



Economic and Social Council

Distr.: General
10 July 2019
English
Original: Spanish
English, French and Spanish only

Committee on Economic, Social and Cultural Rights

Concluding observations on the sixth periodic report of Colombia

Addendum

Information received from Colombia on follow-up to the concluding observations*

[Date received: 1 May 2019]

* The present document is being issued without formal editing.



Report submitted by Colombia to the Committee on Economic, Social and Cultural Rights further to its sixth periodic report

1. In response to the request made by the Committee on Economic, Social and Cultural Rights in the concluding observations on the sixth periodic report of Colombia (E/C.12/COL/CO/6, dated 17 October 2017), Colombia hereby submits information on its implementation of the recommendations made in paragraphs 10 (Human rights defenders), 16 (Exploitation of natural resources) and 50 (a) (Access to land).

I. Human rights defenders – Recommendation contained in paragraph 10 of the concluding observations

2. The Colombian State is maintaining its commitment to safeguard the work of human rights defenders, which it supports as the expression of a democratic and social State under the rule of law. To that effect, it continues to develop a common agenda aimed at ensuring respect for the lives and activities of human rights defenders and social leaders on national territory.

A. Care, investigation and protection

1. Timely Action Plan

3. With a view to addressing the current situation of human rights defenders and social leaders, the Government of President Ivan Duque conducted a study to identify the underlying causes. Five factors were pinpointed as presenting the greatest risks to defenders, after which the Government developed the Timely Action Plan for Individual and Collective Prevention and Protection concerning the Rights to Life, Freedom, Integrity and Security of Human Rights Defenders, Social and Community Leaders and Journalists.

4. The Timely Action Plan is designed as a series of coordinated measures to be taken by the State in order to address the situation of violence against human rights defenders, social and community leaders and journalists, whatever risk they may face on Colombian territory.

5. The Plan incorporates a strategic approach, geared to institutional coordination and reengineering, which provides for enhanced action by the State to address the current situation of social leaders and human rights defenders. The National Protection Unit has already begun the process of reengineering the internal procedures for identifying protection measures. This phase has also included the institutions involved in the prevention and protection programme.

2. Fact-finding and investigations

6. Concerning enquiries into killings of human rights leaders and defenders, without distinction as to their leadership functions, the Office of the Attorney General clarified 54.8 per cent of cases between 2016 and 2018.

7. To deal with those investigations, the Attorney General's Office issued Directive No. 002 of 30 November 2017, which provides its 5,515 prosecutors with mandatory instructions drawn from the best international models and practices laid down in the inter-American system of human rights for investigating cases involving social leaders or human rights defenders.

8. This directive is intended for all the Office's prosecutors and investigators. It was developed with technical assistance from the Inter-American Commission on Human Rights, which contributed material on the inter-American standards applicable to criminal investigations of crimes committed against human rights defenders.

9. Its objective is to ensure that investigations into crimes committed against defenders are conducted in accordance with international standards of due diligence.

10. The directive focuses on three basic aspects:

(i) Correct understanding of the notion of human rights defender. According to the United Nations Declaration on Human Rights Defenders, the role of human rights defender is defined by the actions that person takes to promote, protect or fulfil the individual and collective rights of persons, groups and communities;

(ii) Directive No. 002 of 2017 incorporates due diligence principles developed by the Inter-American Court of Human Rights. In addition to those standards the directive incorporates two new features for application in the investigation of crimes against defenders. The first implies that an investigation should begin on the assumption that a crime has been committed either because of the victim's work to defend human rights or in order to prevent it being carried out. The second implies that a diligent investigation must follow lines of enquiry which link investigations through common criteria and pattern identification;

(iii) Guidelines for investigating killings of human rights defenders.

11. Where ethnic leaders are concerned, the Attorney General's Office has a team investigating killings of indigenous leaders as well as threats made against them. A 24-hour telephone and e-mail hotline service is also now available.

12. In 2016, in the framework of the "Strategic Plan of the Attorney General's Office: An Office of the People, through the People and for the People", the 2016-2020 strategy for the investigation and prosecution of crimes committed against human rights defenders was brought into effect. As of 23 January 2019, its programmes and achievements were as follows:

- Start of work to establish an institutional culture embracing all Office employees
- First investigative assumption: linkage between the crime and the work of defending human rights
- Implementation of a methodology for linking cases
- Creation of mobile units which can swiftly reach crime scenes
- Preparation and application of intervention protocols to ensure more efficient preservation of crime scenes and evidentiary material
- Issuance of guidelines to standardize investigations into crimes against human rights defenders, such as Directive No. 002 of 2017 of the Attorney General's Office, which establishes general guidance on the investigation of crimes committed against human rights defenders
- Stepping up of investigations into criminal threats made against defenders
- A work programme which facilitates internal coordination among the various units

3. Results of homicide investigations

13. As of 23 January 2019, the Colombia branch of the Office of the United Nations High Commissioner for Human Rights had recorded 250 verified cases of homicide for the period from 1 January 2016 to 23 January 2019.

14. From this sample the Office of the Attorney General had clarified 137 cases, or 55 per cent, as follows:

- 22 cases resulting in a conviction
- 43 cases currently before a court
- 38 cases in which charges have been brought
- 31 cases in which in-force arrest warrants are pending execution
- 3 cases were closed owing to the death of suspects

15. In all, 206 persons have been deprived of their liberty.

4. Stepping up the investigation of threats

16. The following issues hamper investigations of this crime:

- Poor evidence gathering
- Lack of available techniques and technology to identify perpetrators and help establish links to others who may be involved
- Difficulties in linking cases, given the multiplicity of criminal complaints lodged by the same person in different parts of the country
- Difficulty of taking urgent action when an incident is not known about in good time

B. Activities of the National Protection Unit

17. The National Protection Unit deploys the following means to ensure adequate protection:

- 4,893 communication devices
- 3,055 bulletproof vests
- 598 emergency alert devices
- 3,636 bodyguards
- 573 armoured vehicles
- 793 standard vehicles
- 12 motorcycles

18. The National Protection Unit adopts a differentiated, territory-based approach in its work:

- As of 31 December 2018, the Unit had provided protection to 7,179 persons:
 - The protection measures include communication devices, bulletproof vests, emergency alert devices, bodyguards, vehicles and motorcycles. In all cases the Unit takes account of territorial and ethnic considerations when devising these measures.
- As of 14 January 2019, protection was being provided for 4,503 human rights defenders. In the first two weeks of February, 16 protective measures were granted.
- From 7 August to 31 December, new individual protection measures were established for over 1,000 new leaders.
- The Unit was providing collective protection for 21 communities in 2017 and for 38 by the end of 2018.
- The Unit now has over 200 risk assessors working across the country to evaluate individual and collective risk situations.

19. The Unit is striving to incorporate the differentiated and territory-based approach into both individual and collective protection, with particular focus on ethnicity.

20. Today there are 441 Afro-Colombian community leaders under protection: 124 women and 317 men. Moreover, 536 indigenous leaders are under special protection measures: 91 women and 445 men.

21. Concerning individual protection measures, the Unit has collaborated with the Bureau for the Human Rights of Indigenous Peoples, which represents the main indigenous groups in Colombia, to produce a risk assessment protocol specific to this population. The traditional protection measures under the programme have been reviewed, leading to the introduction of special measures such as attaching Indigenous Guard members to

indigenous leaders as escorts. These Indigenous Guard escorts have been trained in protection techniques by the National Protection Unit, including regular driving and special instruction in defensive, offensive and evasive driving.

22. To date, the National Protection Unit has completed 39 collective risk assessments, resulting in protection measures that will be implemented by various State entities in equal numbers of communities and organizations. The Unit has examined 65 cases under the differentiated ethnic approach, 45 of them on behalf of indigenous communities and 20 on behalf of Afro-Colombian communities.

23. Under Decree No. 660 of 2018, the Government has introduced collective protection measures for which the risks to the indigenous, Afro-Colombian, Raizal and Palenquero communities were evaluated with their direct participation. Protection measures are also developed at workshops which ensure participation at every stage of the protection process.

24. It is important to emphasize that collective protection measures are generated by various State bodies, not only through the National Protection Unit. Examples of such measures include institutional capacity building for an indigenous or Afro-Colombian community or organization, the reaffirmation of collective cultural values and customs, and risk-mitigation measures of a legal nature.

C. Information and awareness-raising campaigns

1. Communications and training

25. The Timely Action Plan includes a strategy on communications and training, the aim of which is to address the need to reduce the stigma surrounding leadership status and the State's efforts to safeguard the practice of human rights defending, as well as raise awareness of the available protection and self-protection programmes.

26. At meetings held across the country there has been acknowledgement of the important work done by human rights defenders and social leaders, the manner in which they have strengthened democracy and the duty of all public officials to help ensure that they are able to carry out their work. These messages have been delivered by government officials at the highest level, including in the Armed Forces.

27. The Office of the Presidential Advisor on Human Rights and International Affairs has conducted a number of campaigns aimed at legitimizing and recognizing the work of human rights defenders, including the following:

- Human rights defenders as agents of peace: This message aims to create a favourable environment for the work carried out by human rights defenders in their territories. The Government's respect for life in all circumstances has been promoted through relevant communication materials. Messages have been repeated in official correspondence and through public channels, and partnerships have been sought with the communications media and businesses to ensure their involvement in the campaign.
- Social dialogue has been promoted between human rights defenders and local authorities, enabling the latter to acknowledge and express favourable opinions on these leaders.
- As a strategic message, the Government has let it be known in many forums that, irrespective of statistics, the death of even one leader is cause for rejection and social mobilization.
- A further message is: "We are all responsible for protecting these persons". This aims to highlight the responsibility of all States to recognize and protect human rights defenders and social leaders, investigate attacks against them, safeguard their work and allow them to participate in decisions that affect them.

2. National Committee for Security Guarantees

28. By Decree Law No. 154 of 22 February 2017, the Government established the National Committee for Security Guarantees (CNGS), in the framework of the Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace, signed between the Government and the Revolutionary Armed Forces of Colombia-People's Army (FARC-EP) on 24 November 2016. The Committee held meetings on 30 January 2019 and has also set up the Subcommittee for Security Guarantees.

29. As well as being intended to dovetail with the Timely Action Plan, the Government's plan for responding to threats affecting the lives and integrity of human rights leaders and defenders across the country, these meetings focused on the tasks laid down in article 3 of the above-mentioned decree.

30. During the meetings, civil society was presented with the work programme of the CNGS, which focuses on local activities, as exemplified by the subcommittee held in Popayán on 14 February. Here, the Committee worked with 167 leaders representing organizations active in the department of Cauca, listening to them and informing them of the Government's work in offering protection, taking security measures and safeguarding the work of human rights defenders and social leaders.

II. Exploitation of natural resources – Recommendation contained in paragraph 16 of the concluding observations (E/C.12/COL/CO/6)

A. Environmental licensing

31. Concerning environmental impact studies, under the terms of Decrees Nos 1076 of 2015 and 3573 of 2011 the State, through the National Environmental Licensing Authority (ANLA), is responsible for granting or refusing environmental licences for projects within the institution's competence as specified in those decrees. In assessing the technical merit of a project requiring an environmental licence, the ANLA checks that the information provided conforms with the *General Methodology for the Submission of Environmental Studies*, the terms of reference, the guidance on geographic data delivery, the environmental regulations in force, and other documents.

32. Through the ANLA, the State also conducts scheduled follow-up and environmental monitoring of projects within its sphere of competence as laid down in Decree No. 1076 of 2015. The aim of these activities is to verify compliance with the obligations stipulated in licences and the environmental legislation. Monitoring is carried out according to an annual schedule set by the Authority, subject to the availability of professional staff.

III. Access to land – Recommendation contained in paragraph 50 (a) of the concluding observations (E/C.12/COL/CO/6)

A. Equitable access to land

1. Access to land for the rural population

33. The Government's efforts to implement the Comprehensive Rural Reform are directed through the National Land Agency, pursuant to Decree-Law No. 902 of 2017. Among the decree's objectives is the implementation of the following strategies concerned with formalization of and access to land for the peasant population in all national territories:

(a) Technical strategies

- Refinement of an application called "Land titling for natural persons".

- Advancement of processes by post-conflict municipalities in territory-based development programmes (PDET) with the aim of including the territory-based approach in more processes.
- Advancement of processes at the procedural stage and where there is already topographic sampling and visual inspection taking place, with the aim of optimizing resources to enable greater process coverage.

(b) *Contractual strategies*

- An agreement with USAID to catch up on the backlog of cases in Catatumbo, Putumayo and Arauca, with priority for some 1,500 cases. The agreement is ongoing, survey and agricultural products are being approved, there are no National Land Agency resources, and the agreement concludes in May 2019.
- Association Agreement No. 904 of the Pan American Development Foundation (FUPAD). Once the above-mentioned application was refined and rolled out, it became possible to identify around 33,000 existing cases for which there exists an award decision pending confirmation and/or registration. It was also important to prioritize the vast number of decisions issued in compliance with the order of the Constitutional Court in Judicial Decree No. 040 of 2017 further to ruling T – 488 of 2014, which orders the immediate clear-up and registration of the decisions. The National Land Agency conducted a competitive process in the framework of Decree No.092 of 2017, with the aim of signing an association agreement to cleanse 18,000 case files and formalize and register the 6,000 award decisions originating from the backlog inherited from the now-defunct INCODER. The agreement is ongoing and due to end in April 2019.

34. The Government, aware of the large number of peasants who live and work productively in protected areas despite the restrictions that the law imposes on any kind of farming or livestock-rearing, and in pursuit of a solution to this problem, has signed Inter-administrative Cooperation Framework Agreement No. 001 of 2018 with the National Land Agency, National Natural Parks and the Supervisory Body for Notaries and Registries. The purpose of the agreement is to speed up procedures to bring the peasants who live in Colombia's national natural parks into contact with programmes that facilitate their access to rural property, through collaborative efforts that benefit the inhabitants of the protected areas as well as the ecosystems whose preservation is sought.

35. In the framework of Agreement No.001, a legal and socioeconomic study is being made of the population in the national parks system and of spaces suitable to be declared protected areas. Likewise, the subjects of land reform identified in the protected areas are being evaluated individually with a view to their remediation.

36. As a result, the National Land Agency has adopted the following strategic directions concerning the peasant population in protected areas:

- Land administration and remediation of natural parks: The focus here is on speeding up land administration procedures in accordance with information supplied by National Natural Parks of Colombia in order to establish the true legal status of plots found inside the protected areas of the national natural parks system. Priority is given to remediation in national parks and to the material recovery of unallocated State lands within the system which have been unlawfully occupied.
- Access to land for the established peasant population in natural parks: This strategy is intended to speed up the procedures needed to enable the peasants living in protected areas to purchase plots, and to present landless peasants with alternatives offered by the National Land Agency, which is responsible for strengthening and maintaining the structure of rural land ownership and for managing access to land as a production factor. This strategy is also intended for the communities involved in the high-priority onward resettlement processes, with the aim of protecting the environment in accordance with the provisions of Decree No.902 of 2017.
- Coordinated land survey: The aim of this strategy is to initiate information exchange and establish a methodology to enable joint action in municipalities with a

multipurpose land registry, with the aim of achieving complete identification of the lands in the protected areas of the country.

2. Development of a multipurpose land registry

37. The State, through the National Land Agency, faces the challenge of developing working routines enabling it to coordinate with other bodies, especially the Agustín Codazzi Geographic Institute (IGAC), the Supervisory Body for Notaries and Registries and its public document registration offices, and the National Planning Department, in developing an innovative multipurpose land registry which can apply the land survey methodology in high-priority territories in accordance with the criteria for the sector and those set by the Office of the President of the Republic, deal effectively with the inventory of cases inherited from INCODER and process new individual cases efficiently.

38. In that context, the National Land Agency will manage the fair distribution of land, characterizing territories through large-scale land survey and acting in the capacity of land registry administrator. The process will be supported by the IGAC and the Supervisory Body for Notaries and Registries. This will help to clarify the actual conditions in a territory, enhance the contribution of institutions and facilitate delivery of the goods and services required to gain access to land.

39. Similarly, budgetary provision has been made to bring forward the following strategic plans:

- **Comprehensive territory-based land development:** In order to promote comprehensive rural development, the intervention by the National Land Agency prioritizes the territories worst affected by conflict, poverty and neglect in a number of the 170 municipalities included in PDETs, with the aim of building confidence in the State and creating the necessary climate to enable the country's most vulnerable populations to gain access to land.
- **Gender-based social equity:** This strategy addresses the issue of gender in the context of Decree-law No. 902 and the adjudication processes under which rural women, in accordance with Act No.731 of 2002, may be given access to land ownership on equal footing with men in accordance with the principle of equality and the gender-based approach. This process has led to a new calculation of the family agricultural unit (UAF) incorporating a new variable, namely the care economy, which relates to the domestic work done by rural women. This new factor is now included in the calculation of household financial remuneration; likewise, in assigning scores for applicable income the register of subjects of social land organization (RESO) awards special points to rural women in accordance with article 14 B of Decree-law No. 902.
- **Closing urban-rural gaps:** In accordance with the order of the Constitutional Court in Judicial Decree No. 040 of 2017 further to ruling T – 488 of 2014, which orders the clear-up and immediate registration of decisions, this strategy seeks to formalize award decisions in order to improve the lives of peasant men and women. At the same time as promoting access to land, it will facilitate access to credit and to productive projects supported by land tenure.

B. Land restitution

40. The State, through the Special Administrative Unit for Managing the Restitution of Lands (URT), the government body responsible for the restitution of expropriated lands under Act No.1448 of 2011, remains committed to effectively restoring the rights of victims of expropriation and forced abandonment originating from the armed internal conflict. This is the fundamental objective of the land restitution policy as enshrined in the National Development Plan 2018–2022.

41. The URT implements public policy on the protection and restitution of ethnic land rights, developed with those communities' participation. In this context, procedures are in

hand to document expropriations suffered during the armed conflict from 1991 onwards. These activities are conducted directly with communities in their places of settlement.

42. This awareness-raising effort has enabled the URT to acquire valuable information to help in the participative construction of documents to substantiate administrative decisions, claims, contextual analysis, timelines and social mapping.

43. The forums established by the URT for raising awareness of its policy are conducted under a differentiated approach, with respect for customs, practices and standards whether individual or shared, support for translation into native languages, emphasis on the application of the partnership principle throughout the process, and other procedures that do not impose formal requirements with which ethnic communities find it difficult to comply. Agreements on working methods have also been signed which respect the timings and rhythms of participatory community activities.

44. Since 2014, a total of 429 forums for dialogue have been created throughout the country, attended by more than 22,000 authorities, leaders and black and indigenous communities, as well as non-ethnic officials and occupants.

45. As an operating mechanism, the URT is developing preliminary studies of territories for use in determining the basis for: (i) restitution measures; or (ii) prevention and protection measures, whether administrative or judicial.
