

and 287 cases were opened, of which 119 referred to torture, 75 to forced disappearances, 71 to multiple killings and massacres and 21 to violations of international humanitarian law; 55 sentences were pronounced at first-instance level concerning 173 officials, 99 of them had been punished by December 1998. Most of the officials sentenced were members of the army. At second-instance level, the Attorney-General's Office pronounced 31 sentences, 15 of which involved punishment.

Under Ruling C-358 of 1997, 317 cases involving members of the military were transferred from military to civil justice and of these 242 proceeded as civil cases.

**55.** The Office of the President recently issued the following "presidential directive" for the development of preventive action and the protection of the human rights of members of non-governmental organizations (NGOs) and social organizations:

1. All public servants are to refrain from questioning the legitimacy of human rights organizations and their members acting in accordance with the Constitution and the law, from making comments discrediting, harassing or inciting to harassment of such organizations and from issuing public or private statements stigmatizing the work of such organizations.

2. All public servants are to abstain from making false charges and accusations compromising the safety or the honour and good name of the human rights organizations and their members. A person who knows of any unlawful act committed by the members of such organizations has a duty to report it to the competent legal authorities.

3. All public servants are to service and complete promptly and efficiently requests for information, action or measures made by the human rights organizations which are directly related to their work, in accordance with the functions proper to each body. In exceptional cases where there is some legal reason why such requests cannot be serviced, the organization making the request must be duly informed.

4. The Director of Human Rights of the Ministry of the Interior is to service and handle, through the committee for risk assessment of the programme for the protection of witnesses and persons at risk, requests for protection of the group of persons specified in this directive with the purpose of assessing the risk and taking measures to protect where appropriate.

5. The governmental human rights agencies at all levels are to develop or step up human rights awareness and training programmes to promote the legitimacy of work in the defence, protection and promotion of these rights as an essential constituent part of the social state ruled by law.

#### *Strategies and activities for promotion and protection*

**56.** Additionally, in the very near future, the Ministry of Labour and Social Security, which coordinates the Inter-Institutional Commission for the Promotion and Protection of Workers' Human Rights, will propose and submit for the approval of the members of the Commission the "Strategies and Activities for the Promotion and Protection of Workers' Human Rights" in the following terms:

##### General objectives

The situation of armed conflict in Colombia calls for the adoption of effective state policies to counteract the causes and factors of violence. Action is needed to facilitate and reinforce citizens' initiatives for peace, non-participation of civil society in the armed conflict and the creation of a foothold for democratic coexistence and reconciliation to allow development of the processes of détente and agreement in order to respect international humanitarian law and protect human rights.

There is a need to establish how international cooperation could play a more effective role in formulating proposals for the solution of human rights problems in Colombia. Special mention should be given to the Office of the United Nations High Commissioner for Human Rights in Colombia; the Inter-American Commission on Human Rights (IACHR) of the Organization of American States (OAS), whose consultative work covers not only human rights but also violations of international humanitarian law; and the International Labour Organization (ILO).

In the actions pursued by the Colombian State, the option of achieving political agreements on peace and reconciliation with the parties committing the violence has constituted a priority endorsed by civil society and the international community. A peace process negotiated with the parties to the armed conflict would facilitate the emergence of civil coexistence in Colombia and would be the best scenario for the development of economic growth with social justice. The workers' organizations are called upon to play an important role in this process.

**Specific objectives**

The national Government has established, for the promotion and protection of workers' human rights, a permanent Inter-Institutional Commission with a technical secretariat, coordination of which is the responsibility of the Ministry of Labour and Social Security. For this reason, the Commission is part of the new organic structure of the Ministry.

The Inter-Institutional Commission for the Promotion and Protection of Workers' Human Rights is responsible for designing and implementing at national, regional and local levels programmes for upholding workers' human rights with cooperation from state agencies, the appropriate NGOS, workers' confederations and trade unions, through activities such as:

- Regional and local workshops, forums and seminars on peaceful coexistence and non-participation in the conflict, aimed at creating détente processes from within civil society and direct public opinion against the parties to the armed conflict in order that the latter prepare to comply with international humanitarian law.
- Publicizing and promoting the application of international humanitarian law at regional and local levels through the mass media and the appropriate worker channels.
- Encouraging among the community of workers explicit attitudes of no direct or indirect involvement in the armed conflict in Colombia.
- Monitoring the proper implementation of the programme of protection for persons at risk coordinated by the Ministry of the Interior which offers protection also to trade union officials and activists who have been threatened. Equally, the programme allows for the protection of trade union organizations at risk.
- Inter-institutional programmes for détente, appeasement, reconciliation and coexistence will be conducted in local and regional situations presenting an imminent threat to the public, and particularly where there is danger of the violation of the human rights of trade union officials and activists and trade union organizations.
- It is important to consider setting up regional branches of the inter-institutional Commission, with a similar composition, in cooperation with the local authorities, to achieve a better adapted and more efficient institutional management.

The necessary steps need to be taken in relation to national and foreign agencies in order to obtain funds to ensure the fulfilment of the objectives and the development of the Commission's activities, including:

- Study of the sociological and historical context of the human rights violations in order to formulate structural recommendations to combat impunity.
- Human rights training and publicity programmes.
- Establishment of a national network of public officials responsible for promoting human rights.
- Establishment of a national network of workers to promote human rights.
- Study, systematization and publicizing of successful sectoral or regional experiences of social dialogue and collaboration which have contributed to the creation of a climate of peaceful coexistence.

**57.** With regard to the remaining aspects, the Government reports the following:

***Killings***

— José Vicente Rincón, member of the Fertilizer Workers' Trade Union of Colombia, murdered on 7 January 1998 in Barrancabermeja. The human rights group of the National Police reports that

the procedure of removing the body was carried out by officers of the Technical Investigations Unit (CTI) in association with the Procurator-General's Office First Delegate to the criminal circuit judges and registered under No. 12371; in the present case, no individual or group has been found responsible for the event. However, intelligence work indicates that the perpetrators are known by the names of Pepo, Chuzo and Petete and are active members of the urban militia of the so-called National Liberation Army operating in the north-east of Barrancabermeja.

- Jorge Boada Palencia, trade union official of the Association of the National Penitentiary Institute, murdered on 18 April 1998. The human rights group of the National Police reports that "the investigation by the national human rights unit is at the preliminary stage. The task was assigned to the Technical Investigations Unit and the individual under investigation for this murder is Hugo Toro Restrepo, also known as Bochica, commander of the 'Jorge Eliecer Gaitan' guerrilla group".
- Jorge Duarte Chávez, member of the Oil Industry Workers' Trade Union (USO), murdered in Barrancabermeja on 9 May 1998. The human rights group of the National Police reports that

the procedure of removing the body was carried out by units of the Barrancabermeja Sectional Judicial Police (SIJIN) in association with the Procurator-General's Office First Delegate and registered under No. 13205. Intelligence work indicates that the crime was committed by persons known as Andrés, Walfran and Ramón or Ramiro, members of the workers' militia of the Popular Liberation Army.

- Carlos Rodríguez Márquez, member of the USO, murdered in Barranquilla on 10 May 1998. According to information provided by the National Police, Atlántico police and investigation section, the murder was committed for reasons connected with personal and family problems. This conclusion was reached on the basis of statements by the children of the woman with whom he lived.
- Arcángel Rubio Ramírez Giraldo, member of the telecommunications trade union SITTELECOM, murdered in the municipality of Venecia, Cundinamarca. In order to clarify the facts the case was taken up by the sectional procurator's office of Fusagasugá under No. 4825, Fiscal 05. Statements have been taken from María Cenelia Zuluaga, Luis Alfredo Ríos, Benigno Vela, Guillermo León Pérez, Rosalba González, Miguel Fernández and José Evert Rodríguez. According to the investigation carried out by the Cundinamarca police department of the National Police, it was concluded that:

Analysis of the event indicated that this crime could have been committed by a band of attackers intent on vehicle theft, since, in addition to the disappearance of the blue Chevrolet Samurai, registration No. MQC 136, other property was removed from the deceased, including a gold chain, a mobile telephone, a magnetic telephone belonging to Telecom, a BCH credit card, various appliances from the vehicle and belonging to Telecom, and other documents which the deceased kept in his wallet. In addition, from remarks made by people in the municipality of Cabrera, it appears that Arcángel Rubio Ramírez Giraldo had a son in the guerrilla forces, and thus the murder could have been committed by right-wing groups. Another factor which needs to be taken into account in investigating this killing is that the deceased was not popular among the local people: apparently, when he drank, he became very difficult. One thing that can be discounted is that the murder was committed because he was a member of the telecommunications union SITTELECOM.

Signed: Lieutenant-Colonel Jesús Antonio Moya Romero.

- Orfa Ligia Mejía, murdered in the municipality of Ipiales on 7 October 1998. The National Police Human Rights Group reports:

The investigation of the murder of the trade unionist Orfa Ligia Mejía, teacher in the school of Puenes district in the Ipiales urban area is proceeding under No. 330 in attorney's office No. 22 of the Ipiales sectional unit. Initially Mr. Virgilio Revelo Villacrez was suspected of planning

the crime, but the evidence did not attribute to him any means of carrying it out. The procedure has not yet been able to establish the possible identity of the perpetrator.

- Macario Herrera Villota. In addition to the information in our report of 15 January 1999 on this case, the National Police Human Rights Group states that:

The murder of Mr. Macario Herrera Villota was committed by two individuals who were attempting to steal the vehicle (a taxi) in which he was travelling at night; at present there is a verbal description of one of the suspects, produced by the Police Intelligence and Judicial Investigations Bureau (DIJIN) of Huila administrative district with the help of a witness.

- Víctor Eloy Mieles Ospino and his wife, Rosa Ramírez. Investigations by the Ministry of Labour and Social Security indicate that Mr. Mieles Ospino had been threatened, apparently by self-defence forces, forcing him to flee abroad. Shortly after his return to the country, he resigned his position in COCOLAC and took up residence in a different place to that where he had been threatened. It is not known why he went to visit the area he had left, where he and his wife were unfortunately murdered. It is thus difficult to determine in this unfortunate case what were the motives for his murder, but it is logical to exclude the possibility that it was for “trade union activities”, in which he had not been involved for a considerable time before the event, having gone into exile and resigned his job and hence his trade union position. However, it is to be hoped that the ongoing investigations by the state agencies will establish the truth and, most importantly, bring the guilty parties to justice.

58. Since specific information has not yet been received from the Office of the Procurator-General, the Government forwards information obtained from other sources concerning the following cases:

- Oscar Artunduaga Nuñez, member of the Workers' Union of the Cali Municipal Enterprises (SINTRAEMCALI), murdered by two individuals close to his home, according to information supplied by the president of the union in question. One of the pair was killed by members of the police but the other managed to escape. The human rights unit of the Attorney-General's Office will shortly provide detailed information on the progress of the investigation.
- Jesús Orlando Arévalo, who was apparently health secretary of the Workers' Union of Arauca Public Service Enterprises. However, according to information from the president of the CUT-Arauca, the deceased had resigned his position in the enterprise and also his trade union post. At the time of his murder, he was working for a private security group and had no trade union affiliation.
- Gladys Pulido Monroy: according to information from various sources, a guerrilla group snatched the head of the rural La Libertad school of La Capilla municipality and murdered her near the school. The Procurator-General's Office has been asked to report on the progress of investigations.
- Oscar David Calandón Gonzales: the Government is awaiting information from the Procurator-General's office in order to forward it.
- Julio Alfonso Poveda, murdered in Santa Fe de Bogotá on 17 February 1999. According to the information received, Mr. Poveda had left the trade union movement some years ago and had taken up cooperative activities in the agricultural sector.
- Pedro Alejandrino Melchor and Gildardo Tapasco (teachers, murdered on 6 April). Information has been requested from the Schoolteachers' Union of Caldas but no reply has been forthcoming. However, the Procurator's Office will shortly supply the relevant information.
- Manuel Avila Ruiz, president of SINTRAINAGRO Puero Wilches branch and member of the Single Confederation of Workers (CUT) in Santander. The Procurator's Office will report on the progress of investigations in the very near future.

- Esaú Moreno Martínez, wounded by a firearm on 5 April 1999 when he was in the city of Barranquilla together with two other members of the national executive council of the Workers' Union of the Social Security Institute (SINTRAISS), where he was implementing an administrative instruction to the executive sub-committee of the union. He died a few days later. The investigation is being conducted by the Barranquilla regional Procurator's Office.
- Moisés Caicedo Estrada. The Procurator-General's Office has been asked to provide the relevant information. It should be noted that Mr. Caicedo Estrada, together with four colleagues and their families, were clients of the Ministry of the Interior Protection Programme. Amongst other measures, the protection consisted of providing them with a monthly allowance, from December 1997 to June 1998, for forced exile from their place of origin (Amalfi, Antioquia). Later they were given an allowance in money to aid them, on request, to move to any location in Colombia. Their move was the result of death threats from the National Liberation Army guerrilla group (ELN), which forced them not only to give up their trade union activities but also to leave the area. On 7 October 1997, the ELN sent a message to Elkin Darío Clavijo, Héctor Castrillón, Moisés Caicedo, Uriel Hernández and Alfonso Niño informing them that "you have 48 hours from the receipt of this message to leave the area, otherwise you will be subjected to popular and revolutionary justice for high treason in the interests of the trade union lobby". They were also accused of supporting paramilitary groups. It would not be an exaggeration to say that this was a very dangerous threat, for ignoring it cost the life of two of the individuals named: Elkin Clavijo and Alfonso Niño, respectively president and treasurer of the Workers' Union of the Porce II Hydroelectric Project, who were murdered on 30 November 1997. Luis Emilio Puerta, leader of the same union, was also murdered on 22 November. These crimes were registered in our previous report.
- Oswaldo Rojas: the Government is awaiting information from the Procurator-General's Office in order to forward it.

59. Concerning the eight murder cases where the Office of the Procurator-General has ordered that investigations be adjourned (Ernesto Emilio Fernández Pezter, official of ADUCESAR, murdered in the municipality of Pailitas, César, by persons believed to be hired assassins; Libardo Antonio Acevedo, president of FESTRALVA (CTC), Tuluá, Valle, murdered on 7 July 1996; Magaly Peñaranda, member of SINTRAMUNICIPIO, Ocaña, Santander, murdered on 27 July 1997; David Quintero Uribe, president of SINTRACUACESAR, Aguachica, César, murdered on 7 August 1997; Aurelio Arbeláez, member of SINTRAFRONMINES, Segovia, Antioquia, murdered on 4 March 1997; José Guillermo Asprilla Torres, member of SINTRAINAGRO, Apartadó, murdered on 23 July 1997; Carlos Arturo Moreno López, leader of the farmworkers' committee, murdered on 7 July 1995 in Apartadó, Urabá, apparently by members of commando groups; and Luis Abel Villa León, member of SINTRAMINEROS, Antioquia, murdered in Amagá, Antioquia on 21 July 1997), the Government reports that the Colombian Penal Code provides that if within three months no new elements have come to light which allow the investigation to proceed, the work is to be shelved until such time as new clues or evidence justify reopening the case. However, the adjournment of investigations should not be regarded as an abandoning of the case, which would imply impunity.

#### *Attempted murders*

- 60. Concerning the allegations of the attempted murders, the Government reports:

- Tarcisio Mora (president of FECODE): the Government reports that according to the content of a police communication of 21 January 1999, Mr. Tarcisio Mora was not attacked, but that there was a theft followed by an exchange of shots in the district in which coincidentally he was present.
- Jesús Antonio González Luna, director of the human rights department of the Single Confederation of Workers (CUT). Mr. Bill Jordan, Secretary-General of the ICFTU, providing additional information on case No. 1787, informs the ILO of the attempt on the life of Jesús Antonio González Luna, his wife, children and accompanying bodyguards. This caused the death of Giovanni Rodríguez Loaiza, a bodyguard in the service of the Administrative Security Department (DAS).

61. Concerning this case, the metropolitan police of Santiago de Cali, judicial and investigatory police unit, reports as follows:

Metropolitan Police of Santiago de Cali  
Judicial Police and Investigation Unit  
Santiago de Cali, 2 August 1999  
Office No. 563/C. Murders  
Subject: Report on murder investigation  
To the Procurator-General  
Unit II, Life and Sexual Decency

We, the undersigned members of the National Police, Rody Ordoñez Chauza and Víctor Hugo Del Prado Chaparro, in the service of the judicial police, in accordance with the provisions of article 316 of the CPP, swear to state the truth in this report.

Date: 1 August 1999, report: 2365, location of incident: Carrera 39, No. 2-24 Oeste, Belén district, Siloé; place to which body removed: Valle University Hospital.

Details of the deceased: Giovanni Rodríguez Loaiza, identified by national identity card No. 94.414.430, from Cali, 25 years of age, married, occupation: DAS bodyguard, residing at Calle 2 Oeste, No. 39-51, Belén district, Siloé, son of María Emperatriz and José Rodrigo. At the time of removal the body had a firearm injury in the pectoral region.

Description of the incident: According to the account of (names omitted for security reasons), Mr. Rodríguez Loaiza arrived at his home at 7.45 a.m. and a few minutes later noticed that several individuals belonging to the El Hueco gang were approaching. With his DAS pistol in his hand, he proceeded to move them away; those individuals also pulled out arms and shot Mr. Rodríguez Loaiza. Stealing the above-mentioned pistol, they left the scene, firing several shots in the air and hitting one of the windows of the house.

Motives: Apparently personal revenge. Witnesses (names and other details omitted for security reasons).

Arms and weapons used: firearm of unspecified calibre. Perpetrators: Known as Bocanegra.

Authority removing the body: procurator No. 110.

Action taken by the police: initially the case came to the attention of uniformed patrol TM-12 from El Cortijo police station, then we attended at the location known as El Hueco with a patrol from the Sectional Judicial Police and counter-guerrilla forces in order to patrol the site and seek the perpetrators. Later, Mr. Jesús González Luna, national human rights director of the CUT, arrived with six other persons, including DAS agents. Mr. González Luna did not enter into discussion with the uniformed police, but 15 minutes later made a search of various houses in the area and arrested two persons said to be the perpetrators, who were taken by the security forces to the University Hospital, where the procurator was examining the body; it was necessary to find witnesses, but this proved impossible. The residents of the house pointed to the possible involvement of the two suspects, but they were not eyewitnesses to the incident and therefore the suspects were released.

Later we interviewed Ms. Magda González Jaramillo, who stated that on 29 July 1999 at 4 p.m., she, together with Jackeline, Digna, Zuleima and Maribel, had noticed members of the El Hueco gang

approaching the house, one of them carrying a guacharaca [Colombian musical instrument]; immediately Mr. Rodríguez Loaiza fired several shots to make them leave, but they made menacing gestures and returned later.

Continuing the investigation, we interviewed various residents of the El Hueco district, who stated that the deceased had been in the habit of shooting at them every time that he saw them pass the territory of the "La 21" gang.

Later we interviewed several individuals from the Belén district, who stated that Mr. González Luna was a friend of Mr. Rodríguez Loaiza and had encouraged him to take the DAS course, from which he had graduated approximately one month earlier and become his personal escort. The El Hueco gang had taken this to mean that he had fallen out with them and decided to steal his DAS fire-arm, which they did on the day of the incident.

According to the statement of Nelson Guerrero Ayala and Abiselio Valenci Ortiz, the two individuals arrested by Mr. González Luna, the latter is the father of Daladier, known as Dallas, who, in the company of persons known under the alias of Ninja and Gringo, participated in the murder of two workers of the Family Welfare Institute a few months earlier, but that he used his position to get Daladier out of the country.

In the early afternoon of 1 August 1999, a judicial inspection was carried out together with the Rapid Response Unit (URI) coordinator and the family reported that they had received a telephone call stating that the perpetrators of the crime were known under the aliases of Bocanegra, Fhanor, Chacharringa and Colocolo.

The case was handled by brigade one: Rody Ordoñez Chauza and Víctor Hugo Del Prado Charro, investigators.

Miriam Janeth-Bejarano Díaz, Head of Life Unit, Sectional Judicial Police, Mecal.

**62.** It should be noted that the report states that Mr. González Luna arrived at the scene of the incident later. His other bodyguards also arrived with him. The Administrative Security Department (DAS), Valle section, gives the following account of the incident:

Office of the President of Colombia, Administrative Security Department, Valle del Cauca section, Judicial Police and Investigation Unit

Avenue 3 Norte No. 50-20 Barrio La Flora, Fax 6652893

Santiago de Cali, 4 August 1999

No. 12074/DAS-SVAC-COIN-DIPJ-276320

Dr. Martha Janeth Mancera  
Head of Rapid Response Unit  
Technical Investigation Corps  
Cali, Valle

Reference: Report on investigation into murder and aggravated theft.

In fulfilment of the investigative task and for the attention of the Head of Rapid Response Unit of the Technical Investigation Corps, in accordance with article 316 of the CPP, it is reported that:

Through intelligence operations in the area it has been possible to establish the nature of the incident in which the DAS officer Mr. Geovanni Rodríguez Loaiza, bearer of licence No. 2694, was murdered. At that time in the area there was gang warfare for control over the hillside districts in Siloé region, involving four gangs, among them El Hueco, which was fighting the gang of the 41[st district] or Gang 21. The latter had dominated the area but its influence had been reduced as a result of the conflicts.

On 2 August, verbal insults were exchanged between members of the latter group meeting in the upper part of Carrera 39 and El Hueco gang members meeting on the same road in Calle 2, a situation which gave rise to a confrontation between the two groups; at that moment, the DAS officer Mr. Geovanni Rodríguez Loaiza was waiting on the pavement before 2-24, Carrera 39, the home of Mr. Jesús Antonio González Luna, Coordinator of the Human Rights Office of the Single Confederation of Workers (CUT), who at the time was under DAS protection because of threats to his safety.

When Mr. Rodríguez Loaiza heard the shots, he reacted by firing twice at the group on the lower part of the street and ran towards the house of Mr. González Luna, but it was locked, as was the gate in the external perimeter fence, so that he was left exposed and continued firing at the El Hueco gang members; this caused shots to be fired towards him, leading to bullets hitting the facade of the house and the upper part, even though the aggressors were at a lower level than Mr. Rodríguez Loaiza.

According to statements by people in the area, the latter used up all of his ammunition. The individuals who shot him were described as going by the names of Fanor, Bocanegra, Chicharrón and Cologolo. It was possible to identify these persons, the first being Fanor Andrés García Arana, aged 18, reported to be the person armed with a machine-gun and who approached Rodríguez' body aiming the weapon at it and took the pistol, then taking flight through the alley which led him to the area dominated by the El Hueco gang; second Víctor Hugo Bocanegra, known as Bocanegra, aged 20, who was armed with a 38-calibre revolver and who shot Rodríguez repeatedly; third Jhon Fredy Arana, a relative of the first-named, aged 18, known as Chacharringa (this is what witnesses heard as "Chiharrón"); and fourth Juan Carlos Paz, aged 19, known as Colocolo.

Since the incident was of this type, it is possible to exclude the theory of a terrorist attack on Mr. Jesús Antonio González Luna, official of the Single Confederation of Workers (CUT): this corresponds rather to an unfortunate incident stemming from juvenile gang warfare: such gang confrontations, it is emphasized, are common in the Siloé area, and unfortunately Mr. Rodríguez Loaiza was caught in the crossfire and by his response became the target.

It has also been established that these individuals have [...] to coordinate their activities and in this place there is a liquor store which the delinquents use as a meeting place; it is the property of Mr. [...].

In the above terms we present this report for information, assessment and appropriate action.

Yours sincerely,

Detective No. 0938

**63.** Finally, we consider it important to inform the Freedom of Association Committee that, on the request of Mr. González Luna, the Government paid his family's removal costs from Cali to Bogotá and then the costs of its departure from Colombia.

— José Domingo Tovar Arrieta, member of the Executive Committee of the CUT, who was the victim of a supposed attack on 31 August 1999, the first day of the national civic strike. We consider it important to inform the Freedom of Association Committee of the version of the incident issued by the Head of the Investigations Unit of the Judicial Police:

Head of the Investigations Unit of the Judicial Police  
Republic of Colombia  
National Police

Judicial Police Department  
Judicial Unit for Special Crimes  
Santa Fe de Bogotá, 1 September 1999  
Subject: Report on new developments

To: Director of Judicial Police

"[...] We noticed while moving south along Carrera 13 that four individuals were also walking along that street in the same direction. They turned east into Calle 34 and when we met on Carrera 13A/Calle 34, where they were walking north, one of them reacted in suspicious and surprised manner on noticing us, so the police patrol turned the car around in order to look at the individuals and drove back into Carrera 13A/Calle 34, along which they were walking. When they were close, we moved the vehicle forward a little and opened the door saying loudly to them "We are police officers", and they, without saying a word, began to shoot at our car. The only thing that we did was to retreat into the car so that the delinquents' bullets did not injure us, but we did also respond to the unwarranted aggression against us. At first it was the driver

who managed to get out of the car; then another two police officers returned fire, constantly shouting the warning "Stop firing: we are police officers".

Immediately after the firing stopped, several uniformed patrols of the Bogotá metropolitan police arrived at the scene and carried out the procedure of confiscating the aggressors' weapons. They identified them as members of the Administrative Security Department (DAS), who claimed that they were in service as bodyguards to Mr. José Domingo Tovar Arrieta, Head of Organization and Planning of the Single Confederation of Workers (CUT).

It must be emphasized that the above persons initiated the firing against our vehicle, that the shots were fired when we were inside the car, that the detainees at no time wore any identification such as caps, armbands or jackets as is normal for bodyguards. Moreover, the aggressors ignored our shouted warnings that we were police. In addition, they at no time appeared or showed that they were bodyguards or that they were guarding someone, but simply acted like passers-by, with the difference that their manner was suspicious. It is important to emphasize that the role that they claim to have been fulfilling does not correspond to the norm for the service.

The exchange of shots resulted in slight injuries to Mr. Carlos Buitrago Reina, DAS officer, in the region of the right thigh. He was immediately taken by the police to the new clinic at 16B-11, Diagonal 45, where he received first aid. The police officers were unhurt but the car was hit by a considerable number of bullets, demonstrating the violent aggression and unwarranted force of the DAS officers; 27 of their used 9-millimetre cartridges were found at the scene.

The regular police identified the DAS officers as: Detective Nisser Morales Acosta, Detective José Alfonso Arévalo, Detective Carlos Buitrago Reina (wounded) and Detective Luis Alejandro Ardila, the commander of the men.

The scene was also visited by the Procurator-General and attorney 201 of the Rapid Reaction Unit's central zone, who arranged the judicial inspection, ordered opening of the preliminary investigation, and instructed that the damaged police car be removed to his unit's premises, together with the weapons, for examination.

Finally, I report that Mr. [...], employed by the AS REAL security company of 42-23, Calle 68, Bogotá, was a witness to the incident.

Yours sincerely,

Wilfredo Omar Pérez Chamorro (Captain)  
Head, Judicial Unit for Special Crimes

**64.** In addition, the Government states that it is conducting investigations into the following cases of attempted murder:

- attack on Mr. Virgilio Ochoa Pérez, member of the protest committee of SINTRA-CUAEMPONAL, 15 October 1998;
- attempted murder of Eugeniano Sánchez, 16 October 1998;
- attempted murder of Benito Rueda Villamizar, president of SINTRACUAEMPONAL, 16 October 1998.

### *Harassment*

**65.** Concerning the complainants' allegation that Mr. Oscar Amaury Ardila Guevara is being victimized by the military authorities, who keep at military premises descriptions of him as a "member of a subversive organization", the national Government took appropriate corrective action when it was informed of the situation. In view of the fact that Mr. Ardila Guevara is on the list of workers of the Tolima hydroelectric station and resident in Ibagué, the Government has attempted to ensure that the management of the enterprise keeps him on permanent leave with the benefit of a grant in order that he may pursue his university studies in Bogotá. The committee for the evaluation and protection of persons at risk, coordinated by the Ministry of the Interior, has been following Mr. Ardila Guevara's situation closely. In particular, the latter has asked for no other protection beyond the

possibility to remain in Bogotá and pursue his studies. When he needs to go to Ibagué, some protection is arranged for him.

### *Threats*

66. The Government states, on the basis of information submitted by the Office of the Procurator-General of the Nation, that investigations are being conducted regarding the following trade unionists:

- Alexander López M.;
- Robinson Emilio Masso Arias;
- Luis Eduardo Garzón and Héctor Fajardo Abril;
- Hernando Fernández.

### *Protection of individuals who have been threatened*

67. The Government reports that it has stepped up the Ministry of the Interior protection programme for individuals who have been threatened, making a budgetary contribution of the equivalent of US\$5.5 million. This programme includes help for threatened trade unionists.

68. The Government has forwarded a list of trade unionists benefiting from protection:

- Hernando Hernández Pardo, president of the USO; Gabriel Alvis, vice-president of the USO; César Carrillo, treasurer of the USO; Jorge Gamboa, attorney to the USO; María Clara Baquero, president of ASODEFENSA; Jesús A. González Luna, human rights director of the CUT; Wilson Morja Díaz, president of FENALTRASE; Jesús Bernal Amorocho, president of SINTRACREDITARIO; Rafael Baldovino Pérez, president of SITTELECOM; Tarcisio Mora Godoy, president of FECODE; Héctor Fajardo Abril, secretary-general of the CUT; Percy Oyola Paloma, president of UTRADEC; Jorge Mario Vergara, treasurer of SITTELECOM; Nelson Berrio, USO peace assembly; Domingo Tovar Arrieta, vice-president of the CUT; Apecides Alvis Fernández, president of the CTC; Julio Roberto Gómez, secretary-general of the CGTD; Carlos Cely, chairman of ATT; Yuli González Villadiego, UNEB official; Francisco Ramírez Cuéllar, president of SINTRAMINERCOL; and Rangel Ramos Zapata, president of the Union of the Department of Antioquia.

69. The Government reports also that the protection mechanisms offered by the above programme are adapted to the level of risk faced by the official according to technical assessment carried out by the state security organs, and supplies the list of officials and unions on which risk studies have been carried out.

### *Detentions*

70. The Government reports that detentions among trade unionists include a number of USO (oil industry union) members who were being prosecuted for “rebellion, terrorism and conspiracy to commit crime”, namely Edgar Riaño Rojas, Marcelino Buitrago, Felipe Mendoza, Monerje Sánchez, Guillermo Cárdenas, Rafael Estupiñan, Hernán Vallejo, Leonardo Mosquera and Fabio Liévano.

71. These individuals were released on 29 July 1999 together with other members of the same union who were detained for the same reason: Jorge Estupiñan, Reinel Sánchez, Alvaro Solano, Francisco Cadena, Leonardo Díaz and Constantino Carrillo.

72. Concerning the alleged detention of Luis David Rodríguez Pérez, it has been established after investigation that his union (SINTRADIN) has no knowledge of such a detention and still less did it make such an allegation.

73. Concerning Elder Fernández and Gustavo Minorta, reportedly members of the ECOPETROL company union USO, detained in December 1996, the relevant inquiries were made of USO and ECOPETROL, who denied knowledge of the men, still less of their detention.

#### *Anti-union acts*

74. Regarding the anti-union acts at the Andino, Citibank, Sudameris and Anglo Colombiano banking corporations, the Government considered it important to listen to the complaints of the trade unionists. They were twice contacted by letter but did not reply to the invitations.

#### *Dismissals*

75. Concerning the court cases pending sentence with regard to three dismissals at the TEXTILIA Ltd. company, the following is reported.

76. In the case brought by Arnulfo Cruz Mora, a verdict was issued at second instance upholding the rejection of all of the claims brought against the company by Mr. Cruz Mora.

77. Concerning the other two cases pending, the first, brought by Mr. Germán Bulla before the 14th circuit labour court of Santa Fe de Bogotá, is at the documentary stage; and the second, brought by Mr. Darío Ramirez, was heard before the 16th circuit labour court of Santa Fe de Bogotá and because of defects was declared inadmissible at the first hearing.

#### *Final declarations*

78. In its communication of 23 September 1999, the Government through the Minister for Labour and Social Security, by way of a final declaration, stated the following.

79. The body of information submitted to the ILO for study and analysis by the Freedom of Association Committee and its respective subdivisions, and the statements by previous Ministers for Labour and Social Security at Conferences and meetings of the ILO Governing Body not only provide a detailed picture of the real situation in Colombia but also bear witness to our responsibility and great desire to reveal the truth, however painful, to the international community.

80. At a recent conference, Mr. Robert Kogod Goldman, a member of the Inter-American Institute of Human Rights (IIDH), which is monitoring Colombia, said that it was clear that the Colombian Government, for reasons connected with the armed conflict and the peace process, no longer retained effective control over certain areas of the national territory and the population. However, the Institute had already made it clear that it did not paint the State and the armed dissident groups with the same brush. The State possessed a unique status under international law and this implied certain rights and obligations. For example, in its capacity as a party to the Inter-American Convention on Human Rights and other human rights treaties, the Colombian State had freely assumed the fundamental responsibility and duty to respect and guarantee the human rights protected in those instruments for all of the people under its jurisdiction. This duty and responsibility could not be relinquished by the State during civil conflict or any other situation of emergency. The fact that the standards of humanitarian law were equally binding on the State and the dissident armies could in no way alter the status of the parties to the conflict and therefore could not be interpreted as legitimizing the cause for which the dissidents had taken up arms or, still less, acknowledging their aggression. It meant simply that the rival parties had

the same obligation to observe the restrictions and prohibitions relevant to the conduct of hostilities.

81. The CIDH had noted that few member States of the Organization of American States had made such a public declaration of their acceptance of international humanitarian law as Colombia. Equally few States had sought, as had Colombia with the invaluable assistance of the International Committee of the Red Cross (ICRC), genuinely to inform its security forces, the other parties to the conflict and the general public of the basic precepts of international humanitarian law. The Colombian Government and broad sections of civil society considered observance of the basic rules of humanitarian law essential in order to “humanize” the conflict and thus contribute to the creation of suitable conditions for negotiations between the rival parties and an eventual return to peace.

82. “[...] Perhaps the most tragic and cruel consequence of the Colombian conflict to affect part of the civil population in recent years was the phenomenon of internal displacement. The scale of the internal displacement problem in Colombia was currently no less than a humanitarian catastrophe. Figures from different studies of the displaced population in Colombia placed it at between 700,000 and 1,200,000 persons. Both figures were higher than the number of persons displaced by the recent Kosovo conflict.”

83. We are obliged to face the judgement passed by the ILO’s monitoring mechanisms on the many types of violence from which Colombia is suffering, in the certainty and sureness that, as stated by my immediate predecessor as Minister for Labour and Social Security, Dr. Hernando Yepes, none of them

may be imputed to the State as its policy or as the conduct of its responsible organs and agents. Thus, if occasionally, by way of an exception, persons in state service should have become involved in conduct in violation of human rights, deviating from their duties and going against the permanent instructions of those responsible for guiding the actions of public servants, their crime has invariably met with strong censure from society and an inexorable response from the State in terms of punishment.

84. Our primary responsibility is with the 40 million people of Colombia, for in the end it is they who suffer directly from the atrocities of the illegally armed minority with its great ability to destabilize, which uses barbarism as an instrument to pursue perverse aims of economic profit in accordance with their political purposes. The people of Colombia are committed to the development of democracy, believe in their institutions and rise up to defend them. The democratic institutions are created of the will of the electorate and the Government honours this will, an expression of the sovereignty of the people. To summarize, Colombia is a social State ruled by law, with a Government which respects and is committed to guaranteeing the citizens’ basic rights and the institutional base in its entirety.

85. We are a part of the world community of the United Nations, the founder of the ILO, and are resisters of international standards and the principles of brotherhood and solidarity among peoples. This has been recognized by all Governments, which reach out to us in these difficult times and declare their support for our peaceful cause.

86. We take up Colombia’s defence before the ILO authorities as a matter of principle, for the premises on which the judgement of liabilities is based stem from a mistaken interpretation of reality: the criminal activities which are bringing suffering to all Colombians, without a single exception, are being associated with a supposed violation of ILO Conventions Nos. 87 and 98. In Colombia, despite the incipient development in production and the cyclical crises of our economy, workers’ collective rights are respected and observed. It is significant that trade unions which suffer from the violence because they are located in areas of acute armed conflict are able to carry out in a normal way their

activities connected with upholding rights. In addition, the public sector trade union movement accounts for 70 per cent of the unionized workers in Colombia and it is precisely that group which most vociferously denounces the lack of facilities for its organization. The national strike in Colombia, as may easily be seen, was led and initiated by the public sector trade union movement.

87. The armed conflict has killed over 30,000 people in the past decade. Of these, some 700 were involved in trade unions and some 190 were trade union officials. These figures are terrifying and we respond with shame and indignation, but they are very different from the statistics given to the international organizations: documents and forums continue to repeat that the number of trade unionists killed over that time was 2,000 and that in the past eight years 1,083 have met with a violent death; according to documents produced by the ILO, 865 of these were trade union officials. For the same period (1991-98) the databank of the Human Rights Assessment Group of the Ministry of Labour and Social Security, which, it should be said, is one of the most complete records in the country, registered 627 killings, of which 180 were of trade union officials.

88. In the *Human Rights File Bulletin No. 5* of the National Trade Union Institute, the source of information for the ILO and other international organizations, there is a reference to 39 trade union officials murdered in 1997 (page 33). Checking of this information with the Trade Union Registry and with the unions themselves reveals that only 15 were in fact trade union officials; the other 24 were not. A considerable difference. In addition, the account was provided by a person not identified as a trade union official.

89. Whatever the figures for murders of trade union members and officials, they are similarly repugnant, but presenting absolute figures of 2,000 trade unionists murdered without giving their names produces a reaction of shock and consternation in the reader or hearer and, more seriously, those who have no access to the original information have no alternative but to believe the figure. The handling of figures is extremely important: recently two letters arrived, both dated 20 August 1999 and addressed to the President, the first from PACE (the Paper, Allied Industrial, Chemical and Energy Workers' International Union), referring to 3,000 murders of trade unionists in the past ten years, and the second from the Union of Workers in the Mineral and Metal Extraction Industry of Minaco-GO, a member of the Brazilian Single Confederation of Workers, referring to 3,000 trade union officials murdered by the police.

90. We request the Freedom of Association Committee to reproduce this report in full for all members of the ILO Governing Body.

#### D. THE COMMITTEE'S CONCLUSIONS

91. *The Committee notes that the allegations presented by the complainants refer to extremely serious acts of violence against trade union officials and trade union members (murders (more than 100), attempted murders, disappearances, physical aggression, death threats) and acts of anti-union discrimination. The Committee expresses once more its serious concern in relation to these incidents and particularly those which caused the loss of life, the first premise of all rights.*

92. *In respect of the general situation in the country, the Committee takes note of the complainants' statements that the situation in terms of violation of human and labour rights has worsened in recent months and that there is no peace process in Colombia and that contacts for initiating dialogue between the Government and the guerrillas can be achieved only with considerable difficulty. Regarding labour rights, the Committee takes*

*note of the complainants' particular allegation that the Government is preparing a new reform for greater labour flexibility without taking into account the workers' point of view or possible alternatives that they might offer. They also allege, although not necessarily attributing them to anti-union motives, mass dismissals both in the central administration and in regional authorities and delays in payment of wages and social benefits to workers, including extreme cases of delays in wage payment of up to 12 months.*

*93. The Committee notes that the Government, in response to the complainants' allegations on the non-existence of a peace process, asserts that there is a process directed towards a political solution to the conflict with the majority of the guerrilla groups operating in Colombia. The FARC affirms the existence of compromises with the ELN and considers that the murders and other violations of basic rights are not directed specifically against trade union bodies but against other groups as well. The Committee notes that the Government adds that the national and international communities have recognized the significance of the process itself and have applauded and supported the courage with which the national Government is advancing it, and takes note of the various mechanisms listed by the Government as measures to curb the violence: (1) a national policy of combating the self-defence forces through a Coordination Centre for Combating the Self-Defence Forces, support to the Office of the Procurator-General, an early-warning system and humanitarian agreements; (2) a peace process with FARC-EP with the establishment of a Joint Agenda for Change towards a New Colombia; and (3) a peace process with the ELN, with a resolution declaring the peace process open and recognizing the political nature of that organization.*

*94. The Committee also notes that the Government points to countless difficulties amidst which the process has to proceed: the activities of the FARC, to improve its bargaining position, has increased its aggression against small cities in various regions and left death and destruction in its wake; the activities of the ELN with its strategy of mass civilian kidnappings, an activity, which according to the Government, has been condemned on several occasions by the United Nations High Commissioner for Human Rights; the AUC (United Self-Defence Forces of Colombia), which has developed its criminal activities in various regions of the country with alleged guerrilla presence or influence, murdered dozens of poor settlers and peasants, forced hundreds of survivors to flee their homes and extended its crime wave to the big cities, carrying out selective murders and making death threats against individuals and social groups; the fact that the violence and the armed conflict affect the whole country generally, but that its consequences are more serious in certain regions (affecting mainly a specific sector of the population) where all the objective factors of the conflict are present; the fact that, for reasons related to the armed conflict and the peace process, the Government no longer exercises effective control over some parts of the national territory and population; the fact that the Colombian conflict has created the phenomenon of the internal displacement of persons which affects between 700,000 and 1,200,000 persons. The Committee notes that despite all of this, the national Government reiterates its desire to find a political solution to the armed conflict in order to put a stop to the killing by Colombians of their brother Colombians and to put all of the State's efforts into economic growth with equality, that is to say with social justice. The Committee notes the Government's observations on the "Plan Colombia" which has the objective of eradicating violence while focusing on its most fundamental clauses and which is aimed at creating more favourable structural conditions to achieve peace. The Committee takes notes of the Government's policy in favour of preventive action and protection of human rights of members of non-governmental organizations (NGOs) and social organizations. The*

Committee notes the Government's statement that none of the different forms of violence that Colombia is suffering may be imputed to the State as its policy or as the conduct of its responsible organs and agents. Thus, if occasionally, by way of an exception, persons in state service should have become involved in conduct in violation of human rights, deviating from their duties and going against the permanent instructions of those responsible for guiding the actions of public servants, their crime has invariably met with strong censure from society and an inexorable response from the State in terms of punishment. The Government indicates that according to the information provided by the Office of the High Counsellor for Human Rights that the majority of human rights violations come from self-defence groups followed by members of the paramilitary forces and subversives. The Committee takes note of the intimidatory pamphlets reproduced in the Government's reply in which the self-defence forces threaten trade union activists and leaders. It also takes note of the data furnished by the High Commissioner for Peace on the convictions, detentions and trials against the members of these self-defence forces. Finally, the Committee takes notes of the Government's statement that the armed conflict has killed over 30,000 people in the past decade of whom some 700 were involved in trade unions and some 190 were trade union officials and that these figures are very different from the statistics provided by the complainants.

95. While taking note of the important difficulties encountered by the Government and its efforts in accelerating the peace process and eliminating violence, the Committee deplores the fact that, since the previous examination of the case in March 1999, more acts of violence have been committed against trade union officials and members (13 murders, three attempted murders, disappearances and death threats) and more acts of anti-union discrimination. Additionally, the Committee deeply deplores the fact that none of the investigations under way has identified the perpetrators, which confirms the existence in Colombia of a climate of impunity favouring further acts of violence and the fact that holding trade union office involves risk to the safety of the individuals involved particularly in regions where the conflict is more acute. The Committee also regrets to note that the Government has only sent observations on part of the allegations, failing to reply to the vast majority of the prior requests for information.

96. The Committee reiterates that "the killing, disappearance or serious injury of trade union leaders and trade unionists requires the institution of independent judicial inquiries in order to shed full light, at the earliest date, on the facts and circumstances in which such actions occurred and in this way, to the extent possible, determine where responsibilities lie, punish the guilty parties and prevent the repetition of similar events" and that "the absence of judgements against the guilty parties creates, in practice, a situation of impunity, which reinforces the climate of violence and insecurity, and which is extremely damaging to the exercise of trade union rights"[see *Digest of decisions and principles of the Freedom of Association Committee*, 4th edition, 1996, paras. 51 and 55].

97. In these circumstances, noting that the situation remains alarming, the Committee urges the Government to take immediate measures to determine where responsibilities lie, try and punish the guilty parties, and prevent the repetition of acts of violence and anti-union acts against union leaders and unionists.

*Acts of violence concerning which the Committee requested at its March 1999 meeting to be kept informed of the development of investigations*

98. Concerning the allegations regarding which the Government had reported at the March 1999 meeting or earlier that investigations and legal proceedings were under way,

*the Committee regrets to note that the Government has not sent any new information on the development of proceedings concerning the individuals mentioned in the following two paragraphs and urges the Government to provide information in that respect without delay.*

#### **Murders**

**99.** (1) Antonio Moreno Asprilla (12 August 1995); (2) Manuel Ballesta (13 August 1995); (3) Francisco Mosquera Córdoba (February 1996); (4) Carlos Arroyo de Arco (February 1996); (5) Francisco Antonio Usuga (22 March 1996); (6) Pedro Luis Bermúdez Jaramillo (6 June 1995); (7) Armando Umanes Petro (23 May 1996); (8) William Gustavo Jaimes Torres (28 August 1995); (9) Jaime Eliacer Ojeda; (10) Alfonso Noguera Cano; (11) Alvaro Hoyos Pabón (12 December 1995); (12) Néstor Eduardo Galíndez Rodríguez (4 March 1997); (13) Erieth Barón Daza (3 May 1997); (14) Jhon Fredy Arboleda Aguirre; (15) William Alonso Suárez Gil; (16) Eladio de Jesús Chaverra Rodríguez; (17) Luis Carlos Muñoz (7 March 1997); (18) Nazareno de Jesús Rivera García (12 March 1997); (19) Héctor Gómez (22 March 1997); (20) Gilberto Casas Arboleda; (21) Norberto Casas Arboleda; (22) Alcides de Jesús Palacios Casas (11 February 1997); (23) Argiro de Jesús Betancur Espinosa (11 February 1997); (24) José Isidoro Leyton (25 March 1997); (25) Eduardo Enrique Ramos Montiel (14 July 1997); (26) Libardo Cuéllar Navia (23 July 1997); (27) Wenceslao Varela Torrecilla (29 July 1997); (28) Abraham Figueroa Bolaños (25 July 1997); (29) Edgar Camacho Bolaños (25 July 1997); (30) Félix Avilés Arroyo (1 December 1997); (31) Juan Camacho Herrera (25 April 1997); (32) Luis Orlando Camaño Galvis (20 July 1997); (33) Hernando Cuadros Mendoza (1994); (34) Freddy Francisco Fuentes Paternina (18 July 1997); (35) Víctor Julio Garzón (7 March 1997); (36) Isidro Segundo Gil Gil (9 December 1996); (37) José Silvio Gómez (1 April 1996); (38) Enoc Mendoza Riasco (7 April 1997); (39) Luis Orlando Quiceno López (16 July 1997); (40) Arnold Enrique Sánchez Maza (13 July 1997); (41) Camilo Suárez Ariza (21 July 1997); (42) Mauricio Tapias Llerena (21 July 1997); (43) Atilio José Vásquez (July 1997); (44) Odulfo Zambrano López (27 October 1997); (45) Alvaro José Taborda Alvarez (8 January 1998) (mentioned in the allegations as having disappeared); (46) Elkin Clavijo (30 November 1997); (47) Alfonso Niño (30 November 1997); (48) Luis Emilio Puerta Orrego (22 November 1997); (49) Fabio Humberto Burbano Córdoba (12 January 1998); (50) Osfanol Torres Cárdenas (31 January 1998); (51) Fernando Triana (31 January 1998); (52) Francisco Hurtado Cabezas (12 February 1998); (53) Misael Díaz Ursola (26 May 1998); (54) Sabas Domingo Socadegui Paredes (3 June 1997); (55) Jesús Arley Escobar Posada (18 July 1997); (56) José Raúl Giraldo Hernández (25 November 1997); (57) Bernardo Orrego Orrego; and (58) José Eduardo Umaña Mendoza (18 April 1998).

#### **Disappearances**

**100.** (1) Rodrigo Rodríguez Sierra (16 February 1995); (2) Ramón Osorio Beltrán (15 April 1997); (3) Alexander Cardona (14 July 1998); and (4) Mario Jiménez (27 July 1998).

#### **Acts of violence outstanding at the March 1999 meeting of the Committee concerning which the Government sent observations**

**101.** Concerning the allegations which remained outstanding at the examination of this case in March 1999, the Committee notes that the Government reports that it has

opened judicial investigations into the following cases: murders: José Vicente Rincón (murdered on 7 January 1998 in Barrancabermeja); Jorge Boada Palencia (murdered on 18 April 1998); Jorge Duarte Chávez (murdered in Barrancabermeja on 9 May 1998); Carlos Rodríguez Márquez (murdered on 10 May 1998); Arcángel Rubio Ramírez Giraldo; Orfa Ligia Mejía (murdered on 7 October 1998); Macario Herrera Villota; Víctor Eloy Mieles Ospino and Rosa Ramírez; attempted murders: Virgilio Ochoa Pérez; Eugenio Sánchez; Benito Rueda Villamizar. The Committee expresses its grave concern and repudiates these acts and requests the Government to keep it informed as a matter of urgency on the results of the investigations and prosecutions under way.

102. Concerning the allegations of the attempted murders of the trade union leaders Tarcisio Mora, Jesús Antonio González Luna and José Domingo Tovar Arrieta, the Committee notes that the Government refutes the allegations of these incidents and denies, in the three cases, that such attacks took place, presenting police reports which support its position.

*Recent acts of violence concerning which the Government  
is awaiting information*

103. As concerns the alleged murders of trade union leaders and members regarding which the Government reports that it is awaiting specific information from the Office of the Procurator-General (Oscar Artunduaga Nuñez, Jesús Orlando Arévalo, Moisés Canedo Estrada, Gladys Pulido Monroy, Oscar David Calandón Gonzales, Oswaldo Rojas, Julio Alfonso Poveda, Pedro Alejandrino Melchor Tapasco and Manuel Avila Ruiz), the Committee notes that concerning Jesús Orlando Arévalo, Julio Alfonso Poveda, Víctor Eloy Mieles Ospino and Rosa Ramírez, the Government discounts any connection between the murders and the trade union activities of the deceased. In order to be able to pronounce itself in this regard, the Committee urges the Government without delay to ensure that investigations have been opened and to keep it informed in this respect.

*Acts of violence into which the investigations have been adjourned*

104. Concerning the eight murder cases where the investigations have been adjourned by the competent Procurator's Office (Ernesto Emilio Fernández Pezter, murdered on 20 November 1995; Libardo Antonio Acevedo, murdered on 7 July 1996; Magaly Peñaranda, murdered on 27 July 1997; David Quintero Uribe, murdered on 7 August 1997; Aurelio Arbeláez, murdered on 4 March 1997; José Guillermo Asprilla Torres, murdered on 23 July 1997; Carlos Arturo Moreno López, murdered on 7 July 1995; and Luis Abel Villa León, murdered on 21 July 1997), the Committee notes that the Government reports that, under the Colombian Penal Code, if within three months no new elements have come to light which allow the investigation to proceed, the work is to be shelved until such time as new clues or evidence justify reopening the case, and that the adjournment of investigations should not, however, be regarded as an abandoning of the case, which would imply impunity. The Committee requests the Government to initiate new investigations on these cases and to inform it in this respect.

*Alleged threats*

105. The Committee notes with interest the Government's statement that it has stepped up the Ministry of the Interior's protection programme for individuals who have

been threatened, the number of trade union leaders benefiting from protection, and the risk studies carried out for individuals and trade union organizations. Specifically, the Committee notes that the Government is providing protection to the following trade unionists: Hernando Hernández Pardo, president of the USO; Gabriel Alvis, vice-president of the USO; César Carrillo, treasurer of the USO; Jorge Gamboa, attorney to the USO; María Clara Baquero, president of ASODEFENSA; Jesús Antonio González Luna, human rights director of the CUT; Wilson Morja Díaz, president of FENALTRASE; Jesús Bernal Amorocho, president of SINTRACREDITARIO; Rafael Baldovino Pérez, president of SITTELECOM; Tarcisio Mora Godoy, president of FECODE; Héctor Fajardo Abril, secretary-general of the CUT; Percy Oyola Paloma, president of UTRADEC; Jorge Mario Vergara, treasurer of SITTELECOM; Nelson Berrio, USO peace assembly; Domingo Tovar Arrieta, vice-president of the CUT; Apécides Alvis Fernández, president of the CTC; Julio Roberto Gómez, secretary-general of the CGTD; Carlos Cely, president of ATT; Yuli González Villadiego, UNEB official; Francisco Ramírez Cuéllar, president of SINTRAMINERCOL; and Rangel Ramos Zapata, president of the Union of the Department of Antioquia. In addition, the Committee notes that investigations have been opened into the threats against the trade unionists Alexander López M., Robinson Emilio Masso Arias, Luis Eduardo Garzón Héctor Fajardo Abril, and Hernando Fernández. The Committee urges the Government to take measures to protect trade unionists and unions at risk and to keep it informed of all new measures adopted in that regard.

106. With regard to the death threats alleged to have been received recently by Pablo Emilio Calvo, vice-president of the Workers' Union of Cartago Municipality; members of the Colombian Lawyers' Commission and the José Alvear Attorneys' Collective; José Anibal Quiroga, vice-president of the national committee of the Brinks company; and trade union leaders participating in the Single National Command calling the national strike on 31 August 1999, the Committee regrets to note that the Government has not sent observations concerning these and urges it to take measures immediately to provide protection to the individuals threatened and to carry out investigations to identify the perpetrators.

107. Finally, the Committee observes that the Government has not sent information on the development of the investigations concerning the death threats received by certain trade unionists (1) Oscar Aguirre Restrepo; (2) Alberto Arango Alvaro; (3) Horacio Berrio Castaño; (4) Martha Cecilia Cadavid; (5) Jorge Humberto Franco; (6) Héctor de Jesús Giraldo; (7) Jairo Humberto Gutiérrez; (8) Carlos Hugo Jaramillo; (9) José Luis Jaramillo Galeano; (10) Rangel Ramos Zapata; (11) Luis Norberto Restrepo; (12) Jorge Sliecer Marín Trujillo; and (13) Víctor Ramírez. The Committee requests the Government to send it information concerning the development and results of these investigations.

#### *Allegations of detentions*

108. At its meeting in March 1999, the Committee examined a large number of allegations concerning detentions. Regarding the detentions of Edgar Riaño Rojas, Marcelino Buitrago, Felipe Mendoza, Monerje Sánchez, Guillermo Cárdenas, Rafael Estupiñan, Hernán Vallejo, Leonardo Mosquera and Fabio Liévano, Jorge Estupiñan, Reinel Sánchez, Alvaro Solano, Francisco Cadena, Leonardo Díaz, Constantino Carrillo, Luis David Rodríguez Pérez, Elder Fernández and Gustavo Minorta, the Committee notes that the Government reports that: (1) Edgar Riaño Rojas, Marcelino Buitrago, Felipe Mendoza, Monerje Sánchez, Guillermo Cárdenas, Rafael Estupiñan, Hernán Vallejo, Leonardo Mosquera and Fabio Liévano, Jorge Estupiñan, Reinel Sánchez, Alvaro Solano, Francisco Cadena, Leonardo Díaz and Constantino Carrillo, who were being prosecuted

for “rebellion, terrorism and conspiracy to commit crime”, were released on 29 July 1999; (2) concerning Luis David Rodríguez Pérez, it has been established that his union (SINTRADIN) has no knowledge of such a detention and did not make such an allegation; (3) concerning Elder Fernández and Gustavo Minorta, the unions to which they supposedly belonged (USO and ECOPETROL) claimed not to know of the men, still less of their detention; and (4) Luis Rodrigo Carreño has not been detained. Concerning Luis David Rodríguez Pérez, Elder Fernández and Gustavo Minorta, the Committee again asks the Government to inform it of the results of the investigations into their detention.

#### *Allegations of harassment*

**109.** Concerning the allegation by the ICFTU that Mr. Amaury Ardila Guevara is being victimized by the military authorities, who keep at military premises descriptions of him as a “member of a subversive organization”, the Committee notes that the national Government reports having taken appropriate corrective action and that the Committee for the Evaluation and Protection of Persons at Risk, coordinated by the Ministry of the Interior, has been following Mr. Ardila Guevara’s situation closely.

#### *Allegations on which the Government did not send observations*

**110.** Concerning the new allegations presented by the complainants concerning murders and attempted murders, disappearances, detentions, persecutions and unlawful imprisonment (see annex), the Committee regrets to note that the Government did not send observations. Additionally, the Committee regrets to note that the Government did not send any observations on many of the pending allegations concerning murders, disappearances and death threats involving trade unionists and trade union leaders. In the circumstances, the Committee urges the Government to communicate without delay its observations on all of the allegations in the annex to this case, to take urgent measures to have investigations carried out in order to shed light on the incidents, determine where responsibility lies and punish the guilty parties, and to keep it informed of all developments in this respect.

#### *Anti-union acts*

**111.** In respect of the allegations concerning anti-union acts at the Andino, Citibank, Sudameris and Anglo Colombiano banking corporations, the Committee observes that from the information sent by the Government it appears that, in the case of the Banco Anglo Colombiano, the Colombian Association of Banking Employees made a request on 31 May 1999 to labour inspection No. 24 for the complaint to be shelved, since it had received a positive reply from the bank. The Committee observes also that the Government indicates with respect to the other cases that it considered it important to allow the trade unionists to detail their complaints and that they were twice contacted by letter but did not reply to the invitations. In the circumstances, the Committee invites the complainants to explain the reasons for which they did not reply to the government invitations.

**112.** The Committee notes the allegations relating to violations of trade union and labour rights targeted at the trade union officials and workers of the Brinks company in Colombia, specifically an increase of the working week from 40 to 48 hours in violation of the provisions of the company’s internal labour rules; violation of the collective agreement in various respects, the use of coercive methods to make workers agree to the increased working week would lose certain rights contained in the collective agreement, or their jobs; and telephone calls insulting the union managers and threatening them with

death in order to exert pressure towards the same end. Observing that these allegations were presented recently, the Committee requests the Government to send observations on the matter with all urgency.

113. Concerning the court cases pending sentence with regard to three dismissals at the TEXTILIA Ltd. company, the Committee notes that the Government reports that: (1) a verdict was issued at second instance against Arnulfo Cruz Mora, upholding the rejection of the case against the company; (2) the case brought by Mr. Germán Bulla is at the documentary stage; (3) the case brought by Mr. Darío Ramírez was declared inadmissible because of defects. In these circumstances, the Committee requests the Government to keep it informed of the results of the cases brought by Germán Bulla and Darío Ramírez.

*Raids on trade union headquarters, telephone tapping and surveillance of trade unionists*

114. The Committee regrets to note in addition that the Government did not send observations with respect to the following pending allegations concerning raids on trade union headquarters, telephone tapping and surveillance of trade unionists:

- (1) raiding of the headquarters of the Single Agricultural Trade Union Federation (FENSUAGRO), tapping of the telephones of the trade union headquarters and the members and surveillance by armed persons of the president of FENSUAGRO, Luis Carlos Acero (the Government declares that this was not reported to the Colombian authorities);
- (2) on 6 February 1998, at 12.45, 15 individuals bearing weapons, exclusive to the armed forces, came to the premises of the executive subcommittee of the CUT-Atlántico in the centre of Barranquilla, broke in and pointed a revolver at Ms. Lydis Jaraba, member of the present national executive committee and the executive board of the subcommittee of the CUT-Atlántico. The individuals, who were not carrying any identification or search warrant, inspected all of the offices and then left (the Government reports that the Colombian authorities were not informed of the incident).

115. In these circumstances, the Committee urges the Government without delay to communicate its observations concerning these incidents, to take urgent measures to have investigations carried out, and to keep it informed of all developments in this connection.

#### THE COMMITTEE'S RECOMMENDATIONS

116. In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:

- (a) Concerning the allegations in regard to which the Government had reported at the March 1999 meeting or earlier that investigations and legal proceedings were under way, the Committee regrets to note that the Government has not sent any new information on the development of proceedings concerning the individuals mentioned and urges the Government to provide information in that respect without delay.

— **Murders:**

(1) Antonio Moreno Asprilla (12 August 1995); (2) Manuel Ballesta (13 August 1995); (3) Francisco Mosquera Córdoba (February 1996); (4) Carlos Arroyo de Arco (February 1996); (5) Francisco Antonio Usuga (22 March 1996); (6) Pedro Luis Bermúdez Jaramillo (6 June 1995); (7) Armando Umanes Petro (23 May 1996); (8) William Gustavo Jaimes Torres (28 August 1995); (9) Jaime Eliacer Ojeda; (10) Alfonso Noguera Cano; (11) Alvaro Hoyos Pabón (12 December 1995); (12) Néstor Eduardo Galíndez Rodríguez (4 March 1997); (13) Erieleth Barón Daza (3 May 1997); (14) Jhon Fredy Arboleda Aguirre; (15) William Alonso Suárez Gil; (16) Eladio de Jesús Chaverra Rodríguez; (17) Luis Carlos Muñoz (7 March 1997); (18) Nazareno de Jesús Rivera García (12 March 1997); (19) Héctor Gómez (22 March 1997); (20) Gilberto Casas Arboleda; (21) Norberto Casas Arboleda; (22) Alcides de Jesús Palacios Casas (11 February 1997); (23) Argiro de Jesús Betancur Espinosa (11 February 1997); (24) José Isidoro Leyton (25 March 1997); (25) Eduardo Enrique Ramos Montiel (14 July 1997); (26) Libardo Cuéllar Navía (23 July 1997); (27) Wenceslao Varela Torrecilla (29 July 1997); (28) Abraham Figueroa Bolaños (25 July 1997); (29) Edgar Camacho Bolaños (25 July 1997); (30) Félix Avilés Arroyo (1 December 1997); (31) Juan Camacho Herrera (25 April 1997); (32) Luis Orlando Camaño Galvis (20 July 1997); (33) Hernando Cuadros Mendoza (1994); (34) Freddy Francisco Fuentes Paternina (18 July 1997); (35) Víctor Julio Garzón (7 March 1997); (36) Isidro Segundo Gil Gil (9 December 1996); (37) José Silvio Gómez (1 April 1996); (38) Enoc Mendoza Riasco (7 April 1997); (39) Luis Orlando Quiceno López (16 July 1997); (40) Arnold Enrique Sánchez Maza (13 July 1997); (41) Camilo Suárez Ariza (21 July 1997); (42) Mauricio Tapias Llerena (21 July 1997); (43) Atilio José Vásquez (July 1997); (44) Odulfo Zambrano López (27 October 1997); (45) Alvaro José Taborda Alvarez (8 January 1998) (mentioned in the allegations as having disappeared); (46) Elkin Clavijo (30 November 1997); (47) Alfonso Niño (30 November 1997); (48) Luis Emilio Puerta Orrego (22 November 1997); (49) Fabio Humberto Burbano Córdoba (12 January 1998); (50) Osfanol Torres Cárdenas (31 January 1998); (51) Fernando Triana (31 January 1998), (52) Francisco Hurtado Cabezas (12 February 1998); (53) Misael Díaz Ursola (26 May 1998); (54) Sabas Domingo Socadegui Paredes (3 June 1997); (55) Jesús Arley Escobar Posada (18 July 1997); (56) José Raúl Giraldo Hernández (25 November 1997); (57) Bernardo Orrego Orrego (6 March 1997); and (58) José Eduardo Umaña Mendoza (18 April 1998).

— **Disappearances:**

(1) Rodrigo Rodríguez Sierra (16 February 1995); (2) Ramón Osorio Beltrán (15 April 1997); (3) Alexander Cardona (14 July 1998); (4) Mario Jiménez (27 July 1998).

- (b) **Concerning the allegations of murders and attempted murders in regard to which the Government reports that it has opened judicial investigations (murders: José Vicente Rincón (murdered on 7 January 1998 in Barrancabermeja); Jorge Boada Palencia (murdered on 18 April 1998); Jorge Duarte Chávez (murdered in Barrancabermeja on 9 May 1998); Carlos Rodríguez Márquez (murdered on 10 May 1998); Arcángel Rubio Ramírez Giraldo; Orfa Ligia Mejía (murdered on 7 October 1998); Macario Herrera Villota; Víctor Eloy Mieleles Ospino and Rosa Ramírez; attempted murders: Virgilio Ochoa Pérez; Eugenio Sánchez and Benito Rueda Villamizar). The Committee expresses its grave concern and repudiates these acts and requests the Government to keep it informed as a matter of urgency on the results of the investigations and prosecutions under way.**
- (c) **As concerns the alleged murders of trade union leaders and members regarding which the Government reports that it is awaiting specific information from the Office of the Procurator-General (Oscar Artunduaga Nuñez, Jesús Orlando Arévalo, Moisés Canedo Estrada, Gladys Pulido Monroy, Oscar David Calandón Gonzales, Oswaldo Rojas, Julio Alfonso Poveda, Pedro Alejandrino Melchor Tapasco and Manuel Avila Ruiz), the Committee observes that the communicated information does not make it possible to establish whether an investigation is under way and again urges the Government without delay to take measures to have investigations opened and to keep it informed in this respect.**
- (d) **Concerning the eight murder cases where the investigations have been adjourned by the competent Procurator's Office (Ernesto Emilio Fernández Pezter, murdered on 20 November 1995; Libardo Antonio Acevedo, murdered on 7 July 1996; Magaly Peñaranda, murdered on 27 July 1997; David Quintero Uribe, murdered on 7 August 1997; Aurelio Arbeláez, murdered on 4 March 1997; José Guillermo Asprilla Torres, murdered on 23 July 1997; Carlos Arturo Moreno López, murdered on 7 July 1995; and Luis Abel Villa León, murdered on 21 July 1997), the Committee asks the Government to initiate new investigations on these cases and to keep it informed in this regard.**
- (e) **Concerning the Ministry of the Interior's protection programme for individuals who have been threatened, the Committee notes with interest the Government's statement that it has been stepped up together with the number of trade union leaders benefiting from protection, and the risk studies carried out for individuals and trade union organization; in addition, the Committee notes that investigations have been opened into the threats against the trade unionists Alexander López M., Robinson Emilio Masso Arias, Luis Eduardo Garzón Héctor Fajardo Abril and Hernando Fernández. The Committee urges the Government to take measures to protect trade unionists and unions at risk and to keep it informed of all new measures adopted in that regard.**
- (f) **With regard to the death threats enumerated in the annex, the Committee urges the Government to take measures immediately to provide protection to the individuals threatened and to carry out investigations to identify the perpetrators.**

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- (g) *Concerning the allegations of death threats mentioned in paragraph 107 with respect to which the Government has not sent information regarding the development of the investigations, the Committee requests the Government to send it information on the development and results of these investigations.*
- (h) *Concerning the allegations of detentions, the Committee requests the Government to inform it of the results of the investigations into the detention of Luis David Rodríguez Pérez, Elder Fernández and Gustavo Minorta.*
- (i) *Concerning the new and pending allegations of murders and attempted murders, disappearances, detentions, persecutions and unlawful imprisonment in respect of which the Government did not send observations, the Committee urges the Government to communicate without delay its observations on all of the allegations in the annex to this case, to take urgent measures to have investigations carried out in order to shed light on the incidents, determine where responsibility lies and punish the guilty parties, and to keep it informed of all developments in this respect.*
- (j) *In respect of the allegations concerning anti-union acts at the Andino, Citibank, Sudameris and Anglo Colombiano banking corporations, the Committee invites the complainants to explain the reasons for which they did not reply to the Government invitations.*
- (k) *Regarding the allegations relating to violations of trade union and labour rights of trade union officials and workers of Brinks Colombia, the Committee, observing that these allegations were presented recently, requests the Government to send observations on the matter with all urgency.*
- (l) *Concerning the court cases pending sentence with regard to three dismissals at the TEXTILIA Ltd. company, the Committee notes that the Government reports that: (1) a verdict was issued at second instance against Arnulfo Cruz Mora, upholding the rejection of the case against the company; (2) the case brought by Mr. Germán Bulla is at the documentary stage; (3) the case brought by Mr. Darío Ramirez was declared inadmissible because of defects. In these circumstances, the Committee requests the Government to keep it informed of the results of the cases brought by Germán Bulla and Darío Ramirez.*
- (m) *With respect to the pending allegations in respect of which the Government has not sent information, concerning raids on headquarters, telephone tapping and surveillance of trade unionists at the premises of the Single Agricultural Trade Union Federation (FENSUAGRO) and of the executive committee of the CUT-Atlántico in the city of Barranquilla, the Committee urges the Government without delay to communicate its observations regarding these incidents, to take urgent measures to have investigations carried out, and to keep it informed of all developments in this connection.*

## Annex

ALLEGATIONS CONCERNING ACTS OF VIOLENCE ON WHICH THE GOVERNMENT HAS NOT SENT INFORMATION OR HAS SENT INSUFFICIENT INFORMATION FOR IT TO BE ESTABLISHED WHETHER AN INVESTIGATION HAS BEEN OPENED

### *Murders*

- (1) Manuel Francisco Giraldo, member of the executive committee of the National Union of Agricultural Workers (SINTRAINAGRO), murdered on 22 March 1995.
- (2) Twenty-three workers, members of SINTRAINAGRO, murdered on 29 August 1995.
- (3) Alvaro David, member of the workers' committee of the "Los Planes" farm, affiliated to SINTRAINAGRO, murdered on 22 March 1996.
- (4) Eduardo Ramos, trade union leader of "El Chispero" farm, Apartadó, Urabá, Antioquia, murdered on 14 July 1997.
- (5) Marcos Pérez González, member of the Electrical Trade Union of Colombia (SINTRECOL), murdered on 10 October 1998.
- (6) Jorge Ortega García, vice-president of the CUT, murdered on 20 October 1998 (Mr. Ortega García had presented new allegations connected with this case hours before his death).
- (7) Ms. Hortensia Alfaro Banderas, vice-chairperson of SIDESC, on 24 October 1998 in the municipality of Manure, César administrative district.
- (8) Jairo Cruz, president of the Union of Workers in Edible Oils, murdered on 26 October 1998 in the municipality of San Alberto, César administrative district.
- (9) On 12 February 1999, in San Diego, César administrative district, the teachers Luis Peroza and Numaél Vergel were murdered after having been kidnapped and tortured by unidentified armed groups. They were members of the César Association of Teachers.
- (10) On 15 February 1999, Gilberto Tovar Escudero, official of the Workers' Union of Cartago municipality, Valle administrative district, was murdered.
- (11) On 22 March, after having disappeared on 19 March, the trade union official Albeiro de Jesús Arce Velazquez was found dead in the river Cauca close to La Virginia municipality, Risaralda.
- (12) Ricaurte Pérez Rengifo was kidnapped on 20 February in Medellín from the school where he taught and was found dead on 25 February on the outskirts of the city.
- (13) The teacher Antonio Cerón Olarte del Hulla was murdered.

### *Attempted murders*

- (1) Gilberto Correño, leader of the Trade Union of Workers (USO), on 7 December 1996.
- (2) César Blanco Moreno, president of the executive subcommittee of the Trade Union of Workers (USO), on 11 May 1998.
- (3) On 5 April 1999, at 11 p.m. in Barranquilla, an attempt was made to murder three members of the national executive council of the Workers' Union of the Social Security Institute: Fernando Morales, now leader of the CUT, Alberto Pardo and Esaú Moreno.

### *Physical aggression and political repression*

- (1) Political repression against employees of public enterprises in Cartagena during a peaceful demonstration on 29 June 1995 (the Government reports that the Colombian authorities were not informed of the incident).
- (2) A police assault, causing injuries, upon trade unionists César Castaño, Luis Alejandro Cruz Bernal and Martha Janeth Laguizamon, who were participating in an information day organized by the National Association of Transit Agents (ANDAT) on 6 January 1997.
- (3) Mario Vergara and Heberto López, trade union officials of SITTELECOM, were brutally beaten by the police.

- (4) On 13 October 1998, the police violently charged SITTELECOM workers, several of whom were injured.
- (5) On 20 October 1998, in the city of Bogotá, on Carrera 7 between Calle 24 and Calle 27, riot police assaulted workers who were beginning a peaceful march to Plaza Bolívar, and on 22 October 1998, the police assaulted demonstrators who had gathered in Plaza Bolívar from all over the country.

#### *Disappearances*

- (1) Jairo Navarro, trade unionist (6 June 1995).
- (2) Rami Vaca, ECOPEPETROL union leader (27 October 1997).
- (3) Misael Pinzón Granados, member of SINTRAINAGRO, kidnapped by persons believed to be members of the paramilitary forces in the municipality of Puerto Wilches, Santander, on 7 December 1997. According to information supplied by the DAS, it was found that the wife of the missing individual had submitted an appeal of habeas corpus to the judicial authorities after the case had been shelved for lack of evidence on which to proceed.
- (4) Justiniano Herrera Escobar, working for the municipality of Antioquia, who formerly worked for Shellmar of Colombia, disappeared on 30 January 1999.

#### *Death threats*

- (1) Ms. Bertina Calderón (vice-chairperson of the CUT).
- (2) The members of the executive committee of FENSUAGRO
- (3) Pedro Barón, president of the Tolima branch of the CUT, threatened by certain members of the security forces after having participated in a protest strike on 19 July 1995.
- (4) The members of the executive committee of the Workers' Union of the Titán Corporation, Yumbo municipality, who received death threats from a paramilitary group named "Colombia Sin Guerrilla" — COSINGER (Colombia without guerrillas) on 26 October 1995 and 17 May 1996:
- (5) The members of the executive committee of the Association of Agriculturalists of Southern Bolívar (Justo Partor Quiroz, secretary, Roque León Salgado, treasurer and Bersaly Hurtado, attorney).
- (6) The National Executive Committee of the CUT, Messrs. Jesús Antonio González Luna (director of the human rights department) and Domingo Rafael Tovar Arrieta (director of the administrative department).
- (7) Oscar Arturo Orozco, Hernán de Jesús Ortiz, Wilso García Quiceno, Henry Ocampo, Sergio Díaz and Fernando Cardona.
- (8) Jairo Antonio Cardona Mejía, president of the Workers' Union of Cartago Municipality and other executives (Albeiro Forero, Gilberto Tovar, Hernando Montoya, Marino Moreno and Gilberto Nieto Patiño, councillor).
- (9) Clara Vaquero Sarmiento, chairperson of the Trade Union Association of Civil Servants of the Ministry of Defence, Armed Forces, National Police and related bodies, who received threats on 27 March 1998.
- (10) Pablo Emilio Calvo, vice-president of the Workers' Union of Cartago municipality, was threatened by death in a pamphlet.
- (11) Threats were made to individuals linked to the work of the trade union movement, including the Colombian Lawyers' Commission and the José Alvear Attorneys' Collective.
- (12) José Anibal Quiroga, vice-president of the national committee of the Brinks company, received death threats in telephone calls urging him to abandon his trade union activities. His father also received threats.

#### *Detentions*

- On 8 October 1998, José Ignacio Reyes, SINTELECOM member.

- On 16 October 1998, in the San Francisco area of Bolívar City, Orlando Rivera and Sandra Parra.
- During the national strike on 31 August 1999, a large number of people were detained and the whereabouts of many of them are unknown (227 persons according to the information sent by the ICFTU and 300 according to the information provided by the CUT).

*Unlawful imprisonment*

- Horacio Quintero and Osvaldo Blanco Ayala, workers, were detained in Tibú on 31 May 1999 by members of a self-defence group, who interrogated them to elicit whether they belonged to the Workers' Trade Union (USO). The workers declared that they only held membership. After death threats, they were released.

**Cases Nos. 1948 and 1955**

**Interim report**

*Complaints against the Government of Colombia*

*presented by*

*— the Single Confederation of Workers of Colombia (CUT) and  
— the Trade Union of Workers of the Bogotá Telecommunications Enterprise  
(SINTRATELEFONOS)*

*Allegations: Acts of anti-union discrimination*

**117.** The Committee last examined these cases at its meeting in March 1999 [see 314th Report, paras. 42-77]. The Trade Union of Workers of the Bogotá Telecommunications Enterprise (SINTRATELEFONOS) presented new allegations in a communication dated 4 June 1999.

**118.** The Government sent its observations on these cases in communications dated 12 August and 15 September 1999.

**119.** Colombia has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

**A. PREVIOUS EXAMINATION OF THE CASES**

**120.** In its previous examination of the cases, when it considered allegations of acts of anti-union discrimination, the Committee made the following recommendations [see 314th Report, para. 77(a), (b), (d) and (e)]:

- (a) The Committee requests the Government to take measures with a view to furthering the reinstatement of the 23 members of SINTRATELEFONOS dismissed by the ETB enterprise and requests it to take steps to this end.
- (b) The Committee requests the Government to inform it of any ruling handed down concerning the criminal charge against trade union officer Mr. Víctor Manuel Bautista Ramírez and of any ruling that may eventually be handed down with respect to trade union officer Ms. Patricia Cordero Tovar.

[...]

- (d) The Committee requests the Government to state the concrete facts prompting the dismissal of SINTRAELECOL members in the Cundinamarca Power Company (14), the EPSA company in Cali (13) and the Bogotá Power Company (1), and the dismissal of ETB employees Mr. Elías Quintana and Mr. Carlos Socha.
- (e) Lastly, noting that the Government has not replied to the allegation concerning the accusations and investigations by public bodies or the ETB affecting some 800 workers, the Committee requests the Government to send its observations in this respect.

#### B. NEW ALLEGATIONS

**121.** In its communication of 4 June 1999, the Trade Union of Workers of the Bogotá Telecommunications Enterprise (SINTRATELEFONOS) states that the Government has not implemented the recommendation made by the Committee at its meeting in March 1999, in which it requested the Government to take measures with a view to furthering the reinstatement of the 23 SINTRATELEFONOS members who were dismissed by the Bogotá Telecommunications Enterprise (ETB) in November 1997. The complainant also alleges that on 27 January and 10 March 1999, 11 other members of the union (five workers at the Engativá Exchange and six from the commercial section) were dismissed by the company. Lastly, the complainant states that on 20 November 1998 the Attorney-General's Office ordered the dismissal of the proceedings against the union officers Mr. Víctor Manuel Bautista Ramírez and Ms. Sandra Patricia Cordero Tovar and declared closed the criminal proceedings that had been initiated against them for alleged acts of violence against an official.

#### C. THE GOVERNMENT'S REPLY

**122.** With regard to the Committee's request that measures be taken to further the reinstatement of the 23 members of SINTRATELEFONOS who were dismissed by the ETB in November 1997, the Government states in its communications of 12 August and 15 September 1999 that, as it had pointed out in its communication of 15 January 1999, the workers in question can apply to the ordinary labour courts competent to rule on legal disputes arising directly or indirectly from employment contracts and in particular to examine cases relating to trade union immunity of public employees, officials and individuals. Similarly, workers with trade union immunity who are dismissed without judicial review of the reasons given for dismissal can also initiate proceedings to secure their reinstatement and payment of any wage arrears that are owed to them. Owing to the division of powers which is a feature of any State based on the rule of law, it would be inappropriate for the Government of Colombia to favour the reinstatement of workers; in order to enforce those rights which the workers consider to have been infringed, they can apply to the ordinary labour courts or, as an interim measure, they can bring an action for protection (*Acción de Tutela*). The workers dismissed by the ETB have availed themselves of all the legal avenues available to them under Colombian law; despite this, and without waiting for the outcome of their applications to the courts, they presented a complaint based on the same allegations to the International Labour Organization.

**123.** The Government states that, although the competence of the Committee on Freedom of Association to examine the allegations does not require that all the available domestic remedies be exhausted, it is nevertheless the case that the Committee must take this into account when examining such a case, as the ILO itself has indicated (cf. *ILO Law on freedom of association: Standards and procedures*, Geneva, 1995, page 131, paragraphs 31, 32, 33). This applies in the context of the ETB which informed the Committee on 15 January 1999 that national law provided for the possibility of applying to independent

courts, in this case the ordinary labour courts and, on an interim basis, for an action for protection (*Acción de Tutela*). The workers dismissed by the company thus lodged applications with the ordinary labour courts and with the judges for protection (*jueces de tutela*) who have already ruled in a number of cases, and in most of these cases the ruling was favourable to the workers (the Government supplies the names of the 15 workers whose reinstatement was ordered by the courts, as well as those of other workers whose cases are still pending).

**124.** As regards the dismissal of members of the union SINTRAELECOL at the Cundinamarca Power Company (14), the EPSA company in Cali (13) and the Bogotá Power Company (1), the Government states that the EPSA enterprise ordered the closure of thermal power-generation facilities on the grounds that they were totally uneconomical, and set up a voluntary severance and compensation programme. The Government adds that some workers did not join the programme and were dismissed in accordance with internal regulations which allow the dismissal with compensation of a certain proportion of the workforce without a reason being given, subject to payment of compensation. This was how the 13 dismissals referred to by the complainant came about. The Government states that the trade union SINTRAELECOL declared days of protest in other companies in the sector in order to defend the rights of the dismissed workers at the EPSA enterprise. In the case of the Cundinamarca Power Company, the stoppages resulting from the days of protest were declared illegal, since no collective bargaining was taking place and, furthermore, the service affected was an essential public service (within the meaning of Act No. 142/93). For these reasons the company dismissed 14 workers. The Government states that the dismissal of a worker in the Bogotá Power Company was based on discretionary powers and took place at a time when the company employed more than 4,000 workers. As regards the dismissal of Mr. Elías Quintana and Mr. Carlos Socha, the Government states that it requested information on the matter from the company, but that the company required more information in order to identify these workers on its payroll.

**125.** As regards the allegation concerning the dismissal of five trade union members at the Engativá Exchange of the ETB on 27 January 1999, the Government states that, in the case of employees Ms. Gladys Pérez and Mr. Jorge Alejandro Sánchez, the company decided unilaterally to terminate their contracts of employment, in accordance with clause 19.a, paragraph c, of the collective agreement in force at the time and section 6 of Act No. 50 of 1990. The former, which concerns stability of employment, states that:

[...] in the case of unilateral termination of a contract of employment without just cause being given by the employer, the employer shall be required to provide the worker concerned with the following compensation: (1) a cash sum equivalent to forty-five days of salary, if the worker has been employed by the company for one year or less; or (2) if the worker has been employed for a continuous period of more than one year but less than five years, the employer shall be required to pay him or her, in addition to the basic forty-five days of salary referred to in (1), twenty additional days of wages for every year of service over one year and an appropriate proportion of that sum for each fraction of one year [...]

Section 6 of Act No. 50, which concerns the termination of employment contracts without just cause, states that "Every contract of employment shall include a provision for rescission for non-compliance with the terms agreed, which shall provide for compensation for any damages at the expense of the party responsible for the noncompliance. This compensation shall cover both any loss of earnings and consequential damages". The Government rejects the view put forward by SINTRATELEFONOS, which portrays the dismissals as violations of trade union rights, freedom of association and collective bargaining, while the complainants have manifestly disregarded provisions of the collective agreement to which they had agreed. It is clear that the ETB dismissed its workers in accordance with

the law in force at the time, which makes it liable to pay compensation to the workers concerned. The Government adds that if workers did not agree with the amount of compensation or with the manner in which a contract of employment was terminated, legal mechanisms are available to enforce rights which they may consider to have been infringed.

**126.** As regards the allegation concerning the dismissal of six workers employed in the commercial division of the ETB on 10 May 1999, the Government states that if the workers do not agree with the reasons given for the dismissals, ordinary labour law provides for ways of enforcing the rights which they believe have been infringed.

**127.** As regards the allegation concerning accusations and investigations by public bodies and the ETB covering some 800 workers, the Government notes that according to the company the Anti-Corruption Office is proceeding with case No. 069-97 involving about 500 workers for alleged stoppages on different days. According to the Government, the case in question has been initiated under the terms of Act No. 200 of 1995 (the Single Disciplinary Code) and is currently at the investigatory stage. The Government adds that Act No. 200 sets out the basic disciplinary provisions applicable to all public employees. It establishes the disciplinary control authority of bodies such as the National Public Prosecutor, legal representation bodies (*personerías*) and internal disciplinary monitoring offices. It ordered the creation of higher level offices within each state establishment to examine as a body of first instance any disciplinary proceedings against workers in the establishments in question. In accordance with this instrument, in 1997 the Bogotá Telecommunications Company set up its Anti-Corruption Office which carries out the functions specified in Act No. 200 of 1995, among others. The existence of this office does not impose any limitation on the disciplinary control authority of other bodies (the Public Prosecutor and the district representation bodies) which exercise disciplinary authority at their respective levels.

**128.** This explains how it is possible for disciplinary proceedings to be under way against workers in the Bogotá Telecommunications Company in both the Anti-Corruption Office and in various disciplinary bodies, provided that the different proceedings never relate to the same facts, i.e. actions can be initiated against a single official in any of the three bodies but for different reasons. Lastly, in exercising disciplinary authority at their respective levels, both the Public Prosecutor and the district representation offices can withdraw authority over disciplinary proceedings from the Anti-Corruption Office, which must then hand over the case as it currently stands. The action initiated by the Anti-Corruption Office in no way implies an accusation against a company employee but is simply undertaken in compliance with an order issued by an administrative authority. Nevertheless, by the discretionary powers available to the Ministry of Labour and Social Security (labour inspectorate) an investigation will be conducted into the disciplinary proceedings now under way with a view to determining whether or not there really is an anti-union campaign in the ETB.

**129.** Lastly, with regard to the criminal charges brought against trade union officers Mr. Víctor Manuel Bautista Ramírez and Ms. Patricia Cordero Tovar, the Government states that Prosecution Office No. 209, which specializes in cases of acts against the public administration and justice, declared the investigation closed on 12 January 1999.

### C. THE COMMITTEE'S CONCLUSIONS

**130.** *The Committee notes that the allegations that had been left pending at its last examination of the case in March 1999 related to the dismissal of 28 members of the trade*

union SINTRAELECOL (14 at the Cundinamarca Power Company, 13 at the EPSA enterprise in Cali and one at the Bogotá Power Company), to the dismissal of Mr. Elías Quintana and Mr. Carlos Socha of the Bogotá Telecommunications Enterprise (ETB) and to the accusations and investigations by public bodies and the ETB covering some 800 workers. In addition, the Committee had requested the Government to inform it of any ruling handed down concerning the criminal charge against union officers Mr. Víctor Manuel Bautista Ramírez and Ms. Patricia Cordero Tovar. The Committee also notes the statements of the complainant SINTRATELEFONOS to the effect that the Government has not implemented the recommendation made by the Committee at its meeting in March 1999 in which it requested the Government to take measures with a view to furthering the reinstatement of the 23 SINTRATELEFONOS workers dismissed by the ETB enterprise in November 1997, and that the company dismissed another 11 trade unionists in January and March 1999.

131. As regards the allegations of the dismissal of members of SINTRAELECOL at the Cundinamarca Power Company, the EPSA in Cali and the Bogotá Power Company, and the dismissal of two union officers at the ETB enterprise, the Committee notes that, according to the Government: (1) the 13 workers at the EPSA enterprise in the city of Cali were dismissed in accordance with internal company regulations which allow the dismissal with compensation of a certain proportion of the workforce without just cause, after they had failed to join the voluntary severance programme started up by the company following the closure of thermal power-generation facilities considered to be totally uneconomical; (2) the 14 workers at the Cundinamarca Power Company were dismissed following the declaration by SINTRAELECOL of days of protest which were declared illegal because no collective bargaining was under way and the service affected was an essential public service; (3) the dismissal of a worker in the Bogotá Power Company was based on discretionary powers and occurred at a time when the company employed more than 4,000 workers; and (4) the ETB said that it required more information in order to identify the union officers Mr. Elías Quintana and Mr. Carlos Socha on its payroll. In this regard, the Committee regrets that the Government has not provided detailed information which would allow it to determine whether the workers in question were dismissed because of their trade union membership or legitimate trade union activities. Under these circumstances, the Committee urges the Government to provide information on the following points: (i) the total number of workers, divided by members and non-members of SINTRAELECOL, who were dismissed at the EPSA enterprise in Cali after failing to join the voluntary severance programme; (ii) the duration and nature of the days of protest declared by SINTRAELECOL (e.g. total interruptions of services, partial stoppages, failure to consider the needs of the public, etc.), and which body declared these actions to be illegal and thus precipitated the dismissal of workers at the Cundinamarca Power Company; and (iii) the reasons for the dismissals of the SINTRAELECOL member at the Bogotá Power Company and of the union officers Mr. Elías Quintana and Mr. Carlos Socha at the ETB (who, according to the complainant, enjoyed immunity by virtue of their trade union status). The Committee requests the Government to send this information without delay.

132. As regards the allegation that the Government has failed to implement the recommendation made by the Committee on the occasion of its last examination of the case in March 1999, which stated that the Government should take measures with a view to furthering the reinstatement of the 23 trade unionists who were dismissed in November 1997 at the ETB, the Committee notes that according to the Government, the courts have ordered the reinstatement of 15 of the 23 workers concerned and that court proceedings are under way with regard to the remaining workers. In this regard, the Committee

requests the Government to ensure that the 15 workers whose reinstatement has been ordered are actually reinstated, and expresses the hope that the other workers will be reinstated in the near future.

133. As regards the new allegations presented by the complainant SINTRATELEFONOS concerning the dismissal of 11 other members of this organization at the ETB in January and March 1999 (five workers at the Engativá Exchange and six in the commercial division), the Committee notes that according to the Government: (1) with regard to the workers dismissed at the Engativá Exchange, the company decided unilaterally to terminate the contracts of employment of Ms. Gladys Pérez and Mr. Jorge Alejandro Sánchez under the terms of clause 19 of the collective agreement in force at the time (according to the Government, the collective agreement permits dismissal without just cause on the payment of compensation) and of section 6 of Act No. 50 of 1990 (concerning the payment of compensation by the party which fails to comply with the terms of a contract of employment); and (2) as regards the dismissals in the commercial division, the Government indicates that if the workers do not accept the reasons given for these dismissals (the complainant maintains that the workers were dismissed supposedly because of low productivity), there are remedies available under ordinary labour law to enforce the rights which they consider to have been infringed. In this respect, the Committee regrets that the Government has confined itself to providing general information which does not enable it to determine whether the dismissals in question were motivated by anti-union considerations, irrespective of whether or not the collective agreement allowed dismissal of workers without just cause or whether legislation provides for the possibility of applying to the courts for redress. Under these circumstances, the Committee requests the Government to ensure that an investigation is carried out into this matter and, if the workers concerned are found to have been dismissed on the grounds of their trade union membership or legitimate trade union activities, to ensure that they are reinstated immediately in their posts. The Committee requests the Government to keep it informed in this regard.

134. As regards the criminal charges brought against trade union officers Mr. Víctor Manuel Bautista Ramírez and Ms. Patricia Cordero Tovar for alleged acts of violence against an official, the Committee notes that, according to the complainant SINTRATELEFONOS and the Government, the Attorney-General's Office ordered the dismissal of the proceedings against the union officers in question and declared the case closed.

135. As regards the allegation concerning accusations and investigations by public bodies and the ETB covering some 800 workers, the Committee notes that according to the Government, the Anti-Corruption Office has initiated proceedings in connection with alleged stoppages involving 500 workers which are currently at the investigatory stage, and that the Ministry of Labour and Social Security has used its discretionary power to order an investigation into the proceedings currently under way with a view to determining whether or not they constitute an anti-union campaign. In this regard, the Committee requests the Government to inform it of the specific charges brought against the workers by the Anti-Corruption Office and to keep it informed of the outcome of the investigation planned by the Ministry of Labour with a view to determining whether or not there is an anti-union campaign in the ETB enterprise.

#### THE COMMITTEE'S RECOMMENDATIONS

136. In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:

- (a) *With regard to the dismissals of members of the trade union organization SINTRAELECOL at a number of undertakings, the Committee urges the Government to provide information without delay on the following points: (i) the total number of workers, divided by members and non-members of SINTRAELECOL, who were dismissed at the EPSA enterprise in Cali after failing to join the voluntary severance programme; (ii) the duration and nature of the days of protest declared by SINTRAELECOL (total interruptions of services, partial stoppages, failure to consider the needs of the public, etc.), and which body declared these actions to be illegal and thus precipitated the dismissal of workers at the Cundinamarca Power Company; and (iii) the reasons for the dismissals of the SINTRAELECOL member at the Bogotá Power Company and of the union officers Mr. Elías Quintana and Mr. Carlos Socha at the Bogotá Telecommunications Enterprise (ETB).*
- (b) *With regard to the request made to the Government during the Committee's March 1999 meeting to take measures with a view to furthering the reinstatement of the 23 members of the trade union SINTRATELEFONOS who were dismissed in November 1997 at the ETB enterprise, the Committee requests the Government to ensure the full implementation of the reinstatement order handed down by the Supreme Court in respect of 15 of the dismissed workers, and expresses the hope that the remaining trade unionists will be reinstated in the near future.*
- (c) *As regards the alleged dismissal of members of the trade union organization SINTRATELEFONOS at the ETB enterprise in January and March 1999 (five workers at the Engativá Exchange and six in the commercial division), the Committee requests the Government to investigate the matter and, if it is established that the workers in question were dismissed on grounds of their trade union membership or legitimate trade union activities, to ensure that they are immediately reinstated in their posts. The Committee requests the Government to keep it informed in this regard.*
- (d) *As regards the accusations and investigations by public bodies and the ETB covering some 800 workers, the Committee requests the Government to inform it of the specific charges against the workers named by the complainants — 500, according to the Government — by the Anti-Corruption Office. The Committee also requests the Government to keep it informed of the outcome of the investigation planned by the Ministry of Labour with a view to determining whether or not there is an anti-union campaign in the ETB enterprise.*

## Case No. 1962

## Interim report

*Complaint against the Government of Colombia  
presented by*

- *the Single Confederation of Workers of Colombia (CUT)*
- *the General Confederation of Democratic Workers (CGTD) and*
- *the Public Works Trade Union (SINTRAMINOBRAS)*

*Allegations: Dismissals connected with restructuring, in breach  
of a collective agreement*

137. The Committee examined Case No. 1962 most recently at its March 1999 meeting [see the Committee's 314th Report, paragraphs 78-96].

138. The CUT supplied additional information in communications dated 10 November 1998, 17 March, 25 and 29 June, 15 July, 4 August, and 3 September 1999. The CGTD sent new information in communications dated 17 March, 20 April and 18 May 1999. The Public Works Trade Union SINTRAMINOBRAS sent new allegations in a communication dated 14 April 1999.

139. The Government sent its observations in communications dated 12 August and 3 September 1999.

140. Colombia has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

## A. PREVIOUS EXAMINATION OF THE CASE

141. In its previous examination of the case, when it considered allegations relating to dismissals connected with restructuring, in breach of the collective agreement, the Committee made the following recommendations:

- (a) Concerning the restructuring which led to the dismissal of 155 public employees (including 14 trade union leaders) from the Municipality of Neiva in January 1993, the Committee recalls the importance it attaches to the principle that governments consult with trade union organizations to discuss the consequences of restructuring on the employment and working conditions of employees.
- (b) In order for the Committee to be in a position to come to conclusions on the allegations concerning the non-respect of the collective agreement in the Municipality of Neiva, it requests the Government to transmit all administrative and judicial decisions concerning this collective agreement.
- (c) The Committee urges the Government to submit its comments in response to the allegations regarding the dismissal of the leaders of the National Trade Union of Public Servants and Employees of the Institute of Hydrology, Meteorology and Land Development and to communicate the text of the rulings handed down in that regard.

## B. NEW ALLEGATIONS

142. In a communication dated 10 November 1998, the CUT alleges that what had appeared to be an isolated instance of the labour courts disregarding the right of workers to reinstatement in the case of unjust and illegal dismissals has in fact been applied to all the unionized workers who were dismissed and sought reinstatement. The CUT refers specifically to the principle enunciated by the Supreme Court of Justice according to which "if the employer, in breach of the law, proceeds to carry out a partial or total closure of an

undertaking resulting in the termination of employment contracts, there is no legally enforceable claim to reinstatement, even if such a right exists in legislation or in a collective agreement or accord” (ruling of 2 December 1997, Reg.10.157, Alvaro Vargas Gutiérrez and others versus the Municipality of Neiva). The CUT alleges that as a result of this, there is no longer any guaranteed right to reinstatement under the terms of a collective agreement, since it suffices for an employer to illegally close down his undertakings for the applicable collective agreement to be deprived of any legal force. The CUT cites as an example two rulings given by the Labour Chamber of Cassation in which the principle in question was set out, namely: the ruling of 30 April 1998 in case No. 10.425; and the ruling of 17 July 1998 in case No. 10.779.

**143.** In communications dated 17 March and 20 April 1999, the CUT and CGTD respectively indicated that in February and March 1999, the Disciplinary Chamber of the Sectional Council of the Huila judiciary gave two rulings ordering the Neiva High Court (Chamber for Civil Labour Affairs) to re-examine the actions initiated by the trade union leadership in the Municipalities of Neiva and Pitalito on the grounds that the Chamber erred in law. Consequently, according to the CGTD, the reinstatement of the dismissed workers might be possible. An appeal was lodged against the ruling relating to the Municipality of Pitalito by the magistrates concerned and the municipal authorities.

**144.** The CGTD in a communication of 18 May 1999 also states that the High Council of the Colombian Judiciary gave a ruling on 22 April 1999 ordering the High Court of Neiva to re-examine the case within 48 hours, taking into account the principle of benefit of penal law embodied in article 53 of the Political Constitution, which could imply the reinstatement of the Pitalito workers. The CGTD alleges that the ruling in question suggests that there was indeed a flagrant violation of labour standards by the municipal authorities and some judges.

**145.** The union SINTRAMINOBRAS in its communication of 14 April 1999 alleges that Mr. Hernando Oviedo Polo, Mr. Fernando Leyva Zuleta and Mr. Omar Muñoz Cabrera, who were members of the Public Works Trade Union SINTRAMINOBRAS Executive Board, were dismissed at the end of December 1994, although the Ministry of Transport had not obtained the authorization required for such action under sections 405 and 406 to 411 of the Labour Code. Proceedings were initiated to obtain the reinstatement of the trade unionists in question and the labour court judge ruled that they enjoyed legal protection by virtue of their trade union office. This was confirmed by the Chamber for Civil Labour Affairs which, however, also found that the dismissals had been in keeping with a constitutional mandate and with the wishes of the Law Ministry and did not require judicial authorization. It is also alleged that other trade union officials in Barranquilla, Neiva and Santafé de Bogotá, who were dismissed in similar circumstances, have been reinstated.

**146.** The CUT alleges that Mr. Oscar de Jesús Martínez Quintero, Mr. Alvaro Rojas Tovar, Mr. Hernando Cortes Yate, Mr. Isauro Lasso Vargas and Mr. Ascencio Gutiérrez Chala, all of whom were members of the Public Works Trade Union at the Institute of Hydrology, Meteorology and Land Development (HIMAT, now INAT), were unjustly and illegally dismissed in August 1993 and received compensation below the statutory amount. In particular, the principle according to which replacement of the employer does not in itself render a contract of employment void, was disregarded and no account was taken, when compensation was calculated, of time spent working in INCORA, the entity replaced by HIMAT, which resulted in a failure to make the appropriate payments. Likewise, they failed to pay for overtime.

### C. THE GOVERNMENT'S REPLY

**147.** The Government of Colombia reiterates that in the past it has been willing to consult the social actors in formulating state restructuring policies and procedures at all levels of the public administration. It cites the examples of the programmes that have been implemented to prepare workers not included in new staffing plans by enhancing their employment mobility through training in skills, occupations and technologies which should help them to find suitable employment. It adds that these initiatives have been and continue to be financially supported by the State and have helped workers to become independent. It also adds that the advisability of holding consultations on all labour policies was established in constitutional and legal terms (article 56 of the Constitution and Act 278/96). The Government also states that the President of the Republic issued Circular No. 02 in March 1999 welcoming the Committee's recommendation that there should be consultation on state restructuring with the workers concerned.

**148.** As regards the allegation of failure to comply with a collective agreement by the municipal authorities of Neiva, the Government explains that the workers who were dismissed as a result of the restructuring of the Public Works Department in the Municipality of Neiva lodged a complaint of violation of a clause in the collective agreement which according to them gave them complete stability of employment. The Ministry of Labour, (Labour, Inspection and Monitoring Division, Regional Labour Directorate of Huila) as the authority of first instance fined the Municipality for violating clause No. 3 of the collective agreement; the decision was upheld by the Ministry of Labour, as the authority of second instance. In the third and final administrative appeal, the two previous rulings were upheld, giving the sanctions imposed by the Government on the Municipality of Neiva the status of a definitive judgement.

**149.** As regards the alleged dismissals of officials of HIMAT (now INAT), the Government states that they occurred under the terms of an interim mandate of the national Constitution (article 20) which required the Government to "abolish, merge and restructure entities in the executive branch, public institutions and mixed-economy national companies"; to that end, in accordance with this mandate, the Government issued Decrees Nos. 2135/92 and 1598/93, ratified by Agreement No. 53 of 1993 of the HIMAT Executive Board, and proceeded with the abolition of posts which led to the complaint. The Government maintains that the Institute was restructured in accordance with legal and constitutional provisions in force at the time. It adds that the workers concerned (Mr. Hernando Bonilla Buendía, Mr. Jesús Antonio Mejía Díaz and Mr. José Antonio Alarcón), in a September judgement, obtained compensation for infringement of certain economic rights, but the judges found that their dismissals were lawful although without a just cause, and that they would therefore not be reinstated but would receive compensation including retirement benefits as a sanction for the employer. The Government is sending information on the status of the proceedings initiated by Mr. Hernando Bonilla and others, Mr. Ascencio Gutiérrez Chala and others, Mr. Cesar Augusto Ramírez and others, Mr. Fernando González Grande and others, and Mr. Idalid Tafur Calderón, against the INAT.

### D. THE COMMITTEE'S CONCLUSIONS

**150.** *The Committee notes that the allegations made by the complainants relate to dismissals of workers and trade union officials in the Municipalities of Neiva and Pitalito, at the Institute of Hydrology, Meteorology and Land Development (Neiva section) and in the Ministry of Public Works and Transport and National Highway Districts.*

151. As regards the abolition of the Public Works Office in the Municipality of Neiva which resulted in the dismissal of 155 workers, the Committee recalls that in its previous recommendations concerning these allegations it reminded the Government of the importance which it attaches to "the principle that Governments consult with trade union organizations to discuss the consequences of restructuring on the employment and working conditions of employees". In this regard, the Committee takes note of Presidential Circular No. 02 of March 1999, in particular the provision according to which procedures for restructuring state bodies should be broad and involve all persons affected and should above all allow participation of the trade unions. The Committee requests the Government to ensure that this is implemented so as to allow consultations with trade union organizations on the consequences of restructuring for employment and working conditions.

152. As regards the alleged failure of the Neiva municipal authorities to comply with the stability of employment clause in the collective agreement by dismissing the 155 workers referred to in the preceding paragraph, the Committee notes that according to the Government, at every instance the Ministry of Labour (Labour, Inspection and Monitoring Division, Regional Labour Directorate of Huila) fined the Municipality for violating the clause in question. The Committee notes that, according to the CUT in its previous allegations [see 314th Report of the Freedom of Association Committee, para. 81], the Supreme Court of Justice in this specific case ruled that reinstatement of the workers concerned was not legally possible, given that the posts had been abolished, that the municipal authority was not exonerated from paying compensation for the dismissals but that, under the terms of the ruling, such compensation had not been granted because it had not been requested. The Committee considers that the collective agreement which guaranteed stability of employment of the workers was violated, which constitutes a violation of the principles of freedom of association. Under these circumstances, the Committee requests the Government to take the necessary measures to bring about the reinstatement in the public administration in question, without loss of pay of the 155 workers who were dismissed. If this is not practicable, given the considerable time that has elapsed since the dismissals, the Committee requests the Government to take steps to ensure that the workers receive full compensation without delay.

153. As regards the alleged dismissals without prior judicial authorization of trade union officials of HIMAT (now INAT) (Alberto Medina Medina, José Antonio Alarcón, José Antonio Mejía Díaz, Alvaro Cabrera Achury, Hernando Bonilla Buendía), the Committee notes that according to the Government, the dismissals in question were carried out under the terms of provisional constitutional mandate (provisional article 20) ordering the Government to "abolish, merge and restructure entities in the executive branch, public institutions and mixed-economy national companies", and that the Institute was restructured on the basis of legal and constitutional provisions in force at the time. The Committee notes the ruling, a copy of which has been provided by the Government, in which the Third Labour Tribunal of Neiva (court of first instance) ruled that the dismissals were legal but without just cause and for this reason it would not reinstate the workers but would compensate them. The Committee recalls that in one case in which a government considered the dismissal of nine workers to be part of state restructuring programmes, the Committee emphasized "the advisability of giving priority to workers' representatives with regard to their retention in employment in case of reduction of the workforce, to ensure their effective protection" [see *Digest of decisions and principles of the Freedom of Association Committee*, 4th edition, 1996, para. 961]. Under these circumstances, the Committee urges the Government to take measures to bring about the reinstatement of the dismissed trade union officials and, in the event that it is not practicable to do so, given the considerable time that

has elapsed since the dismissals, to ensure that they receive full compensation without delay.

154. With regard to the new allegations concerning inadequate compensation paid by the HIMAT (now INAT) to Mr. Oscar de Jesús Martínez Quintero, Mr. Alvaro Rojas Tovar, Mr. Hernando Cortes Yate, Mr. Isauro Lasso Vargas and Mr. Ascencio Gutierrez Chala, all of whom were members of the Trade Union of Public Servants and Employees of HIMAT and were dismissed in 1993 by the Institute of Hydrology, Meteorology and Land Development, the Committee notes that the information supplied by the complainants does not include anything that would lead to the conclusion that the matter is linked to the exercise of trade union rights. Under these circumstances, the Committee is unable to express an opinion on these allegations.

155. As regards the ruling, which has been criticized by the complainant, rejecting the reinstatement of the SINTRAMINOBRAS officials (Hernando Oviedo Polo, Fernando Leyva Zuleta and Omar Muñoz Cabrera), who were dismissed at the end of December 1994 without the previous judicial authorization required under law, the Committee notes that the Government has sent no observations on the matter and therefore urges the Government to reply without delay to the allegation and to provide a copy of any rulings handed down in this regard.

#### THE COMMITTEE'S RECOMMENDATIONS

156. In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:

- (a) As regards the restructuring which led to the dismissal of 155 officials in the Municipality of Neiva, the Committee requests the Government to ensure that Presidential Circular No. 02 is implemented with a view to ensuring that consultations are held with trade union organizations on the consequences of restructuring for employment and working conditions.
- (b) As regards the alleged failure to apply the collective agreement in the Municipality of Neiva, the Committee requests the Government to take the necessary measures to bring about the reinstatement without loss of pay of the 155 dismissed workers in the public administration in question. If this is not practicable given the considerable time that has elapsed since the dismissals, the Committee requests the Government to take steps to ensure that the workers receive full compensation without delay.
- (c) As regards the alleged dismissal of officials of HIMAT (now INAT), the Committee urges the Government to take measures to bring about the reinstatement of the dismissed union officials and, in the event that it is not practicable given the considerable time that has elapsed since the dismissals, to ensure that they receive full compensation without delay.
- (d) As regards the ruling, criticized by the complainant, rejecting the reinstatement of SINTRAMINOBRAS officials, the Committee urges the Government to reply without delay to the allegation and to provide a copy of any ruling handed down in this regard.

Case No. 1964

Interim report

*Complaint against the Government of Colombia  
presented by  
the Trade Union of Glass and Allied Workers of Colombia  
(SINTRAVIDRICOL)*

*Allegations: Anti-union interference and discrimination, acts of intimidation  
and non-compliance with the terms of a collective agreement*

**157.** The Committee examined this case at its March 1999 meeting and submitted an interim report to the Governing Body [see the Committee's 314th Report, paras. 97 to 113, approved by the Governing Body at its 274th Session in March 1999].

**158.** Subsequently, the Government sent new observations in communications dated 12 August and 3 September 1999. In a recent communication dated 2 October 1999, the complainant presented new allegations and information.

**159.** Colombia has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. PREVIOUS EXAMINATION OF THE CASE

**160.** At the Committee's March 1999 meeting, when it examined the present case, a number of allegations of anti-union interference and discrimination, and of failure by CONALVIDRIOS S.A. to comply with clauses in the relevant collective agreement, remained pending. Specifically, the complainant had alleged the following [see 314th Report, paras. 100 to 102]:

- after hiring a former official of the Ministry of Labour (Regional Director of Labour and Social Security of Cundinamarca) as Human Resources Director on 4 September 1994, the CONALVIDRIOS enterprise embarked on an anti-union policy, failing to recognize the participation of the union in the joint committees (on labour relations, occupational health, sports and catering) established in the collective agreement; the Ministry of Labour was informed accordingly;
- the enterprise has embarked on an anti-union policy of reducing the union's membership, granting those who resign from the union privileges such as loans, promotions and bonuses, which is further aggravated by the fact that some of these, such as leave and housing loans, are statutory benefits for which provision is made in the collective agreement; as a result of this policy, approximately 200 members have resigned from the union; the intention is to turn the trade union into a minority organization, which under Colombian law would result in the loss of substantial guarantees, especially in terms of power to represent the workers vis-à-vis the employer; the Ministry of Labour was informed accordingly;
- the Ministry of Labour issued Decisions Nos. 0072 and 0073 of 18 January 1995 revoking previous administrative decisions registering the executive committees of the trade union. The revocation of these decisions was inappropriate and the representatives of the trade union had not been duly notified of it. Once these administrative decisions had been issued, the CONALVIDRIOS S.A. enterprise proceeded to dismiss six trade union officers, followed by 14 other trade union leaders. The person who instigated these dismissals and the above-mentioned decisions was the enterprise's Human Resources Director (a former official of the Ministry of Labour), who used all the powers vested in him, while the Ministry of Labour failed to deal impartially with the complaints concerning these matters;

- the enterprise stopped granting trade union leave for which provision had been made in the collective agreement;
- when the trade union convenes assemblies, the enterprise invents games, parties, sports and other activities, and members who speak at a meeting are dismissed the next day; members live in constant fear of losing their jobs; human rights are clearly being violated; trade union officers cannot speak to their fellow workers, and if they do they are transferred to another workstation or shift; the authorities and the Colombian judiciary have done nothing about this;
- the enterprise confiscates from the workers bulletins distributed by the trade union, thus infringing freedom of expression; on one occasion when trade union officers came to the entrance of the enterprise in order to distribute the information bulletin, the security guards set the dogs on them, threatening their lives;
- the enterprise brought criminal charges against the chairperson and the secretary of the national executive of the trade union for libel and slander but was unable to prove its accusations. To date, the union has brought over 100 legal actions (lawsuits, ordinary claims and special claims for trade union immunity and a criminal suit, which is currently being investigated by the Public Prosecutor's Office No. 68 of Santafé de Bogotá). According to the complainant, the labour courts and the labour administration authorities have been informed of all these facts, without any appropriate action being taken by the Ministry of Labour;
- the enterprise also brought criminal charges against seven officers of the Soacha local executive committee of the trade union for alleged procedural fraud, false impersonation and falsifying documents. The trade union brought criminal charges against four managers of the enterprise for trade union persecution (section 272 of the Penal Code);
- finally, the complainant attaches a copy of a judgement of the Supreme Court of Justice dated 21 January 1997, in which it is acknowledged that the CONALVIDRIOS S.A. enterprise exerted pressure on the workers in order to obtain their withdrawal from the trade union and ordered the enterprise "to refrain in future from acts aimed at preparing or processing withdrawal of trade union membership or any conduct aimed at obtaining the withdrawal of workers from membership of the enterprise trade union".

**161.** The Committee takes note of the Government's statements to the effect that the complainant had not brought any of these allegations to the attention of the authorities and that there were administrative and legal measures available in cases of violation of the law, including provisions requiring the reinstatement of workers dismissed in violation of trade union law. The Government explains that the fact that an administrator at the undertaking in question subsequently obtained a post at the Ministry of Labour is not illegal or objectionable, although once it was informed of the allegations it brought them to the attention of the competent authority. The Government also indicated that the human rights aspects of the complaint will be investigated by the Inter-Institutional Human Rights Office of the Ministry of Labour [see 314th Report, para. 111].

**162.** The Committee made the following recommendation [see 314th Report, para. 113]:

The Committee regrets that the Government has merely sent general information on the allegations presented, despite their gravity, and requests the Government to ensure that a detailed investigation is carried out into each of the allegations presented by the complainant and to inform it in this respect without delay.

## B. THE GOVERNMENT'S REPLY

**163.** In its communication of 12 August 1999, the Government reiterates what it had already said in its observations of 15 January 1999, since no complaint concerning the specific allegations made by SINTRAVIDRICOL had been lodged with the Ministry of Labour and Social Security. The information supplied is not of a general nature but is very grave and not consistent with the information available to the Government. Since

SINTRAVIDRICOL has still not communicated to the Government the information which it has presented to the Committee, the Government has ordered that an inquiry be carried out and indicated that, with regard to the dismissals, owing to the division of powers, the allegations should be brought to the attention of the labour courts, just as any criminal allegations must be brought to the attention of the prosecution service and the criminal courts.

164. In its communication of 3 September 1999, the Government reiterates that, as it had maintained in its observations of 15 January, the Government had ordered an investigation into the allegations presented to the ILO, since the Ministry of Labour had not been notified of them. The Government refers to the report submitted on 9 August 1999 by the Head of the Inspection and Monitoring Division of the Bogotá and Cundinamarca Regional Labour Department, according to which, "On 6 July 1999 a report was sent to the Technical Directorate of Labour stating that the application made by SINTRAVIDRICOL to the ILO's Committee on Freedom of Association has been closed at the request of Mr. Argelio Vargas Rodríguez, the union's legal representative". The Government considers that, in view of the fact that the complainant has withdrawn the complaint, the Committee should regard the case as closed.

#### C. NEW INFORMATION AND ALLEGATIONS FROM THE COMPLAINANT

165. In its communication dated 2 October 1999 the complainant presents new allegations. It also states that it is withdrawing its complaint only with regard to aspects relating to economic benefits and trade union membership dues.

#### D. THE COMMITTEE'S CONCLUSIONS

166. *The Committee notes that the complainant denies that it has withdrawn its complaint in its entirety and that it has done so only with regard to the matter of economic benefits and trade union membership dues.*

167. *Under these circumstances, noting that the authorities have closed the investigation in the present case on the basis of erroneous information to the effect that the complainant had withdrawn its complaint in its entirety, the Committee reiterates its request to the Government to ensure that a thorough investigation is carried out into each of the allegations presented by the complainant (except for those concerning economic benefits and trade union membership dues) and to inform it in this respect without delay.*

168. *The Committee also requests the Government to send its observations on the recent new allegations contained in the complainant's communication of 2 October 1999.*

#### THE COMMITTEE'S RECOMMENDATIONS

169. *In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:*

*(a) The Committee requests the Government to ensure that a thorough investigation is carried out into each of the allegations presented by the complainant (except for those concerning economic benefits and trade union membership dues) and to inform it in this respect without delay.*

**(b) The Committee requests the Government to send its observations on the recent new allegations contained in the complainant's communication of 2 October 1999.**

Case No. 1973

Interim report

***Complaint against the Government of Colombia  
presented by***

***The Association of Managers and Technical Staff of the Colombian Petroleum Industry (ADECO)***

*Allegations: Favourable treatment of a particular trade union organization, violation of the right to collective bargaining, discrimination against members of an organization, interference by an employer and anti-union practices*

170. The Committee last examined this case at its March 1999 meeting [see 314th Report, paras. 114-127]. The Government sent its observations in communications dated 12 August and 3 September 1999.

171. Colombia has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. PREVIOUS EXAMINATION OF THE CASE

172. The Committee observes that in this case the complainant had alleged that in the process of collective bargaining, the trade union USO and the enterprise ECOPETROL had excluded ADECO and entered into a collective agreement (the legality of which was questioned by the complainant) which was also being applied to members of ADECO, despite the fact that the other union (USO) did not represent more than 50 per cent of the workforce at the enterprise (a legal prerequisite for negotiating on behalf of all the workers). According to the complainant, this situation had: (1) caused ADECO members to lose the acquired rights which they had enjoyed under the terms of an agreement concluded in 1997 with the management of ECOPETROL (which ADECO claims to be valid); (2) resulted in discrimination against them in terms of the entitlements and benefits enjoyed by the other workers; (3) led to the loss by ADECO of trade union safeguards such as trade union immunity, union leave, etc.; and (4) forced members of ADECO to pay dues to USO. At the same time, the complainant had stressed that the Ministry of Labour had not conducted the trade union census which it had requested to determine the representativeness of the two unions operating at the enterprise, and emphasized that USO had not complied with an accord with ADECO which guaranteed not only that a joint list of demands for negotiation would be put forward but also that an ADECO negotiator would be allowed to participate in the talks. Lastly, ADECO alleged that when the collective agreement had been signed, representatives of the company had put pressure on workers to leave the union, which had resulted in a large number of resignations by members. In this context, the Committee had noted: (1) the Government's statement that instructions had been given to start an inquiry immediately into the allegations in question, given that ADECO had not made any complaints to the Ministry of Labour concerning many of the issues raised; and (2) that ADECO

on 8 October 1998 had withdrawn its request to the competent authority for a trade union census at ECOJETROL.

**173.** In this respect, at its March 1999 meeting, the Committee had formulated the following recommendations [see 314th Report, para. 128]:

The Committee requests the Government to communicate without delay the outcome of the inquiry conducted into the different aspects of this case which should cover all of the allegations made by the complainant;

The Committee requests the complainant to provide additional information concerning the withdrawal of the request for a trade union census at ECOJETROL.

#### B. THE GOVERNMENT'S REPLY

**174.** In its communications dated 12 August and 3 September 1999, the Government states that the vast majority of the points at issue in the allegations before the Committee were examined and resolved through Decision No. 002967 of 9 December 1997 issued by the head of the Inspection Division of the Regional Directorate of Labour and Social Security of Bogotá and Cundinamarca, from which it is clear that the Government has made considerable administrative efforts and hence given due attention to this case. Lastly, the Government points out that it is clear from the abovementioned decision that the trade union organization ADECO has not lodged any complaint against ECOJETROL or the trade union organization USO with the Inspection Division of the Regional Labour Directorate which could have led to an administrative inquiry by the labour authorities, since, as has already been pointed out, the infringements reported to this department by the abovementioned trade union have been duly examined and a decision taken in conformity with the law and pursuant to the competence prescribed by law.

#### C. THE COMMITTEE'S CONCLUSIONS

**175.** *The Committee observes that in its previous examination of the case it had requested the Government to communicate without delay the outcome of the inquiry that had been conducted into the different aspects of this case according to the Government, which should cover all of the allegations made by the complainant (specifically, the complainant had alleged that in the process of collective bargaining, the trade union USO and the enterprise ECOJETROL had excluded ADECO and entered into a collective agreement which had: (1) caused ADECO members to lose the acquired rights which they had enjoyed under the terms of an agreement concluded in 1997 with the management of ECOJETROL (which ADECO claims to be valid); (2) resulted in discrimination against ADECO members in terms of the entitlements and benefits enjoyed by the other workers; (3) led to the loss by ADECO of trade union safeguards such as trade union immunity, union leave, etc.; (4) forced members of ADECO to pay dues to USO; and (5) when the collective agreement had been signed, representatives of the company put pressure on workers to leave the union, which had resulted in a large number of resignations by members.*

**176.** *In this respect, the Committee notes that the Government states that: (1) the vast majority of the allegations had been examined and resolved through Decision No. 002967 of 9 December 1997 issued by the head of the Inspection Division of the Regional Directorate of Labour and Social Security of Bogotá and Cundinamarca; and (2) it is clear from this decision that the trade union organization ADECO has not lodged any complaint against ECOJETROL or the trade union organization USO that could have*

led to an administrative inquiry, since the infringements reported by ADECO had been duly examined and a decision taken in conformity with the law.

177. The Committee deeply deplors the fact that the information communicated by the Government does not include the text of the administrative decisions that have been handed down and that it cannot be deduced from the information provided that the inquiry initiated by the administrative authorities covered all of the allegations made by the complainant. In any case, the Committee observes that the Government does not provide any information on the outcome of the inquiry into the alleged acts of discrimination against the trade union organization ADECO and its members. In these circumstances, the Committee once again urges the Government to take immediate steps to initiate an inquiry into all of the allegations and, on the basis of the information obtained, to communicate detailed observations in this respect, and to send the text of all the administrative decisions handed down to date.

178. Lastly, as regards the allegation that the Ministry of Labour did not carry out the trade union census requested by ADECO to determine the representativeness of the two trade unions operating in the enterprise, the Committee recalls that at its March 1999 meeting it had requested the complainant to provide additional information concerning the withdrawal of the request for a trade union census. In this respect, noting that the complainant has not communicated the information requested, the Committee will not continue its examination of this allegation.

#### THE COMMITTEE'S RECOMMENDATION

179. In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendation:

**The Committee once again urges the Government to take immediate steps to initiate an inquiry into all of the allegations made by the complainant organization ADECO and, on the basis of the information obtained, to communicate detailed observations in this respect, and to send the text of all the administrative decisions handed down to date.**

Case No. 2015

Interim report

**Complaint against the Government of Colombia**

**presented by**

**the Association of Public Servants employed by the Health Service  
of the Armed Forces and National Police (ASEMIL)**

*Allegations: Non-compliance with a collective agreement; challenges to trade union statutes; suspension of deductions of trade union membership dues; assault against trade union officials; illegal deductions for days of strike action; refusal to negotiate*

180. The complaint in the present case is contained in a communication dated 23 February 1999 from the Association of Public Servants employed by the Health Service of the Armed Forces and National Police (ASEMIL). ASEMIL sent additional information in a communication dated 16 April 1999.

181. The Government sent partial observations in a communication dated 15 September 1999.

**182.** Colombia has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. THE COMPLAINANT'S ALLEGATIONS

**183.** In its communication of 23 February 1999, the Association of Public Servants employed by the Health Service of the Armed Forces and National Police (ASEMIL) states that it represents workers employed by the health service used by the armed forces and the national police. It adds that on 7 May 1997, the Ministry of Defence and representatives of ASEMIL signed an agreement containing provisions relating to employment stability, prohibition of reprisals, wages, rights of association and the creation of a committee to follow up these measures. Most of the provisions in the agreement were disregarded by the Government. This was reflected in a failure to implement a pay harmonization review, interference with the right of association and refusal to grant trade union licences.

**184.** The complainant indicates that the Deputy Minister of Defence announced on 20 April 1998 the dismissal of the trade union's officers and, in another act of interference, challenged the Association's new statutes (the Ministry of Labour dismissed the challenge) and suspended deductions from wages of union membership dues, thereby creating economic difficulties for the organization. It adds that while the deductions have been restored, the administration has done nothing with regard to the outstanding dues.

**185.** In this regard, the complainant alleges that from early April 1998 onwards, following the failure to implement the agreement and pay cuts, ASEMIL launched a series of national protests and sent letters to various authorities which led to continuous harassment of the union members and officials through the deployment of the military at workplaces from 1 April onwards. This took the form of verbal abuse of anyone participating in the protests, threats of disciplinary action against trade unionists for their legitimate union activities, the dissemination and display of defamatory statements regarding trade union activists and incitement of the general public to action against them, and the release of addresses of private residences and consulting centres to which only hospital authorities and the police have access. These acts were particularly serious in Cartagena.

**186.** Specifically, ASEMIL states that on 20 and 21 May a nationwide protest took place with a particularly large turnout at the Naval Hospital at Cartagena and at the Central Military Hospital in Bogotá. The Government immediately deployed military personnel at these centres, deploying armed soldiers at facilities including operating theatres; demonstrating workers were physically assaulted, tear gas was used indiscriminately, causing harm to hospital patients as well as demonstrators. ASEMIL emphasizes that the stoppage did not affect essential services and was confined to purely administrative activities and elective care which in no case affected the lives or safety of patients.

**187.** According to the complainant, the Director of the Central Military Hospital petitioned the Ministry of Labour to declare illegal what it called the "stoppage or cessation of activities", requested authorization to dismiss any workers who had participated in the stoppage, and sought the removal of the trade union privileges which protected some individuals and the freedom to remove all workers who persisted in the stoppage for whatever reason. Similar requests were made by the Cartagena Naval Hospital.

**188.** ASEMIL states that the Ministry of Labour and Social Security, through resolutions Nos. 1293 and 1320 of 1998, declared the stoppages at the Central Military Hospital and the Cartagena Naval Hospital to be illegal, but rejected the other claims made

by the applicants, i.e. the dismissals were not authorized. According to the complainant, the resolutions declaring the stoppages to be illegal were issued without any guarantee of due process and disregarded the evidence of inspectors' reports indicating that emergency services, cardiology, oncology and other areas were not affected and essential services were maintained. They also disregarded the fact that in certain areas the army prevented workers from entering the premises.

**189.** The complainant adds that during the trade union actions of 20 and 21 May and those during subsequent days and weeks, other serious violations occurred. These are summarized as follows: (i) military occupation of workplaces by armed soldiers whose presence disturbed patients and disrupted the work of essential service staff; (ii) placards referring to the protest (inside the Central Military Hospital) were destroyed in the early morning of 22 May by marines who verbally and physically attacked some of the union's members; and (iii) there was harassment of trade unionists who remained in the encampment outside the Central Military Hospital compound and of trade unionists who organized protest marches inside. During the harassment actions, military police units made indiscriminate and reckless use of water cannons and tear gas not only against the trade unionists but also against visitors, causing harm to some of the patients. As a result of these actions the following union members were injured: Gloria Arias Arias; Angela Rocío Ramírez; José Noé Montenegro Sánchez; Ofelia González Pulido; Luz Mary Tusso Beltrán and Luz Castañeda Orjuela. Forty-two union members in all were injured and as a result 100 staff days were lost due to incapacity.

**190.** The complainant alleges that the union's entire executive board was dismissed and all the dismissed workers were denied access to the premises, the purpose of this action being to isolate them from union bases. (The complainant supplies the names and job titles of the union officials concerned).

**191.** Lastly, the complainant indicates that in dismissing the union officials and members, the Government violated Conventions Nos. 87 and 98 and that: (1) the dismissals of the ASEMIL members were based on the resolutions of illegality issued by the Ministry of Labour and Social Security; (2) at the Cartagena Naval Hospital more than 60 of the union's members were docked one month's pay, although according to the Ministry's resolution the stoppages lasted only two days; (3) at the Central Military Hospital, more than 200 union members were docked up to one week's wages which was not in compliance with the Ministry's resolution; (4) many of the workers whose wages were docked in this way went on working precisely because they were involved with essential services; and (5) these actions of interference, as well as other forms of pressure and threats, led to many resignations from the union.

**192.** In its communication of 16 April 1999, ASEMIL alleges that the Ministry of Defence is still refusing to discuss the demands of the more than 1,000 people employed in the country's 144 dispensaries who are represented by ASEMIL, arguing that it is not obliged to do so because the employees concerned are public employees; in doing so, it is disregarding ILO Convention No. 98 and Act No. 411 of 1997 approving Convention No. 151, which expressly gives such workers the right of negotiation.

**193.** As regards the dismissal of 14 members of the union's national executive and the Cartagena branch executive, ASEMIL states that although the Constitutional Court reviewed three of the 14 actions for protection (*tutela*) brought by the union and ruled in favour of the workers by ordering their immediate reinstatement, the Ministry of Defence and the Director of the Central Military Hospital have refused to consider reinstating the other union officials, thereby adding violation of the fundamental right of equality to the many other abuses that have occurred.

**194.** The complainant also alleges that it has been declared a “military object” by armed groups and that, thus far, there has been no effective response to the grave threats that have been made. ASEMIL adds that on 22 February last, an attempt was made on the life of Dr. María Clara Baquero, President of ASODEFENSA (an industry trade union organization in the Ministry of Defence), who was wounded in the attack. (This allegation is examined in the context of another allegation against the Government of Colombia, in Case No. 1787).

#### B. THE GOVERNMENT’S REPLY

**195.** In its communication of 15 September 1999, the Government states that the Ministry of Labour and Social Security, through resolution No. 000076 of 22 January 1999, reserved judgement on the alleged violation of section 400 of the Substantive Labour Code (concerning deductions of trade union dues), leaving it to the parties concerned to seek a resolution through the ordinary courts. In accordance with the decision (*auto*) of 26 July of this year, the ruling became enforceable to the extent to which the trade union privileges argued come under the exclusive jurisdiction of the ordinary courts.

**196.** Resolution No. 000076 of 22 January 1999 contains the following provisions regarding trade union membership dues: (a) the Ministry reserves judgement on the allegations made by ASEMIL against the Ministry of Defence (Health Service of the Armed Forces and Central Military Hospital); following the closure of the National Institute of Health it was not possible to determine if its obligations were passed on to the armed forces’ health service, given that the reforms of ASEMIL statutes was notified in March 1998; (b) the resolution stated that the bodies in question did not violate the right of association by requiring that their regulations be observed by ASEMIL officials in order to enter the premises; on 25 February of this year, this ruling became enforceable; (c) as regards the non-implementation of the pay review, this was communicated to the Central Hospital which maintains that the review has been implemented but that it has not been possible to include the support and general service workers whose jobs cannot be covered by Decree No. 194 of 30 January 1997; and (d) in the face of the alleged refusal to negotiate, through resolution No. 2942 of 21 December 1998, it was stated that there was no such refusal. The decision became definitive through resolution No. 001011 of 10 May 1999.

**197.** In conclusion, the Government maintains that all the issues raised by the complainant have been resolved in accordance with Colombian labour laws and regulations, with the exception of the matter of the wage review which is still pending. The next report should confine itself to that question, in the absence of convincing reasons not to do so.

#### C. THE COMMITTEE’S CONCLUSIONS

**198.** *The Committee notes that in the present case the complainant alleges that from April 1998 onwards, it launched a series of national protest actions following non-implementation of an agreement and pay cuts, which in turn resulted in continuous harassment of trade union members and officials. Specifically, the complainant alleges that: (1) the Ministry of Defence failed to implement an agreement signed with ASEMIL on 7 May 1997 containing provisions relating to employment stability, prohibition of reprisals, wages, etc.; (2) the Ministry of Defence challenged the new statutes of ASEMIL (the complainant states that the Ministry of Labour dismissed the challenge); (3) deductions from wages of union membership dues were temporarily stopped; (4) workplaces at the*

Cartagena Naval Hospital and the Central Military Hospital in Bogotá were occupied by the military during the days of national protest (20 and 21 May 1998); (5) placards referring to the protest movement were destroyed at the Central Military Hospital in Bogotá and trade unionists were assaulted with the result that 42 of them were injured (the complainant supplies the names of six of these workers and gives details of the injuries and resulting loss of production capacity); (6) members of the union's executive board were dismissed (the complainant supplies the names and job titles of 14 of these) following the ruling that the stoppages in the Central Military Hospital and the Cartagena Naval Hospital were illegal (the Constitutional Court ordered the reinstatement of three of the dismissed workers); (7) more than 60 union members at the Cartagena Naval Hospital were docked one month's wages and 200 members at the Central Military Hospital were docked one week's wages, although the stoppages lasted only two days; and (8) the Ministry of Defence refused to discuss the demands of more than 1,000 dispensary workers.

199. As regards the allegation regarding the temporary suspension of trade union membership dues, the Committee notes that according to the Government, the Ministry of Labour and Social Security issued a resolution reserving judgement on the alleged violation of section 400 of the Substantive Labour Code (concerning deduction of union membership dues), given that, following the closure of the National Institute of Health, it was not possible to determine whether its obligations were passed on to the armed forces' health service, and that it would leave it to the parties concerned to apply to the courts for a ruling. In this regard, the Committee notes that the deductions of union membership dues for the complainant organization have been restored and requests the Government to take measures to ensure that in future the employer does not decide unilaterally to suspend deductions of union membership dues of ASEMIL members.

200. Lastly, the Government refers to a ministerial resolution in which it denies that there was any refusal to negotiate. In this context, the Committee deplores that the Government has not communicated its observations concerning the other allegations presented and any information which it has supplied has been insufficiently detailed (for example, it does not provide a copy of the text of the resolutions mentioned in its replies, nor does it indicate to which specific allegation each reply refers). Under these circumstances, the Committee requests the Government to send without delay its observations on all the pending allegations.

#### THE COMMITTEE'S RECOMMENDATIONS

201. In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:

- (a) The Committee requests the Government to take measures to ensure that in future the employer does not decide unilaterally to suspend deductions of trade union membership dues of ASEMIL members.
- (b) Deploping that the Government has not communicated its observations on a certain number of allegations, the Committee requests the Government to send without delay its observations on all the pending allegations.

**III. Complaint concerning the non-observance by Colombia of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), made by delegates to the 86th (1998) Session of the Conference under article 2 of the Constitution of the ILO**

A. INTRODUCTION

**202.** During the 86th Session of the Conference, the Director-General of the ILO received a letter dated 17 June 1998, signed by Mr. W. Brett, Workers' delegate from the United Kingdom and Chairman of the Workers' group, in his own name and in the name of the following Workers' delegates: Mr. C. Agyei (Ghana), Mr. A. Alvis Fernández (Colombia), Mr. K. Ahmed (Pakistan), Mr. L. Basnet (Nepal), Mr. M. Blondel (France), Mr. U. Edström (Sweden), Ms. U. Engelen-Kefer (Germany), Mr. R. Falbr (Czech Republic), Mr. S. Ito (Japan), Mr. Y. Kara (Israel), Mr. I. Mayaki (Niger), Mr. J. Miranda de Oliveira (Brazil), Mr. P. Mpangala (United Republic of Tanzania), Ms. P. O'Donovan (Ireland), Mr. J.C. Parrot (Canada), Mr. W. Peirens (Belgium), Mr. F. Ramírez León (Venezuela), Mr. Z. Rampak (Malaysia), Mr. I. Sahbani (Tunisia), Mr. A. Sánchez Madariaga (Mexico), Mr. M. Shmakov (Russian Federation), Mr. G. Sibanda (Zimbabwe), Mr. L. Trotman (Barbados), Mr. T. Wojcik (Poland) and Mr. J. Zellhoefer (United States), presenting a complaint under article 26 of the Constitution, to the effect that the Government of Colombia had failed to adopt measures to ensure the satisfactory implementation of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). The text of this communication and its appendices are appended. The Director-General informed the Governing Body, during its 272nd Session, that he had received the complaint.

**203.** Article 26 of the ILO Constitution provides as follows:

1. Any of the Members shall have the right to file a complaint with the International Labour Office if it is not satisfied that any other Member is securing the effective observance of any Convention which both have ratified in accordance with the foregoing articles.

2. The Governing Body may, if it thinks fit, before referring such a complaint to a Commission of Inquiry, as hereinafter provided for, communicate with the government in question in the manner described in article 24.

3. If the Governing Body does not think it necessary to communicate the complaint to the government in question, or if, when it has made such communication, no statement in reply has been received within a reasonable time which the Governing Body considers to be satisfactory, the Governing Body may appoint a Commission of Inquiry to consider the complaint and to report thereon.

4. The Governing Body may adopt the same procedure either of its own motion or on receipt of a complaint from a delegate to the Conference.

5. When any matter arising out of articles 25 or 26 is being considered by the Governing Body, the government in question shall, if not already represented thereon, be entitled to send a representative to take part in the proceedings of the Governing Body while the matter is under consideration. Adequate notice of the date on which the matter will be considered shall be given to the government in question.

**204.** The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), were ratified by Colombia on 16 November 1976 and thus have been in force for

that country since 16 November 1977. All the authors of the complaint were Workers' delegates of their respective countries to the 86th Session of the Conference on the date of filing the complaint. They accordingly had the right to file a complaint, under article 26, paragraph 4, of the Constitution, if they were not satisfied that Colombia was securing the effective observance of these Conventions.

**205.** The authors of the complaint requested that it be referred to a commission of inquiry, as provided for in article 26, paragraph 3, of the Constitution. It is for the Governing Body to decide on this request.

**B. TEXT OF THE COMPLAINT UNDER ARTICLE 26 OF THE CONSTITUTION  
OF THE ILO**

**206.** The text of the complaint and of the corresponding appendices is reproduced below.

Mr. M. Hansenne,  
Secretary-General,  
86th Session of the  
International Labour Conference.

Geneva, 17 June 1998

Dear Mr. Hansenne,

I have been authorized by the following Workers' delegates to the 86th Session of the International Labour Conference to submit, on their behalf, a complaint under article 26.4 of the Constitution against the Government of Colombia for non-observance of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), both of which have been ratified by Colombia:

Mr. C. Agyei,	Workers' delegate from Ghana
Mr. A. Alvis Fernández,	Workers' delegate from Colombia
Mr. K. Ahmed,	Workers' delegate from Pakistan
Mr. L. Basnet,	Workers' delegate from Nepal
Mr. M. Blondel,	Workers' delegate from France
Mr. W. Brett,	Workers' delegate from the United Kingdom
Mr. U. Edström,	Workers' delegate from Sweden
Mrs. U. Engelen-Kefer,	Workers' delegate from Germany
Mr. R. Falbr,	Workers' delegate from the Czech Republic
Mr. S. Ito,	Workers' delegate from Japan
Mr. Y. Kara,	Workers' delegate from Israel
Mr. I. Mayaki,	Workers' delegate from Niger
Mr. J. Miranda de Oliveira,	Workers' delegate from Brazil
Mr. P. Mpangala,	Workers' delegate from the United Republic of Tanzania
Ms. P. O'Donovan,	Workers' delegate from Ireland
Mr. J.C. Parrot,	Workers' delegate from Canada
Mr. W. Peirens,	Workers' delegate from Belgium
Mr. F. Ramírez León,	Workers' delegate from Venezuela

Mr. Z. Rampak,	Workers' delegate from Malaysia
Mr. I. Sahbani,	Workers' delegate from Tunisia
Mr. A. Sánchez Madariaga,	Workers' delegate from Mexico
Mr. M. Shmakov,	Workers' delegate from the Russian Federation
Mr. G. Sibanda,	Workers' delegate from Zimbabwe
Mr. L. Trotman,	Workers' delegate from Barbados
Mr. T. Wojcik,	Workers' delegate from Poland
Mr. J. Zellhoefer,	Workers' delegate from the United States.

The substantive part of the complaint is contained in the appended documents and the authors reserve the right to submit additional information in accordance with the established procedures.

Yours sincerely,

W. Brett,  
Chairman of the Workers' group,  
86th Session of the  
International Labour Conference.

Director-General  
of the International Labour Office,  
Geneva.

Geneva, 12 June 1998

Dear Sir,

The undersigned Workers' delegates to the 86th Session of the International Labour Conference file a complaint under article 26 of the Constitution against the Government of Colombia for its failure to adopt appropriate measures for the satisfactory observance of Conventions No. 87 (on freedom of association and the right to organize) of 1948 and No. 98 (on the right to organize and collective bargaining) of 1949.

Colombia has been a Member of the ILO since 1919 and, as such, has been bound to comply with the Constitution of the Organization since that time. It has also been party to Conventions Nos. 87 and 98 since their ratification in 1976.

The facts underlying the complaint are as follows:

*FIRST: In regard to ILO Convention No. 87 on freedom of association  
and protection of the right to organize*

*Cases reported to the Committee on Freedom of Association*

Since 1988, the Committee on Freedom of Association has been informed of 26 cases of violation of this instrument. Some of these cases also involve violations of Convention No. 98.

The violations of freedom of association reported to the Committee include numerous cases of violence endangering the lives and physical integrity of union members and against their freedom and right not to be transferred.