



SEVENTH ITEM ON THE AGENDA

**Third report of the Special Representative
of the Director-General for cooperation
with Colombia**

1. At its 278th Session (June 2000), the Governing Body requested the Director-General to appoint a Special Representative of the Director-General for cooperation with Colombia in order to assist in and verify the actions taken by the Government and the employers' and workers' organizations to implement the conclusions of the direct contacts mission and the recommendations of the Committee on Freedom of Association in the pending cases concerning Colombia. For this purpose, the Governing Body requested the Director-General to consider favourably the technical cooperation needs that may be required by constituents. The Special Representative, Mr. Rafael Albuquerque, former Minister of Labour of the Dominican Republic, would report through the Director-General to the Governing Body on the general situation in the country as it affects trade union rights and the security of trade unionists and on progress achieved in the implementation of the above recommendations. The Special Representative would advise on any other steps that could be taken by the Governing Body. The Governing Body decided to review all pending questions at its session in June 2001.¹
2. Mr. Albuquerque visited Colombia for the third and fourth times from 17 to 28 April and from 28 May to 2 June 2001. His report on the mission is appended.
3. Submitted for information.

Geneva, 15 June 2001.

¹ Governing Body, Minutes of the 278th Session (June 2000), first sitting, p. I/22; see also GB.278/3/2 and GB.278/4.

Appendix 1

Third report of the Special Representative of the Director-General for cooperation with Colombia

Mr. Juan Somavia

Director-General

In accordance with my mandate as your Special Representative for cooperation with Colombia I present a report to supplement that submitted to the 280th Session of the Governing Body (March 2001) with regard to the observance and safeguarding of trade union rights in Colombia.

Activities carried out in Bogotá, Medellín, Cali, Buga and Tuluá

During the period under review I visited the country from 17 to 28 April and from 28 May to 2 June, and continued to meet with union members and employers; officials of the Ministry of Foreign Affairs, the Ministry of the Interior, the Office of the Procurator-General of the Nation, and the Office of the Ombudsman; members of the Senate; representatives of non-governmental organizations (NGOs); heads of diplomatic missions and officials of specialized agencies of the United Nations.¹ I was also received by the President of the Nation; the Minister of the Interior; the new Deputy Attorney-General and the new Procurator-General of the Nation. I again visited the Minister of Foreign Relations and held a number of meetings with the Minister of Labour.

I was invited to participate in numerous committees, such as the Standing Negotiation Committee on Wages and Labour Policies in Bogotá and the regional standing negotiation committees of Cali and Medellín; the Inter-Institutional Commission for the Promotion and Protection of Workers' Human Rights; the Special Committee for the Handling of Conflicts referred to the ILO; the Committee for the Regulation and Evaluation of Risks² and the subcommission of the Inter-Institutional Commission for the Promotion and Protection of Workers' Human Rights set up to clarify the divergences in the figures given by the Government, the central trade union organizations and NGOs for trade union officials and members murdered in recent years. My assistant in Bogotá regularly attended the meetings of these committees.

I also took part, either personally or represented by my assistant, in conciliation hearings held in the Ministry of Labour concerning a number of cases pending before the Committee on Freedom of Association.

I visited a number of cities in the country, either personally or represented by my assistant, such as Cartagena, Medellín, Cali, Buga and Tuluá; the latter three are located in the Cauca Valley where several murders of trade union officials and members were registered.

In Medellín I went to the National Trade Union School, where I met with some 50 trade union officials and activists, who complained of the violations of freedom of association suffered by their organizations, such as mass dismissals in the public sector without respecting trade union immunity, refusal to grant trade union leave and anti-union practices by public sector and private employers to discourage workers from joining trade unions. More serious allegations included persecution, threats and murders of trade union officials, activists and members and persons defending human

¹ See the list of persons and institutions in Appendix 2.

² Composed of representatives of the Office of the Vice-President of the Nation, the Ministry of the Interior, the Ministry of Labour, the Security Administrative Department (DAS), the National Police, human rights organizations and trade unions, this body takes decisions on the provision of security measures to persons who have been threatened.

rights by extreme right-wing groups on the pretext that they had been members of or collaborated with leftist insurgent groups, and the lack of adequate protection under government programmes. I also held a meeting with the labour relations committee of the National Association of Manufacturers (ANDI), which discussed at length the advisability of promoting dialogue among the social partners with a view to settling the large number of conflicts referred to the Committee on Freedom of Association. I was also invited to participate in the tripartite meeting of the Regional Negotiation Committee, which is characterized by the willingness displayed by its participants in the process of social dialogue.

My assistant also visited Cali, Buga and Tuluá, where he met with representatives of numerous trade unions of these cities and central Cauca Valley. He also pursued contacts with ombudsmen, municipal human rights ombudsmen (*Personeros*); employers' associations, teachers, academics, jurists, peasant leaders and representatives of NGOs. He attended the session of the Cali Regional Negotiation Committee. Trade union officials and activists complained of the same violations of the right to freedom of association as those reported to me in Medellín.

A large number of trade unions brought complaints to the ILO desk in Bogotá concerning violations of freedom of association similar to those mentioned by the workers' organizations of Medellín, Cali, Buga and Tuluá, and the desk intervened on many occasions with the competent authorities concerning the implementation of security measures for trade union officials who had been threatened.

On 23 and 24 April I organized a seminar/workshop in Bogotá to hold tripartite discussions on protection measures for trade union officials and members and to combat the situation of impunity. The event was opened by the Minister of Labour and attended by the Deputy Minister of the Interior, the Deputy Procurator-General of the Nation, officials of the Office of the Attorney-General of the Nation and representatives of the three trade union confederations and the two major employers' organizations. In the course of the meeting, agreement was reached on a joint May Day declaration to highlight the importance of trade unions in guaranteeing the fundamental rights of the working class. The employers' associations published a press release to this effect on 1 May.

During my term of office I was invited to attend a number of press conferences, either personally or represented by my assistant, and made a number of statements on the radio, television and in the press encouraging the Government to strengthen security measures guaranteeing the personal safety of trade union officials and members and to combat the situation of impunity and to identify and punish those responsible. I also sent a number of letters and press releases condemning murders of and attacks on members of the trade union movement.

At the request of the Resident Representative of the United Nations Development Programme (UNDP) in Bogotá, meetings were held with agencies of the United Nations system to agree on means of strengthening protection measures for members of the trade union movement.

A. General situation

The period under review was marked by an increase in the number of murdered trade union officials and members. The figure cited for this year by the Single Confederation of Workers of Colombia (CUT) is 46 persons. There has also been a deplorable increase in the number of criminal attacks on teaching staff, principally in universities.

The main arguments put forward by the paramilitary groups for persecuting, threatening and attacking the physical integrity of trade union officials, activists and members are their alleged collaboration with left-wing insurgent groups and the damage caused to the national economy by the labour and social demands made by trade union leaders.³

Numerous statements I have received bear witness to the fact that in many departments of the country where there is little or no presence of the security forces, paramilitary groups continued to dismantle trade unions by threatening the members of their executive committees. This method, which is also used against other political and civic organizations, is aimed at increasing these groups' territorial and political control.

To date the Government has been unable to effectively stem the violence affecting the trade union movement, although there has been some evidence of progress in recent months with regard to the measures taken to combat the paramilitary groups.

The armed forces reported that they had engaged the paramilitary groups 27 times this year, with 36 casualties and 204 prisoners taken. A considerable amount of military equipment had been confiscated during these operations. According to a press communiqué of the United Self-Defence Forces of Colombia (AUC) dated 6 June, the commander-in-chief of this paramilitary group, Carlos Castaño, relinquished military command in order to assume political leadership, apparently as result of disagreement with other commanding officers of the group who advocate a more violent response to, government attacks, which have taken the form of both military operations and searches by the Office of the Attorney-General of persons suspected of financing the paramilitary groups. The same press communiqué blames the Government for the agreements it is concluding with the left-wing insurgent groups as part of the peace process. Mention should be made in this regard of the pact concluded between the Government and the Revolutionary Armed Forces of Colombia (FARC) on the humanitarian exchange of sick prisoners and the appointment on 11 May this year of a "Commission of Notables" which should submit a report within three months, formulating recommendations to combat the paramilitary groups.

B. *Steps taken to increase the budgetary allocation that the Government has earmarked for a programme of protection of trade union officials and to adopt additional measures in consultation with trade union organizations*

During the audience granted to me by the President of the Nation, the latter stated that there was no government policy of attacking the physical integrity of members of the trade union movement. The Chief of State also requested me to inform the Director-General of his commitment to protecting the trade union officials, activists and members who have been threatened and to strengthen security measures.

Despite the protection measures applied on behalf of trade union officials and activists, government programmes have proved inadequate to meet the requests of thousands of persons dedicated to the cause of trade unionism who have been threatened.

The Minister of the Interior stated that trade unionists are one of the most threatened groups in the country. In April 2001, the CUT complained that in the course of this year hundreds of trade unionists had requested government assistance to leave the country after receiving serious threats against their lives, but that only 60 had been able to leave the country so far.

³ According to Carlos Castaño, commander-in-chief of the United Self-Defence Forces of Colombia (AUC), "Blind attacks? Never! There is always a reason. Trade unionists, for example, prevent people from working and this is why they are murdered" (see article by Bernard-Henri Lévy in *Le Monde* (Paris), 2 June 2001, p. 15).

The situation is alarming, since trade union leaders doubt that even the additional budgetary resources approved by the Government this year will be sufficient to finance the necessary security measures.

C. *Measures to combat the extremely serious and intolerable situation of impunity*

Since my last report I have not received information on the identification of perpetrators and/or judgements handed down in the inquiries under way into acts of violence committed against trade union officials and members referred to in the cases presented to the Committee on Freedom of Association. This situation is aggravated by the difficulties faced by the Office of the Attorney-General and the judiciary in carrying out their inquiries and offering adequate guarantees so that witnesses are willing to come forward. Investigating attorneys and judges have also been the target of threats and attacks recently.

In recent months, a number of members of the judiciary have had to leave their workplaces following threats from armed groups operating outside the law. During a 15-month period, ten judicial offices also had to be moved from their original locations and at least 40 employees of the judiciary were obliged to be transferred as result of pressure and threats from the armed parties to the conflict. According to the Superior Council of the Judicature, such pressure is becoming dangerously widespread in the country and officials are even being forced to leave the country in order to protect their lives.

The Ombudsman stated that there was something seriously wrong with the fact that a large number of judges and prosecutors had already been expelled by the armed parties to the conflict without any response from the State, including use of force, to enable them to return to their jurisdictions in order to protect citizens' fundamental rights. The President of the Administrative Chamber of the Judicature admitted that the lack of financial resources and the difficult situation with regard to public order imposed constraints on the Superior Council of the Judicature when it came to implementing measures to safeguard the lives of these judges and prosecutors.

On this serious issue, the Minister of Justice himself publicly acknowledged last month that the grave problems besetting the administration of justice manifested themselves in delays in proceedings and a high rate of impunity.

D. *Measures adopted to initiate an urgent inquiry in the matter of the participation by public officials in the creation of self-defense or paramilitary groups and the passivity, connivance or collaboration of such officials by deed or omission vis-à-vis such groups resulting in the violation of human rights in general. Steps to disband the self-defence groups wherever they operate and to neutralize and punish all their leaders, members and financial backers*

This year more members of paramilitary groups were captured than last year, but unfortunately these statistics are not reflected in a decrease in the number of murders of trade union officials and members. The Attorney-General's Office has carried out inquiries which have led to the dismantling of operations to finance actions by these groups, but, as I have already pointed out, there has been an alarming increase in the number of members of the paramilitary groups, as well as an expansion of the territory under their control.

Pursuant to the commitments made in the Inter-Institutional Commission for the Promotion and Protection of Workers' Human Rights, the Office of the Procurator-General provided for the appointment of special agents to work in a number of cases in which deaths of trade union officials, activists and members are being investigated.

E. Information concerning the drafting of bills aimed at bringing certain aspects of national legislation into conformity with international labour standards

I have not noted any progress with regard to the drafting of bills to bring national legislation into conformity with international labour standards. This delay only serves to exacerbate the situation of the trade union movement, which is already suffering enough as a result of declining membership under the onslaught of violence targeted against it.

F. Recommendations

The Government should initiate and, where appropriate, strengthen measures in the following areas:

Preventive measures

- Improve the systems of evaluating the security risks faced by trade union officials, activists and members, taking account of the slow pace of administrative procedures and the deficiencies manifested in cases in which the degree of danger faced by trade unionists was not correctly assessed.
- Extend protection measures for trade union officials, activists and members and trade union premises and determine new means of protection in high-risk areas.
- Establish new risk evaluation committees at the regional level.
- Include representatives of all the trade union confederations in the Committee for the Regulation and Evaluation of Risks.
- Enable trade union officials, activists and members who have received threats to leave the country immediately at their request.
- Encourage employers, both in the public and in the private sector, to participate in the adoption of measures aimed at protecting the lives of trade union officials, activists and members.
- Launch campaigns to raise public awareness of the lack of tolerance displayed towards persons who defend labour rights.
- Strengthen the activities of the “détente committees”⁴ at the regional level.

Impunity

- Strengthen machinery for conducting inquiries and punishing perpetrators in cases of attacks on trade union officials, activists and members; in this respect, it would be advisable to increase the budget of the Attorney-General’s Office and the Procurator-General’s Office to enable them to carry out their tasks efficiently and safely in every region where trade union officials, activists and members are attacked, avoiding any legal measure that might reduce the powers of these bodies, as it has been the case with the recent legal reform.
- Seek the views of experts of other countries to assess the effectiveness of witness protection programmes that have been set up in the state investigatory bodies and provide increased

⁴ Set up to ease the often hostile tensions that exist between civil society and the police and armed forces.

budgetary resources to enable them to move ahead with the proceedings pending in the courts in cases of murders and attacks on trade union officials, activists and members.

- Continue to step up activities aimed at dismantling the paramilitary groups and any insurgent groups infringing the freedom of trade union officials, activists and members.

Freedom of association

- Expedite judicial proceedings initiated in cases of violation of trade union officials' immunity.
- Ensure as soon as possible the application of the Labour Relations (Public Service) Convention, 1978 (No. 151), and the Collective Bargaining Convention, 1981 (No. 154), bearing in mind the difficult situation of workers in the public sector. Although progress has been made in preparing a draft decree on the right of public employees to bargain collectively, the Legal Secretary of the Office of the President decided to postpone the processing of the decree, and sent it back to the Ministry of Labour.
- Coordinate policies with the public and private sectors to prevent practices that lead to a drastic reduction in the membership of trade unions.
- Promote an atmosphere of trust between the social partners and the Government and encourage social dialogue as the basis for strengthening the trade union movement and resolving the problems affecting trade union members.
- Enhance the activity of the Special Committee for the Handling of Conflicts referred to the ILO recently created.
- Make progress with the drafting of bills on essential public services in which strikes may be prohibited; on the possibility of an expeditious appeals procedure before the judicial authority against decisions of the administrative authority declaring a strike illegal; and on the transformation of compulsory arbitration at the request of the Ministry of Labour, where a strike lasts more than 60 days, into arbitration requiring the approval of the parties to the dispute.

G. *Action taken by the Government since my appointment*

- The Government fulfilled its commitment to deposit the instruments of ratification of Conventions Nos. 151 and 154.
- The Office of the Procurator-General of the Nation has appointed special agents in a number of cases in which the murders of trade union officials, activists and members are being investigated.
- According to the information provided by the Minister of Defence, a more decisive action is being taken to militarily engage and financially dismantle the paramilitary groups.
- The Special Committee for the Handling of Conflicts referred to the ILO has been established.
- In the context of the Inter-Institutional Commission for the Promotion and Protection of Workers' Human Rights, agreement was reached jointly with the social partners, to set up a committee to evaluate measures for the protection of trade union officials and members.
- The Ministry of Labour, the Attorney-General's Office and the Procurator-General's Office actively participated in the seminar/workshop which I organized to discuss protection measures for trade union officials and members and to combat the situation of impunity.
- Increased budgetary resources were allocated to the protection of members of the trade union movement who had received threats.

- The subcommission of the Inter-Institutional Commission for the Promotion and Protection of Workers' Human Rights continued to be very active in its efforts to clarify the divergences in the figures for murdered trade union officials and members. To date, 12 sittings have been held by the subcommission.
- The Government provided support, in particular through the Press Office of the Ministry of Labour, to raising public awareness of the concern of the Director-General of the ILO with regard to the wave of violence affecting the trade union movement and his particular interest in the adoption of effective measures to protect the personal safety of its members and to combat the situation of impunity.

H. Final observations

While I am aware of the difficulties faced by the Government in its efforts to move forward with the peace process in the middle of brutal armed clashes and massacres of Colombians who are not parties to the conflict, I trust that the commitments taken on, the measures adopted and the action undertaken by the Government will be translated into immediate and effective protection of the personal safety of trade union officials, activists and members, and that the perpetrators of attacks will be identified and punished in order to definitely eliminate the intolerable situation of impunity.

I would also like to express to the Director-General my heartfelt desire for both the Government and the social partners to make a concerted effort to strengthen social dialogue and to adopt, in law and in practice, measures to prevent violations of freedom of association and to claim the collective bargaining process as a crucial element to safeguard the labour and social rights of the workers.

Acknowledgments

I would like to extend my thanks to the President of the Nation for the audience he granted me on my last visit. I would like to highlight the constant cooperation of the Minister of Labour and his team and the Minister of Foreign Relations. I am grateful to the trade union confederations and employers' associations for receiving me and participating in the activities I organized; and the Colombian Commission of Jurists and UNDP officials for the invaluable information they provided; special thanks to the numerous trade unions and federations that placed their trust in me by seeking assistance from the ILO desk. I would also like to emphasize the support provided by the National Trade Union School and the ANDI towards the successful outcome of my activities in Medellín, and the Office in Colombia of the United Nations High Commissioner for Human Rights (OHCHR) for organizing the mission carried out by my assistant to Cali, Buga and Tuluá. I would also like to express my gratitude for the constant support provided by the Deputy Director of the ILO Regional Office for the Americas in Lima and the Director, Deputy Director and experts of the Andean Multidisciplinary Advisory Team.

Santo Domingo, 8 June 2001.

(Signed) Rafael F. Alburquerque.

Appendix 2

Persons interviewed

Office of the President of the Republic

Andrés Pastrana, President

Ministry of Labour and Social Security

Angelino Garzón, Minister of Labour

Orlando Rodríguez, Adviser to the Minister

Hernán Ulloa, Adviser to the Minister

Diana Muñoz, Head of the Advisory Office for International Affairs

María Teresa Lozada Isaza, Advisory Office for International Affairs

María Isabel Silva, Coordinator of the COL-OIT project

Alberto Orgulloso, Member of the COL-OIT project

Ministry of National Defence

Carlos Castillo Beltrán, Colonel

Ministry of Foreign Affairs

Guillermo Fernández de Soto, Minister

Jairo Montoya, Deputy Minister

Gonzalo Jiménez, Deputy Director of Economic Agencies

Patricia Klein, Second Secretary, Office for Multilateral Agencies

Ministry of the Interior

Armando Estrada, Minister of the Interior

Mauricio González, Deputy Minister

Juan Luis Velasco, Secretary-General

Carmen María Lasso Bernal, Coordinator of the Protection Group

Juan Fernando Monsalve

Claudia Cáceres, General Human Rights Directorate

Office of the Attorney-General

Pedro Elías Díaz Romero, Deputy Attorney-General

Pilar Gaitán de Pombo, Director, International Affairs

Giovanni Alvarez, Specialized Prosecutor

Milena Lasso

Yolanda Sarmiento, Prosecutor assigned to the International Affairs Directorate

Office of the Procurator-General

Edgardo Maya, Procurator-General

Iván González Amado, Deputy Procurator-General

Inés Galvis Santofimio, Procurator responsible for Labour Affairs

Patricia Chirivi

National Police

Luis Alfonso Novoa Díaz, Lieutenant Colonel

Subcommission for the Consolidation of Lists of Murdered Trade Union Officials and Members

Ligia Cáceres, Coordinator, Human Rights Unit, Ministry of Labour

Congress

José Jaime Nicholls, Senator

Single Confederation of Workers of Colombia (CUT)

Luis Eduardo Garzón, former President

Héctor Fajardo Abril, General Secretary

Jesús A. González, Director, Human Rights Department

Confederation of Workers of Colombia (CTC)

Apecides Alvis, President

Miguel Morantes, General Secretary

General Confederation of Democratic Workers of Colombia (CGTD)

Carlos Bedoya, Vice-President

Cérvulo Bautista, Auditor

National Association of Manufacturers (ANDI)

Luis Carlos Villegas, President

Alberto Echevarría, Executive Director

Juan Carlos Mariñan

National Federation of Merchants (FENALCO)

Mario Gómez

Members of the Cali Regional Standing Negotiation Committee

Members of the Medellín Regional Standing Negotiation Committee

Colombian Commission of Jurists

Gustavo Gallón Giraldo, Director

Carlos Rodríguez

Luza Puyo

National Trade Union School of Medellín

Jorge Giraldo

Juan B. Rosado

United Nations Development Programme (UNDP)

Francesco Vincenti, former Resident Representative

Lars Franklin, Resident Representative

Freddy Justiniano, Assistant Resident Representative

Alfredo Manrique, Development and Peace Management Programme Officer

Office in Colombia of the United Nations High Commissioner for Human Rights

Anders Kompass, Director

Amerigo Incalcaterra, Deputy Director

Liliana Valiña, Human Rights Officer

Miguel Angel Sánchez Vicente, Human Rights Officer

American Center for International Labor Solidarity of the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)

Rhett Doumitt, Representative for the Andean Region

Embassy of Spain

Yago Pico, Ambassador

Embassy of the United States of America

Barbara Moore, Deputy Chief of Mission

Lesly Basset, Political Counsellor

Embassy of France

Daniel Parfait, Ambassador

Gérald Martin, First Secretary

Embassy of Sweden and President-in-Office of the European Union for Colombia, Ecuador and Venezuela

Michael Fruhling, Ambassador

Regional Office for the Americas

Agustín Muñoz, Deputy Regional Director

Andean Multidisciplinary Advisory Team

Daniel Martinez, Director and his team