

General allegation

101st session (4–13 November 2013)

Colombia

33. The Working Group received information from reliable sources on obstacles encountered in the implementation in Colombia of the Declaration on the Protection of All Persons from Enforced Disappearance.

34. According to information provided by the source, enforced disappearances continue to occur in Colombia in large numbers. According to figures from the National Institute of Legal Medicine and Forensic Sciences, as at 31 August 2012, the total number of missing persons had reached 74,361, of whom 18,638 were victims of enforced disappearance.

35. Between 7 August 2010 and 31 August 2012, 486 cases of alleged enforced disappearance were reported. In those cases, 40 people were found dead and 68 were found alive. The fate and whereabouts of 378 victims remain unknown. Of the total number of persons reported as disappeared, 104 are women (25 per cent), 382 are men (57 per cent) and 73 are children (18 per cent), of whom 33 are girls and 40 are boys.

36. The source indicates that, although the figures are alarming, the total number of enforced disappearance for that period could be even greater, since the various State databases have not been fully centralized. In that respect, the source notes, for example, that 7,000 allegations of enforced disappearances received under the Justice and Peace Law (Law No. 975/05) reportedly remain excluded from the National Registry of Disappeared Persons.

37. The Working Group was also informed that a number of human rights defenders had been victims of enforced disappearance in recent years. In that regard, it was indicated that in 2011 six human rights defenders were victims of enforced disappearance. The source mentions as an example the enforced disappearance of the environmentalist Miguel Ángel Pabón Pabón on 31 October 2012 in Magdalena Medio. Mr. Pabón was part of the Movimiento Colombiano en Defensa de los Territorios y de los Afectados por Represas “Ríos Vivos” (Colombian Movement for Defence of Territories and People Affected by the “Ríos Vivos” Dams). It was noted that there was a military base and paramilitary groups were present in the area where the disappearance occurred. Another example provided by the source is the disappearance of the land restitution leader Manuel Ruiz, along with his 15-year-old son, on 23 March 2013. Their bodies were found by the community five days later. Manuel Ruiz and his son had been detained by police just before they were disappeared by suspected paramilitary members.

38. Furthermore, it is reported that the National Search Plan does not have the legal strength or the necessary effectiveness to carry out its function. In that regard, while progress has reportedly been made with respect to the right to information and participation of victims of enforced disappearance, through Law 1408/2010, the regulatory decree for that law has not been issued yet. Also, the searches for disappeared persons that have been conducted have not yielded the expected results.

39. Additionally, it is alleged that in the vast majority of cases, the perpetrators of enforced disappearances remain unpunished. It is indicated that there are serious shortcomings in the implementation of the Justice and Peace Law and that Government ordinances and resolutions of the Office of the Prosecutor would, in practice, further undercut victims’ rights, contrary to what was established in the 2006 ruling of Constitutional Court C–370. For example, resolutions 3398 of 2006 and 0387 of 2007 of the Attorney General’s Office, and Decree 315 of 2007, limit the participation of victims in the proceedings envisaged under the Justice and Peace Law.

40. Moreover, Law 1448 of 10 June 2011, known as the law for victims, despite being a step forward in relation to the protection of the rights of disappeared persons and their families, excludes “members of illegal armed groups” from its definition of victim. This means that, for instance, members of guerrilla groups (whether actual or perceived) who were victims of enforced disappearance would not be considered as such, and that their families would be deprived of the right to reparation and to the truth. The source also alleges that the so-called Legal Framework for Peace contains several provisions contrary to the right to justice for families.

41. Furthermore, the source indicates that members of organizations of relatives of the disappeared have allegedly constantly been threatened and been the victims of attacks. In that regard, it is noted that, on 24 January 2013, Martha Elena Díaz Ospina, founder and President of the Association of Families United by a Single Sorrow (AFUSODO), an organization that supports mothers of victims of enforced disappearances at the hands of the military, and a member of the Atlantic branch of the National Movement for Victims of State Crimes, received a death threat signed by the paramilitary group Los Rastrojos. Between July and September 2012, a number of threats against the Association of Relatives of the Disappeared (ASFADDES) and its members were reported; incidents of surveillance and photo-taking directed at the organization were also reported. The source also reported that the Nydia Erika Bautista Foundation for Human Rights (FNEB) and its directors had allegedly been the subject of repeated illegal intelligence operations. For example, in late November 2012, FNEB reported the monitoring and surveillance of the Foundation by a police officer, as well as by an individual travelling in an official vehicle. Despite having been documented and reported, those incidents have allegedly not been investigated. The source emphasizes that FNEB has been under State protection since mid-2011.