, the Court finds that the National Army did violate, or at least seriously and unjustifiably endanger, the right to life and the

physical and mental integrity of minor high-school graduate conscripts whom it deployed to the so-called “red zones”; regarding high-school graduate conscripts who have reached the age of majority, it is necessary to reiterate that, although their duties go beyond those of minors, they may be deployed in public order zones only if they have received adequate training that will allow them to confront the enemy on equal terms.

**Decision C-339 of 8 July 1998**

This being so, it is clear that minors over the age of fifteen years and below the age of eighteen years can be conscripted into military service, but cannot be assigned duties relating to armed conflict, nor can they participate directly in hostilities, nor be exposed to situations endangering their lives, since the Constitution stipulates that their protection should, at all times and places, take precedence over other considerations (art. 44). Therefore, the armed forces should refrain from recruiting such minors and give preference to conscripts who have reached the age of majority, as provided for in the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts and the Convention on the Rights of the Child in compliance with the standards of international humanitarian law.

**Dissenting opinion C-339 of 1998: Judge Alejandro Martínez**

(...) when a minor is conscripted into the security forces he is to a certain extent being involved in combat, since he is in uniform, in the service of the armed forces, in other words, in the service of one of the parties to the armed conflict occurring in the country.

(...) By this I do not mean to say that the mere fact of belonging to the security forces turns a person into a combatant and military target, under the terms of international humanitarian law, since the definition of “combatant” is a restrictive one. In fact, in according to humanitarian standards, and in particular articles 50 and 43 of Protocol I, combatants are those who participate directly in hostilities as active members of the armed forces or of an armed unit incorporated into those armed forces. Furthermore, as article 50 of Protocol I states, in cases where there is some doubt as to a person’s status, he or she shall be considered to be a civilian. That person may not then be a military target. Consequently, in principle, someone who forms part of the security forces but is not an active member is not, strictly speaking, a combatant; therefore, in many cases, minors could serve without being combatants. However, the previous distinction is too subtle, and the risks run by conscripted minors are therefore excessive.

**Decision C-340 of 8 July 1998**

(...) the standard under consideration provides for differential treatment on the basis of age, distinguishing between the constitutional obligations of those over 18 years of age and those below 18. This differentiation is established, not out of preference or predilection, but with a view to protecting minors, as may be deduced from article 44 of the Constitution, article 13, and the international treaties which are part of the constitutional corpus and thus prevail over domestic legislation (art. 93 of the Constitution); these provisions fully justify the differentiation made in the legal regulations on recruitment.

Legislators have also distinguished between those who, as minors, volunteer for service under the terms of the general regulation and those who are simply covered by the basic rule. This is not unconstitutional, since the distinction is not arbitrary. It is, rather, founded upon a recognition of the wishes of the minor which is in turn based on the right to the free development of personality (art. 16 of the Constitution), buttressed by parental consent. In the opinion of the Court, this justifies the fact that they are allowed to serve in the armed forces by performing activities which do not endanger their lives or their well-being.

Nevertheless, it must be taken into account that, under the standards established in international treaties, those below the age of 15 years may in no case, not even voluntarily, be accepted or, even less, called up for such service, according to the settled jurisprudence of this Court. On this occasion, it behooves us to reaffirm decisions C-511 of 16 November 1994 (M. P. Dr. Fabio Morón Díaz), SU-200 of 17 April 1997 (M. P. Dr. Carlos Gaviria Díaz and M. P. Dr. José Gregorio Hernández Galindo) and C-339 of 8 July 1998 (M. P. Dr. Carlos Gaviria Díaz). Regarding those over the age of 15 years and below the age of 18 years, the Court reiterates that, although such persons may be mobilized for military service under the exceptional conditions provided for by law, they may under no

## B. Legal precedents for the prohibition of the recruitment of persons under the age of 18 years

123. The Colombian armed forces, at the forefront of the implementation of standards of international humanitarian law and the promotion of the best interests of the child, pursuant to Act No. 418 of 1997 and Act No. 548 of 1999, under no circumstances recruit children under the age of 18 years into their ranks, even if the parents give their consent.

124. When the above-mentioned standards were issued, more than 818 persons under the age of 18 years were discharged from the armed forces. Thus, even before the entry into force of the Protocol for Colombia, there was no longer any person under the age of 18 years in the armed forces.

125. The precedents for this prohibition are summarized as follows:

(a) In Colombia, before and during the entry into force of the Convention on the Rights of the Child, numerous efforts were undertaken to do away with the recruitment of children into the armed forces and to prevent their recruitment by illegal armed groups. In that context, Act No. 418 of 1997 prohibiting the conscription of children under 18 years of age was promulgated by the State in the following terms, while voluntary recruitment, as will be seen below, was prohibited by Act No. 548 of 1999:

*Article 13.* Persons under 18 years of age shall not be called up for military service. Students in the eleventh grade who are underage and are selected for military service under Act No. 48 of 1993 shall have their call-up postponed until they reach the age of majority, unless they voluntarily choose to fulfil their constitutional obligation immediately with the express written consent of their parents. In such cases, underage recruits may not be assigned to areas where war operations are taking place or be employed in armed conflict operations.

If, on reaching the age of majority, a young person who has postponed his military service is enrolled in an undergraduate programme in a higher education institution, he shall have the option of serving immediately or of postponing his service until he has completed his studies. Should he choose to serve immediately, the educational institution shall reserve his place for him under the same conditions; should he choose to postpone his service, his degree may be awarded only once he has completed his military service as the law requires. The interruption of higher studies shall make the obligation to perform military service enforceable.

Any civil or military authority failing to apply this provision shall be charged with misconduct punishable by dismissal.

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circumstances be directed or deployed to carry out assignments or fulfil duties or tasks which involve participating in combat situations such as those that occur in armed conflicts, nor may they be entrusted with responsibilities relating to hostilities, nor assigned duties representing a danger to their lives or a risk to their physical or psychological well-being. Any of these situations would represent a violation of article 44 of the Constitution, which stipulates that their protection from any form of moral or physical violence should have precedence and which directs the State “to assist and protect children in order to guarantee their harmonious and complete development and the full exercise of their rights”.

As the Court established in decision C-339, issued on the same date as this decision, “the armed forces should refrain from recruiting such minors and give preference to conscripts who have reached the age of majority”, in line with the mandatory provisions of international conventions on the rights of the child and the provisions of international humanitarian law.

The underlined text in this article was declared conditionally admissible by the Constitutional Court in decision C-340 of 1998 “on the understanding that underage recruits may be called up for military service only if they are over 15 years, if they are not allowed to engage in any hazardous activities, if they are assigned solely to non-combat functions in areas other than public order zones and always on their own initiative”. In its decision the Court further stated that “underage recruits, provided they have volunteered for service with the consent of their parents, may not be assigned to areas where war operations are taking place or be employed in armed conflict operations”;

(b) In addition, article 13 of Act No. 418 of 1997 was amended by article 2 of Act No. 548 of 1999, which introduced a general prohibition on the recruitment of minors. The legislature thereby provided that no person under 18 years of age, without exception, could join the national army, thus doing away with the special arrangement for voluntary recruitment with the express consent of the minor’s parents. From that point on, minors could no longer join the armed forces, even with the consent of their parents.

### **C. Non-recruitment of persons under 18 years of age in Colombia**

126. In Colombia, the special addendum to article 98 of the Constitution sets the age of majority at 18 years.

127. Pursuant to article 216 of the Constitution and in accordance with Act No. 48 of 1993, military service is compulsory only for men aged 18 years or over. All Colombian males are required to have their military status determined upon reaching the age of majority at 18 years.

128. There is no legal, regulatory or constitutional provision for any exception whatsoever. Under no circumstance is a person under the age of 18 years recruited into the national armed forces.<sup>38</sup> The same applies to persons aged 50 years and over.<sup>39</sup>

129. Under article 93 of the Constitution, international human rights treaties and agreements ratified by the Colombian Congress take precedence over domestic law even in a state of emergency. Furthermore, article 214, paragraph 2, of the Constitution provides that the rules of international humanitarian law shall be respected under such circumstances as well. This principle is also enshrined in article 3 of Act No. 137 of 1994, which regulates states of emergency in Colombia.

130. Accordingly, the Government does not recruit minors in situations of war with another nation or internal strife under any circumstance, despite the opportunity provided by the legislature to provisionally amend the ordinary statutes regulating compulsory military service, in accordance with article 30 of the Act. This is particularly the case in view of the reservation entered by the Colombian Government to article 38 of the Convention on the Rights of the Child, in which it broadened the definition of childhood to include children between the ages of 15 and 18 years.

131. In order for young men reporting for compulsory military service to prove that they have reached the age of majority (i.e., 18 years) and are therefore eligible for enlistment in the relevant military district, they must produce a number of documents, including their

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<sup>38</sup> Act No. 548 of 1999, article 2: “Persons aged under 18 years shall not be called up for military service.”

<sup>39</sup> The military obligations of Colombians cease upon reaching 50 years of age, in accordance with the Act No. 48 of 1993, article 10, subparagraph 2.



birth certificate and identity card. Failure to fulfil this obligation incurs disciplinary or criminal penalties, as appropriate.

132. In accordance with Decree No. 1260 of 1970, births must be registered within one month of the child's birth. The birth certificate contains the person's name, gender, mother's and father's names, place and date of birth, thus providing evidence of their age.

133. In addition, pursuant to article 1 of Act No. 39 of 1961, the identity card is the only document that may be used by Colombian adults for identification purposes in all civil, political, administrative and judicial processes. It is thus the only valid document for establishing a person's identity from the age of 18 years on and for confirming that they have reached the age of majority. The National Civil Registry Office<sup>40</sup> issues identity cards only to persons who have reached 18 years of age.

#### **D. Compulsory military service in Colombia**

134. Compulsory military service in Colombia, which must be performed by all men aged 18 years or over, lasts from 12 to 24 months. In accordance with article 14 et seq. of Act No. 48 of 1993, the recruitment procedure is as follows:

(a) In the year preceding the attainment of majority, all Colombian males are required to register with the armed forces so that their military status may be determined. Failure to do so entitles the authorities to compel citizens to perform military service upon reaching the age of majority, without prejudice to the imposition of appropriate penalties;

(b) Registrees shall undergo three medical examinations. The first psychological and physical fitness test is administered by medical officers or specialized professionals serving the armed forces. This examination assesses fitness for military service in accordance with the regulations issued by the Ministry of Defence in this regard;

(c) At the request of the registree or of the recruitment authorities, a second medical examination may be performed to arrive at a definitive assessment of the individual's psychological and physical fitness for the purpose of determining his military status;

(d) Once these requirements have been fulfilled, selected conscripts who have been found to be fit for service are summoned to a given location at a date and time set by the recruitment authorities for selection and recruitment;

(e) Entry into service occurs only after a person has reached the age of majority;

<sup>40</sup> In addition to preparing and issuing identity cards for Colombians, the National Civil Registry Office is responsible for adopting Civil Registry policies in Colombia and for the adoption, implementation and monitoring of Civil Registry plans and programmes with a view to ensuring their optimal operation. It also is tasked with ensuring, within the country and abroad, the reliable and effective registration of acts, events and orders; issuing authorizations to bodies or individuals legally empowered to assist it with the performance of this duty; examining, through the relevant administrative acts, all matters relating to cancellations, reinstatements, annulments, legal formalities and legal acts recorded in the civil registry; issuing copies of civil registry documents upon request, in accordance with existing laws; handling, classifying, indexing and retrieving information stored in the civil registry; assigning a personal identification number upon registration of a birth in the Civil Registry Office; and carrying out the necessary monitoring of the actual documents and of their adherence to logical and technical requirements in order to ensure that each citizen has a number of his or her own and a unique identity document.

(f) Between 45 and 90 days after recruitment, a third psychological and physical fitness test is performed to verify the absence of any circumstances that would disqualify a soldier from military service.

## **E. Voluntary military service in Colombia**

135. Pursuant to Act No. 548 of 1999 as amended by Act No. 642 of 2001, minors are not called up for military service, even on a voluntary basis. Students under 18 years of age who are in their final year of secondary school and are selected for service pursuant to Act No. 48 of 1993 have their recruitment deferred until they have reached the age of majority.

136. Thus, only persons over 18 years of age may join the armed forces. For women, military service is always voluntary, whereas, for men, military service is voluntary only once they have completed their compulsory service or have received a military service record certifying that they have completed military service or have been exempted from service on any of the legal grounds provided for in this regard.

137. In the light of the above, pursuant to Decree No. 370 of 1994, an individual who has performed compulsory military service and who wishes to be accepted as a volunteer soldier must be between 18 and 35 years of age and submit a request to that effect to the appropriate force command. These are not, however, the only requirements to be met in order for the recruit to be accepted. The person must also be single, must have displayed very good conduct during compulsory military service, and must meet the physical and psychological requirements for voluntary military service. Voluntary military service lasts for a minimum of 12 months.

138. Decree No. 370 of 1991, which sets out the accompanying regulations for Act No. 131 of 1985, establishes the following procedure for acceptance of voluntary personnel:

*Article 1.* The procedure for the acceptance of persons who have performed compulsory military service as volunteer soldiers shall be as follows:

(a) A request for enlistment as a volunteer soldier shall be submitted personally by the individual concerned to the appropriate force command at the garrison closest to the applicant's home;

(b) The operational units or their equivalent shall submit such applications to the appropriate force command;

(c) Candidates shall be selected from among the unmarried applicants who displayed good conduct during military service and who meet the physical, psychological and moral requirements for voluntary military service;

(d) Volunteer soldiers shall be enlisted by administrative order of the appropriate force command.

*Paragraph 1.* The document attesting to the official recruitment of volunteer soldiers is the administrative order issued by the force command, and the date appearing thereon shall be the entry date for all legal purposes.

...

*Article 2.* Volunteer soldiers shall not be older than 35 years; when that age is reached, the appropriate force command shall discharge the individuals concerned by administrative order.

*Appended paragraph.* The force commander may at any time, by administrative order, discharge volunteer soldiers who have completed at least 12 months of service if they request to be discharged or if their presence is no longer deemed necessary.

Before that period has elapsed, they may be discharged on grounds of severe disability, diminished physical and psychological capacity for military service, non-attendance for more than 10 days, a court order or misconduct.

...

Any outstanding bonuses or allowances owed to a volunteer soldier at the time of discharge shall be paid within the following month.

Entitlement to disability benefits or other types of compensation shall be determined in accordance with the established procedure for regular soldiers of the armed forces.

*Article 4.* Volunteer soldiers may be transferred or assigned to the various units of each force within the country, as dictated by the needs of the service.

139. In addition, in accordance with article 19 of Act No. 48 of 1993, voluntary personnel have priority over individuals chosen by lot from among those considered fit for compulsory military service.

140. Citizens aged 18 years or over who volunteer for service must, at the time of enlistment, present their birth certificate and identity card to prove that they have reached the age of majority. Furthermore, men must produce their military service record in order to show that they have performed their compulsory military service or that they registered with the armed services but were exempted from service.

141. Induction personnel then check to make sure that new enlistees meet all the requirements referred to in Decree No. 370 of 1991. Male volunteers' conduct during their compulsory military service is reviewed and they undergo physical examinations. Women volunteers must demonstrate that they have reached the age of majority and must undergo routine physical examinations: an initial medical examination to determine fitness for military service and a second examination to reassess any impairments identified during the initial examination.

142. In accordance with Decree No. 370 of 1991, the minimum period of service for volunteer soldiers is 12 months, after which the force commander may, at any time, discharge volunteer soldiers by administrative order if they request to be discharged or if their presence is no longer deemed necessary. Before that period has elapsed, grounds for early discharge include severe disability, diminished physical or psychological capacity for military service, non-attendance for more than 10 days, a court order to that effect or misconduct.

## **F. Military schools**

143. The minimum age for enrolment in any public or private educational institution in Colombia, including military schools, is five years. Entry is voluntary, with the permission and under the guardianship of the child's parents.<sup>41</sup>

144. While there are some basic and secondary schools which are run by the nation's security forces, the academic curricula used and the education provided in these institutions fully comply with the provisions of articles 41 and 67 of the Constitution and with the General Education Act and are closely supervised by the Ministry of Education.

<sup>41</sup> In accordance with article 68, paragraph 4, of the Constitution, "Parents shall have the right to select the type of education to be received by their minor children."

145. In accordance with article 41 of the Constitution, “in all public and private educational institutions, the study of the Constitution and civic education shall be mandatory. Democratic practices will be promoted through the teaching of the principles and values of citizen participation”.

146. In accordance with article 67 of the Constitution, General Education Act No. 115 of 1994 defines the following educational objectives:

(a) Full personal development, without limitations other than those imposed by the rights of others or by the legal system, through a comprehensive educational process aimed at developing physical, mental, intellectual, moral, spiritual, social, emotional, ethical, civic and other human values;

(b) Inculcation of respect for life and other human rights, peace, the principles of democracy, coexistence, pluralism, justice, solidarity, equity, and the exercise of tolerance and freedom;

(c) Instruction to facilitate the participation of all in decisions that affect them in terms of the economic, political, administrative and cultural affairs of the nation;

(d) Instruction designed to instil respect for legitimate authority and the law, national culture, Colombian history and national symbols;

(e) The acquisition and generation of highly advanced scientific and technical knowledge and of humanistic, historical, social, geographic and aesthetic knowledge through the inculcation of intellectual practices that promote the development of knowledge;

(f) The study and critical understanding of the national culture and of the ethnic and cultural diversity of the country as the foundation for national unity and identity;

(g) Access to knowledge, science, technology and other cultural assets and values, the promotion of research and of the various expressions of artistic creativity;

(h) The development and promotion of an awareness of national sovereignty and of international solidarity and integration, particularly with regard to Latin America and the Caribbean;

(i) Development of sound judgement and of critical and analytical thinking skills that can contribute to national scientific and technical progress and help direct it towards the cultural development of the population and the improvement of quality of life, participation in the search for alternative solutions to problems, and the social and economic advancement of the country;

(j) The development of a commitment to the preservation, protection and improvement of the environment, of the quality of life, of rational natural resource use and of disaster prevention within the framework of an environmental and risk management culture oriented towards the protection of the national cultural heritage;

(k) Instruction in occupational practices based on technical knowledge and skills and the development of an appreciation of the value of work as a basis for individual and social development;

(l) Training in health and hygiene, a comprehensive approach to the prevention of problems having an impact on society, physical education, recreation, sports and the appropriate use of leisure time;

(m) The development, both in each individual and in society as a whole, of the capacity to create, investigate and employ suitable technology to promote national development and to facilitate the entry of students into the production sector.

147. Accordingly, pursuant to article 14 of the General Education Act, amended by article 1 of Act No. 1029 of 2006, the study of the Constitution and civic instruction are compulsory in all public and private educational institutions, as are the proper use of leisure time, the promotion of cultural diversity, physical education, recreation and sports training, environmental protection, ecology and the conservation of natural resources, education for justice, peace, democracy, solidarity, fraternity, cooperativism and the inculcation of human values in general, as well as sex education, which is to be tailored to the mental, physical and emotional needs and age of the students.

148. In accordance with the Constitution, the family, as the basic unit of society, has primary responsibility for the education of children until they reach the age of majority or are otherwise emancipated. Society and the State also share in this responsibility with a view, *inter alia*, to giving effect to the principle enshrined in article 44 of the Constitution, whereby the rights of children have priority over the rights of others.

149. Furthermore, in accordance with article 68 of the Constitution, the entire educational community — composed of students, who are at the heart of the educational process, in addition to civilian or military instructors, students' parents or guardians, graduates, school principals and administrators — participate in the development, implementation and evaluation of the overall educational plan and in the smooth running of educational institutions, thus ensuring the ongoing participation of children in the process.

150. Students work actively with the administrators of each educational institution (i.e., the principal, the governing board and the academic board) and designate a representative from any of the three upper grades to serve on the governing board of each State primary and secondary school, in accordance with the regulations of the institution.<sup>42</sup>

151. In all basic and secondary schools, pursuant to article 94 of the General Education Act, for each academic year students designate a final-year pupil to act as their spokesperson and advocate.

152. Under article 32 of the General Education Act, which deals with disciplinary action in educational institutions, the principal or director of an educational institution, whether military or civilian, may confer honours or impose penalties on students in accordance with the school's regulations or rulebook, pursuant to the provisions laid down by the Ministry of Education.

153. In accordance with article 87 of the General Education Act, the school rule books outline the internal standards and norms that have been accepted by parents, teachers and pupils from the time of their enrolment. They set out the rules that govern relations between the various parties, academic affairs and other activities related to the provision of public education services, subject to the provisions and limitations established in the Constitution and other laws.

154. There are 46 military schools operating in Colombia:

	<i>Name of institution</i>	<i>City</i>	<i>Command unit</i>	<i>Year of establishment</i>
1	Agustín Codazzi	Palmira	BICOD – Engineer Battalion No. 3	1987
2	Almirante Colón	Cali	Combat Service Support Battalion No. 3	2001

<sup>42</sup> Article 93 of the General Education Act.

	<i>Name of institution</i>	<i>City</i>	<i>Command unit</i>	<i>Year of establishment</i>
3	Almirante Colón	Montería	BIJUN – Junín Battalion	1998
4	Almirante Padilla	Bogotá	BALAN – Artillery Battalion No. 13	1993
5	Antonio Nariño	Bogotá	BPOM-13 – Military Police Battalion No. 13	1972
6	Caldas	Bogotá	ESCAB – Cavalry School	1951
7	Gustavo Matamoros	Cúcuta	GMMAZ – Mechanized Cavalry Group No. 5	1997
8	Inocencio Chinca	Ibagué	BIROK – Infantry Battalion No. 18	1988
9	Inocencio Chinca	Sogamoso	BATAR – Artillery Battalion No. 1	1970
10	José a Anzoátegui	Neiva	BATEN – Artillery Battalion No. 21	1984
11	José Antonio Galán	Bogotá	ESLOG – School of Logistics Battalion	1981
12	José Antonio Páez	Villavicencio	BIALB – Engineer Battalion No. 7	1984
13	José María Cabal	Cali	BPOM-3 – Military Police Battalion No. 3	1981
14	José M. Córdova	Medellín	BAJES – Artillery Battalion No. 4	1954
15	Juan José Rondón	Tunja	BIBOL – Infantry Battalion No. 1	1980
16	Juan José Rondón	Funza	ESCOM – School of Communications	1972
17	Mariscal Sucre	Bogotá	ESART – Artillery School	1978
18	Miguel Cabal Barona	Buga	BAPAL – Artillery Battalion No. 3	1992
19	Pedro Nel Ospina	Medellín	BIOSP – Engineer Battalion No. 4	1998
20	Santander	Facatativa	ESCOM – School of Communications	1989
21	Santander	Bucaramanga	BIRIC – Ricaurte Battalion	1965
22	Simón Bolívar	Bogotá	ESING – Military Engineer Battalion	1977
23	Tomas Cipriano Mosquera	Popayán	BIJOU – Infantry Battalion No. 7	1983
24	Abolsure	Cartagena	BFIM2 – Rifle Battalion No. 2, Marine Infantry Brigade	1982
25	Pantano de Vargas	Fusagasuga	BCG – Infantry Battalion No. 39 Sumapaz	2002

	<i>Name of institution</i>	<i>City</i>	<i>Command unit</i>	<i>Year of establishment</i>
26	Almirante Colón	Cartagena	BFEIM – Special Naval Infantry Force Battalion	1985
27	Rafael Reyes	Madrid	ESSUB – School for Non-Commissioned Officers FAC	1994
28	Héroes Granadinos	Bogotá	BFIM7 – Marine Infantry Security Battalion No. 7	1971
29	Antonia Santos	Villavicencio	BASER7	
30	Colombia	Pasto	BIBOY – Infantry Battalion No. 9	1983
31	Liceo Moderno	Girardot	BICOL – Infantry Battalion No. 28	2005
32	Almirante Colón	Cerete	BIJUN – Junín Battalion	2000
33	Aquileo Parra	Bogotá	BASER13 – Service Battalion No. 13	1974
34	Club de Leones	Girardot	BICOL	1986
35	Liceo Social Compartir	Sohacha	BALAN – Artillery School	2007
36	Fray Jose I. Mariño	Chiquinquirá	BISUC – Infantry Battalion No. 2 “Mariscal Sucre”	1998
37	Almirante Colón	Lorica	BFIM5 – Marine Infantry Training Centre	
38	Decroly	Sincelejo	BFIM5	
39	Pinar de Canadá	Cartagena	BPNM	
40	Fernández Bustamante	Cartagena	BPNM	
41	Antonio Ricaurte	Bogotá	GMRIN	
42	Custodio García Rovira	Manizales	BIAYA	
43	Joaquín de Caicedo	Cali	BIPIC	
44	Pedro Alcántara Herrán	Armenia	BICIS	
45	Francisco P. Santander	Cúcuta	GMMAZ – Mechanized Cavalry Group No. 5	1997
46	Acoolsure	Barranquilla	BAPOM2 – Naval Police Battalion No. 2	1985

*Source:* Ministry of Defence.

155. In addition to the general standards governing military schools, they are also regulated by resolution No. 00715 of 11 August 1999, issued by the Ministry of Defence, regarding educational institutions that apply for military school status in Colombia.

156. These regulations concern the minimum number of hours of instruction per week and the characteristics of the military education provided in these schools; they do not interfere in any way with the curricula established by the Ministry of Education.

157. Military school students, pursuant to Decrees No. 1790 and No. 1793 of 2000, are not members of the armed forces and under no circumstances have military status or are called up in the event of mobilization or armed conflict.

158. For an educational institution to be able to provide military instruction from the ninth grade of secondary school on up,<sup>43</sup> in addition to obtaining the relevant certification from the Ministry of Education, it must undergo a process of approval by the Ministry of Defence. To that end, it must submit an application through the force command (army, navy or air force) of the operating site, which should include a copy of the course approval certificate or of the operating licence issued by the Ministry of Education, the regulations regarding uniforms,<sup>44</sup> the plans of the school building, an insurance policy signed by the school principal and a student accident insurance policy, and a copy of the school's internal regulations.

159. Until the Ministry of Defence has issued its approval, the school cannot provide military instruction, although it may operate under the licence granted by the Ministry of Education.

160. Since the military instruction provided in schools approved by the Ministry of Defence is voluntary,<sup>45</sup> students may, at any time, request to be exempted from those classes. This does not entail the child's exclusion from the school; on the contrary, if the child and his or her parents or guardians so wish, the child may continue to be educated in that school, in accordance with the provisions of the Ministry of Education for all schools in the country.

161. The same thing occurs in the event that a child fails the military component of the curriculum, in which case the child may choose to repeat or abandon that component.

162. In order for children to initiate their military instruction, they must be enrolled in ninth grade and the educational institution must transmit to the Recruitment and Army Reserve Division, through the relevant military district,<sup>46</sup> a list of all the children concerned, together with the following documents for each child: birth certificate, a full-

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<sup>43</sup> Article 11 of Act No. 115 of 1994 (General Education Act) provides that formal education preceding higher or university education is divided into three levels:

- (a) Preschool education, which includes at least one compulsory grade;
- (b) Basic education, which includes nine grades divided into two cycles: basic primary education, consisting of five grades, and basic secondary education, consisting of four grades; and
- (c) Intermediate education, consisting of two grades.

It is in the ninth grade of basic secondary education (i.e., the final grade of basic education) that military education begins, when students are about 14 or 15 years of age.

<sup>44</sup> Public and private educational institutions in Colombia with an emphasis on religious, military, commercial, technical, academic or other areas of education require all students to wear uniforms. In any event, military school uniforms are not the same as or similar to those used by the armed forces. Their purpose, in addition to encouraging discipline, is to distinguish between students from different schools.

<sup>45</sup> In order for students to start receiving military instruction, the written consent of the parents and the pupils must be given.

<sup>46</sup> Military districts are the only authorities empowered to determine the military status of Colombian citizens.



face photograph, evidence of successful completion of eighth grade, a sensory examination report and a photocopy of the child's identity card.<sup>47</sup>

163. The military district then administers a psychological and physical fitness test to determine which children are fit to embark upon the preliminary phase of military instruction.

164. Once students have passed this preliminary phase, they undergo a second physical examination upon entering tenth grade<sup>48</sup> and a third examination in eleventh grade.<sup>49</sup> Only those who are deemed fit may continue with their military education.

165. The military instruction provided in military schools is divided into three phases:

(a) The preliminary phase takes place over 39 weeks: 38 weeks consisting of 15 daytime hours of study per week, 4 hours of evening study,<sup>50</sup> a swearing-in ceremony at which medals and honours are awarded, and 1 week devoted to a field exercise that lasts no less than 4 days. This phase of military instruction does not require the use of arms and coincides with the academic year for ninth-grade pupils;

(b) The first phase (second phase of military education) includes basic military instruction with an emphasis on respect for human rights. It is provided to students enrolled in tenth grade over a period of 39 weeks, as follows: 38 weeks with 15 daytime hours of study per week, 6 daytime hours each fortnight devoted to a field exercise, 4 hours of evening study per month, an oath of allegiance ceremony that includes the award of arms, medals and honours, and 1 week per year devoted to a field exercise that lasts no less than 4 days.

166. Students who successfully complete the three phases of military instruction and their academic training are awarded a military card as first-class reservists.<sup>51</sup> Those who do not attend the military instruction component, who fail it or who have not been deemed fit must

<sup>47</sup> The identity card, pursuant to article 109 of Decree No. 1260 of 1970, is the document used to identify persons between the ages of 7 and 17 years. It is issued by the National Civil Registry Office.

<sup>48</sup> First grade of intermediate education.

<sup>49</sup> Second grade of intermediate education and final grade of formal education prior to higher education.

<sup>50</sup> Evening study takes place on Fridays between 5 p.m. and 9 p.m. Students are prohibited from performing guard duty at any time.

<sup>51</sup> In accordance with article 49 et seq. of Act No. 48 of 1993, "Colombians are armed force reservists from the moment their military status is determined until they reach 50 years of age (...)". First-class reservists are:

(a) Colombians who perform their compulsory military service;

(b) Students who have been attending officer or non-commissioned officer training schools for at least one academic year;

(c) Colombians who can demonstrate that they have performed military service in States with which Colombia has signed agreements in this respect;

(d) Pupils at secondary schools approved by the Ministry of Defence who are receiving military instruction;

(e) Individuals who have attended police officer or non-commissioned officer training schools for a minimum of one academic year, individuals who have performed their compulsory military service in that institution, and police officers who have served in that capacity for a minimum of two years.

Colombians who do not perform military service because the required number of recruits has been exceeded or because they have been exempted from service are second-class reservists.

register and have their military status determined in the same way as any other male in Colombia, as explained earlier.

167. The director-coordinator of military education in each school is a retired officer with a rank no lower than captain or lieutenant-commander. This person ensures and is responsible for the effective provision of military instruction, the proper treatment of the children, respect for human rights and individual freedoms, and the observance of sound practices, as well as for placing a retired female non-commissioned officer in charge of the female children. In cases where this is not possible, a male non-commissioned officer is assigned to that role but, in any event, under the supervision of a female teacher.

168. Educational institutions that provide military instruction establish an advisory board composed of the commander of the supervising force (the corresponding army, navy or air force command unit), the school principal, the commander of the relevant military district, who also serves as the board's secretary, and the chief of Section 3 – Operations of the command unit.

169. The functions of the advisory board include: (a) arriving at a final determination in cases where students are charged with misconduct, as provided for in military regulations, provided that they are receiving military instruction; and (b) ensuring the proper treatment of personnel, the observance of sound practices, and respect for human rights and individual freedoms.

170. Actions constituting misconduct and disciplinary measures are clearly defined in resolution No. 00715. Such measures are taken in accordance with due process and with the knowledge of the parents. The use of punishments that are detrimental to the physical or moral integrity of children is strictly prohibited.

171. Penalties or punishments may be challenged before the commanding officer of the officer who has ordered them within 72 hours of their imposition.

## **G. Illegal armed groups**

172. The illegal armed groups that call themselves the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN) continue to operate in Colombia.

173. The Government has kept the option of dialogue open in the hope of moving forward with a peace process based on concrete actions that reflect a real desire for peace on the part of these groups and that will lead to a genuine peace process.

174. To this end, since the beginning of its mandate, the Government has been receptive to a number of proposals for possible ways of attaining peace, as related below.

### **Peace process between the Colombian Government and self-defence groups**

175. In the course of the peace process conducted with now-demobilized self-defence groups and during the period of collective demobilization provided for under the Santa Fe de Ralito Agreement, a group of 307 minors were released from armed groups and placed under the protection of ICBF, the competent State body. A further 84 children who had been handed over by the self-defence groups before the demobilization process began were also incorporated into the programmes offered by ICBF.<sup>52</sup>

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<sup>52</sup> ICBF is a body attached to the Ministry for Social Protection which was established in 1968 to

176. The 391 children were released from the self-defence groups in two specific phases: (a) during the exploratory phase; and (b) during the collective demobilizations.

177. In addition, a significant number of the demobilized persons were between 18 and 23 years old when they laid down their arms, which leads one to believe that they joined the group when they were still minors; 6.7 per cent of these persons were female and 93.3 per cent male.

**Active participants in the reintegration process aged between 18 and 23 years when the self-defence groups demobilized**

<i>Sex</i>	<i>Number</i>
Men	9 927
Women	767
<b>Total</b>	<b>10 694</b>

*Source:* High Council for the Social and Economic Reintegration of Armed Insurgents, September 2007.

178. With a view to determining which members of illegal armed groups had joined as minors, the Justice and Peace Unit of the Attorney General's Office examined the depositions of members tried during the demobilization process under Act No. 975 of 2005 (Justice and Peace Act)<sup>53</sup> and found that at least 1,040 had done so.

<i>Organization</i>	<i>Section</i>	<i>Number (Demobilized)</i>
Campesino Self-Defence Groups of Córdoba and Urabá (ACCU)	Catatumbo	4
Campesino Self-Defence Groups of Córdoba and Urabá (ACCU)	North	409
Campesino Self-Defence Groups of Córdoba and Urabá (ACCU)	Elmer Cárdenas	80
Campesino Self-Defence Groups of Córdoba and Urabá (ACCU)	Banadero	7
Campesino Self-Defence Groups of Córdoba and Urabá (ACCU)	Montes de María	1
Campesino Self-Defence Groups of Córdoba and Urabá (ACCU)	Tayrona	142
Campesino Self-Defence Groups of Córdoba and Urabá (ACCU)	Calima	8
Campesino Self-Defence Groups of Córdoba and Urabá (ACCU)	Mineros	32
Campesino Self-Defence Groups of Córdoba and Urabá (ACCU)	Héroes de Granada and Chocó	5
Campesino Self-Defence Groups of Córdoba and Urabá (ACCU)	Pacífico and Chocó	16
Campesino Self-Defence Groups of Córdoba and Urabá (ACCU)	Tolima	20
Campesino Self-Defence Groups of Córdoba and Urabá (ACCU)	North-western Antioquia	6
Independent	Cundinamarca	14
Self-Defence Group of Magdalena Medio (ACMM)	Magdalena Medio	133
Self-Defence Group of Magdalena Medio (ACMM)	Puerto Boyacá	108

address problems such as nutritional deficiencies, the breakdown and instability of the family and abandoned children. It is present in all departmental capitals, with regional and district offices. It also has 201 municipal centres to serve the population in municipalities throughout the country.

<sup>53</sup> Of the 31,671 demobilized members of self-defence groups, 3,284 faced charges under the Justice and Peace Act.

Central Bolívar Section (BCB)	Vencedores de Arauca	3
Central Bolívar Section (BCB)	North-eastern Antioquiá	16
Central Bolívar Section (BCB)	Southern Bolívar	36
<b>Total</b>		<b>1 040</b>

*Source:* Office of the Attorney General.

(a) *Exploratory phase*

179. During the exploratory phase that preceded the official start of the peace process, in a unilateral gesture of peace in June 2003, on three different occasions 15 persons under the age of 18 who were linked to self-defence groups were released at the request of the Office of the High Commissioner for Peace. These people were placed under the care and protection of ICBF and, in some cases, the Office of the Ombudsman and UNICEF.

<i>Department</i>	<i>Demobilization zone</i>	<i>Section</i>	<i>Minors assisted</i>	<i>Date</i>
Santander	San Rafael de Lebrija-Rionegro	Central Bolívar	9	7 December 2002
Santander	San Rafael de Lebrija-Rionegro	Central Bolívar	6	19 December 2002
Antioquia	El Bagre	Central Bolívar	14	3 June 2003
Antioquia	Puerto López-El Bagre	Central Bolívar	40	11 June 2003
Meta	Puerto Gaitán	Meta and Vichada	15	27 June 2003
<b>Subtotal, first phase</b>			<b>84</b>	

*Source:* Colombian Family Welfare Institute (ICBF).

(b) *Collective demobilization phase*

180. When the collective demobilization of self-defence groups began with the demobilization of the Cacique Nutibara group in November 2003 and was then resumed in November 2004, a protocol for the care of these children was devised in conjunction with ICBF.

181. Persons under the age of 18 were not taken to the assembly, disarmament and demobilization zones where other members of self-defence groups had to congregate. However, in the holding areas set up to expedite the assembly and subsequent demobilization of members of self-defence groups, in the days leading up to demobilization, teams from various government bodies worked with staff from the National Civil Registry Office to identify children whose presence had not been detected before, either because information had not been provided by that child or because the group leader had not realized that they were minors.

182. Once the presence of children in the section or front to be demobilized was ascertained and verified (sometimes through information provided by former commanders of illegal groups and sometimes through the field work carried out in the course of the judicial circuit session held prior to demobilization), the Office of the High Commissioner for Peace immediately alerted the ICBF officials who were responsible for protecting these children.

<i>Department</i>	<i>Demobilization zone</i>	<i>Section</i>	<i>Minors assisted</i>	<i>Date</i>
Antioquia	Medellín	Cacique Nutibara	49	12 November 2003
Antioquia	El Dos-Turbo	Bananero	7	24 November 2004
Valle	Galicia-Bugalagrande	Calima	27	17 December 2004
Córdoba	Santa Fe de Ralito-Tierralta	San Jorge and Minero	7	28 January 2005
Antioquia	Ciudad Bolívar	South-western Antioquia	1	30 January 2005
Sucre	Gua randa	La Mojana	1	5 February 2005
Chocó	Itsmina	Pacífico and Chocó	3	21 August 2005
Meta	Barranda de Upía	Centauros	63	27 August 2005
Meta	Puerto Gaitán	Meta and Vichada	11	16 September 2005
Vichada	El Placer-Cumaribo	Central Bolívar Carranceros	11	25 September 2005
Tolima	Ambalema	Tolima	16	20 October 2005
Antioquia	Santa Isabel-Remedios	Central Bolívar	16	7 December 2005
Risaralda	Santuario	Central Bolívar	1	16 December 2005
Arauca	Puerto Gaitán-Tame	Vencedores de Arauca	31	24 December 2005
Antioquia	Taraza	Minero	33	17 January 2006
Cesar	Chimila-El Copey	North	15	5 March 2006
Cesar	La Mesa-Valledupar	North	12	11 March 2006
Chocó	Ungía	Elmer Cárdenas	3	15 August 2006
<b>Subtotal, second phase</b>			<b>307</b>	
<b>Total</b>			<b>391</b>	

*Source:* Colombian Family Welfare Institute (ICBF).

183. Justice and Peace Act No. 975 of 2005 prescribes measures specifically designed to protect the fundamental rights of children and adolescents. Accordingly, article 10, paragraph 3, of the Act stipulates that, to be eligible as candidates for the benefits accorded by the Act, members of armed groups must hand over all recruited children to ICBF. This has to be verified by the judge when sentencing demobilized paramilitaries.

#### **Dialogue between the Government of Colombia and ELN**

184. In the talks and rapprochement between the Colombian Government and ELN that have occurred since September 2005, the Government has insisted that minors be released from the ranks of this illegal armed group.

185. The Government, particularly during the negotiations for a framework agreement with the group in 2007, was adamant that ELN suspend recruitment of children and make progress in discharging all children and adolescents from their ranks. Nevertheless, this was not accepted as part of the agreement by ELN.

186. Within the framework of the National Peace Council, the Government has emphasized that the release of children enlisted in illegal armed groups and the suspension of the recruitment of children are a priority. The Council has demanded that “ELN release

all minors within its ranks and suspend the recruitment of minors. This was one of the points which the Government brought to the negotiation table but which ELN has so far refused to accept. The National Peace Council has demanded that this point be accepted [...]”<sup>54</sup>.

## H. Dissemination of the Optional Protocol

187. The Optional Protocol has been widely disseminated within the armed forces with the help of a number of tools, including the websites of the various branches of the military. Special bulletins and articles on the Protocol are posted on these sites, particularly on its anniversaries. Moreover, the protection of children and their rights is part of the Ministry of Defence’s human rights strategy and is covered in the training courses offered by military academies.

188. The Ministry of Defence and the General Command of the Armed Forces have been implementing the following prevention strategies to protect children from violence: by Circular No. 151758 of 7 September 2004, the Commander-in-Chief of the Armed Forces directed force commanders to relay orders and instructions down the command chain concerning the strict enforcement of existing standards and provisions regarding the treatment of children released from illegal armed groups, whether on their own accord or as the result of a rescue operation. The Commander-in-Chief reminded them, in particular, of the obligation to comply with and enforce article 44 of the Constitution, the Convention on the Rights of the Child and the Optional Protocol.

189. By means of Standing Order No. 500-2 of 2005, the General Command of the Armed Forces instructed the Deputy Commander and Chief of Staff of the National Army, Joint Action Headquarters, Intelligence and Counter-intelligence Headquarters, and subordinate units of the army, navy and air force to take a number of steps to help to put a halt to forced recruitment by illegal armed groups throughout the country.

190. The Ministry of Defence also issued Directive No. 15 of 2007 in order to ensure that children released from illegal organizations do not become involved in military operations in any way. The General Command of the Armed Forces issued Standing Order No. 137 in December 2007 on comprehensive action for the protection of the rights of minors involved in illegal armed groups.

191. The Ministry of Defence and the armed forces created two videos that call for the non-involvement of minors and illustrate how illegal armed groups mistreat children and force them to act as adults and directly involve them in the hostilities. Both videos have been broadcast on national television.

192. In January 2006, the General Command of the Armed Forces asked military academies to put forward proposals for strategic campaigns to encourage mass demobilization and the prevention of forced recruitment by illegal armed groups.

193. In response, the artillery academy devised a strategy involving an hour-long weekly show to be broadcast by the Alternativa Estéreo radio station located in the school’s facilities in the Cantón Norte garrison of Bogotá. This show would be designed to convey institutional messages on the prevention of the forced recruitment of children and adults.

194. In addition, three different leaflets were designed to encourage children to say “no” to forced recruitment and to report any such attempts.

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<sup>54</sup> See <http://web.presidencia.gov.co/sp/2007/agosto/14/11142007.htm>.

195. The national police force, in the fulfilment of its specific role in the area of protection as mandated by the Constitution, has created technical support and assistance mechanisms for schools attended by demobilized children in order to help them provide appropriate social services and psychological care.

196. The national police and ICBF have signed Agreement No. 00790844 on the protection and appropriate treatment of children. As part of this agreement, both parties commit to fulfil a number of joint obligations for the benefit of children. A second agreement was signed with ICBF on 31 July 1991.

197. The national police force also has a student social service programme, created under article 97 of Act No. 115 of 1994, in which students in secondary school carry out 80 hours of mandatory social work. Pursuant to Decree No. 1860 of 1994, the chief objective of this programme is to integrate students into the community so that they can contribute to its social, cultural and economic development by collaborating in community projects. It also aims to develop students' sense of solidarity and knowledge of their social environment. In addition to developing their leadership skills and social awareness, the programme teaches children to recognize and understand their rights and duties, thereby providing them with the tools for protecting themselves from the threat of illegal armed groups.

198. In addition, the Office of the Ombudsman and the Office of the Procurator-General, together with local authorities, have worked to disseminate the standards set out in the Optional Protocol. On each anniversary of its entry into force, civil society organizations and State bodies join together to publicize its provisions and commemorate the ratification of the Protocol by the Government of Colombia.

199. The Office of the Ombudsman condemns the unlawful recruitment of minors by illegal armed groups, demands their release from all such organizations and renews its commitment to take action to render the provisions set out in the Protocol real and effective.

200. In December 2006, the Office of the Ombudsman presented a report on the profile of children and adolescents released from illegal armed groups and on their social and productive reintegration from a human rights perspective. The report gives an account of situations in Colombia that interfere with children's genuine enjoyment of their human rights before, during and after their involvement in illegal armed groups.

201. The study sought to provide inputs with a view to strengthening and improving public policy on the social and productive integration of children and adolescents released from illegal armed groups and to formulating recommendations for preventing their recruitment and restoring their rights, with special emphasis on social inclusion.

202. The Office of the Ombudsman has urged illegal armed groups to abstain from recruiting children and adolescents, which is both a violation of their fundamental rights and a criminal act, and to publicly hand over all recruited minors to State authorities.

203. The Office of the Procurator-General has assisted departments and municipalities with the design, follow-up and evaluation of policies, plans and projects to guarantee the rights of the children and adolescents of Colombia. The municipal and departmental strategy for children and adolescents, devised by the Office of the Procurator-General, ICBF and UNICEF, was unanimously approved at the 42nd General Assembly of Governors, held in Neiva on 22 April 2005. This strategy is in line with the aims of guaranteeing and fully protecting the rights of children and adolescents as laid down in the Colombian Constitution, as well as in international instruments to which Colombia is a party, such as the Convention on the Rights of the Child and the United Nations Millennium Declaration. Pursuant to this strategy, six governors' meetings on issues

relating to children, adolescents and youth have been held, and the Optional Protocol has been widely disseminated at these events.

204. One of the aims of these meetings has been to analyse the real challenges that guaranteeing and restoring the rights of children, adolescents and youth pose to authorities at the regional and local levels. To this end, the participants have sought to identify the information needed to effectively meet the commitments, goals and strategies for action laid out in departmental and municipal development plans for the period 2008–2011.

205. The National Reparations and Reconciliation Commission, established by Act No. 975 of 2005, promotes the implementation of special protection measures for children and youth to prevent new cycles of violence from infringing on their rights.

## V. Prohibition and related matters

206. Article 162 of the Colombian Criminal Code (Act No. 599 of 2000) criminalizes the unlawful recruitment of persons under 18. This offence is also defined in Act No. 1106 of 2006, which extends Act No. 782 of 2002 and Act No. 418 of 1997, and article 20 of the Code on Children and Adolescents, which provides that children and adolescents must be protected against recruitment and utilization by armed groups.

207. The recruitment of persons under 18 is punishable under Colombian law. According to article 162 of the Criminal Code,<sup>55</sup> any person who “recruits persons below the age of 18 years or forces them to participate directly or indirectly in hostilities or armed action” is liable to a term of imprisonment of from 96 to 180 months and a fine of from 800 to 1,500 times the current minimum statutory monthly wage.<sup>56</sup> In addition to the enlistment or recruitment of a child in government armed forces or in illegal armed groups, it is also a punishable offence to force children to participate in attacks or gather intelligence for conveying orders, transport weapons or supplies or cause damage to any property for military purposes.

208. This criminal offence is defined in such a way that the perpetrator may be either a member of an illegal armed group or a member of the military. The prohibition is also quite extensive, inasmuch as it applies not only to the act of recruitment, but also to the act of forcing minors to participate directly or indirectly in hostilities or armed action.

209. Investigations of the alleged commission of this offence fall within the purview of the Office of the Attorney-General, which, with a view to strengthening the State’s capacity to respond to serious acts that violate the human rights of children and adolescents recruited by illegal armed groups, established a special panel within the National Human Rights and International Humanitarian Law Unit to investigate cases relating to gender issues, children and adolescents.

210. As of May 2008, 150 proceedings regarding the recruitment of children had been initiated, with two convictions. The remaining cases are under way, as shown in the table below.

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<sup>55</sup> Article 162. Unlawful recruitment. Penalties increased under article 14 of Act No. 890 of 2004, as of 1 January 2005: Any person who, in the event or in the course of armed conflict, recruits persons below the age of 18 years or forces them to participate directly or indirectly in hostilities or armed action shall be sentenced to a term of imprisonment of from 96 to 180 months and a fine of from 800 to 1,500 times the current minimum statutory monthly wage.

<sup>56</sup> In accordance with Decree No. 4965 of 2007, the minimum statutory monthly wage in Colombia in 2008 was 461,500 pesos (approximately US\$ 230).



<i>Division</i>	<i>Office</i>	<i>Case number</i>	<i>Stage of proceedings</i>	<i>Investigation status</i>
1	Barranquilla	32	3763 Preliminary investigation <sup>57</sup>	Active
2	Bogotá	2	4018 Preliminary investigation	Active
3	Bogotá	6	4381 Preliminary hearing <sup>58</sup>	
4	Bogotá	16	3225 Preliminary investigation	Active
5	Bogotá	16	3905 Preliminary investigation	Active
6	Bucaramanga	34	4065 Preliminary hearing	Active
7	Bucaramanga	34	4401 Preliminary investigation	Active
8	Bucaramanga	44	3768 Preliminary investigation	Active
9	Bucaramanga	44	4197 Preliminary investigation	Active
10	Bucaramanga	44	4198 Preliminary investigation	Active
11	Bucaramanga	44	4199 Preliminary hearing	Active
12	Bucaramanga	44	4200 Preliminary investigation	Active
13	Bucaramanga	44	4201 Preliminary investigation	Active
14	Cali	38	3491 Preliminary hearing	Active
15	Cali	38	3495 Preliminary hearing	Active
16	Cali	38	3764 Preliminary investigation	
17	Cúcuta	40	3514 Preliminary investigation	Active
18	Medellín	36	4202 Preliminary investigation	Active
19	Medellín	36	4203 Preliminary investigation	Active
20	Medellín	36	4204 Preliminary investigation	Active
21	Medellín	36	4205 Preliminary investigation	Active
22	Medellín	36	4206 Preliminary investigation	Active
23	Medellín	36	4207 Preliminary investigation	Active
24	Medellín	36	4208 Preliminary investigation	Active
25	Medellín	36	4209 Preliminary investigation	Active

<sup>57</sup> Pursuant to article 322 of Act No. 600 of 2000, which applies to offences committed prior to 1 January 2005, the preliminary investigation is confidential and is intended to “determine whether an incident reported to the authorities through any channel whatsoever actually took place, whether it is punishable under criminal law, whether it took place under circumstances that would result in an absence of criminal responsibility, and whether the requirements for the commencement of criminal action have been met and to permit the gathering of the evidence needed to identify the perpetrators of the punishable act and/or the participants therein”.

<sup>58</sup> In accordance with article 331 of Act No. 600 of 2000, a preliminary hearing is held following the investigation in order to determine:

- (a) Whether a criminal offence has been committed;
- (b) The identity of the perpetrator(s) of the punishable act and/or the participant(s) therein;
- (c) The chief motives and other factors behind the breach of criminal law;
- (d) How, when and where the act was committed;
- (e) The social, family and personal situation of the accused, his or her prior conduct, criminal and police records and living conditions;
- (f) The moral and material damages caused by the punishable act.

<i>Division</i>	<i>Office</i>	<i>Case number</i>	<i>Stage of proceedings</i>	<i>Investigation status</i>
26	Medellín	36	4210 Preliminary investigation	Active
27	Medellín	36	4211 Preliminary investigation	Active
28	Medellín	36	4212 Preliminary investigation	Active
29	Medellín	36	4213 Preliminary investigation	Active
30	Medellín	36	4214 Preliminary investigation	Active
31	Medellín	36	4215 Preliminary investigation	Active
32	Medellín	36	4216 Preliminary investigation	Active
33	Medellín	36	4217 Preliminary investigation	Active
34	Medellín	36	4218 Preliminary investigation	Active
35	Medellín	36	4219 Preliminary investigation	Active
36	Medellín	36	4220 Preliminary investigation	Active
37	Medellín	36	4221 Preliminary investigation	Active
38	Medellín	36	4222 Preliminary investigation	Active
39	Medellín	36	4223 Preliminary investigation	Active
40	Medellín	36	4224 Preliminary investigation	Active
41	Medellín	36	4225 Preliminary investigation	Active
42	Medellín	36	4226 Preliminary investigation	Active
43	Medellín	36	4227 Preliminary investigation	Active
44	Medellín	36	4228 Preliminary investigation	Active
45	Medellín	36	4229 Preliminary investigation	Active
46	Medellín	36	4230 Preliminary investigation	Active
47	Medellín	36	4231 Preliminary investigation	Active
48	Medellín	36	4232 Preliminary investigation	Active
49	Medellín	36	4233 Preliminary investigation	Active
50	Medellín	36	4234 Preliminary investigation	Active
51	Medellín	36	4235 Preliminary investigation	Active
52	Medellín	36	4236 Preliminary investigation	Active
53	Medellín	36	4237 Preliminary investigation	Active
54	Medellín	36	4238 Preliminary investigation	Active
55	Medellín	36	4239 Preliminary investigation	Active
56	Medellín	36	4240 Preliminary investigation	Active
57	Medellín	36	4241 Preliminary investigation	Active
58	Medellín	36	4242 Preliminary investigation	Active
59	Medellín	36	4243 Preliminary investigation	Active
60	Medellín	36	4244 Preliminary investigation	Active
61	Medellín	36	4245 Preliminary investigation	Active
62	Medellín	36	4246 Preliminary investigation	Active
63	Medellín	36	4247 Preliminary investigation	Active
64	Medellín	36	4248 Preliminary investigation	Active
65	Medellín	36	4249 Preliminary investigation	Active
66	Medellín	36	4250 Preliminary investigation	Active

<i>Division</i>	<i>Office</i>	<i>Case number</i>	<i>Stage of proceedings</i>	<i>Investigation status</i>
67	Medellín	36	4251 Preliminary investigation	Active
68	Medellín	36	4252 Preliminary investigation	Active
69	Medellín	36	4253 Preliminary investigation	Active
70	Medellín	36	4254 Preliminary investigation	Active
71	Medellín	36	4255 Preliminary investigation	Active
72	Medellín	36	4256 Preliminary investigation	Active
73	Medellín	36	4257 Preliminary investigation	Active
74	Medellín	36	4258 Preliminary investigation	Active
75	Medellín	36	4259 Preliminary investigation	Active
76	Medellín	36	4260 Preliminary investigation	Active
77	Medellín	36	4261 Preliminary investigation	Active
78	Medellín	36	4262 Preliminary investigation	Active
79	Medellín	36	4263 Preliminary investigation	Active
80	Medellín	36	4264 Preliminary investigation	Active
81	Medellín	36	4265 Preliminary investigation	Active
82	Medellín	36	4266 Preliminary investigation	Active
83	Medellín	36	4267 Preliminary investigation	Active
84	Medellín	36	4268 Preliminary investigation	Active
85	Medellín	36	4269 Preliminary investigation	Active
86	Medellín	36	4270 Preliminary investigation	Active
87	Medellín	36	4271 Preliminary investigation	Active
88	Medellín	36	4272 Preliminary investigation	Active
89	Medellín	36	4273 Preliminary investigation	Active
90	Medellín	36	4274 Preliminary investigation	Active
91	Medellín	36	4275 Preliminary investigation	Active
92	Medellín	36	4276 Preliminary investigation	Active
93	Medellín	36	4277 Preliminary investigation	Active
94	Medellín	36	4278 Preliminary investigation	Active
95	Medellín	36	4279 Preliminary investigation	Active
96	Medellín	36	4280 Preliminary investigation	Active
97	Medellín	36	4281 Preliminary investigation	Active
98	Medellín	36	4282 Preliminary investigation	Active
99	Medellín	36	4283 Preliminary investigation	Active
100	Medellín	36	4284 Preliminary investigation	Active
101	Medellín	36	4285 Preliminary investigation	Active
102	Medellín	36	4286 Preliminary investigation	Active
103	Medellín	36	4287 Preliminary investigation	Active
104	Medellín	36	4288 Preliminary investigation	Active
105	Medellín	36	4289 Preliminary investigation	Active
106	Medellín	36	4290 Preliminary investigation	Active
107	Medellín	36	4291 Preliminary investigation	Active

<i>Division</i>	<i>Office</i>	<i>Case number</i>	<i>Stage of proceedings</i>	<i>Investigation status</i>
108	Medellín	36	4292 Preliminary investigation	Active
109	Medellín	36	4293 Preliminary investigation	Active
110	Medellín	36	4294 Preliminary investigation	Active
111	Medellín	36	4295 Preliminary investigation	Active
112	Medellín	36	4296 Preliminary investigation	Active
113	Medellín	36	4297 Preliminary investigation	Active
114	Medellín	36	4298 Preliminary investigation	Active
115	Medellín	36	4299 Preliminary investigation	Active
116	Medellín	36	4300 Preliminary investigation	Active
117	Medellín	36	4301 Preliminary investigation	Active
118	Medellín	36	4302 Preliminary investigation	Active
119	Medellín	36	4303 Preliminary investigation	Active
120	Medellín	36	4304 Preliminary investigation	Active
121	Medellín	36	4305 Preliminary investigation	Active
122	Medellín	36	4306 Preliminary investigation	Active
123	Medellín	36	4307 Preliminary investigation	Active
124	Medellín	36	4308 Preliminary investigation	Active
125	Medellín	36	4309 Preliminary investigation	Active
126	Medellín	36	4310 Preliminary investigation	Active
127	Medellín	36	4311 Preliminary investigation	Active
128	Medellín	36	4312 Preliminary investigation	Active
129	Medellín	36	4313 Preliminary investigation	Active
130	Medellín	36	4314 Preliminary investigation	Active
131	Medellín	36	4315 Preliminary investigation	Active
132	Medellín	36	4316 Preliminary investigation	Active
133	Medellín	36	4317 Preliminary investigation	Active
134	Medellín	36	4318 Preliminary investigation	Active
135	Neiva	45	3766 Preliminary investigation	
136	Neiva	45	3785 Preliminary hearing	Active
137	Neiva	45	4001 Preliminary investigation	Active
138	Segovia	87	N/A	Active
139	Segovia	87	N/A	Active
140	Villavicencio	31	1 Preliminary investigation	
141	Ituango	17	N/A	Inactive
142	Yolombo	96	N/A	Inactive
143	Frontino	129	N/A	Inactive
144	Puerto Nare	42	N/A	Inactive
145	Puerto Berrio	37	N/A	Inactive
146	Puerto Berrio	11	N/A	Inactive
147	Sonson	120	N/A	Inactive
148	Sonson	120	N/A	Inactive

<i>Division</i>	<i>Office</i>	<i>Case number</i>	<i>Stage of proceedings</i>	<i>Investigation status</i>
149	Sonson	120	N/A	Inactive
150	Sonson	120	N/A	Inactive

*Source:* International Affairs Division, Office of the Attorney-General.

211. One of the convictions mentioned above was in a case initiated by the Commander of the National Army against members of FARC. The other was in a case brought by the national police against a member of a self-defence group operating in the department of Meta for acts occurring in 2005.

212. In accordance with Justice and Peace Act No. 975 (the law under which the members of demobilized self-defence groups are being brought to trial), cases in which this offence may have been committed are also being investigated by the Justice and Peace Unit of the Office of the Attorney-General.

213. In order to identify all the instances in which such acts have allegedly been committed by members of illegal armed groups or demobilized combatants covered by Act No. 975, since the beginning of 2006 the Justice and Peace Unit has been documenting the relevant facts with the help of a number of methods, including:

- (a) Reviews of all cases tried;
- (b) Victim assistance days, during which information about the commission of such acts is recorded;
- (c) Interviews with the community and demobilized combatants concerning acts perpetrated by illegal armed groups;
- (d) Requests for information from NGOs;
- (e) Reviews of national and local press;
- (f) Searches of official databases;
- (g) Documentation of cases brought before the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights;
- (h) Requests for information collected by or brought to the knowledge of the Church.

214. The Office of the Attorney General has obtained the following information from the voluntary depositions of the first 3,284 persons participating in the Justice and Peace process. Further investigations are being carried out to corroborate or refute the statements made in the depositions:

#### **Demobilized persons having confessed to the crime of unlawful recruitment**

<i>Name</i>	<i>Group</i>
Guillermo Pérez Alzate	Libertadores del Sur Section attached to the Central Bolívar Section
Uber Enrique Banquez Martínez	Montes de María Section
José Rubén Peña Tobón	Vencedores de Arauca Section attached to the Central Bolívar Section

*Source:* Justice and Peace Unit.

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**Demobilized persons having reported crimes of unlawful recruitment**


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<i>Name</i>	<i>Group</i>
Freddy Rendón Herrera	Elmer Cárdenas Section
Edgar Ignacio Fierro Flórez	Libertadores del Sur Section attached to the Central Bolívar Section
Jorge Eliécer Barranco Galván	Montes de María Section
Real Agudelo Medina	Vencedores de Arauca Section attached to the Central Bolívar Section

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*Source:* Justice and Peace Unit.

215. People who have confessed to these crimes will be brought to trial so that they can be sentenced accordingly. Acts to which the persons concerned have not confessed will be brought to the attention of the ordinary courts so that further investigations can be undertaken.

216. In Colombia, there are no specialized courts for these cases, which, in any event, are brought before ordinary criminal courts. As in any proceedings in which a minor is involved, children's rights are respected and guaranteed, as explained in previous sections of this report.

217. The Constitutional Court of Colombia, in its decision C-203/05, stated that demobilized minors "are deemed victims (...) but that status does not exempt them per se from all criminal responsibility [and] (...) neither the Constitution nor international law are set aside when bringing demobilized minors to trial in order to determine their criminal liability".

218. That being the case, adolescents between the ages of 14 and 18 years who committed crimes when they were members of armed groups could be subject to criminal charges. However, there have been no such proceedings to date, in application of the principle of prosecutorial discretion, as explained below.

219. In general, the procedures followed in the cases of adolescents between the ages of 14 and 18 who may have committed punishable acts in Colombia are designed to educate, rehabilitate and protect them, to take into account the difference between adolescents and adults, and to draw upon the specific services offered by the various bodies, competent authorities and programmes.

220. To safeguard their rights, a number of basic procedural principles and guarantees are laid down, including due process, the right to a defence and to contest the charges brought against them, the presumption of innocence, the right to appeal and other rights guaranteed by the Constitution, the law and international treaties.

221. The question of the liability of children and adolescents who may have committed criminal offences during their participation in illegal armed groups is addressed in conformity with article 175<sup>59</sup> of the Code on Children and Adolescents. This article deals

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<sup>59</sup> **Article 175. The principle of prosecutorial discretion in proceedings against adolescents who may have participated in crimes committed by illegal armed groups.** The Office of the Attorney-General may waive criminal prosecution of adolescents who were in any way involved in illegal armed groups or who directly or indirectly participated in hostilities, actions or crimes perpetrated by

with the principle of prosecutorial discretion, which allows the prosecution to waive criminal proceedings against adolescents who were in any way involved in illegal armed groups or participated directly or indirectly in hostilities, armed action, or crimes committed by illegal armed groups, provided that:

- (a) The adolescent's decision that it was in his or her best interests to join an illegal armed group was based on the social, economic and cultural conditions of his or her environment;
- (b) The adolescent's social, economic or cultural marginalization was such that he or she had no other way to pursue his or her personal development;
- (c) The adolescent was unable to seek out other forms of social participation;
- (d) The adolescent joined or participated in such a group by force, threat, coercion or constraint.

## VI. Protection, recovery and reintegration

222. Act No. 1098 of 2006, the Code on Children and Adolescents Code, consolidates the alignment of Colombian legislation with the principles set forth in the Convention on the Rights of the Child. The Code establishes norms for the comprehensive protection of children and young people together with guarantees for the exercise of their rights and freedoms and for the re-establishment of those rights and freedoms whenever they have been in some way violated.

223. Other initiatives in this area include: (a) the formulation of the National Plan for Children and Adolescents; (b) the framing of a national early childhood policy; and (c) the introduction of a process for monitoring and evaluating departmental and local government management of programmes and other measures for children and young people.

224. In addition, in accordance with Act No. 782 of 2002, extended by Act No. 1106 of 2006, since the end of 1999 ICBF has been running a specialized programme for children and young people who have been demobilized from illegal armed groups.

225. As established in article 2 of Decree No. 3043 of 2006, the functions of the High Council for the Social and Economic Reintegration of Armed Insurgents include, inter alia: (a) supporting and advising ICBF in the definition of policies and strategies for preventing the recruitment of minors by illegal armed groups and for their demobilization and

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illegal armed groups when:

- (1) It is established that the adolescent's decision that it was in his/her best interests to join an illegal armed group was based on the social, economic and cultural conditions of his/her environment;
- (2) It is established that the adolescent's social, economic or cultural marginalization was such that he/she did not have any other means of pursuing his/her personal development;
- (3) It is established that the adolescent was unable to seek out other forms of social participation;
- (4) It is established that the adolescent joined by force, threat, coercion, or constraint.

Adolescents who demobilize from illegal armed groups must be sent to the Colombian Family Welfare Institute's special care programme for children and adolescents released from illegal armed groups.

**Additional clause:** The principle of prosecutorial discretion shall not apply in cases that may involve grave breaches of international humanitarian law, crimes against humanity or genocide under the Rome Statute. [<http://www.unhcr.org/refworld/country,,CSCOAL,,COL,,486cb0f4c,0.html>]

reintegration; and (b) coordinating, overseeing and evaluating the actions of State entities that carry out activities and functions designed to facilitate the reintegration of minors extricated from the conflict as well as adults who voluntarily demobilize, whether individually or in groups.

226. It is impossible to accurately determine the number of persons attached to armed groups operating outside the law in Colombia, given the illegal nature of such groups. It is even more difficult to estimate the number of minors forming part of these groups.

227. The only reliable information available to the Government concerning minors attached to illegal armed groups is the data on the number of children and young people extricated from such groups who have received ICBF assistance in re-establishing their rights under its specialized programme.

228. In addition to having all the rights embodied in Colombia's Constitution and laws, children and adolescents demobilized from armed groups operating outside the law benefit from additional, specific forms of judicial protection as victims of unlawful recruitment, pursuant to article 162 of Act No. 599 of 2000 (the Criminal Code), Act No. 1106 of 2006 extending Act No. 782 of 2002 and Act No. 418 of 1997, and the Code on Children and Adolescents, and as victims of violations of the right to be protected against one of the worst forms of child labour, in accordance with international human rights law, international humanitarian law, international labour law and decisions adopted by United Nations bodies. It should be emphasized that these children and adolescents are extricated by security forces, not arrested. Between 19 November 1999 and 30 June 2008, a total of 3,654 children and young people were assisted in this connection.

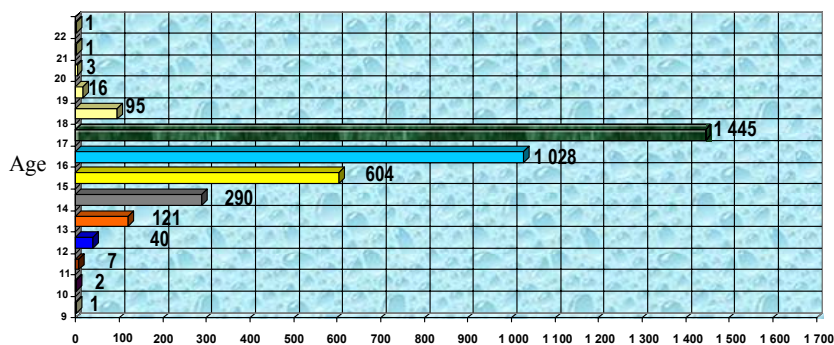
<i>Month</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>Total No. of adolescents</i>
January	0	9	6	13	35	62	26	58	21	13	<b>243</b>
February	0	2	17	24	21	50	40	28	22	42	<b>246</b>
March	0	1	15	31	37	42	36	67	30	28	<b>287</b>
April	0	1	7	31	47	49	31	26	42	46	<b>280</b>
May	0	19	18	40	53	66	19	29	41	39	<b>324</b>
June	0	7	28	33	104	46	35	23	28	25	<b>329</b>
July	0	5	25	32	96	57	22	24	25	0	<b>286</b>
August	0	2	17	31	63	40	105	28	36	0	<b>322</b>
September	0	4	15	29	71	93	57	44	48	0	<b>361</b>
October	0	1	11	39	80	77	42	22	40	0	<b>312</b>
November	7	9	25	37	109	36	36	17	29	0	<b>305</b>
December	3	40	12	54	59	66	77	30	18	0	<b>359</b>
<b>Total</b>	<b>10</b>	<b>100</b>	<b>196</b>	<b>394</b>	<b>775</b>	<b>684</b>	<b>526</b>	<b>396</b>	<b>380</b>	<b>193</b>	<b>3 654</b>

*Source:* ICBF information system at 30 June 2008.

229. When they joined the programme following demobilization from the illegal armed group to which they belonged, 84.2 per cent of these young people were aged between 15 and 17. The remaining 15.8 per cent were aged either between 9 and 14 or between 18 and 22, as shown in the chart below.

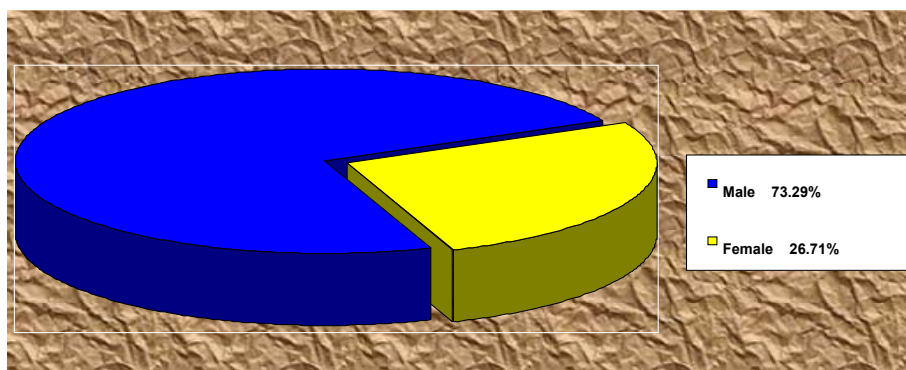


**No. of young persons assisted**



Source: ICBF information system at 30 June 2008.

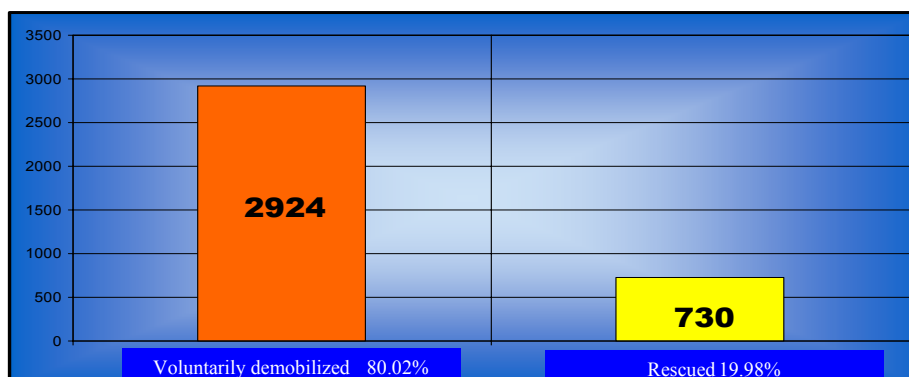
230. Of the 3,654 children and young people that received assistance, 2,678 were male and 976 female. The breakdown by sex, as shown in the chart below, was therefore 73.29 per cent male and 26.71 per cent female.



Source: ICBF information system at 30 June 2008.

231. Of the total number of children and adolescents who have joined the programme since 1999, 19.98 per cent were rescued<sup>60</sup> by security forces and the remaining 80.02 per cent gave themselves up voluntarily.

<sup>60</sup> In accordance with article 176 of the Code on Children and Adolescents, “the questioning of children and young people demobilized from armed groups operating outside the law and their use in intelligence activities by the authorities of security forces shall be prohibited. Any person who fails to observe this prohibition shall be removed from office, without prejudice to any criminal proceedings that may be pursued”.



Source: ICBF information system at 30 June 2008.

232. The State is aware that minors who join armed groups operating outside the law are in many cases attracted to these groups as an alternative way of life that offers an escape from emotional, family, sociocultural and economic conflicts. For this reason, it has strengthened its programmes and policies for education, health, welfare and family unity, as well as its programmes and policies for combating sexual violence, abuse, neglect and exploitation of children. The aim here is to address the root causes of this situation by, in particular, mainstreaming this policy through the work of the Intersectoral Commission to Prevent the Recruitment and Use of Children, Adolescents and Young Persons by Illegal Groups.

233. Given the fact that children are in some cases forcibly recruited, as part of its prevention strategies the State has introduced an early warning system that brings various protective State mechanisms into action whenever a threat of the forcible recruitment of children and young people by an illegal armed group is identified.

234. In addition, the Colombian Government has made the demobilization and subsequent reintegration of minors a central concern of its negotiations with illegal armed groups. To this end, it has designed specific programmes for the demobilization of persons aged under 18. It is also addressing specific issues relating to the protection of the rights of children and adolescents and is allocating the resources necessary for their appropriate re-entry into civil society.

235. Since 2001, the Office of the Ombudsman, in conjunction with ICBF and IOM, has been developing and disseminating a legal road map (the *Ruta Jurídica*) for children and adolescents who have been demobilized from illegal armed groups. They have also provided related training to public and private employees and to the leaders and authorities of indigenous organizations and other NGOs in which a lack of information about existing laws and regulations puts the rights of child victims of violence at risk. The State has also developed a special legal road map for indigenous child and adolescent victims of political violence. This road map takes into account the specific nature of the collective and comprehensive rights of indigenous peoples, as well as their social and cultural frameworks.

236. Various training and awareness-raising activities have been organized. These initiatives have pointed up the need for further training activities of this sort, in view of the lack of knowledge that exists on the part of civil servants, indigenous leaders and organizations, and members of non-governmental organizations about the rights of the child, and especially the rights of children demobilized from illegal armed groups.

237. Accordingly, over the past two years the following activities related to the issue of unlawful recruitment have been carried out:

(a) Nine training workshops for public employees, community leaders and heads of NGOs working in municipalities where exposure and vulnerability to the threat of child recruitment are highest were held in the cities of Medellín, Barranquilla, Cartagena, Manizales, Bogotá, Villavicencio, Bucaramanga, Ibagué and Pasto;

(b) Two specialized booklets have been designed and published. The first focuses on the rights of children and young persons and includes an analysis of the situation of children and young persons throughout the country. The second booklet focuses on the collective and comprehensive rights of indigenous peoples (unpublished);

(c) The posters and the teaching manual concerning the legal road map for indigenous peoples have been reprinted;

(d) A booklet on the general-purpose legal road map (for the non-indigenous population) has been designed and printed.

238. As mentioned above, these activities brought to light a number of issues:

(a) Some public employees apply the rules without actually determining what is in the best interests of the child or taking account of international legal instruments;

(b) Educational and training programmes and initiatives for children designed to generate a family and school environment that will keep minors in school and in the family must be stepped up. Consequently, adequate infrastructure and the resources necessary to complete the relevant tasks must be made available;

(c) Training and awareness-raising programmes on the forcible recruitment of children by illegal armed groups are needed for the community, families and educational institutions in order to encourage them to become involved in initiatives to prevent recruitment and to safeguard and restore the rights of children and adolescents.

239. Responsibility for implementing initiatives to raise awareness among social actors of the need to promote, safeguard and restore the rights of children and adolescents lies with ICBF, which pursues this goal essentially through information, dissemination and training activities.

(a) In the area of training, as coordinator of the National Family Welfare System (SNBF) and the body responsible for protecting the rights of the child, ICBF has been working to familiarize people with Act No. 1098 (the Code on Children and Adolescents) since its promulgation on 8 November 2006. Three phases in this process have been defined:

(i) Phase 1 – Basic training: Familiarizing all ICBF and SNBF staff with the basic content of the Code to ensure that they are equipped to assume the joint responsibility that, in accordance with the provisions of law, the State shares with the family and society;

(ii) Phase 2 – Specific training: Providing an in-depth examination of the specific tools necessary for application and enforcement of the law, including the juvenile criminal justice system, the administrative procedure for the restoration of rights and the use of expert appraisals;

(iii) Phase 3 – Ongoing training: Building on and updating the results of the two previous phases by means of workshops and videoconferences, among other methods.

A total of 43 training events have been held for civil servants and SNBF staff, with the following breakdown:

Office of the Family Ombudsman	683
Psychosocial support teams	1 228
Public support workers	2 197
Family commissioners	568
SNBF personnel	4 479
<b>Total number of persons trained</b>	<b>9 155</b>

(b) Various mechanisms have been used to disseminate information, including three teleconferences on the juvenile criminal justice system and the Code on Children and Adolescents organized by ICBF. In addition, seven television programmes about the Code on Children and Adolescents have been produced.

(c) The “Facts and Rights – Municipalities for Childhood, Adolescence and Youth” strategy for raising awareness among public servants and officials of the system is being spearheaded by a group of national organizations, including ICBF, the Office of the Procurator-General and UNICEF. As part of this strategy, a regional management proposal is being developed with a view to making local implementation of the goals and objectives defined in the National Development Plan a viable option. This proposal seeks to ensure that priorities are defined, resources are allocated and progress in improving the living conditions of the nation’s youth is tracked and monitored at the municipal, district and departmental levels. To this end, the group is working to identify specific actions that would build capacity for social inclusion and for protecting and restoring the rights of vulnerable sectors of the population throughout the country.

240. In addition, ICBF, as coordinator of SNBF, is working through its 33 regional and local offices to urge mayors and governors to include concrete initiatives for the support and protection of children and adolescents in their development plans and is providing them with support and assistance to this end. It is also working to ensure that regional development plans include a detailed baseline analysis of the population and its needs, of institutional capacity and of the efficacy of processes and programmes established for this purpose.

241. In addition, the Advisory Council for Women’s Equality (CPEM) has been working to mainstream a gender perspective in the public policies overseen by the High Council for the Social and Economic Reintegration of Armed Insurgents. The aim of this effort is to ensure that the approach taken in providing assistance to demobilized children takes account of gender issues and is thus designed to deal with the differing impacts of the roles played by boys and girls recruited by illegal armed groups and to develop suitable treatment options.

242. To give sustained impetus to the drive to mainstream the gender perspective in public demobilization policy, CPEM and the University of Antioquia have drawn up a plan to prevent domestic violence in the families of demobilized persons. The specific objectives of this plan include:

(a) To organize gender training sessions for the team of trainers attached to the High Council for the Social and Economic Reintegration of Armed Insurgents;

(b) To hold training and awareness-raising sessions on family democracy for reintegrated women and for families that include demobilized persons;

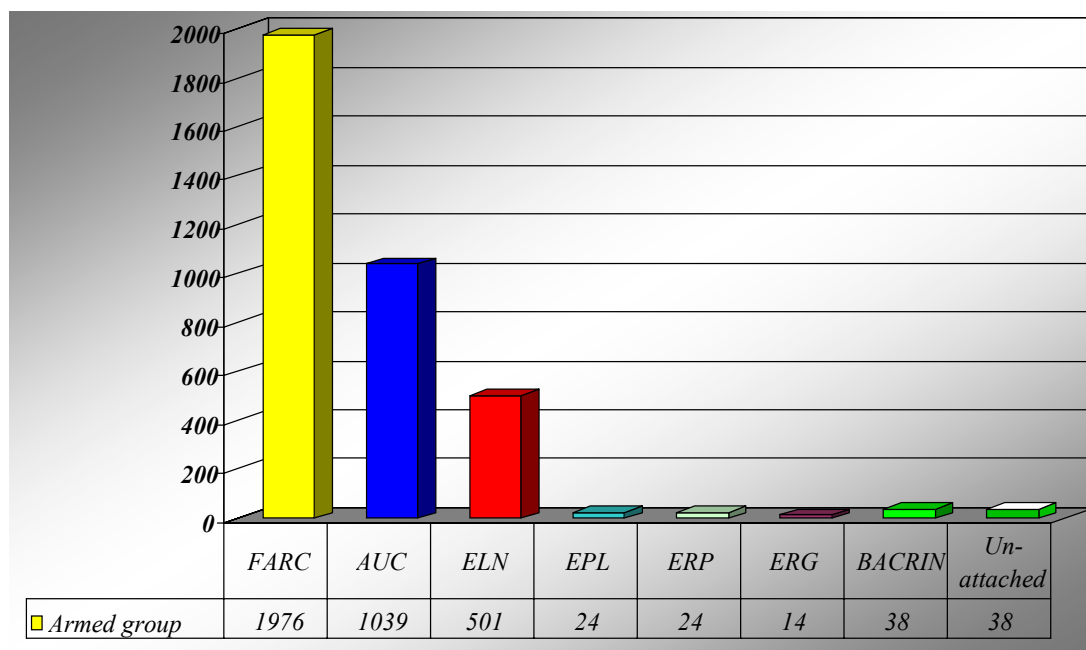
(c) To design a model for intervention in the families of persons demobilized from illegal armed groups that incorporates a gender perspective and includes protocols for action to prevent domestic violence.

243. Children and young persons demobilized from illegal armed groups are brought under the ICBG protection programme. This programme provides comprehensive protection to these persons, who are acknowledged to be subjects of rights that must be guaranteed and respected.

244. As part of this comprehensive protection, support for the physical and psychological recovery and social reintegration of children and young persons demobilized from illegal armed groups is provided under the specialized ICBF programme by psychosocial experts who have been specifically trained for this purpose.

245. The support programme consists of four phases: identification and diagnosis, treatment, consolidation, and monitoring and follow-up. Its various components include health and nutrition, psychosocial support, education, culture and peaceful co-existence, and social, legal, family and management assistance.

246. In all, 52.87 per cent of the children joining the programme were formerly attached to the FARC, 29.9 per cent belonged to self-defence groups, 13.7 per cent to the ELN and the remaining 3.53 per cent to other groups.



Source: Programme information system at 31 December 2007.

AUC – Autodefensas Unidas de Colombia (United Self-Defence Forces of Colombia)

ELN – Ejército de Liberación Nacional (National Liberation Army)

EPL – Ejército Popular de Liberación (People's Liberation Army)

ERP – Ejército Revolucionario del Pueblo (People's Revolutionary Army)

ERG – Ejército Revolucionario Guevarista (Guevara Revolutionary Army)

BACRIN – Bandas criminales al servicio del narcotráfico (criminal drug trafficking rings)

247. When drawing up its annual budget, ICBF allocates significant funds to the programme for children and young people demobilized from illegal armed groups, as shown in the table below:

**Institutional model**

<i>Year</i>	<i>Amount disbursed</i> <sup>61</sup>
2002	1 252 949 178.70
2003	2 628 015 823.00
2004	5 306 667 132.34
2005	4 205 906 007.50
2006	4 151 411 589.40
<b>Institutional model total</b>	<b>17 544 949 730.94</b>

**Family/social model**

<i>Year</i>	<i>Amount disbursed</i>
2004	313 776 927.00
2005	609 490 706.00
2006	608 436 043.00
<b>Foster family total</b>	<b>1 217 926 749.00</b>

**Family-based support system model**

<i>Year</i>	<i>Amount disbursed</i>
2006	115 679 536
<b>Total</b>	<b>115 679 536</b>

*Source:* ICBF, Finance Division, Budget Department.

**Budget allocation: 2007**

<i>Model</i>	<i>Budget allocation</i>
Institutional model	3 772 156 662.00
Transition homes	1 020 578 682.00
Specialized care centres	2 671 910 612.00
Juvenile centres	79 667 368.00
Foster families	1 290 244 945.00
Family-based support	119 330 640.00
<b>Total 2007</b>	<b>5 181 732 247.00</b>

*Source:* ICBF Planning Division, Budget Department, 2007.

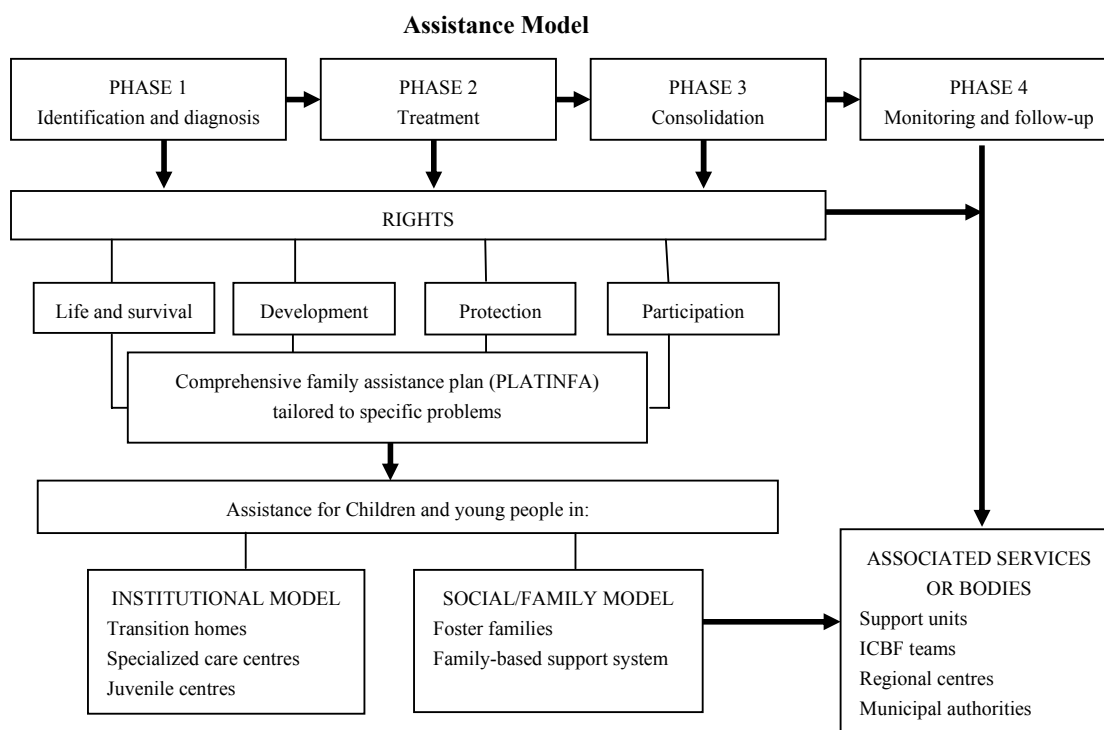
**Budget**

<b>Grand total: 2002–2007</b>	<b>24 060 288 262.94</b>
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<sup>61</sup> The figures shown in these tables are denominated in Colombian pesos.

248. At the national, regional and district levels, ICBF has interdisciplinary teams of specialists who are responsible for the planning, technical assistance, monitoring and evaluation of the preventive actions and care provided for children and young persons demobilized from illegal armed groups.
249. The socio-legal team (consisting of the Family Ombudsman, a social worker and a psychologist) for each ICBF district centre in the 12 regions in which the programme has been implemented is responsible for the administrative procedures involved in the reintegration of each child or adolescent.
250. The support group for victims of violence that is based at the national headquarters consists of a team of seven public servants. The 12 regional and district centres are staffed by 48 public servants and the operational units have another 90 professionals, for a total of 145 employees dedicated to providing support to this sector of the population.
251. The ICBF guidelines for the work involved in each component of the programme include mission-based technical and administrative guidelines for the inclusion and care of families under ICBF programmes and services, and guidelines for psychosocial support, the prevention of drug abuse, education in sexual and reproductive rights, and special support for indigenous children and adolescents, among others.
252. ICBF staff are trained in the use of these tools through attendance-based courses, videoconferencing, and study and work groups. External consultants have also provided training and instruction on such issues as human rights and procedures for the comprehensive restoration of the rights of children and young persons.
253. Both private and public organizations in the health and education sectors, local bodies at departmental and municipal levels, family allowance funds, universities, NGOs and other SNBF bodies are involved in this work.
254. The State has received support for technical and financial institution-building of the programme from the following international cooperation agencies: ILO, UNICEF, IOM, the European Union and the German Agency for Technical Cooperation (GTZ).
255. Since 1999, ICBF has been implementing a special programme for the protection of children and young persons demobilized from illegal armed groups. Under this programme, the agency's cumulative experience in caring for vulnerable children and young people is used as a basis for designing and implementing a model consistent with the profile of the target population.
256. The aim of this model is to support the consolidation of the life projects of children and young people demobilized from illegal armed groups with a view to safeguarding their rights and building citizenship and democracy underpinned by gender mainstreaming and social integration.
257. To foster social integration, tools have been created that help children and young people build their self-esteem, participate in society, further their education, generate an income, renew family ties and access health care as part of the process of re-establishing their rights.
258. The model was strengthened between 1 June 2006 and 31 May 2007 to reflect changes in the profile of the target population and now involves four distinct phases: identification and diagnosis, treatment, consolidation, and monitoring and follow-up.
259. Each of the four phases entails specific action to restore rights through assistance provided under either the institutional or the social/family model.

## Specialized Programme



260. Under the institutional model, services are provided in transit centres, specialized centres and juvenile centres and through the institutional network.

(a) *Transition homes*. These facilities carry out identification procedures, diagnosis of psycho-affective and family situations, and assessment of skills and state of health. These services constitute phase 1 of the model. Children stay in these institutions for about 45 days;

(b) *Specialized care centres*. These centres begin to implement the comprehensive, individual assistance plans that are drawn up on the basis of the diagnosis. These plans cover psychosocial support, school enrolment, training, and use of free time and constitute phase 2 of the model. Children stay in these centres for about one year;

(c) *Juvenile centres*. In these institutions, young people begin to assume joint responsibility and to enjoy greater autonomy as a continuing part of their integration into school and society. This constitutes phase 3 of the model. Upon completion of this phase, they may be placed in the social and economic reintegration programme of the High Council for the Social and Economic Reintegration of Armed Insurgents or may return to their family, if it is safe for them to do so. Children stay in these facilities for about one year;

(d) *Institutional network*. Through this network, specialized services are provided to children and young people with drug abuse or psychiatric problems.

261. Strengthening and expanding the social/family model has been a particular focus of attention. This task constitutes one of the main goals of the ICBF action plan for this programme, as this option gives children and young people the opportunity to advance in the process of re-establishing their rights within a family environment. For this reason, the



foster family and family-based support models have been strengthened, with additional support provided by means of the regional support unit strategy:

(a) *Foster families.* Under this model, a family selected and trained according to ICBF technical criteria voluntarily takes in a child or young person aged under 18 on a full-time basis. Placement with a family provides the emotionally supportive environment and comprehensive care that help guarantee and restore the child's or young person's rights;

(b) *Family-based support system.* This model was designed in response to the changing profile of the target population and is being developed through a pilot project under which support is provided to children and young people who are with their families or who, when it is safe to do so, have rejoined them. A comprehensive family care plan (referred to as a PLATINFA) is drawn up in conjunction with the families, who also receive temporary financial support to assist them in guaranteeing the restoration of the child's rights and facilitate his or her reincorporation into the family and social milieu.

262. As mentioned above, a regional support unit strategy has also been launched to backstop this last mechanism. These units are staffed by two psychosocial experts who monitor the child's or young person's return to the family environment, facilitating the restoration and repair of emotional ties, contributing to the restoration of rights, and assisting in the process of family and social reintegration by connecting them to the local service network in the family's place of residence. Each support unit assists a maximum of 25 families, as the population that these units serve tends to be scattered and located in remote rural areas.

263. This strategy has also provided for the possibility of monitoring children and young people whose rights have been restored and who have rejoined their families on a permanent basis.

264. The following table provides a breakdown of the population served by the programme, by model, at 30 June 2008.

#### Children and young persons currently in the programme, by region

<i>Region</i>	<i>No. of young persons</i>	<i>%</i>
Bogotá	89	17.25
Antioquia	64	12.40
Valle	77	14.92
Santander	76	14.73
Risaralda	25	4.84
Bolívar	18	3.49
Quindío	32	6.20
Caldas	37	7.17
Meta	49	9.50
Cesar	7	1.36
Arauca	9	1.74
Casanare	5	0.97
Cauca	11	2.13
SNBF protection network	17	3.29
<b>Total</b>	<b>516</b>	<b>100</b>

**Children and young persons currently in the programme, by model**

<i>Model</i>	<i>No. of young persons</i>	<i>%</i>
Transition homes	66	12.79
Specialized care centres	173	33.53
Juvenile centres	7	1.36
Foster families	145	28.10
Family-based support	86	16.67
Support without financial assistance	22	4.26
SNBF protection network	17	3.29
<b>Total</b>	<b>516</b>	<b>100</b>

<i>Model</i>	<i>No. of young persons</i>	<i>%</i>
Institutional model	246	47.67
Social/family model	253	49.03
SNBF protection network	17	3.29
	<b>516</b>	<b>100</b>

*Source:* Programme information system at 30 June 2008.

265. The Code on Children and Adolescents establishes special responsibilities for the media and, in particular, stipulates that the media must refrain from interviewing children or adolescents and from disclosing names or personal details that would make it possible to identify children or young people who have been victims of or have perpetrated or witnessed criminal offences. The Code also renders the media liable for any violation of these provisions. In addition, legal proceedings against children and young people are confidential, and the disclosure of their identity and publication of any image that could identify them are prohibited.

## VII. International assistance and cooperation

266. Since 2001 the International Organization for Migration (IOM) has been working together with ICBF to care for children and adolescents disengaged from illegal organized armed groups. IOM has provided technical and financial assistance in such areas as the provision of different types of care in institutional and family contexts; guidelines for working with families; prevention of drug use; psychosocial care; preparation of a booklet on sexual and reproductive rights; income-generation projects; and help with the construction, implementation and operation of the programme information system.

267. In addition, it has provided support for the implementation of the contingency plan for the massive disengagement of children as part of the demobilization of so-called “self-defence” groups.

268. In order to prevent children from joining armed groups, IOM has worked with ICBF in the departments of Antioquia, Bolívar, Cauca, Putumayo, Santander, Sucre, Meta, Valle, Córdoba, Cundinamarca, Cesar and Nariño and, specifically, in the towns of Bogotá, Cali, Medellín, Cartagena, Cúcuta, Villavicencio, Buenaventura and Urabá, caring for 6,125 children in total as at January 2008, of whom 2,228 belonged to different ethnic groups.

269. UNICEF has supported ICBF since 2004 in the area of social and family care and in the implementation of the contingency plan for the massive disengagement of children as part of the demobilization of self-defence groups. UNICEF has helped to ICBF carry out preventive work in the departments of Antioquia, Bolívar, Cauca, Cesar, Córdoba, Choco, Guajira, Magdalena, Nariño, Norte de Santander, Sucre, Cundinamarca, Meta, Caldas, Quindío, Risaralda, Valle and Santander. As at December 2007, care had been provided to some 56,648 children, adolescents and other young people.

270. In addition, help and support was received in 2005 and 2006 from the International Labour Organization in the areas of education, vocational training and the provision of psychosocial care, as well as from the German Agency for Technical Cooperation (GTZ) in the areas of institutional capacity-building, particularly for the teams based in the national headquarters and the regional offices in Bogotá and Cundinamarca.

271. Below is a description of international cooperation funds made available to support the programme for children disengaged from armed conflict. Information is provided on the international organizations concerned, dates and donors, based on the report submitted by each of the organizations.

#### **International Organization for Migration**

272. The amounts given in the following table show the funds disbursed between 2001 and 2005 for the provision of care to children disengaged from illegal armed groups, by donor. The amounts expected to be disbursed at the end of each project are also included. It should be noted that these figures represent the total budget, not just the support provided for the work of ICBF.

In US\$

<i>Period</i>	<i>Donor</i>		
	<i>USAID</i>	<i>Italy</i>	<i>Canada</i>
2001	505 335		
2002	1 086 150		
2003	1 978 653		
2004	1 642 341		81 310
2005	1 318 941	396 581	145 959
2006	1 483 484	1 579 661	326 487
2007	1 464 758		326 487
2008	1 551 757		326 487

#### **International Labour Organization**

273. The donor that supported cooperative work to strengthen the programme for children disengaged from armed conflict is the United States Department of Labour. The contribution from the United States of America, aimed at providing direct care, was US\$ 546,000. The approved period of disbursement was from July 2004 to December 2006. The funds were disbursed under the framework of an interregional project for the prevention and eradication of the use of children in illegal armed groups.

#### **United Nations Children's Fund (UNICEF)**

274. The amounts given in the following table show the funds allocated to a programme for the disarmament, demobilization and social reintegration of persons under 18 years of

age in Colombia. These funds come under the broader category of humanitarian action to support children in communities affected by displacement, armed attacks and anti-personnel mines.

275. The main donors for this project were the Government of Sweden, Government of Norway, French National Committee for UNICEF, Canadian National Committee for UNICEF and Canadian Government

<i>Period</i>	<i>Amount*</i>
2003	157 618
2004	814 133
2005	977 899
2006	1 830 000

\* Value in US\$.

#### **European Union**

276. The European Union approved the disbursement of US\$ 365,217 for 2006 for a project “Vinculación Productiva para Niños Desvinculados” (“profitable connection” for children disengaged from armed conflict), within the framework of the programme to support street children.

#### **German Agency for Technical Cooperation**

277. This agency provides support to a project for the integration of children and other young persons disengaged from illegal armed groups within the framework of the Citizens’ Participation in Peace Programme (PACIPAZ).

## UNICEF

<i>Name of project</i>	<i>Objective</i>	<i>Executing agency or beneficiary</i>	<i>Sum (US\$)</i>	<i>Funding from cooperation partner (US\$)</i>	<i>National counterpart funds (US\$)</i>	<i>Dates</i>
Disengaged children not covered by the ICBF programme	RCI – Provide personalized care to 100 children and adolescents disengaged from armed conflict and their (natural or foster) families in seven departments – Establish and strengthen regional support units for testing of a care model	Subal al Aire (association for communication and education)	147 176	147 176	-	August 2006 to January 2007
Specialized support in participation, recreation, sports and culture	NA – Strengthen the Alvaro Ulcue youth movement through the ETAJ training workshops for youth leaders as a way of preventing children from joining armed groups	Proyecto Nasa (Nasa Project)	39 032	39 032		July 2006 to January 2007
Specialized support for sexual and reproductive health and psychosocial support in municipalities at risk	RCI – Help to build a protective environment involving other initiatives and actors from civil society and government in order to help prevent children from joining armed groups and participating in other forms of violence	Secretariado Diocesano de Pastoral Social – Diakonia de la Paz (Diocesan secretariat for social pastoral care – diakonia for peace)	178 530	178 530		August 2007 to August 2007
Children who are members of armed groups	Strengthen ICBF management capacity for the care of children and adolescents disengaged from illegal armed groups so that ICBF can include the “hogar gestor” family-based support system as part of its protection policy and institutional services and can provide personalized care to 180	(a) Suba al Aire	472 367, for 2007 354 275	472 367		April 2007 to April 2008

<i>Name of project</i>	<i>Objective</i>	<i>Executing agency or beneficiary</i>	<i>Sum (US\$)</i>	<i>Funding from cooperation partner (US\$)</i>	<i>National counterpart funds (US\$)</i>	<i>Dates</i>
	children and adolescents disengaged from illegal armed groups and to their families					
Children who are members of armed groups	Project to prevent indigenous children, adolescents and youths from joining illegal armed groups in the northern part of the Cauca department – Aim: to prevent children, adolescents and other young people from joining illegal armed groups by generating forums for participation and recognition and by strengthening the community in the northern part of the Cauca department	Proyecto Nasa	81 682, for 2007 40 841	81 682		June 2007 to June 2008
Children who are members of armed groups – prevention and care	Promote the psychosocial recovery of indigenous children who are victims of the armed conflict in the northern part of the Cauca department	Asociación de Cabildos Indígenas del Norte del Cauca (Association of indigenous community councils in the north of Cauca) (ACIN)	114 166, for 2007 57 083	114 166		June 2007 to June 2008
Children who are members of armed groups – prevention and care	Protect children in the department of Córdoba who are most affected by the conflict in the municipalities of Montería, Tierralta (districts of Santafe Ralito, Volcanes, Caramelo, Carrizola), Valencia and Canalete from recruitment by armed groups by creating protective environments that are conducive to consensus and peace and to the full enjoyment of their rights	Diocese of Montería	187 105, for 2007 93 553	187 105		June 2007 to June 2008

<i>Name of project</i>	<i>Objective</i>	<i>Executing agency or beneficiary</i>	<i>Sum (US\$)</i>	<i>Funding from cooperation partner (US\$)</i>	<i>National counterpart funds (US\$)</i>	<i>Dates</i>
Children who are members of armed groups – prevention and care	Prevent indigenous children and adolescents from joining illegal armed groups by building protective environments in which they have the right to participate and have improved access to health and education services	Diocese of Quibdo	182 477	137 335, for 2007 68 667	45 142, for 2007 22 571	July 2007 to July 2008
Children who are members of armed groups – prevention and care	Prevent adolescents from joining illegal armed groups in high-risk communities in the municipalities of Atrato, Lloró, Bagadó and Carmen del Atrato in the Upper Atrato area by strengthening protective environments for children and adolescents	Diocese of Quibdo	108 178	108 176, for 2007 54 087		July 2007 to July 2008
Children who are members of armed groups – prevention and care	Strengthen protective environments for children and encourage their inclusion in the participatory processes of their municipality and region, while helping them to build responsible life projects that match their capabilities in order to prevent them from joining illegal armed groups	Programa Desarrollo para la Paz (Development Programme for Peace) (PRODEPAZ)	290 481	290 481, for 2007 145 240		August 2007 to October 2008
Children who are members of armed groups – prevention and care	Assist 500 adolescents and other young people in gangs or bands to “return to legality” through the Peace and Reconciliation Programme, prevent them from joining illegal armed groups and carry out work to promote peace and reconciliation	Empresa Metropolitana para la Seguridad – Metroseguridad (State-owned municipal security company)	206 771	206 771, for 2007 103 385		September 2007 to September 2008

<i>Name of project</i>	<i>Objective</i>	<i>Executing agency or beneficiary</i>	<i>Sum (US\$)</i>	<i>Funding from cooperation partner (US\$)</i>	<i>National counterpart funds (US\$)</i>	<i>Dates</i>
Children who are members of armed groups – prevention and care	Prevent children in Antioquia from joining the war by providing 15,600 children and adolescents with conceptual tools to enable them to resignify events, identify when their rights are violated in cases such as recruitment by armed groups, and identify sexual abuse and enforced disappearance as potential risk factors using the pedagogical, participatory and experience-based strategy of Armadillo and Armadilla Valentin	Gestores de Ideas para el Desarrollo (Agency for Ideas for Development) (GIDES)	99 806	99 806 49 903		September 2007 to May 2008
Children who are members of armed groups – prevention and care	Adolescents and other young people between 14 and 26 years of age incorporate practices into their daily life that enable them to be autonomous and responsible for their actions within a framework of peaceful coexistence and practical conflict resolution	GTZ	410 860	303 713, for 2007 205 430	107 48	October 2007 to August 2008
Children who are members of armed groups – prevention and care	Help to build a protective environment in order to reduce the vulnerability of children of the indigenous Awá community to the war and to recruitment by illegal armed groups	Unidad Indígena del Pueblo Awá (Awá People's Indigenous Unit) (UNIPA)	198 449	19 627, for 2007 9 814	178 822 for 2007 89 411	October 2007 to October 2008



<i>Name of project</i>	<i>Objective</i>	<i>Executing agency or beneficiary</i>	<i>Sum (US\$)</i>	<i>Funding from cooperation partner (US\$)</i>	<i>National counterpart funds (US\$)</i>	<i>Dates</i>
Children who are members of armed groups – prevention and care	Support for the demobilization of children and their reintegration into society	OG-Office of the Ombudsman and Organization of Ibero-American States for Education, Science and Culture (OEI): fund manager (international governmental organization)	60 291	60 291		March 2005 to February 2006

278. Below is a consolidated table on international cooperation extended to Colombia for the years 2005, 2006 and 2007 in connection with the application and implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

#### **Spanish Agency for International Cooperation (AECID)**

<i>Name of project</i>	<i>Objective</i>	<i>Executing agency or beneficiary</i>	<i>Sum (euros)</i>	<i>Funding from cooperation partner (euros)</i>	<i>National counterpart funds</i>	<i>Dates</i>	<i>Main outputs</i>
Care and training for young people disengaged from armed conflict	Care and training for young people disengaged from armed conflict	ICBF	350 000	350 000	-	2006–2007	No details available
Promoting social participation and cultural development as mechanisms to prevent young people in Quibdo (Chocó) from taking part in violence – Phases I and II	Help to prevent violence between young people, mainly through social and cultural participation	Comfachocó (family allowance fund of Chocó) Alcaldía de Quibdo and Pastoral Social	350 000	350 000 from AECID	-	2006–2008	Training courses; workshops; meetings; forums; youth meetings; artistic and communication events; information, advertising and awareness-raising campaigns; research and publications; art exhibitions; and refurbishment of

<i>Name of project</i>	<i>Objective</i>	<i>Executing agency or beneficiary</i>	<i>Sum (euros)</i>	<i>Funding from cooperation partner (euros)</i>	<i>National counterpart funds</i>	<i>Dates</i>	<i>Main outputs</i>
Preventing young people in Ciudad Bolívar from joining illegal armed groups	Help guarantee the rights of young people in high-risk situations in the city of Bogotá by improving their quality of life and facilitating the full exercise of citizenship	Young Men's Christian Association of Bogotá and Cundinamarca	42 490	42 490, from the Valencia city council	-	2006–2007	cultural facilities belonging to the city of Quibdo The project involves establishing two assembly points for bringing together young people as part of the NOVA (No-violencia activa) movement. These two sites will be located in strategic places frequented by gangs and groups of juvenile delinquents in the community and will serve as mechanisms for recruitment, retention and vocational training, as well as local meeting points
“My body, my home”. Education for citizenship and peace through arts training for vulnerable young people, including young children, in Cartagena de Indias	Protect against the risks facing traditionally marginalized young people, including young children, in low-income environments (risks such as involvement in armed conflict,	Colegio del Cuerpo (school for dance and movement) (Cartagena de Indias)	200 000	200 000 from AECID	-	2007–2008	The main activities to be carried out include building the headquarters of the pilot centre for whole body training and equipping it with the necessary facilities

<i>Name of project</i>	<i>Objective</i>	<i>Executing agency or beneficiary</i>	<i>Sum (euros)</i>	<i>Funding from cooperation partner (euros)</i>	<i>National counterpart funds</i>	<i>Dates</i>	<i>Main outputs</i>
	sexual exploitation and abuse, discrimination on the basis of a person's sex or ethnic group, child labour, dropping out of school, and a lack of opportunities for human development) through strategies for education for citizenship and peace and through dance and whole body training						

<i>Name of project</i>	<i>Objective</i>	<i>Executing agency or beneficiary</i>	<i>Sum (euros)</i>	<i>Funding from international cooperation partner (euros)</i>	<i>National counterpart funds</i>	<i>Dates</i>	<i>Main outputs</i>
Citizens' Participation in Peace Programme (PACIPAZ)	Improve major State institutions' and civil society organizations' skills in maintaining dialogue, fostering peaceful coexistence and constructive conflict management	National Planning Department (DNP) – Justice and Security Directorate Executing agencies: DNP, High Commission for Peace Colombian Family Welfare Institute (ICBF), the Young Colombia Presidential Programme, Secretariado Nacional de la Pastoral Social (national pastoral social secretariat), second-tier grassroots organizations	60 882	60 882	0	2004–2006	The programme has helped to minimize or eliminate key causes of conflict by building trust between civil society organizations and State bodies and by means of training – Training based on management exercises in participatory forums has helped to empower social organizations – Helping youth organizations to build their identity so that they can clarify and clearly formulate their own interests (for example, in the process of drawing up the Ten-Year Plan) is a key factor in preventing the organizations from being manipulated and serves, at the same time, to establish real social monitoring mechanisms – A process of change has been initiated in the beneficiary institutions which has resulted in greater efficiency in managing change, handling processes, creating and managing alliances, placing the focus of projects and processes on coexistence, sensitivity to conflicts and the needs of the beneficiaries

### European Union

<i>Name of project</i>	<i>Objective</i>	<i>Executing agency or beneficiary</i>	<i>Sum (euros)</i>	<i>Funding from international cooperation partner (euros)</i>	<i>National counterpart funds</i>	<i>Dates</i>
Promoting a culture of human rights in order to prevent the recruitment of children and young people into armed conflict in Colombia	FES – Promote a culture of human rights in order to prevent the recruitment of children and young people into armed conflict in Colombia	More information needs to be provided, or clarification given if no details are available	343 775.00	343 775.00	More information needs to be provided, or clarification given if no details are available	2007–2010
PDP Opportunity for Peace – alternative scenarios for preventing the involvement of children and adolescents in armed conflict	More information needs to be provided, or clarification given if no details are available	Fundación Social Colombiana (Colombian Social Fund) (Ceda Vida)	297 042.00	297 042.00	More information needs to be provided, or clarification given if no details are available	2007–2008
Promoting an environment conducive to the reintegration of children and adolescents disengaged from Colombian armed conflict by training and sensitizing journalists and communicators to the need for a responsible rights-based management of the issue that will encourage society to take joint responsibility for it	More information needs to be provided, or clarification given if no details are available	Medios para la Paz	224 000	224 000	More information needs to be provided, or clarification given if no details are available	2007–2010

### Sweden

<i>Name of project</i>	<i>Objective</i>	<i>Executing agency or beneficiary</i>	<i>Sum</i>	<i>Funding from international cooperation partner</i>	<i>National counterpart funds</i>	<i>Dates</i>
Preventing recruitment of children and young people by armed groups and assisting child soldiers who are victims of the conflict – second phase	RCI – Help to prevent the recruitment of children and young people, provide assistance and facilitate the reintegration of demobilized children and young people	UNICEF	€4 400 000	€1 512 000	€2 888 000	31 May 2008

### Norway

<i>Name of project</i>	<i>Objective</i>	<i>Executing agency or beneficiary</i>	<i>Sum</i>	<i>Funding from international cooperation partner</i>	<i>National counterpart funds</i>	<i>Dates</i>
Citizens' Board dealing with public policy on preventing the unlawful recruitment of children and young people into the ranks of illegal armed groups	Promote a citizens' dialogue with a view to exerting civic influence leading to the definition, design, formulation and implementation of public policy on preventing the unlawful recruitment of children and young people by illegal armed groups	Restrepo Barco Foundation	US\$ 31 000 non-reimbursable	US\$ 31 000 non-reimbursable	More information needs to be provided, or clarification given if no details are available	30 November 2008

<i>Name/overall objective</i>	<i>Budget/donor</i>	<i>Components/specific objectives</i>	<i>Outputs: 2005–2007</i>	<i>Dates</i>
II. Prevention and care for children who are victims of the conflict: prevent the recruitment of children and young people and provide support for the social and economic reintegration process	Total US\$ 1 023 495 International cooperation: Canadian International Development Agency (ACDI) US\$ 560 652 National counterpart funds US\$ 462 844	(A) Prevention of recruitment: boost activities to prevent recruitment and strengthen the application of risk, vulnerability and opportunity mapping  (B) Social reintegration: provide technical and financial support for training, production projects and access to employment	<ul style="list-style-type: none"> <li>• Consolidation of monitoring centres for children and adolescents in Antioquia</li> <li>• 51 municipalities in Antioquia with a human rights-based policy for children</li> <li>• Consolidation of the “Haz Paz” (“make peace”) policy for family coexistence</li> <li>• Formal establishment of a board for the prevention of recruitment (Antioquia Government Decree No. 02714/07)</li> <li>• Strengthening of seven cultural, educational, vocational and production projects in Antioquia</li> <li>• 6,739 children and young people participated in sociocultural, play-based, sports and production activities</li> <li>• Strengthening of networks for vocational training and employment through referral and youth opportunities centres (CROJs) and coordination with the High Council for the Social and Economic Reintegration of Armed Insurgents</li> <li>• 3,807 young people and 353 adults in Uraba take part in education programmes and in the identification of alternative productive ventures</li> <li>• All beneficiaries took part in education, health and social integration programmes and acquired the skills needed for their reintegration into civilian life</li> </ul>	May 2004 to December 2008

Name/overall objective	Budget/donor	Components/specific objectives	Outputs: 2005–2007	Dates
		(C) Institutional capacity-building: Provide technical and financial support to State institutions responsible for implementing childhood and youth policies	<ul style="list-style-type: none"> <li>• 610 civil servants took part in training in the drawing up of public policy for children and adolescents and inter-institutional coordination for prevention projects</li> <li>• Consolidation and implementation of inter-institutional agreements between ICBF, the High Council, SENA and other institutions responsible for implementing childhood and youth policy</li> <li>• Strengthening of the Public Prosecutor's Office: Office of the Ombudsman and Office of the Procurator-General in their capacity as moral guardians of the rights of the child and as legal channels for children disengaged from armed groups and for the monitoring and enforcement of the application of legislation on children and adolescents</li> </ul>	
		(A) Training and support for technical teams of care centres	<ul style="list-style-type: none"> <li>• Adoption of the CROJ model in a full and effective manner</li> <li>• 359 public servants trained in the use of the toolkit employed by the transition homes and the foster family programme; teaching methodologies; work skills; assessment of the education component; prevention of drug consumption; family relations policies; human rights; sexual and reproductive health; psychosocial support</li> <li>• 996 young people and 200 families served</li> </ul>	



<i>Name/overall objective</i>	<i>Budget/donor</i>	<i>Components/specific objectives</i>	<i>Outputs: 2005–2007</i>	<i>Dates</i>
		(B) Increasing the range of activities oriented towards income generation and entry into the labour market	<ul style="list-style-type: none"> <li>• 39 family production projects</li> <li>• 12 joint projects (2 young people per project)</li> <li>• 318 young people trained per quarter at SENA</li> <li>• 447 young people established “training routes”</li> <li>• 30 young people were trained in gastronomy</li> <li>• A guide to inter-institutional coordination</li> </ul>	
		(C) Support for: (1) family reunification; (2) “hogar gestor” family-based support system	<ul style="list-style-type: none"> <li>• 755 family reunions</li> <li>• 689 young people have returned to their families</li> <li>• A report on every reunion</li> <li>• Technical guidelines have been approved and implemented</li> </ul>	
		(D) Carry out mass media information and awareness-raising campaigns on childhood, conflict and prevention of recruitment	<ul style="list-style-type: none"> <li>• 21 episodes of the “Revelados” (“disclosed”) TV series</li> <li>• Free distribution of three comic strip booklets focusing on gender and ethnic identity</li> <li>• A national radio or television channel or newspaper assigned to the campaign</li> <li>• 13 regional channels</li> </ul>	
		(E) Design and set into operation six regional referral centres to support young people disengaged from armed conflict	<ul style="list-style-type: none"> <li>• CROJ strategy document</li> <li>• Six CROJs in operation</li> <li>• Document with indicators for care and referral</li> </ul>	

## VIII. Other Legal Provisions

279. The Code on Children and Adolescents (Act No. 1098 of 2006), establishes substantive and procedural rules for the full protection of children and adolescents and guarantees the exercise of their rights and freedoms and the restoration of rights that have been violated. The Constitution, legislation and the international human rights treaties and agreements ratified by Colombia form an integral part of this Code.

280. In addition, Act No. 1106 of 2006 extends the period of validity of Act No. 782 of 2002, which establishes the obligation to design and implement a special programme for children and adolescents who leave illegal organized groups.

281. The treaties signed and ratified by Colombia concerning the involvement of children in armed conflicts include the following:

(a) Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), approved by Act No. 171 of 1994;

(b) Convention on the Rights of the Child, approved by Act No. 12 of 1991;

(c) ILO Convention No. 182 (1999), ratified by Act No. 704 of 2001;

(d) Rome Statute of the International Criminal Court, approved by Act No. 724 of 2002;

(e) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, approved by Act No. 833 of 2003.

282. Lastly, as additional proof of Colombia's commitment to children's welfare and to stronger government institutions for the protection and promotion of their rights, in exercise of its fundamental role of providing protection for and ensuring the well-being of all children in its territory, the Government of Colombia has expressed its intention to work with the United Nations system with a view to implementing the monitoring and reporting mechanism provided for in Security Council resolution 1612 (2005).

283. To this end, the Special Representative of the Secretary-General for Children and Armed Conflict, further to the invitation extended by the Colombian Government, visited Colombia from 12 to 15 May 2008. During that week he met with various national authorities and members of civil society with the aim of gaining first-hand knowledge of the situation in Colombia prior to implementation of the mechanism mentioned above.

## IX. Conclusions

284. All the examples of work described in this document demonstrate the State's efforts and achievements, as well as the problems it has faced, in restoring and guaranteeing in practice the rights of children and adolescents.

285. Article 44 of the Colombian Constitution establishes that the rights of the child shall prevail over other rights.

286. Colombia has ratified all international human rights instruments that oblige the State to expedite all work undertaken to eradicate the recruitment of minors under 18 years of age. The Code on Children and Adolescents (Act No. 1098 of 2006), establishes obligations to protect children and adolescents from unlawful recruitment and provides for the exercise of the principle of prosecutorial discretion by the Office of the Attorney-General.

287. The Government's democratic security policy, which has allowed security to be restored in Colombia — thereby ensuring the viability of democracy, consolidating the legitimacy of the State and strengthening the rule of law — is a fundamental basis for reinforcing existing programmes for the prevention of enforced recruitment of children and adolescents.

288. The violence generated by the operation of illegal armed groups has constituted an enormous challenge for the country. Work to overcome this challenge will continue, since greater efforts are necessary, and existing efforts must be better coordinated. To that end, the Intersectoral Commission to Prevent the Recruitment and Use of Children, Adolescents and Young Persons by Illegal Groups was established by Decree No. 4690 of 2007.

## Annexes

- Act No. 1106 of 2006, extending the period of validity of Act No. 418 of 1997, extended and amended by Acts Nos. 548 of 1999 and 782 of 2002, and amending some of its provisions
  - Act No. 833 of 2003, ratifying the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, adopted in New York on 25 May 2000
  - Act No. 1098 of 2006, establishing the Code on Children and Adolescents
  - Act No. 115 of 1994, establishing the General Education Act
  - Decree No. 3966 of 8 November 2005, promulgating the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
  - Decree No. 4690/07, establishing the Intersectoral Commission to Prevent the Recruitment and Use of Children, Adolescents and Young Persons by Illegal Groups
  - Leaflets designed by the Ministry of Defence
  - Ministry of Defence Decision No. 00715 of 11 August 1999
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