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مجلس حقوق الإنسان

الدورة الثالثة عشرة

البند ٢ من جدول الأعمال

التقرير السنوي لمفوضية الأمم المتحدة السامية لحقوق الإنسان

وتقارير المفوضية السامية والأمين العام

رسالة مؤرخة ١٦ شباط/فبراير ٢٠١٠ موجهة من حكومة كولومبيا إلى مفوضية الأمم المتحدة السامية لحقوق الإنسان**

يشرفني أن اغتنم هذه الفرصة لأتوجه إلى سعادتك بالشكر على تزويدنا بالتقرير السنوي عن حالة حقوق الإنسان في كولومبيا (٢٠٠٩) الذي سيرض على مجلس حقوق الإنسان التابع للأمم المتحدة في دورته الثالثة عشرة.

إن الحكومة الوطنية لتقدير الاعتراف الصادق الوارد في التقرير بالجهود التي تبذلها مؤسسات الدولة والمجتمع الكولومبي من أجل إحراز تقدم على طريق الاحترام الكامل لحقوق الإنسان المكفولة لجميع السكان في الإقليم وترحب بهذا الاعتراف. كما تعرب الحكومة عن امتنانها للاعتراف الذي عبرتم عنه بشكل خاص تجاه سياسة الشفافية والانفتاح التي تنتهجها حكومة الرئيس البارو أوربي بيليز. ونيابة عن الرئيس، أود التأكيد على القيمة الكبيرة للتقييم العادل الذي يورده تقريركم فيما يتعلق بالتقدم المحرز والتحديات التي لا يزال على بلدنا التغلب عليها في مجال حقوق الإنسان.

* وفقاً للمعلومات التي أُحيلت إلى الدول الأطراف فيما يتعلق بتجهيز تقاريرها، لم تحرر هذه الوثيقة قبل إرسالها إلى دوائر الترجمة التحريرية بالأمم المتحدة.

** يُستنسخ المرفق باللغة التي ورد بها وباللغة الإنكليزية فقط.

وبالتعاون مع مؤسسات الدولة التي تعمل وفقاً لمهامها ومسؤولياتها على احترام حقوق الإنسان، أُجريت دراسة متأنية لمضمون التقرير، وُضعت نتائجها التي تعبر عن وجهة نظر الدولة الكولومبية في الوثيقة المرفقة بهذه الرسالة.

وأتوجه إلى سعادتكم راجياً منكم أن تعمموا هذه الوثيقة، مصحوبة بمرفقها الذي يشكل جزءاً لا يتجزأ منها، تزامناً مع التقرير المذكور، كوثيقة رسمية من وثائق الأمم المتحدة.

(توقيع) خايمي برموديز ميريزالدي
وزير الخارجية

Annex

I. Introduction

1. The Colombian State is grateful for the transmission of the report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia (A/HRC/13/72), to be submitted to the Human Rights Council at its thirteenth session. It also takes the opportunity to draw attention to the work done by OHCHR-Colombia and to express its thanks for the visit made to Colombia in 2009 by the Deputy High Commissioner and the head of the Field Operations and Technical Cooperation Division.

2. The Summary of the report contains a fair assessment of the efforts made by the various institutions of the State and by society to secure the full realization of human rights in Colombia: the report refers to the “*significant progress*” made during the year under review and emphasizes “*the Government’s openness to international scrutiny*” and its “*spirit of cooperation ... and the commitment ... to address human rights challenges*”. Among the achievements it is worth drawing attention to the 63 per cent reduction from 2008 to 2009 in the number of persons stating that they had been displaced.

3. A reading of the report allows the conclusion that every one of the institutions of the Colombian State is committed to discharging its obligations to the people, as derived from the Constitution, the democratic nature of the country’s current political regime, the nation’s laws, and the international obligations assumed by Colombia. The report also shows that, although there are still problems to be overcome, the State’s policy is focused on doing everything possible to guarantee and protect human rights and never to accept any violation of the human rights of the country’s inhabitants. Obviously there is no governmental policy which allows or justifies violations of rights and no relaxation of effort on the part of the State to prevent the occurrence of such violations.

4. Special significance attaches to the acknowledgement of the progress made in Colombia’s forces of law and order, manifested in the sharp reduction in the number of reports of murders of persons under protection, the fight against all forms of crime, the efforts to protect the people and institutions, the formulation of policies consistent with the protection of human rights, and the confirmation that instances of misconduct by members of the forces of law and order are isolated cases which run counter to the policy of the Ministry of National Defence and the High Command. In a situation such the one which Colombia has been experiencing the work of the military and police forces is very difficult and must be transparent and committed to human rights if the advances in the fight against violence and crime are to secure legitimacy and prove sustainable. On this point Philip Alston, the United Nations Special Rapporteur on extrajudicial, summary and arbitrary executions said that *he had seen no evidence to suggest that these killings were committed as part of an official policy or that they were ordered by senior Government officials or were carried out with the knowledge of the President or successive Ministers of Defence*.

5. Colombia’s institutions take note of the challenges mentioned in the report and of the shortcomings needing correction; the State emphasizes in this connection that many of the priorities indicated in the report are the same as the ones set out in State policy, such as eliminating impunity, combating all illegal groups and all forms of crime, protecting the people against illegal armed groups with links to drug trafficking, guaranteeing in full the exercise of all freedoms, preventing and punishing sexual violence, introducing differentiated policies for the most vulnerable population groups, and streamlining of the procedures being carried out under the Justice and Peace Law to guarantee victims’ rights to the truth, justice, compensation, and safety against repetition.

6. With deepest respect for the independence of the Office of the High Commissioner and for the conclusions contained in her report, the Colombian State wishes to put forward the following considerations with a view to enriching the report's content, facilitating a better understanding of the country's situation, making the public aware of the relevant achievements, and supplying information about the public policies which are being carried out. In order to make them easier to understand, these considerations will be stated briefly and in the order used in the report.

II. Cooperation with the international community

7. In addition to what the report has to say about the 2009 visit of the four representatives of the United Nations Special Procedures, the visit of the Deputy High Commissioner and the head of the OHCHR Field Operations and Technical Cooperation Division, the analysis of Colombia's situation by three of the treaty bodies, the adoption in March of the universal periodic review, and the submission of the report of the Secretary-General to the Working Group of the Security Council to review the monitoring and reporting mechanism established under resolution 1612 (2005), it is worth emphasizing the following activities, among others, as instances of discussion and dialogue concerning human rights: the normal functioning of the tripartite dialogue arrangements established with the international community represented by the so-called Group of 24¹ and with civil society in the context of the London-Cartagena-Bogotá process; the continuous flow of information to the Office of the Prosecutor of the International Criminal Court; and the establishment of arrangements for human rights dialogue with the European Union, Canada and Spain; all of this in addition to the permanent dialogue on and the attention paid to the guidance offered by the inter-American human rights system and various units of the International Labour Organization, not to mention the countless activities carried out on a bilateral basis or as part of the interaction with civil society organizations.

8. During the universal periodic review Colombia demonstrated its willingness to engage transparently and seriously in a process of study and self-examination, one which enabled the State to identify both the achievements and the challenges to be taken up; it consequently established a public system for the periodic monitoring of the 133 items identified as recommendations accepted or commitments entered into voluntarily.²

9. Colombia imposes no restrictions of any kind on the presence, travel or activities of multilateral bodies, national or international civil society organizations, or journalists, despite the difficult public order situation persisting in some regions. The Special Rapporteurs who have visited Colombia have underlined the safeguards and facilities furnished to them by the State in their work, the openness and availability of all the institutions, the seniority of the officials who received them, and the efforts made and progress achieved in all areas.

10. In short, Colombia has demonstrated its firmest commitment to the ideals of human dignity and to respect for the State and non-State arrangements put in place by the international community; this in accordance with the transparency inspired by the democratic principles which sustain the national political system and the human rights commitment of the policy of democratic security. Colombia's institutions may manifest shortcomings in their performance, but they are clearly guided by a policy committed to guaranteeing, respecting and protecting human rights.

¹ The Group of 24 is made up of the members of the European Union which have accredited diplomatic missions in Colombia, together with the United States of America, Canada, Japan, Argentina, Brazil, Chile and Mexico. The technical secretariat of the London-Cartagena-Bogotá process is provided by the Resident Coordinator of the United Nations system in Colombia.

² See: www.derechoshumanos.gov.co/epu.

11. The Colombian State expects from the international community a response commensurate with its own efforts, commitment and achievements; it is discouraging that, while Colombia has made every effort to pursue a transparent and committed human rights policy, it has on occasions suffered discriminatory and unfair treatment from some parts of the international community.

III. Independence of the Judiciary

12. The Government attaches great value to the guarantee of the independence of the Judiciary in a State based on the rule of law; it therefore feels obliged to refer to the following assertion made in the report: "Tension and public disputes ... may have undermined the independence of the judiciary."

13. As in any democratic State, opinions differ in Colombia on a variety of topics, and there is public discussion of decisions of the various branches of State power; as far as judicial decisions are concerned, the Government has stated its observations clearly or has brought to the attention of the public and the competent organs any information received concerning possible inappropriate conduct by members of the Judiciary; other sectors of Colombian society have also stated their disagreement with judicial decisions.

14. The Government has nevertheless accepted every one of the judicial decisions affecting it and has, when necessary, altered its policies and adjusted its budget in accordance with the requirements of judicial decisions.

15. The Government would point out that:

- In Colombia the Supreme Court of Justice, the Council of State, one division of the Higher Council of the Judiciary, and two thirds of the Constitutional Court, as well as all judicial officers working at the national, regional (departmental) and local (municipal) levels, are chosen, elected or nominated by organs of the Judiciary or organs of the State;
- The Judiciary's budget is managed autonomously by the Judiciary itself through its Higher Council, and this budget almost doubled in the period 2002-2009;
- In the cases in which the Executive plays a part in nominating persons for Judiciary posts the decisions on appointments to those posts are in the hands of the Congress of the Republic or the Supreme Court of Justice;
- The Executive does not interfere in or bring pressure or influence to bear on decisions taken independently by judicial officers.

16. The Government has furnished all necessary cooperation for the conduct of investigations when this has been required and it has provided secure conditions for Judiciary personnel throughout the country. Most of the work of the Judiciary takes place in an atmosphere of harmonious cooperation designed to obtain the purposes of the State embodied in Colombia's Constitution and laws.

17. The concern expressed in the report about the persistence of structural problems in the administration of justice is shared by the Government and by Colombian society. The persistence of serious delays in criminal investigations and the lack of consistency in the jurisprudence are just two of the challenges which must be taken up in the fight against impunity as a common undertaking of the entire State. The Government has committed its efforts to this cause and requests the organs of the Judiciary to acknowledge these

challenges and demonstrate the will to tackle them. Society expects the State to deliver prompt, effective, impartial and solidly based results matched by legal safeguards.

IV. Intelligence services

18. The Colombian State acknowledges the gravity of the information made public in February 2009 concerning alleged unlawful intelligence activities carried out by persons connected with the Department of National Security (DAS) between 2003 and 2005; the President of the Republic and other senior Government officials have made public statements to this effect. The following points must be made in this connection:

- The investigation of these reports is being conducted by the Office of the Attorney General the Office of the Procurator General in an independent and autonomous manner;
- The Director of the DAS himself provided the evidence on which this investigation is based a few days after the scandal broke; the Government is therefore cooperating in every possible way in order to clarify the facts and it has acted transparently by preserving the evidence and placing it in the hands of the competent criminal investigation bodies; accordingly, the Government cannot understand why the report talks about “*difficulties faced by the prosecutors in the initial phase*”;
- The persons and organizations alleged to be the victims have enjoyed all the guarantees of representation, access and intervention in the judicial proceedings;
- The Government has taken the necessary administrative action to deal with the situation; before the end of 2009 it submitted to the Congress for consideration a bill on the disbanding of the DAS and the creation of a civilian intelligence agency invested with the highest standards of quality and transparency;
- As the report states, these activities appear to have been carried out by officers who contravened the Government’s policy;
- The Intelligence Law (Law 1288) proposed by the Government and approved by the Congress with the support of all the parties represented in the Congress two months before the reports were published, demonstrates the concern of the Colombian State to regulate legitimate intelligence activities in accordance with the highest standards in terms of necessity, relevance, limits and oversight.

19. Law 1288 proscribes any intelligence activity inconsistent with the objectives set out in the National Intelligence Plan or not ordered by the responsible authority; it provides inter alia that intelligence activities may not be justified on the basis of membership of an ethnic or political group, a social or political organization, or a media outlet, etc.; among other provisions, it also establishes internal and external oversight mechanisms in the shape of a congressional committee.

20. The Law also establishes the obligation to purge the intelligence files; regulatory decree 3600 was enacted for this purpose in September 2009; it authorizes cooperation with international organizations, including OHCHR. The Government is grateful for the support furnished by OHCHR, which in February 2010 enabled Colombian intelligence officers to learn about the experience of European countries in purging intelligence files.

21. The facts bear out the transparent and timely action taken by the State with regard to the intelligence services and the establishment of rules and mechanisms to enable

intelligence work to be carried out within the law and with full respect for the rights of Colombia's inhabitants.

22. But this does not diminish the feeling of consternation at the acts which may have been committed, for such acts would discredit the Government's policy. The Government therefore reiterates its concern for all those persons who may have been victims of alleged illegal intelligence activities, a group which includes public officials of the Government and other branches of State power, members of community organizations, journalists, and representatives of international bodies, and it also reaffirms its commitment to redouble its efforts to prevent any repetition of such deplorable activities.

V. Human rights defenders

23. In the light of its commitments and the manifest concern in national and international quarters about factors which may restrict the legitimate activities of human rights defenders, the Colombian State has made enormous efforts to safeguard the work of these persons, especially those of them regarded as particularly vulnerable, such as representatives of victims' organizations in the context of the Justice and Peace Law, internally displaced persons, members of women's organizations, and lesbian, gay, bisexual and transgender (LGBT) persons.

24. Following the universal periodic review Colombia accepted 16 recommendations concerning human rights defenders. As the report states, the National Round Table on Guarantees (which met three times) was established in 2009; 11 regional meetings were held with civil society organizations, producing 183 commitments: 78 relating to prevention measures, 50 to protection, and 48 to the performance of the Judiciary.

25. During the visit of the United Nations Special Rapporteur on the situation of human rights defenders the President of the Republic stated that "... *the defence of human rights is a necessary contribution to the sustainability of the policy of democratic security, for human rights and efficacy constitute a double tool for building public confidence in security.*" He also stated that "... *the defence of human rights is a necessary and legitimate activity for democracy in a country such as Colombia, which is proud to be fully open to and willing to accept international scrutiny in this matter.*"

26. Attention must be drawn to the efforts of the National Police to maintain a continuous dialogue with human rights defenders at the regional level and with such groups as LGBT persons and to the creation of a special investigations unit to deal with reports of threats and the introduction of a special investigations procedure for this purpose.

27. The Government is grateful for the recognition accorded to the Protection Programme and reiterates that in all circumstances the State will retain the responsibility and fulfil its obligation to provide protection. However, owing to circumstances connected with the structure of the Government, administrative considerations and the demand of the beneficiaries of protection measures that the escort and bodyguard service should remain in place, it has been necessary to make changes in the operational arrangements of the Protection Programme in the form of sub-contracts with private security companies. To this end, a start has been made by initially allowing the voluntary transfer of security arrangements, consultation with the beneficiaries has been encouraged, and special oversight mechanisms have been installed to ensure effectiveness and transparency in the provision of the protection service.

28. It should be pointed out that the charges of defamation and slander brought against human rights defenders and journalists referred to in the report relate to just a small number of actions – no less worrying for being so few – initiated by citizens who considered that

the statements made by the persons in question violated their rights to personal honour and dignity; in no case were these actions brought by public officials.

29. As the report indicates, the State is endeavouring to carry out the priority tasks deriving from the commitments undertaken at the National Round Table and the regional meetings; however, this is a suitable occasion for the Government to reiterate its appeal for human rights defenders to carry out their activities independently but objectively, autonomously but constructively, and for the idea of a national action plan on human rights and international humanitarian law to be re-activated. In the Government's view, there are no reasons for continuing to deny Colombian society, for years to come, the opportunity to draw up an agreed national action plan.

VI. Emerging criminal gangs

30. The Government has reiterated on many occasions its recognition of and concern about the enormous challenge represented by the criminal gangs which have emerged as a result of the demobilization of the self-defence groups; it has called upon society and institutions to tackle this challenge with all possible determination and transparency and it has led the way by introducing permanent and forceful measures to combat this phenomenon.

31. The President of the Republic has made dozens of public statements calling for the authorities to take effective action to combat these organized crime groups and he has established security councils in the cities and towns in which this phenomenon has been reported; at least 60 per cent of the security councils ordinarily held at the beginning of every week have met in areas where the emergence of criminal gangs has been identified as the main threat to public security.

32. In addition, the President ordered the Director of the National Police to publish a monthly report on the results of the fight against this phenomenon, and a mechanism was created to monitor the dynamics of these groups; the Office of the Ombudsman, the Office of the Procurator General, the Mission to Support the Peace Process in Colombia of the Organization of American States (MAPP-OEA), and the non-governmental organization Interpaz were invited to participate in this mechanism.

33. Directive 019 of April 2009 issued by the Director of the National Police revised the strategies for fighting criminal gangs and established priorities and comprehensive measures for this task. The efforts to combat these gangs have led to the seizure of 3,500 heavy weapons and 4,000 small arms and 55 tons of cocaine; in 2009 alone property was placed in the hands of the Judiciary for the confiscation of property rights (*extinción de dominio*) equivalent to about \$US 23 million. Also in 2009, Daniel Rendón Hierra, alias Don Mario, the overlord of one of the criminal gangs, was captured; this success came on top of those of previous years – the capture of alias HH, the Mejía twins and Don Diego, to mention only a few of the ringleaders of these groups.

34. The fact of the existence of different types of armed group (some which had not been demobilized, as in the case of ERPAC referred to in the report, groups which emerged from drug trafficking and maintain close links to the guerrillas, other gangs concentrating on extortion and drug trafficking in urban areas, and groups of hardened criminals in some parts of the country) prompts the Colombian State to draw attention to the nature of these groups. This move is not designed to play down the problem or its magnitude or the potential risks which it entails; the aim is to clarify the problem's nature in order to take its measure and see that justice is done in the process of demobilizing the so-called self-defence groups.

35. In the first place, the Colombian State does not consider it right that all of Colombia's crime should be categorized as "*neo-paramilitarism*", i.e. the re-emergence or continuation of the paramilitary groups; as stated above, there is no homogeneity in the conformation, purposes, methods or activities of these groups; it is possible to find military or quasi-military structures, gangsters and hired killers, and many different purposes: extortion, landholding, retailing of illicit drugs, drug trafficking, prostitution networks, etc. It is important not to classify as "*paramilitary*" every organized criminal gang operating in Colombia; this is not to deny the need to punish persons who fail to fulfil their commitments under the demobilization process or the need for intensive efforts in the fight against crime.

36. There are two other very important points: first, most of the violence committed by emerging criminal gangs is directed against other gangs for control of illicit businesses; and second, the policy pursued by the forces of law and order in fighting this form of crime is perfectly clear.

37. To sum up, it may be said that there is a challenge which has been acknowledged and taken up by the State, a challenge which warrants the State's very close attention and in response to which convincing and verifiable results can be reported, and that this challenge is more closely connected to opportunities for illicit business dealings (often carried out in conjunction with the FARC-EP and ELN illegal armed groups). It may also be said that the criminal gangs do not all share the same purposes, origins, dynamics or character.

VII. FARC-EP and ELN illegal armed groups (guerrilla groups)

38. It will be useful to add to the description and characterization which the report gives of these groups with respect to their total disregard, in both political and practical terms, for international humanitarian law a mention of some of the events which shook Colombia in 2009: the massacre of 18 indigenous members of the Awá community in February; the kidnapping and murder of the Governor of the Department of Caquetá in December; the murder of trade unionists and the fact that at least 40 per cent of murder victims in 2009 belonged to indigenous communities; the killing of local representatives and councillors elected by the people, the attacks on the medical profession, etc.

39. It is clear that there is no justification in Colombia for the use of violence for supposedly political purposes or any popular support for the illegal armed groups which use this kind of argument; the Colombian State and people therefore request the international community to deliver more vigorous calls for the release of persons who have been abducted and are being held in inhuman conditions, for the elimination in their territories of all opportunities for the movement of goods or persons connected with illegal armed groups, for the immediate cessation of armed activities and for a move towards negotiations concerning the groups' demobilization, disarmament and serious and transparent reintegration.

VIII. Implementation of the Justice and Peace Law

40. Colombia elected to implement a process of transitional justice which is exacting in terms of judicial truth and administered by independent judicial officers, with comprehensive guarantees of the exercise of their rights by the victims.

41. On the occasion of the universal periodic review Colombia entered voluntarily into a commitment to streamline the Justice and Peace procedures; in addition, pursuant to the annual agenda of the London-Cartagena-Bogotá process (mentioned in section II above) a seminar entitled "Enhancing justice for victims" was held in the second half of 2009; it

produced a large number of proposals and suggestions for optimizing the implementation of the Justice and Peace Law.

42. Although there remains a long way to go, it is nevertheless true that under this Law thousands of victims have found a response to their demands; it is sufficient to point out that 17,262 crimes have been cleared up in their entirety, with the participation of the victims, by means of judicial investigations and the questioning of demobilized persons and the statements taken from them, and that a further 18,400 crimes are undergoing this process. This total of 35,662 crimes includes 30,470 killings, 1,085 massacres, 1,437 cases of unlawful recruitment, 2,520 cases of forced disappearance, 2,326 cases of displacement, 1,033 kidnappings, 179 cases of torture, and 34 cases of sexual violence.

43. The 51,702 victims in these cases include 284 trade unionists, 214 members of indigenous communities, 92 members of the Unión Patriótica political party, 36 journalists and 38 members of non-governmental organizations, and 511 public officials. In addition, 2,900 corpses were exhumed from common graves, and 75,000 persons received attention during victim-reception sessions. Certified documents were drawn up in respect of 657 public officials alleged to be involved in these crimes, and partial charges are being brought against 177 persons under the Law.

44. In 2009 the National Commission on Reparations and Reconciliation set up four Regional Commissions for the Restitution of Property, and the Government paid compensation by administrative means equivalent to \$US 100 million.

45. These examples invest the Colombian State with the moral authority to draw attention to certain passages of the report which give a false picture of the concept of transitional justice underlying the Justice and Peace Law.

46. Firstly, the claim that some crimes should be regarded as unpardonable. It has to be pointed out that the Justice and Peace Law is not an amnesty law; it establishes judicial requirements and procedures for the Justice and Peace courts to impose penalties and it invests these courts with the power to impose an alternative sentence when certain conditions laid down in the Law are met. If the claim is that in respect of these crimes legal benefits may not be granted in any legal framework in exchange for demobilization and satisfaction of the victims' rights, what is being asserted and requested is that there can be no procedures of negotiated peace in Colombia, for it is unthinkable that there should be negotiations with a view to demobilization accompanied by full enforcement of the penalties provided for in the criminal law.

47. Secondly, supposed international standards are invoked as objectives to be attained. The Colombian State is aware of its obligations with respect to victims' rights and wishes to realize those rights in full; but it points out, on the one hand, that no known peace process in any country of the world has had higher standards than the ones established in Colombia and, on the other hand, that the content of the Law is consistent with the international instruments adopted by the international community. It is one thing to commit every possible effort to guaranteeing and protecting the greatest number of rights, it is another to disregard the limitations in terms of institutions, prosecution services, and time which obstruct attainment of the desirable goal of clearing up all crimes in all circumstances. On occasions the international practice has consisted of punishing only the most high-profile perpetrators in the most serious cases (described as "emblematic cases"); in contrast, the practice of the Justice and Peace Law is making it possible, for example, to establish the truth concerning 1,100 massacres. The Colombian State finds a cause for concern in the double standard applied in the analysis and evaluation of similar situations.

48. This topic warrants a final comment on the demobilized leaders of the self-defence groups who were extradited to the United States of America: neither have their crimes in Colombia been pardoned nor is there any obstacle to their cooperation under the Justice and Peace Law, provided that they are willing to submit voluntarily to this Law, which is one of the requirements contained therein. Colombia will continue to work with United States institutions and with victim's organizations in order to establish the truth and deliver justice and compensation, including compensation from those accused persons.

49. The report refers to what it calls *non-judicial mechanisms* for establishing the truth; it may be useful to point out in this connection that the Colombian State is aware of the importance of establishing the truth about the historical process of the past 50 years in Colombia, and it notes as well that the international experience shows that alternative mechanisms (such as *truth commissions*) have been introduced once the violence has been totally eliminated and definitions have been produced of such matters as the legal implications of the truth, the means of establishing the truth, and the procedures for participation in the process; these are necessary conditions for the correct operation of mechanisms which transcend the mere desire to seek clarification of the historical truth.

50. It should also be kept in mind that the Justice and Peace Law provides for the production of reports on the evolution of the historical context and the acts committed for submission to the National Commission on Reparations and Reconciliation (most of whose members are drawn from oversight bodies and civil society organizations); the National Commission has established a Commission on the Historical Record (*Comisión de Memoria Histórica*), which has published two reports³ and it is preparing reports on eight other investigations, as well as a document on the phenomenon of the illegal self-defence groups in Colombia.

IX. Recommendations

51. The Colombian State will study, in conjunction with members of OHCHR-Colombia, the scope and the implementation arrangements and timetable of the recommendations contained in the report.

52. However, Colombia respectfully wishes to state that it does not accept recommendation (f), which refers to structural and procedural reforms to Law 975 (2005). The reasons are as follows:

- Firstly, a careful reading of the Law shows that what is needed is a greater effort to apply the Law in full in conjunction with other rules such the confiscation of property rights (*extinción de dominio*) rather than any reform of the existing legislation: there is no disagreement about the aim of securing more extensive satisfaction of victims' rights; the point at issue is the mechanisms for achieving this aim;
- Secondly, in the first half of 2010 Colombia will be holding elections for all the seats in the Congress, as well as electing the President and Vice-President of the Republic; under these circumstances it would be irresponsible to undertake to reform Law 975 while the elections are going on and when the Legislature is to be invested in July and the Head of State in August;

³ "Trujillo: una tragedia que no cesa" (Trujillo: a tragedy without end) and "La masacre de El Salado: esa guerra no era nuestra" (The El Salado massacre: this war was not our war).

- Although there are other considerations, such as the temporary nature of appointments in the Office of the Attorney General, which is a key actor in this process, the circumstances described above justify the position of the State on this recommendation.

X. Final considerations

53. The Colombian State reaffirms its readiness to maintain the most cordial and respectful relations with the international community in general, and in particular with the Office of the United Nations High Commissioner for Human Rights, and its commitment to do everything within its power to continue the progress towards the full realization of the rights which underpin human dignity and freedoms and non-discrimination in Colombia.

54. To this end, it will pursue resolutely its policy of total openness and transparency, maintain its readiness to receive observations and recommendations made in a constructive spirit, and continue to cooperate with the international community in strict compliance with its ethical principles, the provisions of the Constitution and the law, and its commitments under international instruments.
