



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Convention against Torture

**Consideration of reports submitted by States parties under
article 19 of the Convention**

Concluding observations of the Committee against Torture

Colombia

Addendum

**Follow-up by the Government of Colombia to the concluding
observations of the Committee against Torture
(CAT/C/COL/CO/4)***

[14 April 2011]

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

I. Introduction

1. In line with the recommendation of the Committee against Torture contained in paragraph 33 of its concluding observations (CAT/C/COL/CO/4) in respect of the fourth periodic report of Colombia (CAT/C/COL/4), the State of Colombia respectfully submits information on the follow-up being given to the recommendations made in paragraphs 12 to 17 of the concluding observations.
2. The Government of Colombia takes this opportunity to thank the Committee for the work it carries out to guarantee the right to integrity of the person. It also reaffirms the strong commitment of the State and civil society of Colombia to the promotion and protection of human rights.
3. The information pertaining to the above-mentioned paragraphs is set out below in numerical order.

II. Follow-up to the recommendations contained in the Committee's concluding observations

A. Follow-up to paragraph 12 of the concluding observations

1. **Complying with the obligations assumed under the Convention and investigating and punishing acts of torture with appropriate penalties which are commensurate with the grave nature of such acts**
 4. Article 12 of the Constitution of Colombia states that no one shall be subjected to enforced disappearance, to torture or to cruel, inhuman or degrading treatment or punishment. The Criminal Code defines the criminal offences of torture of a protected person and torture in articles 137 and 178, respectively.
 5. Aware of the importance of investigating, prosecuting and punishing human rights violations and breaches of international humanitarian law, Colombia has, with the support of the international community, implemented the policy on combating impunity which is set forth in Document No. 3411. The validity of that policy document — which was adopted by the National Economic and Social Policy Council (CONPES) in 2006 — was then extended up to December 2010 in order to permit 22 capacity-building projects to be carried out in the above-mentioned areas.
 6. One of the aims of the policy is to establish capacity-building tools to support officials in investigating, prosecuting and punishing the perpetrators of offences. To that end, nine specialized modules were developed, the following six of which address torture specifically: “Comparative classification of the main human rights violations”, “Methodology for investigating human rights violations and breaches of international humanitarian law”, “Fundamental international legal aspects related to human rights and international humanitarian law”, “International criminal law”, “Identification of breaches of international humanitarian law in domestic legislation” and “Victims’ rights in cases of human rights violations and breaches of international humanitarian law”.
 7. The content of these tools was validated with the relevant institutions (the judiciary, Prosecutor-General’s Office, Attorney-General’s Office and military criminal justice system). The tools were used in a national training course for officials from the four institutions (prosecutors, judges, attorneys and criminal justice officials) which combined

theory and practice. For further details, see the information provided on the web page of the Presidential Programme for Human Rights and International Humanitarian Law.¹

8. Other tools were also created:

(a) “Protocolo para el reconocimiento de casos de violaciones a los derechos humanos e infracciones al derecho internacional humanitario, con énfasis en el homicidio en persona protegida” (protocol for the recognition of cases of human rights violations and breaches of international humanitarian law, with a special focus on homicide of protected persons). Author: Doctor Alejandro Aponte Cardona. Sponsor: Embassy of the Netherlands;²

(b) Module for the investigation and documentation of the crime of torture and other cruel, inhuman or degrading treatment or punishment in accordance with the Istanbul Protocol;³

(c) Plan for the investigation of acts of enforced disappearance.⁴

9. In order to strengthen the implementation of the policy on combating impunity, under which torture is defined as a crime, Colombia has included that policy in the chapter on human rights and international humanitarian law of the National Development Plan 2010–2014.⁵

10. The corresponding bill, which has now reached its second reading in Congress, establishes two major objectives: the creation of a national human rights and international humanitarian law system, and the introduction of a comprehensive national policy on human rights and international humanitarian law to foster respect for the human rights of persons subject to the jurisdiction of the Colombian State and to safeguard those rights. The policy will have a regional perspective and be based on the principles of effective enjoyment of rights, a differential focus, rationality and comprehensive protection. The policy encompasses the following elements:

(a) National plan of action for human rights and international humanitarian law;

(b) Prevention of human rights violations and breaches of international humanitarian law;

(c) Human rights education and culture;

(d) Protection;

(e) The comprehensive policy on human rights and international humanitarian law of the Ministry of Defence;

(f) Access to justice and measures to combat impunity;

(g) The international situation;

(h) Equality and non-discrimination – A differential focus.

11. More recently, in her report on the human rights situation in Colombia in 2010,⁶ the United Nations High Commissioner for Human Rights welcomed the joint declaration signed in November 2010 by the Government, the Attorney-General’s Office, the

¹ See www.derechoshumanos.gov.co/LuchaImpunidad/Paginas/Inicio.aspx.

² Ibid.

³ See www.unodc.org/colombia/es/laplac/publicaciones.html.

⁴ Ibid.

⁵ www.dnp.gov.co/PortalWeb/PND/PND20102014.aspx.

⁶ A/HRC/16/22, para. 17.

Ombudsman's Office, other Government bodies, and representatives of civil society and the international community. That declaration, entitled "Towards a comprehensive policy on human rights and international humanitarian law",⁷ refers specifically to the following lines of action under the heading of "Efforts to combat impunity and corruption and to expedite the judicial process:

3.1 Following-up on complaints received by Government bodies concerning acts of homicide, including extrajudicial killings, as well as intimidation and other violations of human rights and international humanitarian law.

3.2 Monitoring and strengthening the application of public policies to counter corruption and impunity.

3.3 Promoting action to ensure genuine access to justice.

3.4 Combating enforced disappearance and protecting citizens' privacy.

3.5 Working to combat kidnapping and attacks against personal liberty."

12. The legislation that has been passed to facilitate more effective investigation, prosecution and punishment includes the following:

(a) By Act No. 1418 of 1 December 2010, Colombia approved the International Convention for the Protection of All Persons from Enforced Disappearance (adopted in New York on 20 December 2006);

(b) Act No. 1424 of 29 December 2010 establishes transitional justice provisions designed to guarantee truth, justice and reparation for victims of demobilized members of outlawed organized groups, as well as providing for certain legal benefits and other measures. The Act covers demobilized persons who have not committed any offences other than conspiracy to commit a minor or serious offence, unlawful use of uniforms or badges and unlawful bearing of weapons and ammunition;

(c) Act No. 1426 of 29 December 2010 (amendments to Act No. 599 of 2000) deals with punishable offences against the legally protected interests of human rights defenders and journalists. This law:

(i) Establishes that a homicide victim's identity as a human rights defender is an aggravating factor, punishable by a prison sentence of from 25 to 40 years (art. 104, para. 10);

(ii) Increases the statute of limitations to 30 years, in cases of homicide of human rights defenders (art. 83, para. 2);

(iii) Establishes that, in cases of kidnapping for extortion, the victim's identity as a human rights defender is an aggravating factor that makes the crime punishable by a prison sentence of from 28 to 40 years (art. 170, para. 11);

(iv) Amends the criminal classification of the offence of intimidation to allow for an increased penalty when the victim is a human rights defender. The established prison sentence of from 4 to 8 years has been increased by a third (art. 347, para. 2).

13. The National Institute of Forensic Medicine and Sciences (INMLCF) has worked to build up its technical capacity for dealing with fatal and non-fatal cases of torture. In 2010, eight clinical forensic workshops on dealing with victims of torture were organized as part of the refresher seminars held at all the main regional clinics, with some 200 experts attending. In the city of Medellín, two workshops were held on "Torture and Sexual

⁷ www.vicepresidencia.gov.co/Noticias/2010/Documents/101122_DecConferenciaNalDDHH.pdf.

Violence in Cases of Enforced Disappearance – A Gender Perspective” from 31 May to 4 June 2010 for 90 experts from INMLCF and the Technical Investigation Unit of the Prosecutor-General’s Office (Fiscalía General de la Nación).

14. INMLCF issues and updates human-rights-centred technical regulations and protocols concerning forensic practices. These regulations and protocols, in addition to setting out the relevant technical and scientific concepts, identify risk factors and medical and psychological standards of care. The latter are included in the sections on recommendations with a view to assisting the authorities to take further measures to guarantee compensation for victims of rights violations.

15. Documents on this subject issued by INMLCF in 2010 include: “Documentación de violencia sexual y tortura en desaparición forzada” (documentation of sexual violence and torture in cases of enforced disappearance) and “Necropsia médico legal en desaparición forzada, documentación de tortura y violencia sexual” (Autopsies in cases of enforced disappearance: documentation of torture and sexual violence), both of which were authored by the expert forensic pathologist, Dr. Mary Luz Morales, with the support of the United Nations Development Programme (UNDP). These documents are currently at press. In addition, “Reglamento técnico para el abordaje integral de lesiones en clínica forense, versión 01” (technical regulations for a comprehensive clinical forensic approach to injuries, version 01), published in October 2010, includes information on how to assess torture and an annex that focuses specifically on that subject.

2. Prompt and impartial investigations by the competent authorities, punishment with appropriate penalties that are commensurate with the grave nature of the crimes, and allocations of additional resources to the Human Rights and International Humanitarian Law Unit

16. Convinced that torture is an act that violates fundamental rights and that it should be repudiated by society and punished in an exemplary manner by the State, the National Directorate of Prosecution Services is expediting the proceedings in cases of torture and working to ensure the observance of victims’ rights to truth, justice and reparation and to guarantees of non-recurrence by closely supervising and monitoring investigations and setting up technical committees to that end.

17. The Prosecutor-General’s Office has recently been working on the design of investigation methodologies for use in these cases. The resulting model, which is in line with international standards, will soon be made available to the country’s prosecutors in order to help them to improve their practices in this area.

18. As to the recommendation concerning measures for strengthening the Human Rights and International Humanitarian Law Unit, it should be noted that the Colombian State has spared no effort in applying its policy on combating impunity in cases of human rights violations and breaches of international humanitarian law in ways that will strengthen the institutions responsible for investigating these crimes and for trying and punishing the perpetrators.

19. The following table shows what budgetary resources were assigned and how they were spent between 2007 and 2009.

National budgetary appropriations and expenditure

| <i>Recipient agency</i> | <i>Appropriation</i> | <i>Appropriation as a percentage of the total</i> | <i>Expenditure</i> | <i>Percentage of appropriation spent</i> |
|--|----------------------------|---|----------------------------|--|
| Ombudsman's Office | \$8 127 802 587.00 | 35.93% | \$6 314 037 144.00 | 77.68% |
| Prosecutor-General's Office | \$7 321 293 900.00 | 32.36% | \$6 161 377 794.00 | 84.16% |
| Attorney-General's Office | \$4 047 660 000.00 | 17.89% | \$1 962 503 935.00 | 48.48% |
| High Council of the Judiciary | \$1 612 500 000.00 | 7.13% | \$1 612 120 988.00 | 99.98% |
| National Institute of Prisons and Penitentiaries | \$1 396 500 000.00 | 6.17% | \$1 301 071 000.00 | 93.17% |
| Office of the Vice-President | \$118 140 000.00 | 0.52% | \$82 607 000.00 | 69.62% |
| Total | \$22 623 896 487.00 | 100.00% | \$17 433 717 861.00 | 77.06% |

Source: CONPES 3411.

20. The Prosecutor-General's Office received the second-largest budgetary appropriation (7,321,293,900 Colombian pesos). Of that amount, 84.16 per cent (6,161,377,794 Colombian pesos) was spent.

21. The commitment of the Prosecutor-General's Office to the continuity of activities being conducted under the policy on combating impunity is demonstrated by its allocation of resources in 2010 for the continuation of projects related to the operational aspects of investigations.

22. Following the execution of the CONPES 3411 allocation for 2009, the Prosecutor-General's Office, with support from the project on countering impunity that forms part of the Presidential Human Rights Programme, arranged for a further allocation in 2010 of 1,245,000,000 pesos from the Government's operating budget.

23. Of the 1,245,000,000 Colombian pesos allocated under CONPES 3411 (additional funds) in 2010, a total of 1,018,012,723 pesos were spent. The Unit's total funding for 2010 was 8,029,000,000 Colombian pesos (approximately US\$ 4 million).

24. As to the possibility of assigning all investigations into cases of torture to the Human Rights and International Humanitarian Law Unit, this decision is for the Prosecutor-General to make. She has the power, in accordance with the Constitution and other laws, to assign specific cases to the Unit on legal grounds or on the basis of their particularly serious nature. However, assigning all cases to the Unit would overload the Unit's human and logistical resource capacity and would impede not only the investigative work, but also the forward progress of such investigations.

3. Centralized system for identifying all cases of torture and the stage reached in investigating them

25. At a meeting of the Inter-Agency Board on Preventing Torture, it was agreed that the National Directorate of Prosecution Services, the High Council of the Judiciary and the Monitoring Centre for the Presidential Human Rights and International Humanitarian Law Programme would be responsible for carrying forward the necessary measures to ensure compliance with the Committee's recommendation concerning the creation of a system for compiling information on cases of torture.

26. A decision was also taken to establish an inter-agency subcommittee that would be tasked with creating such a system. The subcommittee has been making progress on the work assigned to it.

27. The information system is to be developed by building a database that will contain information both on investigations into cases of torture being led by the Prosecutor's Office and on the decisions handed down by the High Council of the Judiciary.

28. In addition, a number of minimum parameters have been established for the compilation of information by these two bodies so that they can examine their databases with a view to the possibility of integrating the information into a single system.

29. These two bodies will then become the main sources for information on cases of torture compiled by the State. The Human Rights and International Humanitarian Law Monitoring Centre, which has experience in creating and managing databases on human rights, will provide technical assistance in building the database on cases of torture.

B. Follow-up to paragraph 13 of the concluding observations

30. In December 2010, the Supreme Court appointed Viviane Morales as Prosecutor-General from a shortlist drawn up by the Government. Ms. Morales was sworn in by the President of Colombia, Juan Manuel Santos Calderón, on 12 January 2011. Her profile is available on the Prosecutor-General's official website.⁸ Her appointment was highlighted in the report on the human rights situation in Colombia prepared by the United Nations High Commissioner for Human Rights.

31. The appointment was in line with articles 13, 40 and 43 of the Constitution and Act No. 581 of 2000, which call for the appropriate and effective participation of women at all levels of government.

32. The Prosecutor-General, and all her co-workers, have demonstrated their commitment to uncovering the circumstances surrounding human rights violations and breaches of international humanitarian law and punishing the perpetrators.

33. In deciding whether or not to place prosecutors' offices inside military facilities, the Prosecutor-General will use her discretion in thoroughly assessing the factual and legal considerations pertaining to the situation of prosecutors and members of the criminal investigation police.

34. Because of the situation with regard to law and order in Colombia, which is particularly serious in areas where highly dangerous illegal groups are operating, the risks faced by certain public officials, whose protection can be ensured by placing them within military facilities, are a serious consideration. This risk factor should be weighed in conjunction with the international humanitarian law principle of discrimination, which prohibits the location of civilian assets in areas identified as being military targets and establishes that combatants must be distinguished from non-combatants in situations of armed conflict.

35. Another factor that must be taken into consideration is the amount of funding available to public officials and the material and financial resources available to the Prosecutor-General's Office for the protection of those officials who are dealing with offences related to the activities of illegal groups.

36. Lastly, the possibility of implementing policies and adopting measures in this connection and even of removing prosecution service or criminal investigation officials from military facilities will have to be examined.

⁸ <http://fgn.fiscalia.gov.co:8080/Fiscalia/contenido/inicio/principal.jsp>.

C. Follow-up to paragraph 14 of the concluding observations

37. The State and Colombian society are deeply committed to the observance and protection of human rights and international humanitarian law. Within the scope of its autonomy of action, the Prosecutor-General's Office carries out its investigative work in an effort to ensure that justice is promptly done in a way that upholds due process, with the objective being to shed light on events and punish the perpetrators of violations.

38. Within this framework, Act No. 1424 of 2010 on transitional justice prohibits the granting of benefits to demobilized members of outlawed groups who have committed human rights violations. In addition, Decree No. 4619 of 2010, which sets out the implementing regulations for article 50 of Act No. 418, which deals with public law and order, prohibits the granting of pardons to persons who have committed crimes of exceptional ferocity or barbarism, terrorism, kidnapping or genocide or who have committed homicide outside of combat or under circumstances in which the victim is defenceless.

39. In accordance with the legislation in force, applications for legal benefits such as pardons are only admissible when the persons in question have not committed heinous crimes or crimes against humanity. The crimes classified under those headings include kidnappings, massacres, forced disappearance and homicide.

40. The only persons who can receive pardons are those who have been convicted of offences such as rebellion, sedition or rioting.

D. Follow-up to paragraph 15 of the concluding observations

1. Guarantee of the integrity and security of persons working in agencies concerned with the administration of justice

41. The judicial branch of the Government of Colombia has done an exemplary job of investigating, trying and punishing civil servants who have conspired with groups outside the law. In her report on the human rights situation in Colombia, the High Commissioner attests to this fact when she notes that: "In 2010 the Supreme Court sentenced 10 parliamentarians and acquitted 1. Particularly significant is the conviction of Álvaro García Romero to 40 years for his links with paramilitary groups and indirect participation in seven cases of aggravated homicide, and other crimes. Another important ruling was the 'acquittal on the basis of doubt' in the case of Carlos García Orjuela, after he had spent over two years in prison. The Court has filed 120 cases against parliamentarians and ex-parliamentarians. [...] These rulings demonstrate the Court's determination to fight impunity."⁹

42. The national police force, working through the judicial branch's protection and enforcement cluster, is responsible for the protection of civil servants who find themselves in situations covered by Decree No. 1740 of 2010.

2. Immediate steps to discontinue the harassment and surveillance of judges by agents of the Administrative Department of Security (DAS) and to punish those responsible

43. Intelligence work is governed by the principles set forth in articles 1 and 2 of the Constitution. Within that framework, the Administrative Department for Security (DAS)

⁹ A/HRC/16/22, paras. 46 and 47.

performs its functions in the public interest and strives to fulfil the fundamental aims of the State as set forth therein.

44. The General Intelligence Directorate of DAS works to identify scenarios, plans, activities or intended activities that represent a risk or threat to the national interest and/or national objectives or that offer an opportunity in that regard. The objective is to provide the State with intelligence that will help it to take decisions and set policies relating to State security in accordance with article 1 of Decree No. 643 of 2004, which modified the structure of DAS, as well as introducing other provisions.

45. This approach is based on Decree No. 2233 of 1995, which provides that a national intelligence plan is to be prepared and submitted each year to the National Security Council (Decree No. 4748 of 23 December 2010) for its consideration. This plan sets out the programmes and objectives which should guide and give direction to Government intelligence activities during the year.

46. This national intelligence plan is interlinked with the National Development Plan and associated sectoral plans relating to the various subject areas and lines of work of the National Security Council.

47. Intelligence work is aimed at obtaining information that will contribute to the achievement of the fundamental aims of the State (art. 2 of the Constitution) and to efforts to uphold democracy, thwart threats made against individuals, shield democratic institutions from threats such as terrorism, drug trafficking, abductions, the trafficking of arms, munitions, explosives and related materials, money-laundering and other such threats.

48. The current Director of DAS, by Decision No. 1706 of 28 December 2010, provided for the establishment of an advisory committee on the protection and enforcement of human rights in DAS intelligence and counter-intelligence activities. This committee's primary function is to analyse the different policies, strategies, plans, programme and projects of DAS as they relate to human rights and to provide guidance and advisory services in that connection. The committee has also been instructed to cooperate fully in the development of Government rules and regulations governing the performance of intelligence and counter-intelligence work in accordance with the objectives for such functions as set out in the Constitution and other laws and regulations. Respect for human rights constitutes the framework for its work at all times.

49. The Government has submitted bill No. 195/11 to the legislature, which provides, inter alia, for regulations designed to strengthen the legal framework within which intelligence and counter-intelligence agencies perform the functions assigned to them by the Constitution and other laws.¹⁰ This bill is aimed at safeguarding constitutional guarantees. While it is granted that intelligence and counter-intelligence activities often limit the exercise of some fundamental rights, the objective is to ensure that those limits are imposed on the basis of a rigorous assessment of their necessity, suitability and proportionality. The amendments that this bill would make in Act No. 1288 of 2009 reflect reasoned arguments advanced by those who framed it, the good practices for intelligence agencies published by the United Nations after Act No. 1288 had entered into force and a number of gaps in that law that have come to light during its enforcement. The bill's objective is to strengthen the legal framework within which intelligence and counter-intelligence agencies perform the functions assigned to them by the Constitution and other laws in a transparent and effective manner in accordance with strictly defined boundaries and with established principles and aims.

¹⁰ See http://www.camara.gov.co/portal2011/proceso-y-tramite-legislativo/proyectos-de-ley?option=com_projectosdeley&view=ver_projectodeley&idpry=367.

50. The Prosecutor-General's Office has provided the following information on the progress of investigations concerning former staff members of DAS and of the Special Administrative Financial Information and Analysis Unit (UIAF) that are being carried out by the Public Prosecutors Unit of the Supreme Court.

51. The following investigations are being conducted by the Special Prosecutors Unit for District 8 (Fiscalía Octava Delegada) of the Supreme Court:

- (a) Case number: 110016000102201000088
- (i) Prosecuted:
 - Fernando Alonso Tabares Molina (former Director-General of Intelligence of DAS) and Jorge Alberto Lagos León (former Deputy Director of Counter-intelligence of DAS) admitted their guilt in a pretrial agreement with the Prosecutor-General's Office. On 7 March 2011, they were found guilty as charged and were sentenced to 8 years' imprisonment, were fined the equivalent of 44.43 legal monthly minimum wages and were barred from holding public office for a period equal to their prison term.
 - Germán Albeiro Ospina Arango (former Coordinator of the National and International Observers' Group (GONI) of the Office of the Deputy Director for Counter-intelligence of DAS): The principle of discretion to prosecute was applied in this case, with the criminal proceedings involving this defendant being suspended in exchange for his testimony as a witness for the prosecution. Once he has fulfilled his obligations in that respect, the criminal charges against him will be dropped. The application of these measures concerning cooperation with the court are monitored and authorized by a supervisory judge (*juez de control de garantías*), who is an independent member of the Prosecutor-General's Office, at hearings in which the representatives of the victims and a representative of the Attorney-General are present.
 - Gustavo Sierra Prieto (former Deputy Director for Analysis of DAS) admitted his guilt in a pretrial agreement with the Prosecutor-General's Office.
 - Luz Marina Rodríguez Cárdenas (former Director-General for Operations of DAS).
 - Bernardo Murillo Cajamarca (former Coordinator of the Anti-Corruption Group of DAS).
- (ii) Tried:
 - Luz Marina Rodríguez Cárdenas
 - Bernardo Murillo Cajamarca
- (iii) Stage: Oral proceedings in Criminal Circuit Court 14 of Bogotá;
- (iv) Judicial decisions:
 - Charges were brought for the offences of aggravated criminal conspiracy (Act No. 599 of 2000, arts. 340 (1) and (3) and art. 342), malfeasance (Criminal Code, art. 413) and arbitrary, unfair actions constituting abuse of authority (Criminal Code, art. 416)
 - An order was issued for the accused to be held in pretrial detention in a prison facility

- On 11 March 2011, a continuance of the oral proceedings in the case against Luz Marina Rodríguez Cárdenas and Bernardo Murillo Cajamarca was granted
- (b) Case number: 110016000102201000167
- (i) Tried:
- Mario Alejandro Aranguren Rinco (former Director-General of UIAF)
 - Luis Eduardo Daza Giraldo (former Deputy Director for Operational Analysis of UIAF)
- (ii) Steps taken:
- Charges were brought for the offences of aggravated criminal conspiracy (Criminal Code, arts. 340 (1) and (3) and art. 342 as amended by art. 8 of Act No. 733 of 2002), malfeasance (Criminal Code, art. 413) and abuse of public office (Criminal Code, art. 428)
 - An order was issued for the accused to be held in pretrial detention
 - The accused are currently on trial in Criminal Circuit Court 27 of Bogotá
- (c) Case number: 110016000102201000217
- Tried:
- Martha Inés Leal Llanos (former Deputy Director of Intelligence Operations): The principle of discretion to prosecute and to grant partial immunity was applied in this case, with the criminal proceedings involving this defendant being suspended in exchange for her testimony as a witness for the prosecution. Once she has fulfilled his obligations in that respect, the criminal charges against her will be dropped. The application of these measures concerning cooperation with the court are monitored and authorized by a supervisory judge (*juez de control de garantías*), who is an independent member of the Prosecutor-General's Office, at hearings in which the representatives of the victims and a representative of the Attorney-General are present.
 - Alba Luz Flórez Gélvez (former detective with the Office of the Deputy Director for Human-Source Intelligence of DAS): The principle of discretion to prosecute and to grant partial immunity was applied in this case, with the criminal proceedings involving this defendant being suspended in exchange for her testimony as a witness for the prosecution. Once she has fulfilled his obligations in that respect, the criminal charges against her will be dropped. The application of these measures concerning cooperation with the court are monitored and authorized by a supervisory judge (*juez de control de garantías*), who is an independent member of the Prosecutor-General's Office, at hearings in which the representatives of the victims and a representative of the Attorney-General are present.
 - The application of the principle of discretion to prosecute was approved and Criminal Circuit Court 21 affirmed the decision to apply this principle to the defendant Martha Inés Leal Llanos.
 - William Gabriel Romero Sánchez (former Deputy Director of Human-Source Intelligence of DAS).
 - The above-mentioned persons are not being held in custody; the case has reached the arraignment stage.

- (d) Case number: 110016000102201000372
- Prosecuted: Germán Albeiro Ospina Arango (former Coordinator of the National and International Observers' Group (GONI) of DAS): Under investigation; criminal proceedings have been suspended by the application of the principle of discretion to prosecute. Municipal Criminal Court 48, with a supervisory judge presiding, authorized the application of this principle, with a stay of proceedings being issued under article 334 (6) of Act No. 906 of 2004 (as amended by art. 5 of Act No. 1312 of 2009). In accordance with this decision, a pretrial release order was issued under article 317-2 of the Code of Criminal Procedure.
- (e) Case number: 110016000102201100058
- Accused: Alba Luz Flórez Gélvez (former detective with the Office of the Deputy Director for Human-Source Intelligence of DAS): Under investigation; on 5 August 2010, charges were filed with the supervisory judge presiding over Municipal Criminal Court 33 of Bogotá for the offences of aggravated criminal conspiracy (Criminal Code, arts. 340 (1) and (3) and 342), malfeasance (art. 413), aggravated unlawful interception of communications (art. 192) and abuse of public office (art. 428). On 3 September 2010, Martha Inés Leal Llanos, Alba Luz Flórez Gélvez and William Gabriel Romero Sanchez were indicted. The case was assigned to Criminal Circuit Court 6 of Bogotá for trial.
- (f) Case number: 110016000102201000245
- Tried: Jorge Alberto Lagos León (former Deputy Director for Counter-Intelligence of DAS); Fernando Alonso Tabares Molina and Jorge Alberto Lagos León were found guilty as charged and were sentenced to 8 years' imprisonment, were fined the equivalent of 44.43 legal monthly minimum wages and were barred from holding public office for a period equal to their prison term.
- (g) Case number: 110016000102201000320
- Tried: Fernando Alonso Tabares Molina (former Director-General of Intelligence of DAS); Fernando Alonso Tabares Molina and Jorge Alberto Lagos León were found guilty as charged and were sentenced to 8 years' imprisonment, were fined the equivalent of 44.43 legal monthly minimum wages and were barred from holding public office for a period equal to their prison term.
- (h) Case number: 110016000102201100027
- Tried: Gustavo Sierra Prieto (former Deputy Director of Analysis of DAS): A hearing to verify the terms of a pretrial agreement was held in Criminal Circuit Court 14 of Bogotá. The court's decision was appealed against by the Office of the Attorney-General. The Superior Criminal Court of Bogotá must now schedule a hearing at which it will grant or deny the appeal.
- (i) Case number: 110016000102686200900002
- Suspects: Identification in progress

52. Investigative case files have been prepared and are being added to; 250 orders have been issued to the criminal investigation police and the fiscal police force.

53. One of the factors that has slowed the progress of the investigations is the need to analyse the large volumes of digital evidence gathered by the Prosecutor-General's Office from various DAS offices.

54. The Special Prosecutors Unit for District 11 (Fiscalía 11 Delegada) of the Supreme Court is moving ahead with the following cases:

- (a) Case number: 12495
 - (i) Prosecuted: Jacqueline Sandoval Salazar, Jorge Armando Rubiano, Martha Inés Leal, Jose Miguel Narváez, Hugo Daney Ortiz García, José Alexander Velásquez Sánchez, Enrique Alberto Ariza Rivas;
 - (ii) Offences:
 - Aggravated criminal conspiracy (Criminal Code, art. 340 (3)), repeated, systematic unlawful interception of communications (art. 192 (2)), unlawful use of transmitting or receiving equipment (art. 197) and arbitrary, unfair actions constituting repeated, systematic abuses of authority (art. 416)
 - (iii) Steps taken:
 - On 28 May 2009, authorization was given to open an investigation. On 30 July 2009, pretrial detention without bail was ordered on the basis of the charge of aggravated criminal conspiracy.
 - A number of civil actions were admitted; various rulings on the admissibility of evidence were issued; and decisions were taken on various petitions from the accused.
 - On 2 December 2009, the investigations concerning José Alexander Velásquez Sánchez, Carlos Alberto Arzayus Guerrero, Hugo Daney Ortiz García, Martha Inés Leal Llanos, Jorge Armando Rubiano Jiménez, Jacqueline Sandoval Salazar, José Miguel Narváez Martínez and Enrique Alberto Ariza Rivas were concluded.
 - It was decided that the case should be divided. This gave rise to Case No. 12753, under which the proceedings against the other accused persons are continuing.
 - On 26 January 2010, formal charges were brought. The case was brought to trial on 7 March.
- (b) Case number: 12753
 - (i) Offences:
 - Aggravated criminal conspiracy (Criminal Code, art. 340 (3))
 - Unlawful interception of communications (Criminal Code, art. 192)
 - Unlawful use of transmitting or receiving equipment (Criminal Code, art. 197)
 - Abuse of authority
 - (ii) Accused: Oscar Barrero López, Fabio Duarte Traslaviña, Mario Orlando Ortiz Mena, Sandra Lucía Muñoz Zuñiga, María Hossana Ruiz Vargas, Carlos Fabián Sandoval Sabogal, José Alexis Mahecha, Carlos Alberto Herrera Romero, Ibet Senovia Gutierrez Cuadro, Lina Maria Romero Escalante, Neider de Jesús Ricardo Hoyos, Yuly Paulín Quintero, William Gabriel Romero, Rodolfo Medina Alemán, Ignacio Moreno Tamayo, Ronald Harvey Rivera Rodríguez, Germán

Albeiro Ospina Arango, Eduardo Aya Castro, Gian Carlos Auque de Silvestre, Germán Villalba Chávez, Juan Carlos Sastoque Rodríguez, Carlos Alberto Arzayus Guerrero, Jesús Hernando Caldas Leyva, Carlos Alberto Orozco Garcés, William Alberto Merchán López, Jimmy Galvis Navarrete, Juan Carlos Gutiérrez, Juan Carlos Benavides, Sergio Pérez.

(iii) Steps taken:

- On 27 and 28 January 2010, preliminary inquiries were begun in respect of Jesús Hernando Caldas Leyva, Carlos Alberto Orozco Garcés, William Alberto Merchán López, Jimmy Galvis, Juan Carlos Gutiérrez, Juan Carlos Benavides and Sergio Pérez.
- Civil actions were admitted; various rulings on the admissibility of evidence were issued; and decisions were taken on various petitions from the accused.
- On 6 April 2010, a determination was reached regarding the legal situations of Gian Carlo Auque de Silvestri, Eduardo Aya Castro and Germán Villalba Chávez; their pretrial detention in a custodial facility was ordered.
- On 14 December 2010, Fabio Duarte Traslaviña applied for an advanced ruling. The advanced-ruling proceedings were assigned to the specialized criminal circuit courts of Bogotá as Case No. 13099.
- On 20 December 2010, the investigations concerning Mario Orlando Ortíz Mena, Ignacio Moreno Tamayo, Gian Carlos Auque de Silvestri, Germán Villalba Chávez, Eduardo Aya Castro and Rodolfo Medina Alemán were concluded.
- On 5 January 2011, Germán Enrique Villalba Chávez applied for an advanced ruling. The advanced-ruling proceedings were assigned to the specialized criminal circuit courts of Bogotá as Case No. 13099.
- On 4 March 2011, charges were filed against Gian Carlos Auque de Silvestre, Mario Orlando Ortiz Mena, Rodolfo Medina Alemán, Eduardo Aya Castro, and Ignacio Moreno Tamayo for the offences of aggravated criminal conspiracy (Criminal Code, art. 340 (1) and (3)), repeated, systematic unlawful interception of communications (Criminal Code, art. 192 (1) and (2)), unlawful use of transmitting or receiving equipment (Criminal Code, art. 197) and arbitrary, unfair actions constituting repeated, systematic abuses of authority (Criminal Code, art. 416).

(c) Case number: 12839

(i) Offences:

- Aggravated criminal conspiracy (Criminal Code, art. 340 (3))
- Unlawful interception of communications (Criminal Code, art. 192)
- Unlawful use of transmitting or receiving equipment (Criminal Code, art. 197)
- Abuse of authority

(ii) Prosecuted: Carlos Alberto Arzayus Guerrero, in custody; the steps taken in this case are the result of the division of Case No. 12495 into two separate cases on 2 December 2009.

(iii) Steps taken:

- On 15 March 2010, a petition for an advanced ruling was entered for Arzayus Guerrero. However, as he did not agree to plead guilty to the charges, the court ordered that the proceedings should be recommenced at the point that they had reached when the petition was filed, i.e., the conclusion of the investigation.
- On 26 April 2010, charges were brought against Arzayus Guerrero. The case has reached the trial stage, with the proceedings being resumed on 4 April 2011.

(d) Case number: 110016000102200900122

(i) Offences:

- María del Pilar Hurtado Afanador (Director of DAS) and Bernardo Moreno Villegas (Director of the Department of Administration of the Office of the President of Colombia) are accused of having conspired with other staff members of the Office of the President of Colombia, DAS and UIAF to commit, repeatedly and systematically, offences directed against judges of the Supreme Court, legislators, lawyers, journalists and other prominent persons in Colombia.
- Hurtado Afanador and Moreno Villegas organized, directed and promoted the conspiracy to commit offences against the above persons with the specific aim of discrediting them by providing the media with defamatory information. Hurtado Afanador and Moreno Villegas also directed the infiltration of persons into the staff of the Supreme Court judges so that they could obtain confidential information by listening in on their meetings. In addition, they intercepted e-mails of Piedad Córdoba and her advisers and obtained recordings of private meetings of the Polo Democrático Alternativo political party.
- They are also suspected of having traced financial dealings and database queries concerning judges of the Supreme Court, legislators, lawyers, journalists and other persons, without a warrant, and of holding meetings to evaluate the information they obtained by these means. Moreno Villegas personally requested information from SATENA Airlines. Hurtado Afanador, as the Director of DAS, gave false information to members of the Supreme Court when she told them, in response to their query, that DAS was not conducting any investigation or inquiries regarding them.
- Andrés Peñate, as Director of DAS in 2007 and 2008, is suspected of having conspired with current and former staff members of that agency to organize, direct and promote the repeated, systematic commission of offences against legislators Piedad Córdoba and Gustavo Petro Urrego. Peñate also had occasion to order persons to conduct punishable acts that violated the right to privacy, such as the unlawful interception of telephone, mobile telephone and electronic communications, as well as using database access to trace financial dealings and tracking the movements of those legislators without a warrant.
- Mr. Felipe Muñoz, the current Director of DAS, is believed to have helped persons to evade action by the Prosecutor-General's Office and/or hinder its investigation in 2009 by preventing members of that Office from entering the offices of external groups (facades) of DAS where important information about the legislators Piedad Córdoba and Gustavo Petro and other prominent persons in Colombia was thought to be located.

(ii) Steps taken:

- The investigation concerning Bernardo Moreno Villegas, former Director of DAS; María del Pilar Hurtado Afanador, former Director of DAS; Andrés Mauricio Peñate Giraldo, former Director of DAS; Cesar Mauricio Velásquez Ossa, current Ambassador of Colombia to the Holy See; and Felipe Muñoz Gómez is being carried forward by the Prosecutor-General's Office in accordance with Act No. 906 of 2004.
- The investigative case file was prepared on 18 May 2010 and has been added to on various occasions. The Prosecutor-General has issued orders to the criminal investigation police.

E. Follow-up to paragraph 16 of the concluding observations

55. On 20 November 2008, the General Command of the Armed Forces issued Standing Order No. 208, which provides specific instructions to the armed forces on the implementation of 15 actions designed to strengthen the application of the policies of the Ministry of Defence and the General Command with regard to the observance and protection of human rights and the application of international humanitarian law in tactical, strategic and operational areas. These actions are as follows:

- (a) Identify flaws in intelligence, operational and logistic procedures (controls on weapons and ammunition use and storage);
- (b) Review the application of intelligence doctrine;
- (c) Review the content of human rights training courses to ensure that they are in line with the comprehensive policy on human rights and international humanitarian law and the standard teaching model;
- (d) Establish a human rights learning evaluation system;
- (e) Organize command responsibility workshops in all divisions and strengthen instruction in this subject in training schools;
- (f) Create an early-response inspection group that will travel to locations where complaints or accusations have been made about possible serious human rights violations or breaches of international humanitarian law;
- (g) Undertake the necessary coordination to ensure that, in the future, delegated inspectors will report directly to the General Military Inspectorate and that they will deal exclusively with human rights and international humanitarian law issues;
- (h) Establish a hierarchy for operational legal advisers;
- (i) Ensure that in the future operational legal advisers will report directly to the Operational and Legal Advisory Directorate within each service;
- (j) The General Command will decide which illegal armed organizations should be countered with lethal military force as the first option;
- (k) Refine the system used for evaluating military units to ensure that their evaluations are based on their success in achieving the objectives established for the different types of operations, in line with the level of hostility in the area concerned;
- (l) Introduce a differentiated system for the application of rules of engagement;

(m) Establish a human rights certification system for officials seeking admission to courses that would make them eligible for promotion to the rank of colonel or general. The system should be based on a rigorous review of such officials' personal records;

(n) Strengthen judicial support for the work of the Prosecution Service and the Technical Investigation Unit in full compliance with Orders No. 10 and No. 19 of 2007;

(o) Establish, down to the tactical level, a system for receiving human rights complaints and create a system for ensuring ongoing public accountability and maintaining an open dialogue with civil society.

56. As part of the follow-up on these 15 actions, the Ministry of Defence issued a progress report on their implementation covering the period from November 2008 to April 2010.¹¹

57. The main achievements and results as described in the aforementioned report are outlined below.

1. In relation to actions (a) and (b)

58. Joint Operations Headquarters is in the process of preparing the Joint Services Command and Staff Handbook, which will standardize and update operational doctrine within the three services.¹²

59. On 15 December 2009, the General Command issued the first Operational Law Handbook for military commanders down to the tactical unit (battalion) level, operational legal advisers and legal officials, including military and ordinary judicial authorities, as well as defence lawyers.

60. The handbook offers the necessary legal tools to help members of the armed forces to ensure the legality of operations, while at the same time providing access to an organized compendium of national and international standards and information on operational doctrine applicable to military operations.

61. The General Command is proceeding with the immediate distribution of the Operational Law Handbook.¹³ Its internal distribution was carried out in line with Order No. 044 of 2010. In the course of this process, 44 military units across the country have been visited and 2,001 persons have received training.

62. As part of the Action against Impunity Project, eight workshops were conducted for judicial and enforcement officials from both military and ordinary courts, with approximately 30 persons attending each workshop. In addition, New York University published a series of articles in its *Journal of International Law and Politics* in which Nils Melzer¹⁴ refers specifically to the handbook as an example of recent governmental practice.

63. Joint Intelligence Headquarters is reviewing intelligence doctrine and procedures. Some of the main portions of the various manuals that are being reviewed are the sections

¹¹ Ministry of Defence, "Avances en el cumplimiento de las 15 medidas adoptadas por el Ministerio de Defensa Nacional. Noviembre de 2008 – abril de 2010", available at: www.mindefensa.gov.co/irj/go/km/docs/Mindefensa/Documentos/descargas/Asuntos_de_Interes/Derechos_Humanos/docs_nweb/Avances_Caso_Soacha.pdf.

¹² Ibid., p. 10.

¹³ Ibid., p. 12.

¹⁴ Nils Melzer, "Keeping the balance between military necessity and humanity: a response to four critiques of the ICRC's interpretive guidance on the notion of direct participation in hostilities", in *New York University Journal of International Law and Politics*, vol. 42:831 (2010).

on systems for authorizing operations, supporting documentation, and intelligence data storage and screening systems.

64. In 2009, the army revised and updated six handbooks on intelligence and counter-intelligence activities. For its part, the air force established the 2010 Counter-Intelligence Plan, developed methodological plans, and designed and implemented a risk matrix for use in the protection, management and limitation of access to information and in the protection of civil servants who perform intelligence and counter-intelligence activities.

65. In an effort to strengthen the intelligence and counter-intelligence cycle, a total of 3,109 persons were trained, including supervisory judges, prosecutors, public officials from the Technical Investigation Unit, commissioned and non-commissioned officers, and intelligence agents.¹⁵

66. Controls on the classified reward payments and expenses system have been put in place.

67. The Comptroller-General's Office has access to information on the budget execution process and resource management. In addition, Joint Intelligence and Counter-intelligence Headquarters has ordered biannual audits of the management of classified expenditures for all operations since 2006 that have resulted in a death in combat.

68. Some of the controls established under the current Ministry of Defence policy on reward payments are as follows:

- (a) A reward may be paid for information, but not for operational results;
- (b) Rewards may not be paid to public servants under any circumstances;
- (c) All reward payments must be approved in writing by the Technical Oversight Committee (composed of the Minister of Defence or his or her representative and the intelligence chiefs of the armed forces and the national police) or by the Central Committee (composed of the intelligence chiefs from each service and a group of analysts), depending on the amount of the reward;
- (d) Reward payments are to be made only after the appropriate committee has completed its review of the supporting documentation for the operation (which may include, for example, the operations order and the patrol report) and has assessed the operational context and its contribution to the dismantlement of the organization in question.¹⁶

2. In relation to measures (c), (d) and (e)

69. In order to assess the implementation of the standard teaching model, between 22 February and 1 July 2009 the General Command's General Military Inspectorate, in coordination with the Joint Doctrine and Education Headquarters, conducted special visits to monitor and to provide advice and support to 11 military training schools and 4 army instruction and training centres.

70. As a result of those visits, recommendations were made to the Force Commands, the Joint Doctrine and Education Headquarters and the school administrations on ways to improve the implementation of the standard teaching model.¹⁷

¹⁵ Ibid., pp. 13 and 14.

¹⁶ Ibid., pp. 14 and 15.

¹⁷ Ibid., p. 6.

71. On 23 December 2008, the Ministry of Defence signed a framework cooperation agreement with the School of Public Administration. The objectives to be pursued under the agreement are: to review the standard teaching model; to evaluate the impact of human rights and international humanitarian law activities; and to establish a mechanism for evaluating how much members of the police and armed forces have learned about human rights and international humanitarian law.

72. Under this agreement, a manual was prepared on creating and measuring impacts in human rights and international humanitarian law training. In April 2010, a pilot plan was implemented in the Inocencio Chincá School for non-commissioned army officers in Tolomaida to analyse the viability of this tool.

73. The Joint Doctrine and Education Headquarters, with the support of the School of Public Administration, is also modifying the tasks included in the standard teaching model to ensure that their completion can be measured using the tools provided in that manual.

74. In 2010, two 120-hour diploma courses were offered in training for trainers on the standard teaching model for human rights and international humanitarian law. The armed forces trained 12,300 of their members using the standard teaching model in schools and training centres.

75. The Human Rights Directorate of the General Command led the review of the implementation of the standard teaching model and drafted the instructors' manuals. It also designed a pamphlet outlining the topics that should be covered, as well as the methodology to be used in human rights training. This pamphlet is currently being reviewed and supplemented.¹⁸

76. The Joint Doctrine and Education Headquarters and delegates of the Doctrine and Education Headquarters of each service visited the training schools to see how well the recommendations were being implemented and to check on the performance of the teachers and instructors.

77. Although determined efforts are being made to obtain qualified staff, more teachers are still needed at several centres.

78. With the support of the School of Public Administration, 120-hour training-for-trainers diploma courses were designed based on the standard teaching model for human rights and international humanitarian law as a means of strengthening teachers' skills.

79. In December 2009, the first diploma course was held for 30 members of the Doctrine and Education Headquarters, the human rights offices of each service and the national police force. Two diploma courses are planned in 2010 for teachers of human rights and international humanitarian law and for instructors from the training battalions of the army, navy, air force and the national police.¹⁹

80. On 15 December 2008, the Commander-in-Chief announced the establishment of the Human Rights School of the Armed Forces.

81. The school was established by Decision No. 1949 of 18 May 2009 as the New Human Rights School of the National Army and was inaugurated the following day by the Ministry of Defence. This is the first school in Latin America where members of the armed forces promote, disseminate and teach human rights and international humanitarian law.

¹⁸ Ibid.

¹⁹ Ibid.

82. In 2009, two advanced courses in human rights and international humanitarian law were offered. Each of these 850-hour (11-week) courses was attended by 45 persons. In addition, two basic courses were attended by approximately 120 professional soldiers.

83. In 2010 the Human Rights School offered four advanced courses on human rights and international humanitarian law, each lasting 11 weeks, which were attended by 45 members of the armed forces. Four basic courses were also held for professional soldiers and were each attended by approximately 30 persons.

84. In 2010 the Ministry of Defence provided instruction to 3,500 men in various subject areas (indigenous peoples, persons of African descent, lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, etc.) with a view to preventing human rights violations and breaches of international humanitarian law, thereby strengthening the culture of respect for human rights and guarantees of those rights.

85. The system for building on lessons learned continues to be strengthened by such measures as the establishment of a unified format for the collection of data for further analysis using the following structure:

- (a) Statement of the facts;
- (b) Statement of the allegations made by the International Committee of the Red Cross, if any;
- (c) Analysis and identification of the violation of international humanitarian law in question;
- (d) Legal foundation or standard violated;
- (e) Errors or successes in the planning and execution of the mission in terms of international humanitarian law;
- (f) Corrective measures implemented;
- (g) Recommendations for establishing doctrine.

86. In addition, the army, by Order No. 154 of 11 May 2009, made it mandatory to conduct a practical exercise every 15 days with a view to the issuance of special themed bulletins on human rights. About 30 bulletins have been issued to date.²⁰

87. With the support of the International Committee of the Red Cross, in May 2009 workshops on lessons learned were held in the second and seventh army divisions. At these workshops, an analysis was conducted of the allegations submitted by the International Committee of the Red Cross to the Ministry of Defence concerning the following situations:

- (a) Murders allegedly attributable to State agents;
- (b) Direct attacks by the armed forces on non-combatants;
- (c) Lack of respect for mortal remains;
- (d) Ill-treatment of persons in the custody or under the protection of law enforcement personnel;
- (e) Occupation of civilian property;
- (f) Review of operational orders to ensure that they are in line with international humanitarian law.

²⁰ Ibid.

88. The Ministry of Defence, in coordination with the Joint Doctrine and Education Headquarters, held three workshops on lessons learned in Arauca, Florencia and Medellín with the support of the International Committee of the Red Cross.

89. The navy developed a handbook for human rights and international humanitarian law instructors, teachers and facilitators. It will soon adopt a periodic evaluation system to determine the existing degree of knowledge about human rights and international humanitarian law and the extent to which that knowledge has been internalized.

90. In order to ensure that commanders are aware of the extent of their responsibility for both their actions and omissions and that they take all possible steps to prevent violations, the Joint Doctrine and Education Headquarters has conducted five seminars on command responsibility in Santa Marta, Bogotá, Florencia and Tolemaida. In addition, the Ministry of Defence has given presentations on the subject in Medellín and Bucaramanga for division, brigade and battalion commanders.

91. The Human Rights Headquarters of the National Army is led by a brigadier general and is divided into six directorates headed by colonels. The Headquarters seeks to channel the army's efforts to implement the Ministry of Defence's comprehensive policy on human rights and international humanitarian law in each of the following areas: instruction, discipline, support, defence and cooperation.

92. The primary objectives are as follows:

(a) To guide the implementation of the comprehensive policy on human rights and international humanitarian law within the army;

(b) To establish criteria for the analysis and follow-up of cases arising from complaints, reports or other sources related to alleged human rights violations and breaches of international humanitarian law;

(c) To promote the development of doctrine in this area and its application within the army;

(d) To cooperate with national and international bodies with a view to reinforcing respect for human rights and the observance of international humanitarian law;

(e) To establish channels for disseminating information on respect for fundamental rights and freedoms both inside and outside the army, empower institutional defence and strengthen protection for special groups.²¹

3. In relation to measure (f)

93. The work of the Early-Response Inspection Group is governed by the regulations set out in annex B of Order No. 208 of 2008.

94. Any complaint that is received, regardless of its source, is entered into the complaints system and sent to the General Command, which decides whether it will be assigned to the General Military Inspectorate or the inspectorate of the relevant service. Once the case has been assigned, the relevant inspectorate must analyse the situation and decide whether the Group should be called in. If it is asked to consider the case, the Group analyses it from an operational viewpoint and recommends what administrative actions the inspector should take and what intelligence and operational procedures need to be reviewed, if any. Once its work is completed, the Group submits an executive report to the Commander-in-Chief or the corresponding force commander, as appropriate, in which it

²¹ Ibid., pp. 9 and 10.

analyses the associated intelligence, along with the planning, implementation and evaluation of the operations and missions in question, the chain of command, compliance with administrative procedures and compliance with military doctrine.

95. The General Military Inspectorate has recommended that the Group be called upon to consider cases involving Brigades 16, 14 and 11 and Mobile Brigade 7 and complaints against military personnel of the Presidential Guard and Ovejas Sucre Battalions.

96. The army has had the Group conduct four inspections of Brigades 3, 10, 12 and 16.

97. The navy has not called in the Group because no cases that would justify doing so have arisen; however, an inspection of the First Marine Infantry Brigade was conducted.

98. In accordance with Order No. 50 of 22 August 2005,²² the air force has provided for the establishment of an operational legal committee that will perform the same functions as the Group.

4. In relation to measure (g)

99. A total of 11 inspectors have been appointed in the armed forces: one in each army division, for a total of eight; two in the navy and one in the air force. The army inspectors have examined 70 units.

100. By Order No. 40 of 10 March 2009, the General Command issued instructions concerning the organization and work arrangements of the inspectorates that are under the authority of the General Military Inspectorate. In accordance with these instructions, the work of the inspectorates will be devoted exclusively to the subject of human rights and international humanitarian law and they will report directly to the General Military Inspectorate.

101. The various inspectorates have thus all been placed under the authority of the General Military Inspectorate. The purpose of this is to help ensure that they all know what their duties are and that they perform them properly.

102. Every two weeks, the Inspector-General holds a teleconference with all the inspectors in order to directly supervise their performance of their duties.

103. The inspectors are working to review the operational and intelligence procedures of the units to which they are assigned. Their findings have been included in inspection reports, which are then used by the units as a basis for the submission of plans for improvement. In addition, the inspectors' reports have been sent to the corresponding division and force commanders so that corrective action can be taken. (One of the reports served as the grounds for calling in the Early-Response Inspection Group.)

5. In relation to measures (h) and (i)

104. In 2009 the corps of operational legal advisers was expanded.

105. The army has established the Office of Operational Legal Advisory Services, and the air force has established the Legal and Human Rights Headquarters. The navy has restructured its corps of operational legal advisers.

106. In February 2009, a total of 86 advisers participated in a 16-day joint training course on operational law – the most ambitious course of its kind conducted by the armed forces since the creation of those advisory posts. This course made a decisive contribution to the effort to strengthen the role of the armed forces' operational legal advisers by enhancing

²² Ibid., pp. 20 and 21.

their legal and operational expertise and so helping them ensure that their performance meets high standards of professionalism and excellence. The course also provided an opportunity to build a support network among the operational legal advisers of the three services and to encourage the exchange of lessons learned.²³

6. In relation to measure (j)

107. The Ministry of Defence has designated the national police force as the lead agency in the fight against emerging criminal gangs. This has helped to define how much force may be used to combat this primarily criminal phenomenon. A procedure has been established within the armed forces, however, for authorizing those forces to support the police in the fight against emerging criminal gangs.

108. By Order No. 208 of 2008, the General Command directed that an advisory group be established whose primary function is to authorize military support for the police in their fight against emerging criminal gangs in cases where such gangs have reached a level of violence and organization requiring military deployment.

109. As part of the arrangements made for that order's fulfilment, the General Command issued Order No. 216 of 2009, whose purpose is to establish the procedure at the division level and the equivalent levels in the air force and the navy for determining which type of operation and rules of engagement should be applied.²⁴

7. In relation to measure (k)

110. The system for measuring operational results was amended by Standing Order No. 300-28 of 20 November 2007 of the General Command, which established the following guidelines:

(a) Collective and individual demobilizations should be given priority over the capture of combatants, which in turn should be preferred over combat kills. The deaths of ringleaders should be publicized;

(b) The primary efforts of troops in the field of combat should focus on preserving and strengthening legitimacy as a principle of strategic importance for the armed forces;

(c) The operational results that are being pursued should be reflected in a lower crime rate and increased economic and social growth in the regions concerned.

111. The operational results attest to the fact that this order is being followed. Between 1 January 2008 and 31 December 2009, a total of 6,099 members of illegal armed groups were demobilized, 4,735 were captured and 1,768 were killed.

112. The balanced scorecard (BSC) framework²⁵ has been implemented in the armed forces, including the joint commands and the major operational units of each service. The use of new BSC indicators and measurement objectives has brought about a change in attitude and behaviour on the part of military personnel, particularly in the field of combat and during actions against legitimate military targets.

²³ Ibid., p. 16.

²⁴ For a further discussion of this subject, see recommendation No. 4.

²⁵ This framework can be used for evaluating the strategies of any organization. It is intended to supplement the indicators used for performance assessment by combining management indicators with outcome indicators.

8. In relation to measure (l)

113. Following a consensus-building exercise in which the Ministry, the armed forces and the Prosecutor-General's Office all participated and following the approval of the outcome of that exercise at the Commanding Officers' Meeting, the Minister of Defence issued Orders No. 17 and No. 32 of 2009. The purpose of those orders was to establish two sets of rules of engagement for the armed forces — one for land combat operations and the other for security operations — and to set up a training and implementation system.

114. The General Command has launched a plan for the immediate provision of training in this area. The objective is to disseminate these rules of engagement at all levels, with the focus being on the use of training platforms that include operational scenarios.

115. The United States Southern Command financed the printing of 450,000 cards that explain the rules of engagement, 2,000 pocket guides for commanders, 250 educational banners and 700 posters showing recreations of real-life operational situations in which the rules of engagement should be applied. The armed forces now have the appropriate material to start offering training on the rules of engagement in all training battalions throughout the country.

9. In relation to measure (m)

116. Since 1997, a human rights certification system has been implemented by the Directorate of Human Rights and International Humanitarian Law of the Ministry of Defence to determine eligibility for receiving overseas commissions, participating in human rights training and receiving funding from the United States for training purposes.

117. All officers seeking promotion must obtain human rights certification. The procedure starts with the submission of the list of applicants by the military academy (Escuela Superior de Guerra) to the Directorate of Human Rights and International Humanitarian Law. Each applicant is then given five days in which to prepare for and complete the certification process. One of the requirements for certification is verification by the Prosecutor-General's Office and the General Military Inspectorate that there are no criminal or disciplinary investigations pending against the applicant.

118. The certification requirement is applicable to all officers seeking promotion from major to lieutenant colonel and from colonel to brigadier general.

10. In relation to measure (n)

119. Since 2006, channels of communication with the Prosecutor-General's Office and the Technical Investigation Unit have been consolidated under a number of inter-agency agreements.

120. Under Agreement No. 025 of 2007, 52 liaison investigators from the Technical Investigation Unit have been attached to military units. The protection afforded them by the public security forces enables them to conduct their investigations in remote areas of the country.

121. The Joint Operations Headquarters has instructed the operations headquarters of each service, in writing, to record whether the criminal investigation police were present or not during each operation and to provide the corresponding justification.

11. In relation to measure (o)

122. Order No. 025, issued on 14 November 2008, established a nationwide system for filing complaints of human rights violations. Complaints can be filed in three different ways:

- (a) Through the human rights offices of the armed forces and the police, which must be easily accessible to the public;
- (b) Through telephone hotlines;
- (c) Through special links on the web pages of the armed forces and the national police.

123. Order No. 025 also establishes a system for channelling such complaints so that they are brought to the immediate attention of the judicial authorities and duly referred to the General Inspectorate for administrative and disciplinary action.

124. All complaints received are reported upon in televised accountability hearings.

125. By order of the President, eight televised accountability hearings concerning human rights were held in 2009.

126. This mechanism is monitored on an ongoing basis by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and official State oversight bodies.

127. Delegated inspectors monitor the application of the system for receiving complaints of alleged human rights violations and breaches of international humanitarian law. They verify the number of complaints received and the procedures followed, as well as the analyses performed by the evaluation committees that have been set up at each level.

128. The General Military Inspectorate made special inspection visits to each of the divisions of the army during the second half of 2008 to check up on the implementation of the complaints system.

129. The purpose of the visits was to check on the procedures used to disprove or confirm the allegations and to establish whether or not responsibility was borne by the armed forces, as well as the progress and outcomes of those procedures.

130. There are plans to further increase the effectiveness of the system for monitoring, follow-up and evaluation of complaints by establishing parameters for assessing the circumstances of each case and the attendant lines of causality. Those plans are currently awaiting approval.

131. Work is also under way to introduce software that can be used to help consolidate information on all complaints involving members of the police or armed forces and to facilitate follow-up.

132. With regard to the second part of the recommendation concerning the need to step up cooperation with the Prosecutor-General's Office (Fiscalía General de la Nación) in order to ensure the prompt investigation of such crimes and the prompt trial and punishment of the perpetrators, State institutions have been coordinating their work, in keeping with the principle of close collaboration as set forth in the Constitution, in the investigation of homicides attributed to agents of the State and the trial and punishment of the perpetrators.

133. The application of the policy on combating impunity (CONPES Document No. 3411 of 2006), which has gained momentum since the current Government decided to make it a cornerstone of the National Development Plan 2010–2014, enables the Prosecutor-

General's Office and the Ministry of Defence to work together on a continuing basis to solve all pending murder cases.

134. The results achieved through the implementation of the policy on combating impunity include the following:

(a) Training has been given to 1,451 agents who specialize in the investigation of human rights violations and breaches of international humanitarian law and the trial and punishment of the perpetrators. In total, 37 one-day training seminars have been organized in the cities of Medellín, Villavicencio, Cúcuta, Neiva, Bucaramanga, Barranquilla, Cali and Montería;

(b) With the endorsement of the Office of the Vice-President, Decree No. 122 was issued on 18 January 2008. This decree, which provides for the expansion of the staff of the Prosecution Service, has resulted in the creation of a new support unit comprising 20 prosecutors nationwide. Their job is to further the investigations into murders allegedly committed by agents of the State. The Prosecutor-General's Office and the criminal investigation police have also appointed 126 officials (including 19 prosecutors) to further the investigations into crimes committed against trade union members;

(c) The National Human Rights Unit of the Prosecutor-General's Office has been given logistical support and security guarantees for the 1,973 commissions of inquiry set up to investigate the murders of protected persons;

(d) Support was provided to the Human Rights Advisory Group and the National Directorate of Special Investigations of the Attorney-General's Office to help them move forward with 155 cases involving murders allegedly committed by agents of the State. Progress was made in pursuing those cases thanks to the organization of 152 commissions of inquiry as part of the implementation of the policy on combating impunity. Those commissions succeeded in gathering evidence and in identifying the culprits;

(e) The implementation of Inter-Agency Agreement No. 15406 of 15 September 2006 between the Administrative Department of the Offices of the President and Vice-President of Colombia and the Prosecutor-General's Office is ongoing. The aim of the agreement is to facilitate follow-up on cases involving violations of the human rights of trade union members with a view to generating fact-finding strategies, identifying and punishing the perpetrators and other participants in these violations, and preventing any further such violations;

(f) Support was provided under the policy on combating impunity to the National Human Rights and International Humanitarian Law Unit of the Prosecutor-General's Office for the work of three special commissions of inquiry set up to investigate cases involving the murders of members of indigenous communities. In 2008, 117 cases, in which members of the indigenous Wiwa and Embera Chamí communities had been the victims, were processed;

(g) Comprehensive assistance has been provided to 56,213 victims in total (37,454 in 2009 and 18,759 in 2010). The institutional capacity of the Ombudsman's Office to provide a wide range of assistance to victims was boosted with the establishment of mobile inter-disciplinary teams of lawyers and psychologists. The teams provided psychological and legal services to over 1,306 persons during *versión libre* ("voluntary statement") hearings;

(h) The design of the institutional model for victim and witness assistance has been finalized. The model provides a frame of reference for defining the roles and powers of regional authorities;

(i) A psychosocial and rights-based approach to self-care has been developed to help protect the mental health of public officials who work with victims of human rights violations and breaches of international humanitarian law. The method encourages non-traumatic interventions and seeks to enhance such officials' understanding of the value of their work;

(j) A project to identify and classify victims of human rights violations and breaches of international humanitarian law is under way in the National Human Rights and International Humanitarian Law Unit of the Prosecutor-General's Office. To date, 301 cases of extrajudicial killings have been analysed and 2,976 victims have been identified. The judgements handed down in cases in which members of trade unions were the victims are being examined to identify the motives behind those crimes;

(k) Two key methodological tools have been developed to optimize the advisory services and legal representation provided to victims: a protocol to be followed by mobile psychological assistance units in their dealings with victims; and a protocol for the compilation of documentation which provides step-by-step guidance for attorneys.

135. As a matter of conviction, the Colombian Government is fulfilling its commitment to prevent human rights violations. For example, the most recent report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia (2010) states that "In 2010, the drastic reduction in the number of persons presented as killed in combat while under the custody of the army, known as 'false positives', was consolidated." The number of such cases has fallen over the past three years from 194 in 2008 to 13 in 2009 and to 5 in 2010.

136. The Prosecutor-General's Office exercises its autonomy in carrying out the initial investigations into human rights violations and breaches of international humanitarian law. Given the complexity of such cases, the results obtained by the National Human Rights and International Humanitarian Law Unit are noteworthy: 1,486 cases are currently ongoing, 135 judgements have been handed down, 233 persons have been convicted, 2,679 victims have been identified, 1,144 persons have been sentenced to terms of imprisonment, and precautionary measures have been taken in respect of 133 persons (figures as at 15 January 2011).

137. The military criminal justice system does not have jurisdiction over cases or investigations involving crimes against humanity, violations of international humanitarian law or other types of conduct that do not bear a functional connection with the armed services, since the military justice system's jurisdiction is limited to cases closely related to the mission entrusted to the police and armed forces in the Constitution.

138. Article 221 of the Constitution states that the military criminal justice system will have jurisdiction only over crimes committed by members of the police and armed forces that are related to the particular branch of service to which the offender belongs.

139. The military criminal justice system thus has the authority to investigate an alleged offence only when two criteria, one subjective and one objective, are met, namely: when the person who is the object of the investigation is an active member of the police or armed forces; and when the conduct that triggered the investigation is closely related to their service, in other words, to the constitutionally and legally designated functions of the police and armed forces.

140. Offences related to service in the police and armed forces are defined in article 2 of Act No. 522 of 1999 (the Military Criminal Code). Article 3 of the Act lists offences that under no circumstances may be considered to be related to such service and must therefore be handled by the ordinary courts.

141. Article 3 of the new Military Criminal Code (Act No. 1407) provides that the following acts are not related to service in the police or armed forces: acts of torture, genocide, enforced disappearances, violations of international humanitarian law and acts that so patently run counter to the constitutionally defined functions of the police and armed forces that their commission, in and of itself, breaks the perpetrator's functional connection with those forces. The military criminal justice system may therefore not investigate or judge those acts. It is important to note that the Code now in force was introduced by means of a ruling of the Constitutional Court.

142. The Constitutional Court, through constitutional ruling C-533 of 2008, entrusted Congress with the task of revising the provision on crimes not related to service in the police or armed forces (which resulted in the current wording of article 3, as mentioned above) and declared that the legal provisions on the devastation, looting or arbitrary or improper requisitioning of property and on illegal demands for payments or contributions were enforceable "... outside the framework of the ordinary Criminal Code if the offences were committed against persons and property protected by international humanitarian law. In other words, outside the context of an armed conflict, the military criminal justice system may take cognizance of the acts described in articles 154 to 160 of the draft Military Criminal Code only if a direct and original connection with the mission of the police or armed forces is demonstrated. Otherwise, the acts are to be imputed to the individuals who committed them, the offences with which they are to be charged shall be those defined by applicable ordinary criminal law, and the perpetrators are to be investigated and judged by the ordinary criminal justice system."

143. The case law of the Constitutional Court (since ruling C-358 of 1997) has considerably limited the scope of the military criminal justice system, and the Ministry of Defence has acted in accordance with this new interpretation.

144. The Executive Directorate of Military Criminal Justice of the Ministry of Defence is implementing a plan to expedite special cases. The aim is to reduce the number of investigations into complaints lodged by a national or international organization that are being conducted by the military justice system. This is to be achieved by screening out those cases that do not properly fall under the jurisdiction of that system.

145. The plan is being carried out through an inter-agency arrangement with the Prosecutor-General's Office and the Attorney-General's Office. The objective is to determine which court system has jurisdiction over investigations into the murders of protected persons.

146. In 2008–2010, a total of 912 murder investigations (231 in 2010) were transferred from the military criminal justice system to the ordinary system.

147. The Disciplinary Chamber of the High Council of the Judiciary (the autonomous body that holds a constitutional mandate to determine the competent jurisdiction) has adopted internal procedures designed to reduce the time it takes to reach decisions. The Chamber has given priority to the aforementioned murder cases in order to expedite their resolution.

148. According to information provided by the Chamber, in 2010 a total of 138 murder investigations were concluded: 108 of the cases were referred to the ordinary courts and 15 to the military criminal courts; the other 15 were suspended. In January 2011, a further 29 investigations were referred to the ordinary courts.

149. The decisions of the Chamber are wholly in keeping with the Constitutional Court ruling that prohibits the military criminal justice system (whose jurisdiction is restricted to certain exceptional circumstances) from taking cognizance of serious human rights violations and breaches of international humanitarian law.

150. The case law of the Chamber indicates that, if there is any doubt about which jurisdiction applies, the matter must be referred to the ordinary courts.

151. The emergency measures defined in article 205 of the Code of Criminal Procedure include death scene investigations and the handling of crime scenes, which are carried out by the criminal investigation police under the direction of the Prosecutor-General's Office in accordance with article 250, paragraph 8, of the Constitution. That mandate, which is set forth in the Constitution and in other legislation, was endorsed in a supporting document issued in connection with the military criminal justice system signed in 2006 by the Ministry of Defence and the Prosecutor-General's Office. The provisions set forth in that document remain in effect.

F. Follow-up to paragraph 17 of the concluding observations

1. Implementation of the National Plan for the Search for Disappeared Persons

152. The National Economic and Social Policy Council (CONPES), which is the Government's principal advisory body on all matters related to the country's economic and social development, adopted CONPES Document No. 3590 on 1 June 2009, which deals with the consolidation of mechanisms for the search for disappeared persons in Colombia and their identification.

153. The following institutions participated in the formulation of this policy and are also responsible for a number of related tasks:

- (a) Commission on the Search for Disappeared Persons;
- (b) Ombudsman's Office;
- (c) Administrative Security Department;
- (d) National Police Force;
- (e) Prosecutor-General's Office;
- (f) National Institute of Forensic Medicine and Sciences (INMLCF);
- (g) National Planning Department;
- (h) Ministry of Finance and Public Credit.

154. This policy document describes the short-, medium- and long-term responsibilities of the Government of Colombia with respect to the consolidation of arrangements for searching for persons who have disappeared as a consequence of the violence in the country, for fully identifying them and for returning their remains to their families. This consolidation process is considered to be a critical step towards being able to inform families and communities about the status and whereabouts of disappeared persons, to shed light on the circumstances surrounding their disappearance, and to determine the motives and identities of the persons responsible for their disappearance and, where applicable, their deaths.

155. This response constitutes a constitutional obligation of the Government of Colombia whose recognition and fulfilment are a *sine qua non* both for the effective enjoyment by the victims of violence in Colombia of their rights to truth, justice and reparation and to guarantees that such violations will not recur and for the viability of the national peace and reconciliation plan.

156. Along with strategies for determining the truth, punishing perpetrators and providing full reparation (which are not the subject of this document), the use of effective strategies for searching for disappeared persons and for identifying them is the very least that must be

done for victims, their families and society. It is hoped that the measures described in this document will overcome the obstacles faced by the State in its effort to determine the fate of disappeared persons and to resolve their cases. Success in this connection will permit the implementation of an essential component of public policy with respect to disappeared persons, reparation, and human rights and international humanitarian law.

157. This document takes into account national and international standards, institutional and policy precedents, and the responsibilities of the Colombian State with respect to the search for and identification of disappeared persons. In view of the limited effectiveness of search and identification mechanisms, these elements need to be consolidated into a public policy with a clear conceptual foundation. CONPES Document No. 3590 (see attached), which is to be in effect until 2013, presents 13 recommendations whose results will be subject to monitoring.

158. The Commission on the Search for Disappeared Persons is, in line with its mandate, strengthening its ties with local and regional organizations representing the families of victims of enforced disappearances. The Commission is fostering close links with the Nidya Erika Bautista Foundation for Human Rights, based in Bogotá, and has registered more than 80 cases reported by that organization. In parallel with these activities, the Commission also provides advisory services and works to help criminal and disciplinary investigations move forward.

159. The Commission, together with the National Human Rights Unit of the Prosecutor-General's Office, the National Forensic Medicine and Sciences Institute (INMLCF) and the Barranquilla-based Association of Relatives United by a Single Sorrow (AFUSODO), worked together to retrieve and identify 14 bodies found in the Caribbean region. The Commission, in cooperation with the National Human Rights Unit, INMLCF and the Ombudsman's Office, provided support for family members and delivered the bodies to the families of the deceased in a manner that showed due regard for their human dignity.

160. Thanks to the international cooperation funds made available under UNDP Project No. 58286, material and human-resources support for the Commission on the Search for Disappeared Persons has included the recruitment of six lawyers and psychologists to support victims of enforced disappearances in Bogotá and the priority regions of Antioquía (Apartadó), Córdoba (Montería), Magdalena (Santa Marta) and Nariño (Pasto). This support has been vital in structuring and expanding the activities of the Commission, whose outstanding operational results are improving the follow-up of cases and the quality of the data being compiled.

161. In March 2011, following a cooperative effort on the part of the Prosecutor-General's Office, the Commission, the United Nations Office on Drugs and Crime, OHCHR and the Embassy of the United Kingdom of Great Britain and Northern Ireland, a master plan for the investigation of enforced disappearances was made available to justice officials. This compendium of international best practice as applied in different countries throughout the world provides guidance for conducting criminal investigations and for bettering the prosecution of this crime under different judicial systems.

162. The progress made by INMLCF in the implementation of the National Plan for the Search for Disappeared Persons is as follows:

(a) Phase 1. Data collection: INMLCF, which manages the National Register of Missing Persons, has created 1,485 access keys for users from the relevant investigative agencies and has coordinated training activities to ensure data quality and the proper management of information systems. Significant technological progress has also been made in adjusting the Disappeared Persons and Corpses Information System (SIRDEC) platform in line with recommendations from international organizations, agencies responsible for investigating cases and for victim protection, and civil society organizations;

(b) Phase 2. Searches and cross-checking of information: In keeping with the applicable legislative provisions, INMLCF is cross-checking the data obtained from autopsies and missing persons reports in order to manage the search and identification process. These efforts contribute to judicial investigations into disappearances by ensuring that data entries in the National Register of Missing Persons are up to date. All the organizations working in this field have access to the Register, which helps them to keep track of the cases that they are working on;

(c) Phase 3. Retrieval and identification: INMLCF currently has 147 service points at national level (8 regional directorates, 25 divisional directorates and 114 basic units) which provide pathology services and clinical forensic services for victims (for fatal and non-fatal cases, respectively). The Institute has 760 experts in the following areas: clinical pathology, psychiatry and psychology, dentistry, anthropology, genetics, lophoscopy and other laboratory sciences. The experts produce, inter alia, expert identification reports on individual cases in line with national and international standards. In 2010, 32,790 autopsies were performed and 439,002 reports were produced on non-fatal injuries (sex crimes, intoxication, personal injuries, etc.). INMLCF currently has six interdisciplinary teams working in specialized identification laboratories who deal with complex cases (bodies in a skeletal state or skeletal remains, bodies in a state of decomposition, charred remains or fragments and/or bodies bearing any signs of violations of human rights or international humanitarian law) in the towns of Bogotá, Medellín, Barranquilla, Villavicencio, Tunja and Cali. Their work is supported by three laboratories specializing in genetic analysis in Bogotá, Medellín and Cali. Of the bodies on which autopsies were performed in 2009, 31,634 were positively identified.

(d) Phase 4. Final interment: In 2010, 29,498 of the bodies identified by INMLCF were released to family members and/or persons close to the victims in line with standard national procedures. In order to optimize the placement of unidentified or identified but unclaimed bodies, INMLCF has developed a procedure for the release of bodies for burial by the State. This procedure has been incorporated into the quality management system, and information on it is currently being circulated. Of all the bodies submitted for autopsy in 2010, a total of 1,164 remain unidentified; the basic identification file for each of these cases (photographs, post-mortem fingerprints, dental records, personal identification data and biological samples for genetic analysis) is available for cross-checking with other information, archiving and evidence storage systems.

2. Legislative initiatives to promote progress in establishing the circumstances surrounding enforced disappearances, the rights of victims and early identification of corpses in mass graves; ratification of the International Convention for the Protection of All Persons from Enforced Disappearance

163. Colombian Government institutions have been working in close coordination with one another to promote the passage of legislation such as Act No. 1408 of 20 August 2010, which pays homage to victims of enforced disappearance and lays down measures for locating and identifying the victims. The constitutionality of this legislation was confirmed by the Constitutional Court in Decision No. 238 of 2010.

164. This law provides for the creation of the Disappeared Persons Genetic Profile Bank, which will be used for processing, indexing, collating and entering genetic profiles into the Bank that have been assembled from examinations of the bodies and remains, as well as biological reference samples provided by family members to assist in victim identification.

165. This law also provides for assistance for the families of disappeared persons during the process involved in returning exhumed bodies or remains.

166. The Disappeared Persons Genetic Profile Bank is under the supervision of the Prosecutor-General's Office.

167. Public forensic genetics laboratories process, index, collate and enter profiles into the Genetic Profile Bank that have been assembled on the basis of data collected from examinations of the bodies and remains of victims. They also input biological reference samples collected from family members, who, on a voluntary basis, can complete an informed consent form for the taking of samples and the processing, entry and crossmatching of those samples with other data in the Genetic Profile Bank.

168. As the administrator of the Genetic Profile Bank, the Prosecutor-General's Office is responsible for collecting and storing the data produced by genetics laboratories in a single, centralized database. It is also responsible for safeguarding the genetic material and other data collected from examinations of the bodies or remains of victims and from family members in accordance with international standards and ethical and legal principles regarding privacy and other relevant matters.

169. The Presidential Programme for Social Action provides the families of victims with the funds needed to cover funeral costs and to defray their travel expenses and the cost of food and lodging during the entire process involved in the release and receipt of the victims' bodies or remains.

170. The Ministry of Social Protection ensures that the families of such victims receive psychosocial support throughout this process as well.

171. Finally, the Act provides that, in order to facilitate the location of victims of enforced disappearances, the Prosecutor-General's Office, with the support of the regional authorities, the Public Legal Service and the Agustín Codazzi Geographical Institute, is to use the resources and methods stipulated in the National Plan for the Search for Missing Persons to draw up maps indicating the presumed location of the bodies or remains of victims of enforced disappearances.

172. The places where, according to information provided by the Prosecutor-General's Office, it is thought that the bodies or remains of victims of enforced disappearances are to be found will be designated as shrines of remembrance and will be preserved as victim search and identification sites by the Colombian Government, in consultation with the Commission on the Search for Disappeared Persons. This includes sites whose geographical or topographical locations make it impossible for the bodies to be exhumed. The national authorities will erect a monument to the victims on these sites, and budget allocations can be made for this purpose. Having obtained the prior consent of the families of the victims, the municipal authorities will put up a plaque, which will read: "Victim(s) of enforced disappearance", followed by the name of the person and, if available, his or her approximate age, profession, number of children and the name of the armed group thought to have carried out the enforced disappearance. In the case of bodies or remains which cannot be identified, the plaque will read: "Unidentified person". The text on the plaques will end with the words: "Never again".

173. The Commission on the Search for Disappeared Persons²⁶ and the Colombian Government are drafting the implementing regulations for the above-mentioned legislation. The issues being examined in this connection include the development of a system for ongoing entry of data into the National Register of Missing Persons, the Genetic Profile Databank and the protocol to be used for releasing human remains and providing psychosocial support to family members. The location of cemeteries, the question of

²⁶ Articles 8 et seq. of Act 589 of 2000, regulated by Decree No. 929 of 2007.

shrines of remembrance and other commemoration strategies have been addressed in inter-agency round-table discussions by experts in specific areas and representatives of various organizations. Input has also been provided by national and international non-governmental organizations and national victims associations.

174. Standing Order No. 007 of 11 February 2011 of the national police force gives instructions concerning the implementation of the National Plan for the Search for Disappeared Persons in line with the relevant legal provisions and the established duties of the police force. In keeping with these instructions, which were drawn up as a cooperative effort by the Commission on the Search for Disappeared Persons and the police force, the National Register of Disappeared Persons is to be used as a technological platform for processing information on disappeared persons.

175. On 10 December 2010, Congress passed Act No. 1418, thereby approving the International Convention on the Protection of All Persons from Enforced Disappearance, adopted in New York on 20 December 2006. The adoption of this international instrument by the Colombian Government goes hand in hand with its unwavering commitment to promoting, respecting and guaranteeing human rights and fundamental freedoms.

176. The adoption of the Convention, which strengthens the legislative basis for the various instruments that the Colombian Government already has at its command as it strives to meet the challenges involved in putting an end to enforced disappearances, constitutes proof of the Government's determination to eliminate and punish this crime.
