



# chapter

# V

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Follow-up of Recommendations  
issued by the IACHR in its  
Country or Thematic Reports

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**Colombia**

## CHAPTER V

### FOLLOW-UP OF RECOMMENDATIONS ISSUED BY THE IACHR IN ITS COUNTRY OR THEMATIC REPORTS

#### FOLLOW-UP TO RECOMMENDATIONS MADE BY THE IACHR IN ITS REPORT TRUTH, JUSTICE, AND REPARATION: SIXTH REPORT ON THE HUMAN RIGHTS SITUATION IN COLOMBIA

##### I. INTRODUCTION

1. The main objective of this report is to follow up on the recommendations made in the report Truth, Justice, and Reparation: Fourth Report on the Situation of Human Rights in Colombia (hereinafter “Truth, Justice, and Reparation” or “the Report of the IACHR”) adopted by the Inter-American Commission on Human Rights (hereinafter “the IACHR” or “the Commission”) on December 31, 2013, as a product of the IACHR’s *in loco* visit to Colombia in December 2012. In this framework, the IACHR also began following up on implementation of the Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace between the government and the Fuerzas Revolucionarias Armadas de Colombia (FARC) in November 2016 (hereinafter the “Peace Agreement”). This section will focus on the implementation of point 6.2 of the Peace Agreement entitled Ethnic Chapter.

2. The Commission has followed up on compliance with the recommendations contained in its report Truth, Justice, and Reparation in Chapter V of its annual reports from 2014 to 2020. In the past last four years, the Commission has also taken into account the efforts made by the State after the signing of the Peace Agreement, in the understanding that implementation of the agreement goes hand in hand with the Colombian State’s fulfillment of its international human rights obligations and with compliance with the recommendations made by the IACHR in its Truth, Justice, and Reparation Report. The Commission also reiterates its conviction that the consolidation of peace is an essential requirement for the respect, guarantee, and effective enjoyment of human rights and full validity of the rule of law. In this understanding, the IACHR reiterates its commitment to achieving peace in Colombia. Thus, through this report and other mechanisms available to it, it offers the State and Colombian society as a whole its cooperation in that effort, which will take years to complete.

3. The Commission notes that during 2021, Colombia continued to experience a series of human rights challenges, highlighting issues related to citizen security and the increase in forced displacement, confinement, and violations. In this regard, the IACHR observes the concentration of violence in certain of the country’s territories characterized by a limited presence of the State, which results in the lack of provision of basic services in the areas of health, education, justice, etc. The violence has a particular impact on groups that have historically and structurally suffered violations of their rights, such as indigenous peoples, persons of African descent, campesinos, LGBTI persons, women, children, and adolescents. An indicator of this situation is the 66 massacres documented by the Office of the United Nations High Commissioner for Human Rights (OHCHR) during 2020, a figure that could increase once verification procedures for other incidents under review are completed. The IACHR also reiterates its special concern over the situation of violence faced by human rights defenders and social leaders in the country. Lastly, since the signing of the Peace Agreement, the UN Verification Mission in Colombia has documented the murder of 248 ex-combatants who signed it—73 of them during 2020—along with 55 attempted murders and 20 disappearances.

4. On December 15, 2021, the Commission advised the State that it proposed to publish a follow-up report on the recommendations contained in the Truth, Justice, and Reparation report, in which it had decided to emphasize the recommendations that are the main focus of this report. Accordingly, it asked the State for information on compliance with those recommendations, without prejudice to continuing to follow up on the implementation of all the recommendations contained in the Truth, Justice and Reparation report. On that same date, the IACHR asked the Office of the Ombudsperson of Colombia for information in the same terms and informed Colombian civil society organizations about the preparation of this report to follow up on the recommendations and asked for them to submit any information on compliance in their area of expertise that they considered relevant.

5. The State submitted its response on January 15, 2022. Additionally, the Colombian Office of the Ombudsperson sent information regarding the recommendations considered by the IACHR in this report on January 14, 2022. The Commission appreciates and thanks the State for the information received, which, where applicable, was included in this report. IACHR would also like to thank civil society organizations for the information they provided.

6. In drafting this report, the Commission has also taken into account the information collected during its monitoring of the country's overall human rights situation; information received during public hearings; the reports issued every six months by the Mission to Support the Peace Process of the OAS (MAPP/OAS); input from the precautionary measures mechanism; and the requests for information made under Article 41 of the American Convention on Human Rights (hereinafter the "American Convention"); the information produced by the different United Nations agencies; the information available from other public sources, and the decisions and recommendations of specialized international agencies, among other sources.

7. On March 18, 2022, the Commission sent the State a copy of the preliminary draft of this report, in keeping with Article 59(10) of its Rules of Procedure, and asked the State to submit its observations. On April 13, 2022, the Commission received the observations and comments of the State, the pertinent parts of which were added to this version. The full document is attached to this report.<sup>1</sup> The final report was approved by the Commission on May 2, 2022.

8. This report is divided into four sections: (I) introduction, (II) Implementation Process of the Peace Agreement, (III) Follow-up on Recommendations, and (IV) Conclusions. Section III is focused on the current situation with regard to the Commission's recommendations and the measures taken by the State to comply with them. The section is divided thematically into eight parts, where the State's main progress and challenges as far as compliance are analyzed. The final part, on the situation of especially vulnerable groups, is itself divided into eight parts. Lastly, in Section IV, the Commission presents its conclusions and reiterates the importance that the Colombian State implements fully the recommendations contained in its report.

## II. PROCESS TO IMPLEMENT THE PEACE AGREEMENT

9. The Inter-American Commission on Human Rights reaffirms that consolidating the peace is essential for the free exercise and full respect of the human rights of the Colombian population and, in particular, of the ethnic groups<sup>2</sup> of this country, which have faced a differentiated impact from the internal armed conflict.<sup>3</sup> Therefore, the IACHR has devoted significant efforts to monitoring the comprehensive implementation of the Peace Agreement within the framework of Article 41 of the American Convention on

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<sup>1</sup> Republic of Colombia, [Additional information to MPC/OEA Note 238/2019 of March 15, 2019](#).

<sup>2</sup> The IACHR considers the following to be ethnic groups: indigenous peoples and tribal communities, including black, Afro-Colombian, Raizal and Palenquera communities, as well as the Gypsy or Roma people.

<sup>3</sup> IACHR, Press Release 185/20, [IACHR Asks Colombia to Step Up its Efforts to Comprehensively Implement the Final Peace Agreement](#), July 31, 2020.

Human Rights.<sup>4</sup> In this regard, it recognizes the progress made and particularly highlights the creation by the Congress of the Republic of 16 temporary special peace districts for the victims of the armed conflict, in line with what has been established by the Constitutional Court, the Council of State, and in the Peace Agreement.

10. However, the IACHR notes that the components of the Peace Agreement have been implemented inconsistently, particularly those directly related to structural issues and violations of ESCER, such as Comprehensive Rural Reform, Political Participation, Solution to the Illegal Drug Problem, and the Ethnic Chapter. Regarding this, the Kroc Institute for International Peace Studies of the University of Notre Dame, which was invited by the signatory parties to conduct technical supervision and verification and evaluate implementation, highlighted that of the 578 provisions that make up the Peace Agreement, as of September 2021, 278 had reached intermediate or complete implementation, while for the remaining 300, implementation was minimal or had not begun. It likewise notes that the greatest progress toward implementing the Agreement, with completion or intermediate implementation at 70%, has been on the Ending the Conflict points and the Mechanisms for Implementation, Verification, and Endorsement, with the particularity that a good portion of these provisions were achieved in the first year of the Agreement.<sup>5</sup>

11. On the other hand, the commitments with the lowest rates of implementation are the provisions included in the Comprehensive Rural Reform, with 82% of the actions not started or minimally implemented, and 18% at full or intermediate execution. For actions related to Political Participation, 72% have not been started or execution is minimal, while 28% of actions have been completed or reached intermediate implementation. Additionally, approximately half of the measures included under the Solution to the Problem of Illegal Drugs and measures for the Reparation of Victims are at intermediate or full implementation, with the same percentage at minimum development or not started.<sup>6</sup>

12. The Commission also took note of the Third Progress Report to Congress on Implementation of the 2019-2021 Peace Agreement, published by the Office of the Attorney General of the Nation. The report notes that the worsening security situation in the country remains one of the greatest challenges and obstacles to implementation of the Peace Agreement. This is expressed in the increase in incidents of mass forced displacement, confinement, and other human rights violations, including violence against social leaders and human rights defenders and those undergoing the reincorporation process and their families.<sup>7</sup>

13. This diagnosis was also confirmed by the United Nations Office of the High Commissioner for Human Rights in Colombia, which noted there have been approximately 500 homicides of human rights defenders and social leaders in the country since the Peace Agreement was signed.<sup>8</sup> This violence has had a particular impact on human rights defenders and leaders belonging to populations that have suffered the historical and structural violation of their rights, such as indigenous peoples and Afro-descendant and campesino communities.

14. The IACHR observes that this violence is concentrated in departments of the Pacific region and in the Department of Antioquia, in areas characterized by a limited presence of the State, where illegal armed groups compete for dominance and control over the various illegal economies (drug trafficking, illegal

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<sup>4</sup> IACHR, Press Release 185/20, [IACHR Asks Colombia to Step Up its Efforts to Comprehensively Implement the Final Peace Agreement](#), July 31, 2020.

<sup>5</sup> Kroc Institute, Informe trimestral, estado efectivo de la implementación del Acuerdo de Paz, September 2021, pg. 7.

<sup>6</sup> Kroc Institute, Informe trimestral, estado efectivo de la implementación del Acuerdo de Paz, September 2021, pg. 7.

<sup>7</sup> Office of the Attorney General of the Nation, [Third Progress Report to Congress on Implementation of the Peace Agreement](#), August 2021,

<sup>8</sup> United Nations Office of the High Commissioner for Human Rights, [Homicidios de defensoras y defensores](#), October 31, 2021; [Left Undefended. Killings of Rights Defenders in Colombia's Remote Communities](#), February 10, 2021.

mining, land grabs, among others).<sup>9</sup> These areas—especially in the Pacific region, inhabited to a large extent by indigenous peoples and persons of African descent—also see high rates of violations of the economic, social, cultural and environmental rights (hereinafter ESCER) of their inhabitants. For example, 64.6% of those living in the Chocó region live below the poverty line, with that figure standing at 55.6% of the population in Cauca.<sup>10</sup> Poverty levels are particularly high in the capitals of these departments: In Quibdó, 66% live below the poverty line and 30% in extreme poverty, while in Popayán, those figures stand at 51% and 20%, respectively.<sup>11</sup>

15. In this regard, the IACHR notes that a fundamental point of the Peace Agreement is the practical and effective implementation of its Ethnic Chapter, as it represents the possibility of initiating a process to correct the effects of both the armed conflict and the historical and structural situations that violate the rights of indigenous and tribal peoples. In this sense, the Commission observes with concern that, of the provisions with an ethnic approach contained in the Peace Agreement, execution in 75% of them is minimal or not begun.<sup>12</sup>

16. In its monitoring work, during the months of February, March and April 2021, the Commission conducted a cycle of seven virtual regional meetings<sup>13</sup> (hereinafter "regional meetings"), with more than 70 ethnic organizations of indigenous peoples, Afro-descendants, raizales, and palenqueros.<sup>14</sup> The purpose of these meetings was to learn, from the perspective of the ethnic communities, the progress made and challenges remaining in implementing the Ethnic Chapter of the Peace Agreement.<sup>15</sup> Specifically, information was received on aspects related to the Comprehensive Rural Reform (*Reforma Rural Integral*, RRI); on participation and safeguards for the comprehensive implementation of the Peace Agreement; on protection and security

<sup>9</sup> IACHR, Press Release 251/20, [IACHR Expresses Concern over Increase in Violence in Colombia in Territories Where Illegal Armed Groups Are Operating](#), October 13, 2020.

<sup>10</sup> National Administrative Department of Statistics (DANE), [Monetary Poverty and Extreme Poverty](#), 2021.

<sup>11</sup> National Administrative Department of Statistics (DANE), [Monetary Poverty and Extreme Poverty, national monetary poverty annex](#), 2021

<sup>12</sup> Kroc Institute, Informe trimestral, estado efectivo de la implementación del Acuerdo de Paz, September 2021, pg. 8.

<sup>13</sup> The health circumstances resulting from the COVID-19 pandemic meant the meetings had to be held virtually. Five regional meetings were held with indigenous peoples (Amazon, Andean, Caribbean, Orinoquía, and Pacific); also, a national meeting was held with the Afro-Colombian people, along with a second national meeting with inter-ethnic participation.

<sup>14</sup> Asociación Zonal del Consejo de Autoridades Indígenas de Tradición Autóctona-AZCAIPA, Asociación de Autoridades Indígenas de la Pedrera Amazonas AIPEA, Asociación de Cabildos Uitoto del Alto Río Caquetá -ASCAINCA, Asociación de Cabildos Indígenas de San Vicente del Caguán ACISCA; Asociación de Pueblos Kichwa de la Amazonía Colombiana- APKAC, Asociación de Autoridades y Cabildos de los Pueblos Indígenas Murui, Muinane, Coreguaje y Nasa del Municipio de Leguízamo y Puerto Asís, Alto Resguardo Predio Putumayo-ACILAPP, Organización Zonal Indígena del Putumayo-OZIP, Asociación del Consejo Regional Indígena del Guainía, Asociaciones de Cabildos y Autoridades Tradicionales Indígenas La Junta Directiva de la Asociación de Autoridades Tradicionales Indígenas-ASOPAMURIMAJSA, Asociación de Autoridades Indígenas de Miraflores Guaviare-ASATRIMIG, Asociación de Autoridades Tradicionales Indígenas del Quererí-ASATIQ, Asociación de Capitanes Tradicionales Indígenas del Vaupés Alto Apaporis-ACTIVA, ABOKAR, Asociación de Consejos Comunitarios del Norte del Cauca-ACONC, Asociación de Mujeres Afrodescendientes del Norte del Cauca, Asociación Nomadesc, ASOM, CNOA, , COCOCAUCA, COCPDICON, Consejos Comunitarios de la Cordillera Nariño, CODHES, COMADRE AFRODES, Comisión Intereclesial de Justicia y Paz, CONPAZCOL, Consejo Comunitario Río Naya, Consejos Comunitarios del Bajo Atrato, Foro Interétnico Solidaridad Chocó, Instituto Internacional sobre Raza, Igualdad y Derechos Humanos, PCN, Recompas, Red de Consejos Comunitarios del Caribe, Red de Mujeres Afrocaribes, Red de Mujeres Kambiri, Red Investigadores Afrodescendientes de las Américas y Caribe, UOAFROC, Resguardo Indígena Nussipurru, Asociación de Autoridades Indígenas Ancestrales de bajo Atrato ASOAIABA, ACIVA, Organización Regional Indígena del Valle del Cauca ORIVAC, Costa del pacífico EPERARA SIAPIDARA, Asociación ACIESCA, ACIESNA, Consejo Regional Indígena del Vichada, Organización Regional Indígena del Casanare, Asociación de Autoridades Indígenas Sáliba de Orocué Casanare, Cabildo Mayor del resguardo Chaparral Barro Negro, ASCATIDAR, UNUMA, resguardo Indígena Santa Teresita del Tuparro, Wayuu Araurayú, Asociación de Autoridades Indígenas-Acuipia, Asociación de Autoridades Indígenas del Sur de la Guajira, Organización OWYBT, Conferencia Indígena Tayrona, Organización Ette Naaka, Organización Indígena Kankuama, Organización pueblo Yukpa, Organización Guanawindua, Asociación de Autoridades Indígenas Mokana, Asociación de Autoridades Indígenas Emberá del Alto San Jorge, Organización del Pueblo Zenú, Pueblo Bari (Asociación Natuiyibari), Consejo Regional Indígena de Caldas, Organización Indígena de Antioquia, CRIC, Pueblo Coconuco, Pueblo Misak, ACIN, AISO.

<sup>15</sup> The IACHR expresses its thanks to the following organizations for the support provided to the regional meetings process: Organización Nacional Indígena de Colombia (ONIC); Organización Nacional de los Pueblos Indígenas de la Amazonía Colombiana (OPIAC); Gobierno Mayor del Consejo Regional Indígena del Cauca (CRIC); Consejo Nacional de Paz Afrocolombiano (CONPA); and Instancia Especial de Alto Nivel de los Pueblos Étnicos (IANPE).

guarantees for outlying areas and ethnic groups; and, lastly, information regarding solving the illegal drug problem.

17. During the regional meetings, the representatives of the ethnic peoples emphasized that the Ethnic Chapter of the Peace Agreement contains a comprehensive and culturally appropriate institutional design of safeguards for the interpretation, implementation and verification of the Peace Agreement. Likewise, they noted that the Peace Agreement is a *corpus iuris* that reinforces and amplifies the standards for recognizing and protecting ethnic peoples as actors of peace and political subjects. However, the Commission was also informed of the structural challenges that persist in the comprehensive implementation of the Peace Agreement.

#### A. Comprehensive Rural Reform (RRI)

18. Regarding the point on Comprehensive Rural Reform (*Reforma Rural Integral*, RRI), the IACHR took note of the data from the 2014 Agricultural Census indicating that nearly 1.4 million campesino families—who produce 50% of the food consumed in the country—have access to 1.5 million hectares, equivalent to 4.8% of the productive land of Colombia. Meanwhile, 1% of the large-scale landowners own 42.6% of rural hectares.<sup>16</sup> The Commission observes that this inequity and the difficulties accessing land are central components of the social conflict facing the country.

19. In this framework, the IACHR highlights the creation of the Land Fund through Decree Law 902 of 2017<sup>17</sup>, and the ethnic land sub-fund created to guarantee access to land for these ethnic communities, as indicated by the Constitutional Court in its judgment C-073 of 2018.<sup>18</sup> Similarly, it underscores the adoption of the "Operational Guide for the implementation of community initiatives with a differential ethnic approach, associated with the land legalization component" by the National Land Agency (*Agencia Nacional de Tierras*, ANT).

20. At the same time, the Commission observes that as of June 2021, the ANT had reported 14,751 properties with an area of 1,385,066 hectares entered into the Land Fund, somewhat less than half of what was expected. Additionally, the Technical Secretariat of the International Verification Component has indicated that there is a "very low percentage" of properties that have the characteristics necessary to establish whether or not they can be subject to adjudication. In addition, it points out that execution outcomes for the other tools to promote access to land—such as subsidies and credits—have been minimal. At this rate, the Technical Secretariat of the International Verification Component affirms that, during the time period set for the Land Fund, only a fifth of the objectives outlined in its creation will be reached.<sup>19</sup>

21. Additionally, the Commission noted that the regulations for the ethnic sub-fund of the Land Fund have yet to be issued, and funding has not yet been allocated for its effective operation.<sup>20</sup> In addition to this, the ethnic organizations reported little progress in the procedures to formalize collective land ownership and said there were cases of titling presented as progress toward implementing the Peace Agreement despite the fact they took place prior to the signing of the agreement.<sup>21</sup> This information is corroborated by official data

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<sup>16</sup> Office of the Attorney General of the Nation, Third Progress Report to Congress on Implementation of the Peace Agreement, August 2021, pg. 14.

<sup>17</sup> Office of the President of the Republic, Decree Law 902 of 2017, May 29, 2017.

<sup>18</sup> Constitutional Court, Instruments to facilitate and guarantee implementation and legal development of the Final Agreement for the End of the Conflict and Construction of a Stable and Lasting Peace, Judgment C-073/18, July 12, 2018

<sup>19</sup> Technical Secretariat of the International Verification Component CINEP/PPP-CERAC, Décimo informe de verificación de la implementación del enfoque étnico en el Acuerdo Final de Paz en Colombia, October 2021, p. 3.

<sup>20</sup> Office of the Attorney General of the Nation, Third Progress Report to Congress on Implementation of the Peace Agreement, August 2021, pg. 620.

<sup>21</sup> Archive of the IACHR. Regional meetings with organizations of ethnic communities of Colombia, February 2021

from the Office of the Attorney General of the Nation, which indicates that "the area formalized via an administrative act of registration following the signing of the Peace Agreement, awarding uncultivated land to natural persons amounts to 40,263.9 hectares benefiting 7,003 families, not the 1,088,303.7 hectares reported by the ANT (National Land Agency). The difference of 1,048,039.8 hectares corresponds to processes initiated and completed prior to the signing of the Peace Agreement."<sup>22</sup>

22. The Office of the Comptroller General of the Nation, for its part, has been issuing reports noting the lack of progress in drafting and implementing the Plans for the Social Regulation of Rural Property.<sup>23</sup> Similarly, the Technical Secretariat of the International Verification Component has underscored the lack of progress on measures contributing to enhanced legal certainty for rural lands, including the Mass Formalization Plan, the creation of the Agrarian Jurisdiction, and the establishment of zones reserved for campesinos.<sup>24</sup> It has also emphasized the need to explain and provide more information on the applications to be included in the Registry of Dispossessed and Forcibly Abandoned Lands of the Land Restitution Unit that were rejected, as the high proportion of claimants in this situation may delegitimize this process.<sup>25</sup>

23. The Commission observes that "Point 1" of the Peace Agreement also proposed transforming the territories most affected by the armed conflict, by promoting social, economic, and productive development processes to close the human development gaps and reduce the myriad inequities found throughout the different regions of the country. In this sense, Decree 893 of 2017 established the Development Plans with a Territorial Approach (*Planes de Desarrollo con Enfoque Territorial*, PDET) as the main instrument for planning and implementing sector-specific plans and programs for the socioeconomic transformation of a territory within the framework of the RRI. The PDETs are implemented through the Action Plans for Regional Transformation (*Planes de Acción para la Transformación Regional*, PATR) and each plan has a Unified Roadmap (*Hoja de Ruta Única*, HRU). Both the PATRs and the HRUs must be drafted for each individual region in a participatory, broad, and pluralistic manner.<sup>26</sup>

24. In this regard, the Commission took note of the information provided by the State on the high rates of participation in the construction of the PATRs and the HRUs.<sup>27</sup> Additionally, in the regional meetings, the IACHR was informed by representatives of the ethnic peoples that these processes did not always comply with the procedures for prior, free, and informed consultation, especially recently, when participation has declined. Likewise, now two years since the approval of some of these plans, a significant proportion of the planned actions have not been executed, and the ethnic organizations report that they are not being prioritized in these processes. This was especially highlighted by the Amazonian indigenous peoples, who reported a delay in this process in the eastern Amazon (Guainía, Vaupés and Amazonas).<sup>28</sup> The IACHR has also noted that the communities of López de Micay, Timbiquí, Guapi, and the rural area of Buenaventura have suspended their

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<sup>22</sup>Office of the Attorney General of the Nation, [Informe sobre el estado de avance de la implementación de las estrategias de acceso a tierras y uso del suelo rural](#), January 7, 2021, pars. 38.

<sup>23</sup> Office of the Attorney General of the Nation, [Third Progress Report to Congress on Implementation of the Peace Agreement](#), August 2021, pg. 79.

<sup>24</sup> Technical Secretariat of the International Verification Component CINEP/PPP-CERAC, [Décimo informe de verificación de la implementación del enfoque étnico en el Acuerdo Final de Paz en Colombia](#), October 2021, p. 4.

<sup>25</sup> Technical Secretariat of the International Verification Component CINEP/PPP-CERAC, [Décimo informe de verificación de la implementación del enfoque étnico en el Acuerdo Final de Paz en Colombia](#), October 2021, p. 283.

<sup>26</sup> Pursuant to article 4 of [Decree 893 of 2017](#), these PARTs contain at least 10 elements, including territorial-, restorative-, ethnic-, and gender-differentiated approaches, along with a chapter on programs and projects, all of which guide execution in accordance with what was established in the Final Agreement, indicator goals, and accountability mechanisms, among other elements.

<sup>27</sup> Republic of Colombia, Ministry of Foreign Affairs, [Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021](#), January 2022, pgs. 75- 76, IACHR Archive.

<sup>28</sup> This information was received during multiple meetings held by the IACHR. IACHR archive.

participation in the Middle Pacific PDET process, demanding guarantees for their participation and effective progress in implementing the PATRs and HRUs for this subregion.<sup>29</sup>

25. For its part, the Technical Secretariat of the International Verification Component has indicated that, according to official information, 70% of the resources executed from the General Budget of the Nation in 2019, 2020, and 2021 earmarked for the municipalities with PDET correspond to traditional State social spending—investment that is necessary, but that according to the Technical Secretariat is not aimed at meeting the objectives of Point 1 of the Agreement.<sup>30</sup> In this same regard, the Office of the Attorney General indicated based on the information provided by the Territory Renewal Agency that the budget earmarked for implementing economic, social, and environmental reactivation activities in the areas prioritized by the PDET was equivalent to 2% of this program.<sup>31</sup>

26. Additionally, the Commission took note of the lack of a monitoring system to provide comprehensive information on progress and the challenges pending in PDET implementation.<sup>32</sup> In this context, the IACHR reiterates its concern about the harm to which ethnic groups are continually exposed from structural issues, such as access to land and formalizing ownership thereof, as well as the persistence of dynamics of violence in their territories, including situations of displacement and forced confinement. The Commission calls on the State to redouble its efforts toward comprehensively implementing point 1 of the Peace Agreement and consolidate the structural transformation processes in order to guarantee the rights of the country's indigenous peoples and communities of African descent.

## **B. Participation and Safeguards for Comprehensive Implementation of the Peace Agreement**

27. In terms of participation, the IACHR highlights the move by the Constitutional Court in its judgment SU150/21 of May 21, 2021,<sup>33</sup> to spur along the legislation creating the 16 Special Transitory Peace Districts, provided for in the Final Agreement, as approved by the Congress of the Republic and promulgated by the Presidency of the Republic.<sup>34</sup> The Commission highlights the creation of the Special Transitory Peace Districts, which are comprised administratively of the municipalities most affected by the armed conflict, and the election in each of these of a representative to the Chamber of Representatives for the periods 2022-2026 and 2026-2030.<sup>35</sup>

28. Additionally, the IACHR took note of civil society's observations on the decree establishing regulations for the election of these 16 seats, denouncing possible administrative restrictions on the presentation of candidacies by campesino organizations. For example, campesino organizations have to submit certificates issued by other entities that recognize their activities and seniority in them. In addition, indigenous

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<sup>29</sup> Centro de Investigación y Educación Popular (Cinep), Comunidades del Pacífico Medio suspenden su participación en el PDET y exigen avances efectivos, October 22, 2021.

<sup>30</sup> Technical Secretariat of the International Verification Component CINEP/PPP-CERAC, Décimo informe de verificación de la implementación del enfoque étnico en el Acuerdo Final de Paz en Colombia, October 2021, p. 60.

<sup>31</sup> Office of the Attorney General of the Nation, Third Progress Report to Congress on Implementation of the Peace Agreement, August 2021, pg. 30.

<sup>32</sup> Office of the Attorney General of the Nation, Third Progress Report to Congress on Implementation of the Peace Agreement, August 2021, pg. 74.

<sup>33</sup> Constitutional Court, Victims' right to representation before the Chamber of Representatives through the transitional peace constituencies, <https://www.corteconstitucional.gov.co/Relatoria/2021/SU150-21.htm> judgment SU150/21, May 21, 2021.

<sup>34</sup> Technical Secretariat of the International Verification Component CINEP/PPP-CERAC, Décimo informe de verificación de la implementación del Acuerdo Final de Paz en Colombia, October 2021, pg. 335.

<sup>35</sup> Congress of Colombia, Legislative Act No. 02 establishing 16 Transitory Peace Districts for the House of Representatives in the periods 2022-2026 and 2026-2030, August 25, 2021.



and Afro-Colombian organizations could only register people who come from reservations established and registered with the Ministry for Interior Affairs. Something similar is the case for the victims of the conflict, who have to re-register with the Unit for Victim Support and Reparations and request certification of candidates for the Special Transitory Peace Districts.<sup>36</sup>

29. Likewise, the Commission has noted another set of possible restrictions on participation in the election for these seats. Some are of a historical nature, such as the lack of coverage of polling stations because the current legislation only provides for the installation of tables for municipal districts and seats with an electoral census that exceeds 400 voters. Other restrictions have to do with campaign finance difficulties and equal access to the media.<sup>37</sup>

30. Additionally, the IACHR took note of the threats to the participation of Community Action Organizations, which have a particular impact on ethnic territories.<sup>38</sup>

31. As a crosscutting element of the implementation of the Peace Agreement and the development of public policies related to ethnic communities, the IACHR received documentation from civil society organizations on administrative and legislative measures aimed at regulating free and informed consultation and prior consent.<sup>39</sup> In this regard, the Commission learned of two initiatives promoted by the State: statutory bill 442 of 2020,<sup>40</sup> focused on establishing regulations for the fundamental right to prior consultation; and the draft decree<sup>41</sup> establishing guidelines for the exercise of the duty of prior consultation by authorities, especially as related to inter-agency coordination and relations with ethnic communities. In discussions held with the IACHR, various organizations reported that these initiatives had not been duly consulted with ethnic peoples.<sup>42</sup>

32. The organizations pointed out that the draft decree is a step backwards for the fundamental rights of ethnic communities, in the sense that the talks held between government institutions and ethnic groups in the framework of the prior consultation processes would be subject to peremptory terms amounting to a barrier to holding a reciprocal dialogue. Likewise, the time periods assigned are not appropriate to the particularities of these communities, nor do they guarantee a differential approach that should be a priority in this type of process. At the same time, the Commission received with concern information describing the exclusion of certain indigenous peoples and black communities, as well as instances of national coordination of ethnic communities.<sup>43</sup>

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<sup>36</sup> Dejusticia, [Las Circunscripciones de Paz: una carrera de obstáculos a contrarreloj](#), October 31, 2021.

<sup>37</sup> Misión de Observación Electoral (MOE), [Segundo Informe de análisis sobre el desarrollo de las elecciones de las circunscripciones especiales transitorias para la paz](#) – CTEP, September 2021.

<sup>38</sup> Mission to Support the Peace Process in Colombia of the Organization of American States (MAPP/OAS), [Twenty-first Report of the Secretary-General to the Permanent Counsel on the Mission to Support the Peace Process in Colombia of the Organization of American States \(MAPP/OAS\)](#), C-004/22, February 3, 2022.

<sup>39</sup> Documents sent to the IACHR, Consejo Regional Indígena del Cauca (CRIC), Urgent Request - Pronouncement of the Inter-American Commission on Human Rights in response to repeated administrative and legislative measures of the national and local governments aimed at regulating Prior Consultation and Prior, Free, and Informed Consent that systematically violate the fundamental rights of indigenous peoples and international standards, 2021 – 03003, March 30, 2021; Organización Nacional Indígena de Colombia (ONIC), Organización Nacional de los Pueblos Indígenas de la Amazonía Colombiana (OPIAC), Autoridades Indígenas de Colombia (AICO), Comisión Nacional de Territorios Indígenas (CNTI), Open letter in defense of the fundamental right to prior consultation and prior, free, and informed consent in Colombia, April 12, 2021.

<sup>40</sup> Chamber of Representatives. Whereby the fundamental right to prior consultation is regulated and other provisions are issued, July 22, 2021.

<sup>41</sup> Ministry for Internal Affairs. General aspects of procedures, phases, and stages of the fundamental right to prior consultation, 2021.

<sup>42</sup> This information was received during multiple meetings held by the IACHR. IACHR archive.

<sup>43</sup> Documents sent to the IACHR, Consejo Regional Indígena del Cauca (CRIC), Urgent Request - Pronouncement of the Inter-American Commission on Human Rights in response to repeated administrative and legislative measures of the national and local

33. The IACHR recalls the urgent need to adopt institutional policies to guarantee the full exercise of the right to free, prior and informed consultation and consent for Afro-descendant and indigenous communities in accordance with the principle of self-determination, guaranteeing their participation at all applicable stages, which entails respecting these populations' protocols when consulting them.<sup>44</sup> The Commission reiterates the obligation of the State of Colombia to consult indigenous and tribal peoples in a prior, free, and informed manner, deploying administrative and legislative initiatives to obtain their consent, in accordance with international standards on the subject.<sup>45</sup>

### C. Protection and Security Guarantees for Territories and Ethnic Groups

34. Regarding protection and security guarantees for territories and ethnic groups, the Commission has expressed concern at the persistence of historical structural<sup>46</sup> violence in the country, which especially affects social and community leaders of indigenous peoples and Afro-Colombian communities. According to information submitted by the Office of the United Nations High Commissioner for Human Rights (OACNUDH), of the 78 verified homicides, 17 victims belonged to ethnic groups in the country, and of the 39 cases undergoing verification, 10 victims belong to ethnic communities.<sup>47</sup> Additionally, the representatives of indigenous peoples and Afro-Colombian communities report a structural situation of harassment, intimidation, and threats against their leaders.<sup>48</sup>

35. In this context, the IACHR has observed with concern the increase in structural violence and its links to historical situations in Colombia. In view of these facts, the IACHR calls on the State to strengthen the practical and effective implementation of comprehensive strategies aimed at transforming the structural causes of violence in the country, especially those established in the Peace Agreement. In 2021, the National Police documented a 14% increase in people killed in the country compared to 2020.<sup>49</sup> Half of the homicides were concentrated in Cauca, Chocó, Nariño, Valle del Cauca, Antioquía, and Norte de Santander, departments that are characterized by a limited presence of the State and by the effects of the armed conflict<sup>50</sup>.

36. In these regions, incidents of violence are often connected to the actions of non-State armed groups and disproportionately affect campesinos, indigenous people, persons of African descent, and human rights defenders and social and/or community leaders. It should be noted that this violence also leads to other

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governments aimed at regulating Prior Consultation and Prior, Free, and Informed Consent that systematically violate the fundamental rights of indigenous peoples and international standards, 2021 – 03003, March 30, 2021; Organización Nacional Indígena de Colombia (ONIC), Organización Nacional de los Pueblos Indígenas de la Amazonía Colombiana (OPIAC), autoridades Indígenas de Colombia (AICO), Comisión Nacional de Territorios Indígenas (CNTI), Open letter in defense of the fundamental right to prior consultation and prior, free, and informed consent in Colombia, April 12, 2021.

<sup>44</sup> IACHR, Right to Self-determination of Indigenous and Tribal Peoples, OEA/Ser.L/V/II. Doc.413/21, 2021.

<sup>45</sup> IACHR, Right to Self-determination of Indigenous and Tribal Peoples, OEA/Ser.L/V/II. Doc.413/21, par. 176-191, 2021.

<sup>46</sup> The Inter-American Commission has referred to as "structural" those situations that are not isolated sporadic or episodic cases of violence, but rather systemic events that arise as a consequence of a historical, socioeconomic and cultural context. In this sense, situations of a structural nature have a quantitative component, reflected in statistics, a systemic component referring to the way in which decisions, practices and policies are adopted, and a symbolic component, observed in the historical continuity of situations that become cultural patterns of a society. Taking this into account, the IACHR considers that in cases where there are structural patterns or practices, a joint assessment of the proposed situation must be made of the historical, material, temporal and spatial circumstances surrounding the situation. In this regard, the reference "structural" has been used in connection with groups in situations of vulnerability and associated with the historical persistence of facts that feed the processes of discrimination and social stigmatization. In this regard, see Informe sobre la situación de los derechos humanos en la República Dominicana. OEA/Ser.L/V/II. Doc. 45/15. 31 diciembre 2015, párr 368 y 369; y el informe sobre La situación de las personas afrodescendientes en las Américas, OEA/Ser.L/V/II. Doc. 62. 5 diciembre 2011.

<sup>47</sup> OHCHR Colombia, Homicidios de personas defensoras de Derechos Humanos January 18, 2022.

<sup>48</sup> This information was received during multiple meetings held by the IACHR. IACHR archive.

<sup>49</sup> Constitutional Court of Colombia, Communication file T-7987084 (Presiding Magistrate Cristina Pardo), January 27, 2022.

<sup>50</sup> National Police of Colombia, 2021 Homicides Report, 2021.

serious human rights violations, including forced displacement, forced recruitment of children and adolescents, and others.<sup>51</sup>

37. Additionally, the Commission highlights the urgent need to move forward with the APM/UXO demining and clearance program in the territories of ethnic peoples and communities prioritized in “Point 6.2.3” of the Peace Agreement.<sup>52</sup> In this regard, the IACHR has documented the strategic use of explosive devices by non-State armed groups, especially in Chocó, Nariño, and the Catatumbo region (Norte de Santander).<sup>53</sup> According to Decontamina Colombia, as of November 30, 2021, 141 official and direct victims of APM/UXO had been reported, while the International Committee of the Red Cross (ICRC) had counted at least 378 victims of explosive devices (including APM/UXO and other explosives) as of October 2021.<sup>54</sup> Among these cases, the IACHR was informed of the death of María Lina Pedroza from an antipersonnel mine on October 15 while she was on her way to tend her subsistence crops, in Pueblo Embera La Divisa, Alto Baudó, Chocó. The planting of anti-personnel mines in this municipality had been reported by the Office of the Ombudsperson through warning 041/19<sup>55</sup> and warnings 016-21<sup>56</sup> and 020-21<sup>57</sup>, issued recently on areas contiguous to it, as well as in a press release on the humanitarian crisis in Chocó.<sup>58</sup> The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) also issued an alert on April 29, 2021, regarding the planting of antipersonnel mines in indigenous and Afro-Colombian community territories in this region.<sup>59</sup>

38. Faced with the persistence of historical structural violence in Colombia, taking the form of murders, massacres, attacks on life and personal integrity, accusations, confinement, and forced displacement, and the special impacts of this violence on ethnic communities, the IACHR calls on the State to develop a battery of actions, in coordination with the ethnic communities, to mitigate structural violence in the country.

#### D. Responses to the Problem of Illegal Drugs

39. Regarding the point on the Solution to the Problem of Illegal Drugs and the establishment of the Comprehensive National Substitution Program (*Programa Nacional Integral de Sustitución*, PNIS), in the regional meetings, the ethnic organizations expressed serious disagreements due to the fact that the safeguards contained in the Ethnic Chapter had not been respected, and because of the rate of replanting in ethnic territories.<sup>60</sup> On this point, the Attorney General's Office has indicated that although total area planted in the country has decreased from 154,000 hectares in 2019 to 143,000 as of December 31, 2020, there has been an

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<sup>51</sup> IACHR, Press Release 258/21, IACHR Expresses Concern Over the Notable Increase in Forced Internal Displacement in Colombia, September 30, 2021.

<sup>52</sup> (i) Embera people in the municipalities of Puerto Libertador (Córdoba) and Ituango (Antioquia); (ii) Jiw people in the municipality of San José del Guaviare (Guaviare); (iii) Nukak people in the department of Guaviare and in the municipalities of Mapiripán and Puerto Concordia (Meta) and Río Chagüí (Cauca); (iv) Awá people in the department of Nariño; and of the (v) Alto Mira and Frontera Community Councils, and Río Chagüí in Cauca, and in the municipality of Buenos Aires.

<sup>53</sup> Mission to Support the Peace Process in Colombia of the Organization of American States (MAPP/OAS), [Twenty-first Report of the Secretary-General to the Permanent Counsel on the Mission to Support the Peace Process in Colombia of the Organization of American States \(MAPP/OAS\)](#), C-004/22, February 3, 2022.

<sup>54</sup> United Nations Office for the Coordination of Humanitarian Affairs (OCHA), Colombia, [Colombia, impacto y tendencias humanitarias entre enero y noviembre de 2021](#), December 30, 2021

<sup>55</sup> Office of the Ombudsperson of Colombia, [Early warning 041/19](#) September 29, 2019

<sup>56</sup> Office of the Ombudsperson of Colombia, [Early warning 016/21](#) August 3, 2021

<sup>57</sup> Office of the Ombudsperson of Colombia, [Early warning 020/21](#) August 19, 2021

<sup>58</sup> Office of the Ombudsperson of Colombia, [Emergencia humanitaria en Chocó requiere intervención urgente](#) September 16, 2021

<sup>59</sup> United Nations Office for the Coordination of Humanitarian Affairs (OCHA), [Alerta por situación humanitaria. Confinamiento de 6 comunidades indígenas y una comunidad afrodescendiente en el Alto Baudó \(Chocó\)](#). April 20, 2021.

<sup>60</sup> This information was received during multiple meetings held by the IACHR. IACHR archive.

increase of crops in certain departments and in areas of National Natural Parks, as well as in reservations and lands of black communities and forest reserve areas.<sup>61</sup>

40. Likewise, during meetings with the IACHR, civil society organizations and ethnic groups said there were regular failures to make the payments associated with crop replacement and general PNIS execution. Similarly, they alleged that the State has tried to resume aerial spraying with glyphosate, violating the safeguards set forth in the Ethnic Chapter. This is also indicated in the follow-up report on PNIS implementation put together by the Observatorio de Restitución y Regulación de Derechos de Propiedad Agraria.<sup>62</sup> The report also indicated that the average income of the people interviewed, as well as that of the 400 enrolled in the program, decreased by approximately 50% between 2019 and 2021.<sup>63</sup>

41. In addition to this, the Observatorio de Restitución y Regulación de Derechos de Propiedad Agraria warned that the fact that people who voluntarily eradicated their illegal crops were concentrated in the lower income ranges is an indicator of the lack of other opportunities for securing resources in these regions, which further exposes the need for the comprehensive presence of the State in the form of productive projects and public infrastructure.<sup>64</sup>

42. Regarding funding implementation of Point 4 of the Peace Agreement, on the Solution to the Problem of Illegal Drugs, in its budget execution analysis, the Office of the Attorney General of the Nation indicated that “between the years 2020 and 2021, the budget allocated to this point decreased by 94%, from \$231.4 billion to \$14.1 billion. The pillar that largely explains this negative impact during the two years is pillar 4.1: PNIS, which declined from an allocation of \$230.4 billion to \$9.18 billion (-96%).”<sup>65</sup>

43. Additionally, the ethnic organizations denounced to the Commission the exposure of the leaders engaged in promoting PNIS execution and voluntary substitution of illegal crops to violent attacks by armed groups.<sup>66</sup> The Attorney General's Office confirmed the risks entailed in this activity, which is why it reiterated its recommendation to make the necessary adjustments to the PNIS, especially with regard to an enhanced territorial approach to implementation, with security guarantees.<sup>67</sup>

44. Additionally, the Office of the Attorney General indicated that despite the recently issued circulars and resolutions, the challenge of implementing their content in terms of inter-agency coordination, coverage of the most pressing issues, and monitoring of the operators contracted for PNIS implementation persists.<sup>68</sup> The United Nations Special Rapporteur on the situation of human rights defenders in Colombia expressed himself likewise, pointing out that social and community leaders—with or without positions in the Community Action Boards—ethnic leaders, and especially those promoting the policies set forth under the

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<sup>61</sup> Office of the Attorney General of the Nation, Third Progress Report to Congress on Implementation of the Peace Agreement, August 2021, pg. 331.

<sup>62</sup> This information was received during multiple meetings held by the IACHR. IACHR archive.

<sup>63</sup> Observatorio de Restitución y Regulación de Derechos de Propiedad Agraria, “La Paz con hambre y bala está muy difícil”. Follow-up report on PNIS implementation, December 2021, p. 35.

<sup>64</sup> Observatorio de Restitución y Regulación de Derechos de Propiedad Agraria, “La Paz con hambre y bala está muy difícil”. Follow-up report on PNIS implementation, December 2021, p. 36.

<sup>65</sup> Office of the Attorney General of the Nation, Third Progress Report to Congress on Implementation of the Peace Agreement, August 2021, pg. 333.

<sup>66</sup> This information was received during multiple meetings held by the IACHR. IACHR archive.

<sup>67</sup> Office of the Attorney General of the Nation, Third Progress Report to Congress on Implementation of the Peace Agreement, August 2021, pg. 339.

<sup>68</sup> Office of the Attorney General of the Nation, Third Progress Report to Congress on Implementation of the Peace Agreement, August 2021, pg. 339.

Peace Agreement, in regard to both agrarian reform, land claimants, and members of the PNIS, are uniquely exposed to the violence.<sup>69</sup>

45. The IACHR reiterates that illegal drugs within the territories of ethnic groups are a problem arising from the context of the limited presence of State institutions that has historically affected these peoples. In this regard, according to the notes in Orders 004 and 005 of 2009, as well as in Order 266 of 2017, issued by the Constitutional Court, these territories are apt for the expansion of these crops and associating ethnic groups with the illegal economies connected with this activity, leading to restrictions on these groups' use and enjoyment of the lands, territories, and natural resources.<sup>70</sup>

46. In this framework, the Commission calls on the State to redouble its efforts toward implementing the PNIS and territorial development plans in order to build economic alternatives that provide a solution to the problem of illegal crops and the structural violation of this population's economic rights. Similarly, the IACHR highlights the need to improve coordination between the different instruments of point 1 related to the Comprehensive Rural Reform and those related to solving the illegal drug problem in the Peace Agreement, with the aim of addressing the structural conditions that have favored the proliferation of illegal crops and groups in the areas most impacted by the violence, such as the ethnic territories.

47. The Commission also recalls the State's obligation to move forward with the implementation of these initiatives via prior, free, and informed consultation with ethnic peoples, in accordance with what was agreed upon for the indicators of the Implementation Framework Plan (PMI) and as derived from one of the safeguards of "Point 4" of the Peace Agreement. Toward this, supplemental agreements must be reached using a collective approach—that is, pacts established with the ethnic peoples as collective subjects, whether at the level of a particular people, reservation, community council, or organization, something that thus far has not been done and that compromises the cultural relevance of the progress reported by the State in this regard.

48. In this sense, the IACHR underscores the progress made toward implementing the Ethnic Chapter, particularly the importance of the creation of the Special High-Level Forum with Ethnic Peoples (IEANPE), together with the approval of budgetary resources for its operation and the Framework Plan for the Implementation of the Final Agreement.

### **III. FOLLOW-UP ON RECOMMENDATIONS**

#### **A. Life, Humane Treatment, and Personal Liberty**

##### **1. Rights to Life, Humane Treatment, and Personal Liberty**

- Adopt, as soon as possible, the measures necessary to prevent State agents from committing violations of human rights and international humanitarian law (IHL). Those measures should include: (a) a serious, impartial, and effective investigation into all cases that involve alleged violations of human rights and IHL, as well as of all those persons who have planned, ordered, and/or perpetrated such acts; and (b) intensive training in human rights law and IHL.
- Adopt the appropriate measures for the members of the security forces who are allegedly involved in cases of violations of human rights or IHL to be suspended from active duty until a final decision is issued in the disciplinary or criminal proceedings in such cases.
- Adopt, as soon as possible, the measures necessary to dismantle the Autodefensas who did not participate in the collective demobilizations from 2003 to 2006, and to dismantle the armed groups that emerged after the demobilization of the paramilitary organizations or that continue to pursue the same objectives. [In the

<sup>69</sup> United Nations, Human Rights Council. "[Report of the Special Rapporteur on the situation of human rights defenders.](#)" A/HRC/43/51/Add.1 December 26, 2019, para. 32

<sup>70</sup> Constitutional Court of Colombia, Order 266/17, grounds paragraph 24.1, June 12, 2017.

current context, specific information is also requested on the measures adopted to dismantle illegal armed groups and bring them to justice].

- Adopt the corresponding measures to ensure that extrajudicial executions are investigated in the competent jurisdiction, i.e. the regular jurisdiction. In addition, the Commission urges the State to give impetus to proceedings under way in cases of extrajudicial executions, and culminate them within a reasonable time, in keeping with the standards of due diligence in investigations.

49. With respect to adopting, as soon as possible, the measures necessary to prevent State agents from committing violations of human rights and international humanitarian law (IHL), including (a) a serious, impartial, and effective investigation into all cases that involve alleged violations of human rights and IHL, as well as of all those persons who have planned, ordered, and/or perpetrated such acts; and (b) intensive training in human rights law and IHL, the State presented information on the progress of investigations involving State agents. In this sense, it reported that 28 investigations for extrajudicial executions and other human rights violations against high-ranking military officers leading brigades and divisions between 2002 and 2009 were in the "investigation stage." Additionally, for cases reported in 2018, the State indicated that 24 investigations are in the "investigation" and "preliminary investigation" stages, including inspection procedures, material evidence, and other tasks in connection with alleged unlawful deaths presented as "combat casualties." However, these investigations have not advanced to the trial stage.<sup>71</sup>

50. In addition to the above, as of November 31, 2021, the Specialized Office on Human Rights Violations of the Office of the Attorney General had processed 2,209 active cases, of which 16 were related to deaths unlawfully presented by members of security forces as combat casualties. The cases cover conduct allegedly attributable to members of 7 divisions, 45 brigades, and 161 battalions of the National Army, involving 3,976 victims, 10,967 individuals investigated, and 1,749 individuals convicted.<sup>72</sup>

51. The State added that its strategy to establish the facts is aimed at prosecuting those most responsible, that is, "from the bottom upwards." Such is the case of brigade and battalion commanders and intelligence and operations officers. This strategy is based on the "involvement of military hierarchies in the planning and execution of criminal activities."<sup>73</sup> With regard to intensive training courses in human rights and international humanitarian law, the State reported on programs targeting security forces. In this regard, it indicated that in 2021, 18,696 people were trained as part of the Human Rights and Police Service Certificate program.<sup>74</sup> For the reasons described above, compliance with this recommendation is deemed to be partial.

52. As regards the recommendation that the State adopt the appropriate measures for the members of the security forces who are allegedly involved in cases of violations of human rights or international humanitarian law to be suspended from active duty until a final decision is issued in the disciplinary or criminal proceedings in such cases, the State did not send information in this regard.

53. On the other hand, the Commission was informed by civil society organizations about the lack of progress in several of the judicial investigations into the people who died during the demonstrations that took place in the country on September 9 and 10, 2020. The organizations noted that despite the fact that in several cases the projectiles found in the bodies of the deceased were identified as ammunition that came from security forces weapons, the police officers responsible for these weapons were not suspended from active

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<sup>71</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 23-26, IACHR Archive.

<sup>72</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 23-26, IACHR Archive.

<sup>73</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 23-26, IACHR Archive.

<sup>74</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 23-26, IACHR Archive.

service.<sup>75</sup> Additionally, at least one case of alleged procedural fraud due to replacement of the cartridges was identified, along with other cases where cartridges were reported lost.<sup>76</sup> Lastly, the IACHR was informed of complaints made by relatives of the victims killed and injured by firearms during the protests of September 2020 regarding threats and persecution, allegedly from members of security forces.<sup>77</sup>

54. In view of these facts, the Commission finds that this recommendation has not been complied with and calls on the State to diligently investigate all these facts, punish the perpetrators and masterminds, and suspend the security agents under investigation for human rights violations from active service until there is a final decision regarding their cases.

55. In its observations on the draft of this report, the State indicated that the Disciplinary Statute for the National Police, Law 2196, had been approved on January 18, 2022. Article 83 establishes that, in the case of disciplinary investigations or the prosecution of misconduct classified as very serious or serious, "provisional suspension, without remuneration of any kind, of the uniformed person may be ordered, provided that sound evidence is presented to establish that the conduct may have led to violations of international human rights law, grave harm to the community, or serious implications for or disturbance to the nation."<sup>78</sup>

56. Regarding the recommendation to adopt, as soon as possible, the measures necessary to dismantle the Autodefensas who did not participate in the collective demobilizations from 2003 to 2006, and to dismantle the armed groups that emerged after the demobilization of the paramilitary organizations or that continue to pursue the same objectives. [In the current context, specific information is also requested on the measures adopted to dismantle illegal armed groups and bring them to justice].

57. The State reported that, within the framework of the Defense and Security Policy (PDS), significant progress has been made in combatting the violence of Organized Armed Groups (*Grupos Armados Organizados*, GAO). In this sense, it reported that in 2021 there were 300 operations against the "Clan del Golfo, with 570 members of that organization captured; 20 neutralizations; and 371 firearms and 31,478 kilograms of cocaine seized. All of the above amounted to increases compared to 2020.<sup>79</sup>

58. The Commission takes note of the efforts made to combat crime. However, it notes with concern that in the context of the social protests that began on April 28, 2021, there were numerous complaints about armed persons dressed as civilian participating in violent actions against protesters, apparently acting with the acquiescence of members of the police.<sup>80</sup> According to publicly-available information, this took place on multiple dates and in multiple locations, culminating on May 28 in the city of Cali, when 13 people were killed and 36 injured.<sup>81</sup>

59. The IACHR also received information indicating that in some departments—such as Valle del Cauca—the armed civilians traveled on motorcycles and in SUVs with the license plates covered as they intimidated, attacked, and harassed demonstrators or people fleeing the clashes. Likewise, the Commission

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<sup>75</sup> Information presented by civil society organizations supporting relatives of the victims on the judicial status of these cases one year after the facts, September 9, on file with the IACHR.

<sup>76</sup> Group of independent experts, [Informe final para el esclarecimiento de los hechos ocurridos el 9 y 10 de septiembre de 2020](#), December 14, 2021.

<sup>77</sup> Information presented by civil society organizations supporting relatives of the victims on the judicial status of these cases one year after the facts, September 9, on file with the IACHR.

<sup>78</sup> Observations by the Colombian State on the draft annual report following up on recommendations made by the IACHR in the Country Report "Truth, Justice, and Reparation: Fourth Report on the Human Rights Situation in Colombia," April 13, 2022, p. 10.

<sup>79</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Table of reports on the human rights situation in Colombia, emphasis 2021, January 2022.

<sup>80</sup> Observations and recommendations of the working visit of the IACHR to Colombia on June 8-10, 2021.

<sup>81</sup> *El País*, news item: "Balance preliminar del 28 de mayo en Cali: 13 muertes violentas y 36 heridos," May 28, 2021.

noted a news item on a group of civilians carrying firearms who traveled in a truck allegedly registered as the property of the National Police of Colombia.<sup>82</sup>

60. Likewise, the Investigation and Charging Unit (*Unidad de Investigación y Acusación*, UIA) of the Special Jurisdiction for Peace (*Jurisdicción Especial para la Paz*, JEP) also warned of the presence of paramilitary groups during the national strike (April 28 and May 30, 2021). According to the UIA, at least 56 incidents of violence were documented, whose purpose was frightening demonstrators in several cities of the country. Specifically, the following were identified: 1) the occurrence of direct acts of violence by these groups; 2) circulation of videos defending paramilitarism; 3) graffitied acronyms alluding to the self-defense groups and other paramilitary groups.<sup>83</sup>

61. In this regard, the IACHR reiterates that declaring paramilitary groups illegal must translate into the State's adoption of sufficient and effective measures of prevention and protection. Additionally, based on the foregoing, acts or omissions of State agents and private individuals doing harm to the civilian population must be investigated with all diligence. In this regard, it is concerning that although the attacks on civilians during the demonstrations were allegedly carried out by civilians or paramilitary soldiers, they could not have been perpetrated without the collaboration, acquiescence, and tolerance of members of State forces<sup>84</sup>.

62. The Commission recognizes the State's efforts to dismantle organized armed groups. However, during 2021, the Commission continued to observe the reorganization and persistence of illegal armed groups on its territory. Indeed, the IACHR expressed during 2021 its concern about the levels of violence in the country, especially the violence connected to illegal groups fighting over illicit economic activities in outlying areas where the State's presence is limited.<sup>85</sup> For these reasons, the IACHR deems compliance with this recommendation to be partial.

63. In its observations on the draft of this document, the State reported on arrests and deaths, during operations of government forces, of members of illegal armed groups, especially those using the alias 'Otoniel,' the top name in the Gulf Clan.<sup>86</sup>

64. In relation to the recommendation to adopt the corresponding measures to ensure that extrajudicial executions are investigated in the competent jurisdiction, i.e. the regular jurisdiction, and that the State give impetus to proceedings under way in cases of extrajudicial executions, and culminate them within a reasonable time, in keeping with the standards of due diligence in investigations, the IACHR shall here make an explanatory comment. This recommendation was issued prior to the peace agreements and the legal framework for peace. It means that these serious human rights violations must not be heard by the military criminal jurisdiction, as this would be contrary to inter-American standards. In view of the peace agreement and the legal framework for peace, the Inter-American Commission recognizes that both the Ordinary Jurisdiction and the Special Jurisdiction for Peace (JEP) are competent to investigate, prosecute, and punish extrajudicial executions. At the same time, it reiterates that the prosecutions underway for serious human rights violations must conclude within a reasonable time, in keeping with the standards of due diligence in investigations. In this regard, it emphasizes that creating a new jurisdiction to hear these and other cases cannot be used as a pretext to delay practical, effective, and timely access to justice.

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<sup>82</sup> *El Espectador*, "Paro Nacional: Policía admite que camión con hombres vestidos de civil es suyo," May 6, 2021.

<sup>83</sup> Special Jurisdiction for Peace, Investigation and Charging Unit, "Gravedad de la situación de derechos humanos en Colombia: El caso del paro nacional y sus repercusiones sobre el Sistema Integral para la Paz" (April 28 to May 30, 2021), 2021, IACHR Archive.

<sup>84</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR), *El paro nacional 2021: Lecciones aprendidas para el ejercicio del derecho de reunión pacífica en Colombia*, december 15, 2021, párrs. 103-115

<sup>85</sup> See, among other examples: IACHR, press releases: 351/21; 316/21; 258/21; 103/21.

<sup>86</sup> Observations by the Colombian State on the draft annual report following up on recommendations made by the IACHR in the Country Report "Truth, Justice, ejercicio del derecho de reunión pacífica en Colombia, december 15, 2021, párrs. 103-115

<sup>86</sup> See, among other examples: IACHR, press releases: 351/21; 316/21; 258/21; 103/21. and Reparation: Fourth Report on the Human Rights Situation in Colombia," April 13, 2022, p. 11.



65. On this point, the State reported that extrajudicial executions amount to conduct contrary to the constitutional and legal function of security forces and, therefore, are investigated and prosecuted by the Office of the Attorney General of the Nation and the Regular Jurisdiction.<sup>87</sup> Notwithstanding the foregoing, the State did not specify whether investigations are ongoing before the military criminal jurisdiction into conduct that could amount to extrajudicial executions.

66. The IACHR learned of Order 033 of 2021 of the Chamber for the Recognition of Truth, Responsibility, and Determination of Facts and Conduct of the Special Jurisdiction for Peace. In that order, the JEP reported that after having compared multiple reports, it estimated that between 2002 and 2008, there were 6,402 people killed unlawfully and presented as combat casualties throughout the national territory.<sup>88</sup> According to the media, the number of extrajudicial executions alleged by the JEP is almost three times higher than the number alleged by the Attorney General's Office, which stands at around 2,248.<sup>89</sup>

67. With respect to the prosecution of extrajudicial executions, the State added that under the Statutory Law of the Special Jurisdiction for Peace, the bodies and officials conducting investigations into extrajudicial executions may only perform inquiries and investigations and must refrain from issuing sentences, imposing security measures, or ordering arrests. This is in light of the prevailing competence of the JEP. For information regarding the progress of JEP investigations into extrajudicial executions, particularly within the framework of case 003, refer to the chapter on "Constitutional and Legal Framework." Based on the information received and analyzed, the Commission deems compliance with the recommendation to be partial and will monitor the progress made by the JEP on the matter.

68. In its observations on the draft of this document, the State reported that the Specialized Directorate against Human Rights Violations within the Attorney General's Office processed a total of 2,209 active cases related to deaths falsely presented as combat casualties by members of government forces, which are being investigated as extrajudicial executions. These cases involve conduct allegedly attributable to members of seven divisions, 45 brigades, and 161 battalions of the National Army and involve 3,976 victims<sup>90</sup>.

## 2. Forced Disappearance, Disappearance, and the Unit on the Search for Disappeared Persons

- Adopt the measures necessary for having a registry with public access that is updated, unified, and vetted concerning persons who have been forcibly disappeared in Colombia, with information broken down by age, gender, ethnicity, and people, among others.
- Adopt the relevant measures to guarantee the effectiveness of the Urgent Search Mechanism or any other mechanism that makes it possible to immediately recover disappeared persons.
- Continue making progress in recovering the bodies of the disappeared, identifying them correctly, and appropriately delivering them to their next of kin. [Report on the latest progress of the Unit for the Search for Persons Reported as Disappeared in the context of and due to the armed conflict (UBPD)]

69. As far as adopting the measures necessary for having a registry with public access that is updated, unified, and vetted concerning persons who have been forcibly disappeared in Colombia, with

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<sup>87</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 23, IACHR Archive.

<sup>88</sup> Special Jurisdiction for Peace, Chamber for the Recognition of Truth, Responsibility, and Determination of Facts and Conduct of the Special Jurisdiction for Peace, Order number 033 of 2021, February 12, 2021.

<sup>89</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 37-38, IACHR Archive.

<sup>90</sup> Observations by the Colombian State on the draft annual report following up on recommendations made by the IACHR in the Country Report "Truth, Justice, and Reparation: Fourth Report on the Human Rights Situation in Colombia," April 13, 2022, p. 12

information broken down by age, gender, ethnicity, and people, among other things, the State recalled the humanitarian and extrajudicial work done by the Unit for the Search for Persons Reported as Disappeared (UBPD) into the disappearances that took place before December 1, 2016, in the context of and due to the armed conflict, in any of the following circumstances: (i) forced disappearance; (ii) kidnapping; (iii) illegal recruitment; and (iv) incidents that occurred during hostilities.<sup>91</sup> Likewise, the State reported that, in compliance with its mandate, the unit is building the database using information collected by the National Center for Historical Memory, the National Institute of Legal Medicine and Forensic Sciences, the FGN, the JEP, the CEV, and the Registry of Search Requests received by the UBPD, among other relevant sources.

70. In this regard, it indicated that the UBPD has made progress on implementing a digital platform for public information services, in which the information from the comprehensive system under construction on people reported missing in the context of the armed conflict can be found. Users will be able to filter people reported missing by age range, gender and ethnicity. Additionally, the State indicated that the Comprehensive System carried out a project to integrate victims of the conflict, in which 91,818 records of disappeared persons were included, documented in more than 20 information sources, with more than 19,608 records included in the UBPD's registry of search requests. This resulted in a total of 99,235 people deemed missing, which can be considered the first version of the comprehensive system under construction and that is already kept in the digital registry.<sup>92</sup>

71. The State indicated that these efforts complement those carried out in the framework of the investigations conducted by the JEP. In addition, it pointed out that a State apparatus is in place that has been working on responding to, investigating, following up on, and providing reparations in cases of forced disappearance in which the Office of the Attorney General of the Nation, the body in charge of the tasks required to search for, exhume, identify, and return disappeared persons; the National Institute of Legal Medicine and Forensic Sciences (INMLCF), which coordinates the National Registry of the Disappeared; the National Police; the Commission for the Search of Disappeared Persons (CBPD); and the Unit for Victim Response and Reparation (UARIV); as well as other entities that are in charge of adopting prevention and protection measures. It was likewise reported that Colombia has been taking actions aimed at setting up a single and up-to-date registry of disappeared persons, guaranteeing the effectiveness of the Urgent Search Mechanism (MBU) and moving forward in recovering, identifying, and turning over the bodies of disappeared persons.<sup>93</sup>

72. The IACHR welcomes the preliminary attempts at integrating the systems on persons reported as disappeared and deems compliance with the recommendation to be partial. Likewise, the Commission joins the recommendation of the United Nations Committee against Forced Disappearances that the State conclude without delay the process of purging the National Registry of the Disappeared, to help identify the different groups of victims, the causes and dynamics of enforced disappearances, and behavior patterns as a basis for adopting more effective prevention, investigation, and search measures.<sup>94</sup>

73. With regard to the recommendation to adopt the relevant measures to guarantee the effectiveness of the Urgent Search Mechanism or any other mechanism that makes it possible to immediately recover disappeared persons, the State reported that the figures on persons missing in the context of the social

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<sup>91</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 33-35, IACHR Archive.

<sup>92</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 33-35, IACHR Archive.

<sup>93</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 33-35, IACHR Archive.

<sup>94</sup> UN Committee on Enforced Disappearances, Concluding observations on the additional information submitted by Colombia under article 29(4) of the Convention. CED/C/COL/OAI/L, June 2, 2021, para. 17.

protests were obtained precisely thanks to the Urgent Search Mechanism. It likewise argued that the competent entities had opened the proper investigations into the disappearance of persons in the context of the protests.<sup>95</sup>

74. Additionally, the State indicated that as of December 20, 2021, there were 627 reports related to the protests. Of these, 276 corresponded to persons located, 132 were duplicate records, 192 were records that were not admitted, and 27 were active cases. This means that 91.4% of the people alleged to be missing were located, ruling out the possibility of the corresponding criminal offense. It added that the mechanism has operated in accordance with the "processes for investigation and collecting evidence, which make it possible to locate people and establish the truth."<sup>96</sup>

75. Additionally, the IACHR was informed of the report published by the Office of the Ombudsperson entitled "Urgent Search Mechanism (MBU) and the Law on Disappeared Persons."<sup>97</sup> Based on an analysis conducted with focus groups, the Office of the Ombudsperson found some challenges related to the activation of the mechanism. For example, despite the fact that the mechanism is supposed to be activated immediately, it was found that in some circumstances, the relatives of disappeared persons had to wait 72 hours. It was additionally found that a significant number of officials lacked sensitivity in dealing with reports of disappearances, often deeming them "voluntary" rather than "involuntary" disappearances, or questioning the moral character of the missing person.<sup>98</sup>

76. In addition to this, the Commission received with extreme concern reports that some persons initially reported as disappeared in the framework of the nationwide protests have been found dead. According to the Mesa de Trabajo sobre Desaparición Forzada (MDTDF), these are the cases of Brahian Gabriel Rojas López, who was found dead on May 9, in Risaralda; leader Cristian Torres, found dead on May 16 in Nariño; Shirley Osnas Orozco and José David Díaz Hormiga, found dead, presumably on June 8 in Caloto, Cauca; and Maicol Stiven Sanchez, who was found on June 2, burned to death in a shop after denouncing his detention by the ESMAD.<sup>99</sup> The IACHR does not have information that would allow it to know whether, in these particular cases, the urgent search mechanism was activated and the steps to locate the persons were taken in a timely and coordinated manner.

77. Lastly, the Inter-American Commission reiterates that, whenever there is reason to suspect the disappearance of a person, a serious, impartial, and effective investigation must be launched ex officio and without delay, aimed at determining the truth. It likewise emphasizes that States must undertake a rigorous search by the pertinent judicial and administrative route. It must do so systematically, by establishing specialized units or commissions and providing adequate and suitable human, technical, and scientific resources for locating and identifying the disappeared victims. This procedure must have clear and specific search strategies and mechanisms for coordinating the different State bodies and institutions. States have a fundamental obligation in this matter to guarantee the participation of family members throughout the search process.<sup>100</sup> Based on the foregoing, the IACHR deems compliance with this recommendation to be partial.

78. As far as making progress in recovering the bodies of the disappeared, identifying them correctly, and appropriately delivering them to their next of kin, the State indicated that the Colombian State's

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<sup>95</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 33-35, IACHR Archive.

<sup>96</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 33-35, IACHR Archive.

<sup>97</sup> Office of the Ombudsperson of Colombia, "Mecanismo de Búsqueda Urgente (MBU) y Estatuto Jurídico de las Personas Desaparecidas," 2021.

<sup>98</sup> Office of the Ombudsperson of Colombia, "Mecanismo de Búsqueda Urgente (MBU) y Estatuto Jurídico de las Personas Desaparecidas," 2021, pg. 62.

<sup>99</sup> Mesa de Trabajo de Desaparición Forzada (MDTDF), Report, June 2021, archive of the Commission.

<sup>100</sup> Observations and recommendations of the working visit of the IACHR to Colombia on June 8-10, 2021.

comprehensive strategy for searching for and locating persons is supported by several inter-agency mechanisms, including the National Commission for the Search for Disappeared Persons, the Single Form for Disappeared Persons, the National Registry of Disappeared Persons, and the Urgent Search Mechanism (MBU).<sup>101</sup> Despite the fact that this latter mechanism is not part of the criminal action, as a public instrument to protect freedom, personal integrity, and other rights and guarantees of the people who are presumed to have disappeared, the purpose of the MBU is to ensure the justice officials (judges and prosecutors) to whom the request to activate the mechanism is submitted take all the steps necessary to locate the disappeared person, as well as steps aimed at preventing the commission of crimes. In this regard, the State added that these actions are carried out in coordination with the National Registry of Civil Status, the Attorney General's Office, the National Institute of Legal Medicine and Forensic Sciences, and the National Police.

79. In addition, it was reported that the UBPD had implemented immediate and urgent actions to guarantee the proper handling and transfer of these bodies and formulated and disseminated guidelines on handling the bodies of the victims of COVID-19, without putting at risk locations where unidentified bodies that could belong to disappeared persons are kept. It also indicated that the "Guidelines for Participation of the Relatives of Persons presumed Disappeared in the Framework of the Internal Armed Conflict during the Humanitarian and Extrajudicial Process of Delivery and Dignified Burial of Bodies" have been implemented. The guidelines aim to provide guidance to UBPD officials on delivering skeleton remains, fully identified, in a way that dignifies the person considered missing and the search for them.<sup>102</sup>

80. The Colombian State also reported that, as of November 30, 2021, the UBPD had performed 132 dignified deliveries, 101 surveys, and 318 recoveries, and that 344 bodies of people presumed to have disappeared were recovered. Regarding the number of people identified, the UBPD signed an agreement with the INMLCF in August 2020, within the framework of inter-agency coordination to strengthen the processes for delivering and identifying the bodies of people considered missing. Also, the two entities followed up on the remains delivered and were able to identify five persons considered missing.<sup>103</sup>

81. Additionally, it indicated that, within the scope of the FGN, the Internal Working Group for the Search, Identification, and Delivery of Disappeared Persons (GRUBE) is made up of a team of prosecutors dedicated exclusively to searching for the victims of forced disappearance in Colombia. Between 2005 and December 16, 2021, the Office of Transitional Justice, through the GRUBE, has exhumed 10,727 bodies, with 7,945 recovered from open fields and 2,782 exhumed from cemeteries located throughout the national territory. The remains of 5,612 victims have also been delivered with dignity to their relatives in judicial proceedings, and 875 bodies have been exhumed and 487 fully identified bodies delivered. Likewise, it spent 53 events attending to victims of forced disappearance to obtain biological samples in order to move forward with identifying the exhumed bodies being kept in laboratories. In this way, 2,027 samples were taken from family members, covering 2020-2021.<sup>104</sup>

82. In view of the information reported by the State, the IACHR maintains its finding that the recommendation meets with partial compliance. Likewise, the Commission recognizes the progress made by the different mechanisms in charge of searching for disappeared persons, as well as in the recovery and dignified delivery of remains to families, and calls on the State to continue these efforts and make it a priority to intensify them.

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<sup>101</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 37-38, IACHR Archive.

<sup>102</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 37-38, IACHR Archive.

<sup>103</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 37-38, IACHR Archive.

<sup>104</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 37-38, IACHR Archive.

## B. Protection Mechanisms

- The Commission urges the State to implement the measures necessary to guarantee, in the processes of risk assessment, assignment of protection schemes, and review of their suitability, the adequate participation, communication and coordination with the persons protected by the protection program as well as the beneficiaries of precautionary measures requested by the IACHR and provisional measures ordered by the Inter-American Court.
- It encourages the National Protection Unit and competent authorities to actually apply the different differential approaches in all their procedures at this time. To that end, ongoing training of all the staff involved will be necessary, along with a periodic review of the processes implemented.
- It urges the State to redouble its efforts to investigate the facts that lead persons to enter and remain in the protection programs for the purpose of establishing as matter of State policy that investigations will be pursued as a preventive measure.

83. With regard to the recommendation to urge the State to implement the measures necessary to guarantee, in the risk assessment processes, assignment of protection schemes, and review of their suitability, the adequate participation, communication and coordination with the persons protected by the protection program as well as the beneficiaries of precautionary measures requested by the IACHR and provisional measures ordered by the Inter-American Court, the State reported that the National Protection Unit (UNP), which is the entity responsible for providing special protection services to whomever requires them, employs differentiated approaches. The approaches are related to ethnicity, age, and gender, and depend on the risk level of each individual case.<sup>105</sup>

84. Likewise, it indicated that the Committee for Evaluation and Risks and Measures Recommendation (CERREM) has delegates from the populations covered by the prevention and protection program, guaranteeing a differentiated approach in the protection measures adopted. Along these lines, the entity indicated that it had developed a Risk Analysis Protocol for Women Leaders and Human Rights Defenders. Similarly, 52 collective risk assessments on adopting protection measures for indigenous peoples were conducted.<sup>106</sup>

85. Additionally, in 2021, the IACHR published Follow-up Resolution number 99, in which it addressed the implementation of precautionary measures in favor of three protected groups of the Wayúu Indigenous People in certain municipalities of the department of La Guajira in Colombia. The three groups are: children and adolescents from Uribia, Manaure, Riohacha, and Maicao; pregnant and nursing women from Manaure, Riohacha, and Uribí; and older people from Manaure, Riohacha, and Uribí. These groups were protected by precautionary measures through Resolutions 60/2015, 3/2017, and 51/2017.<sup>107</sup>

86. In this casefile, the State provided information suggesting that it has adopted measures to guarantee participation, communication, and coordination with the persons protected by these precautionary measures. Among these measures, the State reported: "(i) dissemination of Judgment T-302 of 2017 to the Wayuu communities in August and September 2019; (ii) translation from Spanish to Wayuunaiki of the judicial ruling on the judicial decision to have a genuine dialogue; (iii) coordination activities for building the action plan in the four municipalities in December 2019; (iv) drafting a methodology for the prior consultation process with the Wayúu indigenous communities from September 19, 2019, to June 2020 in compliance with the orders

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<sup>105</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 39-41, IACHR Archive.

<sup>106</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 39-41, IACHR Archive.

<sup>107</sup> IACHR, Precautionary Measures Resolution No. 99/2021, Precautionary Measure No. 51-15, Children and adolescents of the communities of Uribí, Manaure, Riohacha and Maicao of the Wayúu people, in the department of the Guajira, Colombia, *et al.* regarding Colombia, December 1, 2021 (follow-up).

of the judgment in the four municipalities; (v) coordination between the municipal and departmental administrations to incorporate Judgment T-302 of 2017 in preparing plans from December 17, 2019, to January 30, 2020.”<sup>108</sup>

87. Likewise, in 2021, the Commission received information on the limitations of the protection schemes proposed for leaders, associated in many cases with difficulties guaranteeing victims’ mobility; the lack of economic resources to mobilize bodyguards; and the characteristics of the protection provided. The Commission underscores the importance of the tasks carried out by the UNP, while at the same time urging the State to strengthen this unit’s actions. The IACHR deems compliance with this recommendation to be partial.

88. Regarding the recommendation to encourage the National Protection Unit and competent authorities to actually apply the various differential approaches in all their procedures at this time, and toward doing so, providing ongoing training to all personnel involved in periodic review of the processes implemented, the State reported that shared and individual protection measures have been adopted for 1,530 beneficiaries belonging to ethnic groups, including 1,256 bulletproof vests, 101 alert buttons, 1,010 bodyguards, 243 conventional vehicles, and 155 armored vehicles. In addition, the State strengthened indigenous guards in the national territory and renewed agreements with the Asociación de Cabildos Indígenas del Norte del Cauca (ACIN) and the Consejo Regional Indígena del Cauca (CRIC).<sup>109</sup> Regarding the precautionary measures granted by the IACHR and the provisional measures issued by the Inter-American Court of Human Rights, the State reported that it monitors them through the Ministry of Foreign Affairs in collaboration with different entities at the national and territorial levels.<sup>110</sup>

89. For its part, civil society identified several problems regarding compliance with this recommendation. One has to do with the alleged lack of regularity in the follow-up meetings. As there is no set time for holding these meetings, months have sometimes passed between meetings. Furthermore, in some cases, these meetings were only held at the request of the beneficiaries.<sup>111</sup> Another challenge identified by civil society is that, with the COVID-19 pandemic, the meetings were held virtually, limiting access for people and communities in remote regions of the country. In this regard, civil society highlighted the importance of holding meetings in the territories in order to reach agreements with local authorities and adopt truly differentiated approaches.<sup>112</sup>

90. Regarding this recommendation, the Commission reiterates that protection arrangements must take into account the specific contexts and situations of the beneficiary persons, including whether they are displaced; the context of collective risk that may involve their families, communities, and organizations; the cultural components of their context; and matters of gender. In view of the information available, the IACHR calls on the State to move forward with implementing an ethnic and racial approach, gender approach, and approaches that are differentiated and intersectional that take into account, among other things, the conditions of the individuals to be protected and the need for culturally-appropriate measures of protection. Therefore, the IACHR concludes that this recommendation remains pending compliance.

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<sup>108</sup> IACHR, Precautionary Measures Resolution No. 99/2021, Precautionary Measure No. 51-15, Children and adolescents of the communities of Uribía, Manaure, Riohacha and Maicao of the Wayúu people, in the department of the Guajira, Colombia, *et al.* regarding Colombia, December 1, 2021 (follow-up).

<sup>109</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 39-41, IACHR Archive.

<sup>110</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 39-41, IACHR Archive.

<sup>111</sup> Colectivo de Abogados "José Alvear Restrepo" (CAJAR), Follow-up on compliance with the recommendations - Truth, justice and reparation: Fourth Report on the Situation of Human Rights in Colombia, December 30, 2021, pgs. 5-8, IACHR Archive.

<sup>112</sup> Colectivo de Abogados "José Alvear Restrepo" (CAJAR), Follow-up on compliance with the recommendations - Truth, justice and reparation: Fourth Report on the Situation of Human Rights in Colombia, December 30, 2021, pgs. 5-8, IACHR Archive.

91. In its observations on the draft of this report, the State affirmed that differentiated approaches have been incorporated into UNP procedures and are adapted to the needs of protection programs. In this regard, the State pointed to the training of staff and contractors in approaches to the human rights of women and LGBTIQ + people, differentiated approaches according to sexual orientation and non-hegemonic gender identities, and their intersection with leadership activities.<sup>113</sup>

92. Regarding the recommendation to redouble its efforts to investigate the facts that lead persons to enter and remain in the protection programs for the purpose of establishing as a matter of State policy that investigations will be pursued as a preventive measure, the State did not provide updated information.

93. Civil society reported that the State responds reactively and not preventively to the risks identified. It indicated that the majority of incidents of threats, harassment, and murder go unpunished, intensifying the violence, and that structural measures are necessary in order to address the violence in the regions. It also argued that militarization is not an effective response: On the contrary, it increases the risk to social leaders. Lastly, it indicated that stigmatizing statements by high-ranking officials of the national government increase the risk to persons.<sup>114</sup>

94. In view of the foregoing, the IACHR concludes it is not possible to analyze the progress made toward complying with this recommendation.

#### IV. CONSTITUTIONAL FRAMEWORK

##### A. Impunity and Obstacles to Justice

- Redouble efforts to overcome the grave situation of impunity in cases of serious human rights violations and breaches of international humanitarian law.
- Foster the articulation, coordination, and reciprocal feedback of the various judicial mechanisms entrusted with investigating cases of serious human rights violations and breaches of international humanitarian law.
- Clarify the human rights violations perpetrated by State agents and persons who have demobilized from the Autodefensas, and determine on a case-by-case basis and in detail the nature and action of the illegal armed groups that came about after the demobilization of paramilitary organizations and their possible connections with State authorities.

95. As far as the recommendation to redouble efforts to overcome the grave situation of impunity in cases of serious human rights violations and breaches of international humanitarian law, the State underscored that these cases are under investigation by the judicial body to which the national system has granted preferential jurisdiction, whether that be the JEP or the FGN from the regular justice system. In this regard, it indicated that such progress can be noted in the strategy implemented by the FGN and in the mechanisms applied by the JEP.<sup>115</sup> In addition, it reported on the situation of the seven macro-cases prioritized by the JEP's Chamber for the Recognition of Truth and Responsibility and the Determination of Facts and Conduct, noting that the SRVR has made progress in investigating criminal responsibility for the serious

<sup>113</sup>Observations by the Colombian State on the draft annual report following up on recommendations made by the IACHR in the Country Report "Truth, Justice, and Reparation: Fourth Report on the Human Rights Situation in Colombia," April 13, 2022, p. 15.

<sup>114</sup>Colectivo de Abogados "José Alvear Restrepo" (CAJAR), Follow-up on compliance with the recommendations - Truth, justice and reparation: Fourth Report on the Situation of Human Rights in Colombia, December 30, 2021, pgs. 5-8, IACHR Archive.

<sup>115</sup>Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 20-22, 32, IACHR Archive.

conduct committed in the context of the armed conflict, which has made it possible to issue charges for war crimes and crimes against humanity.<sup>116</sup>

96. Regarding macro-case 001 - Hostage taking and other serious deprivations of liberty, the State pointed to the SRVR issued Order No. 19 of 2021, on January 26, 2021, as the main progress made. It “establishes the facts and conduct attributable to former members of the FARC-EP Secretariat for taking hostages and other serious deprivations of liberty, putting them at its disposal.” In the ruling, the SRVR identified the illegal armed organization’s policies and operating methods, as well as the responsibilities of those who gave the orders but did not carry out the kidnappings. In addition, in the framework of this process, responsibility was attributed the defunct guerrilla group’s senior leaders, who were charged with crimes against humanity in the form of serious deprivation of liberty and the taking of hostages during war, as well as the crimes of homicide, torture, cruel treatment, attacks on personal dignity, sexual violence, and displacement.<sup>117</sup>

97. The Commission values this historic decision under the JEP’s mandate, which, for the first time, establishes command responsibility for senior leadership, describes patterns of macrocriminality, and finds the existence of international crimes. Additionally, it takes note that in Order No. 19, the SRVR focuses nationally on facts corresponding to the orders given by the FARC Secretariat and indicates that in subsequent proceedings, it will go into further depth at the regional level as corresponds to each bloc.<sup>118</sup> By classifying the policies adopted by the armed organization, the Chamber establishes their implementation in the regions where the organization’s blocs were present and describes the treatment of and the harm caused to the kidnapped persons, amounting to a total of 21,396 persons between 1990 and 2015. An estimated 2.9% were murdered and 8.7% were the victims of forced disappearance. The SRVR also indicates that 21% of the victims were women and that, of the victims whose age is known, 47% of those under 17 years of age were girls. The IACHR highlights that the Recognition Chamber received comments from the victims, the Office of the Attorney General of the Nation, and responses from those appearing under a court order: As of the end of September, the accredited victims in case 001 had been summoned to participate in public hearings to assess the acknowledgments of responsibility of the accused.<sup>119</sup><sup>120</sup>

98. Regarding macro-case 002—which prioritizes the situation in territories of Ricaurte, Tumaco and Barbaocoas (Nariño)—the Colombian State indicated that progress has been made in the investigation conducted within the prioritized territorial framework on identifying patterns of macrocriminality, enabling identification and charging of the masterminds and key participants in the facts. Thanks to this and the ongoing investigation, so far, 138 voluntary testimonies have been collected, 279 judicial inspections have been carried out, and a total of 17 reports have been received from victims’ organizations. As a result, more than 2,800

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<sup>116</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 20-22, 32, IACHR Archive.

<sup>117</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 20-22, 32, IACHR Archive.

<sup>118</sup> JEP, Chamber for the Recognition of Truth, Responsibility and Determination of Facts and Conduct, Order No. 19 of 2021, February 26, 2021; *El Espectador*, *¿Por qué es histórica la imputación a las Farc por secuestro?*, January 30, 2021; Colombian Commission of Jurists, Bulletin #31 of the Observatory on the JEP, April 15, 2021; Colombian Commission of Jurists, Bulletin #32 of the Observatory on the JEP, April 22, 2021; Colombian Commission of Jurists, Bulletin #33 of the Observatory on the JEP, April 22, 2021; Colombian Commission of Jurists, Bulletin #34 of the Observatory on the JEP, May 07, 2021.

<sup>119</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 20-22, 32, IACHR Archive.

<sup>120</sup> JEP, *Comunicado 103 de 2021. La JEP convoca audiencias de observaciones de víctimas dentro del Caso 01*, September 23, 2021.



victimizing acts committed by different actors in the municipalities prioritized in the case have been identified.<sup>121</sup>

99. In macro-case 003—Deaths unlawfully presented as combat casualties by State agents—the Chamber for the Recognition of Truth, Responsibility, and Determination of Facts and Conduct issued Order No. 33 of February 12, 2021, announcing that Antioquia, the Caribbean Coast, Norte de Santander, Huila, Casanare, and Meta subcases would be prioritized for the first phase of the investigation and describing how the prioritization methodology would be applied.<sup>122</sup> The IACHR observes that in the Order, the SRVR indicated that between 2002 and 2008, approximately 6,402 people were unlawfully killed and presented as combat casualties throughout the national territory, triple the initial estimates of the Office of the Attorney General of the Nation. Likewise, victims' organizations have stated publicly that the number of victims is even greater.<sup>123</sup>

100. The State also indicated that via Order No. 125 of July 2, 2021, the Chamber determined the facts and conduct that took place in Catatumbo, attributable to members of security forces and civilian third parties, legally classifying the facts as proven and identifying the masterminds identified in the subcase. The Commission appreciates that the SRVR has issued its first indictment in the case and notes that the document indicated that the facts would not have taken place without the Army's institutional body count policy, without a policy of incentives, and without the constant pressure exerted by commanders on their subordinates to get "combat" deaths, as well as without the stigmatization of the civilian population.<sup>124</sup> Additionally, the State reported that with Order No. 128 of July 7, 2021, the SRVR determined the facts and conduct taking place between January 2002 and July 2005, attributable to members of the security forces, in the framework of the Caribbean Coast subcase. For these facts, the Chamber accused the perpetrators of war crimes and crimes against humanity and called for the recognition of responsibility of 15 individuals appearing before the Chamber. In this regard, it is noted that the SRVR described the role of the alliances with the paramilitaries in the commission of the crimes, as well as the specific serious, differentiated, and disproportionate harm suffered by the Wiwa and Kankuamo indigenous peoples in this context.<sup>125</sup>

101. Regarding macro-case 004—Territorial situation of the Urabá region—the State indicated that it is in the process of collecting information and verifying the sources necessary for documenting the facts and circumstances that took place in the prioritized territory. Also, those summoned to appear and identified through the initial processing of the reports filed before the JEP have been implicated through a preliminary analysis leading to the identification of the individuals allegedly responsible for the facts involved in the conduct in question. Likewise, it indicated that the facts have been identified and grouped into nine categories of conduct taking place in the Urabá region in the context of the armed conflict: violent death, forced disappearance, torture, forced displacement, sexual violence, severe deprivation of liberty, methods and means prohibited by IHL, omissions by security forces, environmental harm, and harm to property belonging to the civilian population. Likewise, on March 23, 2021, the process was begun to circulate voluntary testimony for comment by the accredited victims in the case.<sup>126</sup>

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<sup>121</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 20-22, IACHR Archive.

<sup>122</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 20-22, IACHR Archive.

<sup>123</sup> Agencia EFE, Victimas de "falsos positivos" temen que el caso en la JEP no arroje más verdad, February 18, 2021; *El País*, El Tribunal de Paz de Colombia eleva a más de 6.400 los 'falsos positivos' bajo el Gobierno de Uribe, February 18, 2021.

<sup>124</sup> JEP, Comunicado 071 De 2021. Jep Imputa Crímenes De Guerra Y De Lesa Humanidad A Un General, 6 Oficiales Y 3 Suboficiales Del Ejército, Y A Un Tercero Civil, Por 'Falsos Positivos' En Catatumbo, July 6, 2021.

<sup>125</sup> JEP, Comunicado 077 de 2021. JEP imputa crímenes de guerra y de lesa humanidad a otros 15 miembros del Ejército por 'falsos positivos' en la Costa Caribe: dos coroneles, seis oficiales, cuatro suboficiales y tres soldados del batallón La Popa, July 15, 2021.

<sup>126</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 20-22, 32, IACHR Archive.

102. Regarding macro-case 005—Territorial situation in the region of northern Cauca and southern Valle del Cauca—the Colombian State reported that the voluntary testimony of the former FARC-EP members who were active in the region prioritized in the case is being provided. The JEP has been circulating the content of this voluntary testimony to the victims and others involved, and procedures for interjurisdictional and interagency coordination and intercultural dialogue are being carried out in the territory of northern Cauca and in Valle del Cauca.<sup>127</sup>

103. Regarding macro-case 006—Victimization of members of the Patriotic Union—the State indicated significant progress in the investigation with the collection of information through judicial inspections that have facilitated the extraction of documents for use as evidence. Likewise, it highlighted that the voluntary statements of alleged perpetrators have been of great value for comparing with the information collected and adding to the evidence of the case in order to define and eventually determine the macro-criminal dynamics.<sup>128</sup>

104. Lastly, regarding macro-case 007—Recruitment and use of girls and boys in the armed conflict—it was reported to the IACHR that, to date, 37 former members of the Secretariat and the Central General Staff of the former FARC have been implicated, and 15 of them have testified voluntarily. In Order 159 of 2021, the SRVR concluded the preliminary verification analysis of the recruitment and use behaviors allegedly committed by the now-defunct FARC, finding a total of 18,677 unique victims, providing the case with a preliminary number of incidents. This progress has enabled the Chamber to prioritize investigating the recruitment that took place between January 1, 1996, and December 1, 2016, and to establish three investigative hypotheses on conduct associated with recruitment: (i) sexual and gender-based violence, (ii) forced disappearance and homicide, (iii) torture and other cruel, inhuman or degrading treatment. The Commission also observes that the SRVR indicated in the Order that it will focus on taking a territorial approach that takes into account the blocks of the former FARC-EP and their departments of influence, while also analyzing the differential impact that the recruitment and use of children has had on ethnic peoples.<sup>129</sup>

105. Based on the information presented, the Commission will continue to monitor the decisions adopted in that jurisdiction and deems compliance with the recommendation to be partial. Likewise, it encourages the State to continue investigating, processing, and prosecuting the intellectual and material authors of serious human rights violations and international crimes related to the conflict, with the broad participation of the victims and observance of inter-American standards on matters of human rights.

106. Additionally, regarding the recommendation to foster the articulation, coordination, and reciprocal feedback of the various judicial mechanisms entrusted with investigating cases of serious human rights violations and breaches of international humanitarian law, the State reported that the Delegate against Organized Crime, assigned to the Office of the Deputy Attorney General of the Nation, is empowered by the entity to prioritize investigations into serious human rights violations and breaches of IHL. In addition, it indicated that the FGN, through the mechanisms it offers, supports the Specialized Prosecutors in these issues to the Delegate for Citizen Security through the support prosecutors and constant accompaniment. Lastly, the Colombian State indicated that the FGN also coordinates with national and international institutional bodies in responding to human rights protection, underscoring the constant interaction between the entity and the Ministry of the Interior, the Committee against Human Trafficking and Trafficking of Migrants, the National

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<sup>127</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 20-22, 32, IACHR Archive.

<sup>128</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 20-22, 32, IACHR Archive.

<sup>129</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 20-22, 32, IACHR Archive.

Police and Colombian Migration Office; and at the international level with the Ibero-American network of specialized prosecutors on trafficking in persons and smuggling of migrants.<sup>130</sup>

107. It is the Commission's understanding that there are inter-agency efforts underway along with efforts within the Office of the Attorney General of the Nation to encourage articulation and coordination in investigations of the aforementioned cases. However, based on the information provided, it is not possible to confirm progress has been made toward complying with the recommendation, and therefore, the State remains in partial compliance; the Commission will continue to monitor the measures it takes in this area.

108. In its observations on the draft of this report, the State indicated that coordination between the Specialized Directorate against Human Rights Violations and the Directorate of Transitional Justice has yielded progress evidenced by at least 269 decisions concerning the crime of disappearance and 326 regarding the crime of forced displacement. The State also reported on efforts by the Prosecutor's Office to compile background scenarios and link cases by georeferencing, the aim being to ascertain responsibility on the part of high commands of illegal armed groups<sup>131</sup>.

109. Regarding the recommendation to clarify the human rights violations perpetrated by State agents and persons who have demobilized from the Autodefensas, the State of Colombia indicated that the JEP performs the functions of investigating, prosecuting, and punishing the activities of these armed groups as regards the masterminds behind the most serious and emblematic crimes. In this sense, it indicated out that the presidency of the Chamber for the Definition of Legal Situations (SDSJ) resolved, in December 2019, to joiner "investigations and processes based on context and patterns of macrocriminality for the requests to investigate State agents other than members of security force and third parties." In this regard, three subchambers were established in charge of hearing cases related to the Northern Bloc of the AUC, the United Self-Defense Forces of Córdoba and Urabá, and the pattern of macrocriminality of extrajudicial executions involving civilians. In this framework, the SDSJ has carried out proceedings to collect preliminary contributions to the truth where relevant information has been provided on the prioritized situations; and the information on the three cases mentioned has been analyzed and sorted to put together a general context of the cases for eventual presentation of a judicial motion before the SRVR asking it to prioritize these situations.<sup>132</sup>

110. As far as determining the actions of the illegal armed groups that emerged after demobilization, the State provided information on actions carried out within the framework of the Defense and Security Policy (PDS), aimed at counteracting the violent actions of Organized Armed Groups (GAO). In this regard, it indicated that in 2021 there were 300 operations against the "Clan del Golfo and 570 members of that organization captured; 20 neutralizations; and 371 firearms and 31,478 kilograms of cocaine seized. All of the above amounted to increases compared to 2020.<sup>133</sup>

111. Similarly, the State reported that it has legal instruments in place for dismantling the GAOs. They include Decree 601 of 2020, "Whereby functions are assigned to the High Commissioner for Peace" giving them the power to verify real willingness for peace and reintegration into civilian life, as well as bring the GAOs operating on Colombian territory to justice.<sup>134</sup>

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<sup>130</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 22-23, IACHR Archive.

<sup>131</sup> Observations by the Colombian State on the draft annual report following up on recommendations made by the IACHR in the Country Report "Truth, Justice, and Reparation: Fourth Report on the Human Rights Situation in Colombia," April 13, 2022, p. 15

<sup>132</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 27-28, IACHR Archive.

<sup>133</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Table of reports on the human rights situation in Colombia, emphasis 2021, pg. January 27, 2022.

<sup>134</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Table of reports on the human rights situation in Colombia, emphasis 2021, pg. 27, January 2022.

112. The Commission takes note of the measures adopted within the framework of the Special Jurisdiction for Peace (previously developed) with respect to State agents and demobilized self-defense groups, as well as those of the Office of the Attorney General of the Nation regarding the illegal armed groups that emerged subsequently and will continue to monitor State measures in this regard. As a result of the foregoing, it deems compliance with this recommendation to be partial.

## **B. Transitional Justice Applied to an Armed Conflict**

- Adapt the Legal Framework for Peace and the statutory laws that derive from them to the international human rights standards noted in this report. [In the current context, information is requested on the laws governing implementation of the mechanisms provided for in the Peace Agreements under inter-American standards.]
- Adopt the corresponding measures so that serious human rights violations and breaches of international humanitarian law, such as forced disappearances, torture, sexual violence, and recruitment of children and adolescents are prioritized by the Committee on Prioritization or other measures aimed at ensuring the application of due diligence to investigate, clarify, prosecute and punish them.

113. Regarding the recommendation to adapt the Legal Framework for Peace and the statutory laws derived from the international human rights standards indicated in this report, in recent years, the IACHR has followed up on the various transitional justice frameworks in Colombia in relation to the general standards in terms of guarantees and judicial protection—in particular, the implementation of the Justice and Peace Law (975 of 2005) and the establishment of the Special Jurisdiction for Peace.

114. Regarding the first aspect, related to adapting the Justice and Peace Jurisdiction to international human rights standards, the State did not provide information in its response to the IACHR.

115. Additionally, regarding laws implementing the mechanisms provided for in the Peace Agreement, the State listed the most relevant laws issued thus far with regard to the operating of the SIVJRNR.<sup>135</sup> It also highlighted that the Statutory Law on the Administration of Justice in the JEP (Statutory Law 1957 of 2019) directly mentions the observance and application of the standards of international human rights law and humanitarian law by this jurisdiction, as well as the provisions of the Constitutional Court on the subject in judgment C-080 of 2018. In the same sense, the Office of the Ombudsperson indicated that "the national laws designed for implementing the mechanisms provided for in the Final Agreement, in relation to each of the mechanisms forming part of the Comprehensive System of Truth, Justice, Reparation, and Guarantees of Non-Repetition has been implemented, and the institutions created within the framework of transitional justice are making progress in executing their mandates, in accordance with applicable international standards."<sup>136</sup> It also referred to the specific findings of the Constitutional Court on the transition legislation that is in force.<sup>137</sup>

116. The Commission takes into account the actions aimed at developing a regulatory framework putting the Special Jurisdiction for Peace into operation and integrating international standards into its legal system. However, in view of the different spheres of competence between the JEP and the jurisdiction established under Law 975 of 2005, as well as the lack of information on the relevant measures adopted to comply with the recommendation in relation to the Law of Justice and Peace, the IACHR deems compliance with this recommendation to be partial.

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<sup>135</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 14-18, IACHR Archive.

<sup>136</sup> Office of the Ombudsperson of Colombia, Follow-up to the recommendations contained in the "Truth, Justice and Reparation" Report, January 14, 2022, IACHR Archive.

<sup>137</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 14-18, IACHR Archive.

117. Likewise, the Commission has received information regarding the presentation of legislative proposals that seek to make modifications to the functions of the JEP, which—if approved—would have the effect of weakening the functioning of the Special Jurisdiction for Peace or limiting its mandate with regard to investigating, prosecuting, trying, and punishing those responsible for human rights violations.<sup>138</sup> The IACHR expresses its concern and calls on the State to preserve the conditions that have allowed progress in the fight against impunity for human rights violations committed in the context of the armed conflict; it recalls that all amnesty provisions, time limits, or exemptions designed to prevent the investigation and punishment of those responsible for grave human rights violations are incompatible with the American Convention on Human Rights.<sup>139</sup>

118. Regarding adopting the corresponding measures so that serious human rights violations and breaches of international humanitarian law, such as forced disappearances, torture, sexual violence, and recruitment of children and adolescents are prioritized by the Committee on Prioritization or other measures aimed at ensuring the application of due diligence to investigate, clarify, prosecute and punish them, the IACHR here makes a comment. This recommendation was issued prior to the peace agreements and the legal framework for peace. The meaning of the recommendation is that serious human rights violations must be prioritized and investigated with due diligence. Consequently, the IACHR notes that either the Office of the Attorney General of the Nation, in the framework of Justice and Peace, or the Special Jurisdiction for Peace can prioritize the cases.

119. In this context, the State provided information on the situation of the macro-cases prioritized by the JEP (described above). Likewise, the Colombian State reported the strengthening of investigative methodologies under a territorial approach that identifies in a differentiated way the dynamics of criminal phenomena, enabling them to be addressed comprehensively.

120. Additionally, it noted that the FGN has made progress on issuing directives and instruments, creating specialized groups, and generating lines of work that facilitate the understanding of and approach to the criminal phenomena produced by criminal organizations. In this regard, it highlighted: the creation of a line of strategic investigation into illegal recruitment that analyzes the dynamics of rural and urban violence and the incidence of the presence of different armed groups in conscripting children and adolescents to strengthen their structures; the assignment of trained prosecutors and investigators to handle investigations of sexual violence and gender-based violence in the context of the conflict; and creating specialized groups that include the social sciences in the approach to investigations and victims, enabling comprehensive development of investigations into gender-based violence in the Justice and Peace processes.<sup>140</sup>

121. It also pointed to FGN strategies aimed at investigating and prosecuting sexual violence perpetrated by organized actors in the context of the conflict against civilians and within the ranks, including: the association of cases and identification of criminal patterns that can lead to accusations against the organization; assigning responsibility for prosecuting those most responsible; the follow-up on cases with the objective of giving them important procedural impetus; comparing information from the investigations under the regular criminal procedure with the facts documented in the framework of the Justice and Peace Law, to identify criminal situations and verify that the testimony given voluntarily is complete with regard to the incidents of gender-based violence and take the corresponding legal actions; and monitoring investigations

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<sup>138</sup> *El Nuevo Siglo*, [Congresistas piden retirar proyectos que modificarían la JEP](#), October 29, 2021; *El Tiempo*, [Reformas a la JEP, con pocas posibilidades](#), November 8, 2021.

<sup>139</sup> Inter-American Court. [Case of Barrios Altos v. Peru](#), Merits, Judgment of March 14, 2001, Series C No. 132, p. 41.

<sup>140</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 30-31, IACHR Archive.

related to Orders 092 of 2008 and 009 of 2015 through the Coordination Subcommittee for the Investigation and Prosecution of Sexual Violence in the Armed Conflict.<sup>141</sup>

122. Lastly, the State indicated that in the cases in which it has become aware of the commission of other acts presumably amounting to mass human rights violations and serious infractions of international humanitarian law, such as forced displacement, illegal recruitment, and disappearance, the FGN has focused and prioritized its investigative efforts on the masterminds, exposing the contexts emerging from patterns of macrocriminality and mass victimization by organized illegal armed groups.<sup>142</sup>

123. Notwithstanding the foregoing, the Commission took note of the repeated request from civil society organizations—as well as the recommendations made by the Office of the Ombudsperson and the Office of the Attorney General of the Nation<sup>143</sup>—for the Special Jurisdiction for Peace to open a case on sexual and reproductive violence and other crimes based on the sexuality of the victim.<sup>144</sup> The organizations point out that 40% of all the reports submitted by civil society were for sex crimes that are the responsibility of the JEP.<sup>145</sup> In addition, the IACHR received information on the obstacles faced by Afro-Colombian women's groups with regard to collective reparations processes—specifically, 250 cases of sexual violence against black women in the context of the armed conflict.<sup>146</sup>

124. As of the date of the drafting of this report, the JEP had opened seven macro cases related to practices like the kidnapping and recruitment of children and adolescents.<sup>147</sup> However, the IACHR has received information from civil society organizations pointing to the use of gender stereotypes and the lack of a gender focus in assessing the facts and testimonies of the victims, as well as the failure to launch a macro case regarding sexual violence during the armed conflict.<sup>148</sup>

125. In this regard, the Commission recalls that impunity in cases of violence against women sends the message that this violence is tolerated and fosters its perpetuation. In this sense, the Commission reminds the State of its duty to act with strict due diligence to prevent, punish, and eradicate all forms of violence against women, adopting procedures, judicial mechanisms, and specific legislation to avoid impunity, as established in the Convention of Belém Do Pará.<sup>149</sup> Along these lines, the Commission urges the State to guarantee access to

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<sup>141</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 30-31, IACHR Archive.

<sup>142</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 30-31, IACHR Archive.

<sup>143</sup> Office of the Attorney General of the Nation, [Procuraduría solicitó a la JEP abrir cuatro nuevos macrocasos por desaparición y desplazamiento forzado, violencia sexual y métodos de guerra ilícitos](#), August 12, 2021; Office of the Ombudsperson, [Defensoría del Pueblo reitera llamado a la JEP para que abra un macrocaso de violencia sexual](#), August 27, 2021.

<sup>144</sup> Corporación Sisma-Mujer, Corporación Humanas-Colombia, Women's Link Worldwide, Colombia Diversa, Red Nacional de Mujeres. Annex to the request for a thematic hearing for the 180th Period of Sessions, File number 163607, April 21, 2021. In the IACHR archive; IACHR, Public Hearing, 175th Period of Sessions, "Gender and the Peace Agreements in Colombia," March 5, 2020; Women's Link Worldwide. [Press release](#), February 24, 2020; Alianza 5 Claves. [Conexidad entre la violencia sexual y el conflicto armado: un llamado al no retroceso en la Jurisdicción Especial para la Paz](#).

<sup>145</sup> Corporación Sisma-Mujer, Corporación Humanas-Colombia, Women's Link Worldwide, Colombia Diversa, Red Nacional de Mujeres. Annex to the request for a thematic hearing for the 180th Period of Sessions, File number 163607, April 21, 2021; Colombia Diversa, [comunicado de la alianza cinco claves sobre caso nacional de violencia sexual](#), no date.

<sup>146</sup> Document sent to the IACHR, AFRODES, LA COMADRE & CODHES, COMADRE report to the Inter-American Commission on Human Rights on the situation of Afro-descendant women victims of the armed conflict, their families and the disproportionate impacts of the COVID-19 pandemic in the framework of the follow-up to judgment T-025 of 2004, January 2020.

<sup>147</sup> Special Jurisdiction for Peace, Los grandes casos de la JEP, consulted on February 17, 2022.

<sup>148</sup> Corporación Sisma-Mujer, Corporación Humanas-Colombia, Women's Link Worldwide, Colombia Diversa, Red Nacional de Mujeres. Annex to the request for a thematic hearing for the 180th Period of Sessions, File number 163607, Annex 2, April 21, 2021; In the IACHR archives.

effective judicial mechanisms, as well as to investigate, prosecute, punish, and provide reparations for the acts of sexual violence committed in the context of the armed conflict, in observance of its duty of strict due diligence and using a gender approach.

126. The Commission welcomes the initiatives reported with the objective of identifying and acting in the investigation using differentiated approach with respect to the victimizing acts and deems it crucial for the State to continue making efforts in this regard through the different levels of the justice system, prioritizing as required. The IACHR maintains compliance with this recommendation as partial and urges the JEP to launch a macro-case to address sexual violence in the framework of the armed conflict.

### C. Reparation Mechanisms

- Continue moving forward in the implementation of Law 1448 and take the necessary measures to adequately address the challenges, which have been identified. [In the current context, show progress on the implementation of the Comprehensive National Program for the Substitution of Illegal Crops (PNIS) and the security guarantees that are being provided to protect the lives and personal integrity of those promoting and participating in the program].
- Ensure, in practice, implementation of a differential approach for women, children and adolescents, persons with disabilities, indigenous peoples, Afro-descendants, lesbian, gay, bisexual, trans and intersex persons, and human rights defenders, among others.
- Ensure effective participation for victims in the bodies set forth in Law 1448, and take into account their expectations, in determining appropriate measures of reparation.

127. With respect to the recommendation to continue making progress on implementing Law 1448 and adopt the necessary measures to adequately address verified challenges [In the current context, show progress on the implementation of the Comprehensive National Program for the Substitution of Illegal Crops (PNIS) and the security guarantees that are being provided to protect the lives and personal integrity of those promoting and participating in the program], the State reported that there was a restructuring of the collective reparation program to guarantee victim compensation.<sup>150</sup>

128. It also indicated that collective reparations had been provided in 30 cases, including the first ethnic case of collective reparation, that being the Community Council of Villa Arboleda, in Putumayo, with an investment of more than one billion pesos (US\$267,000). It also indicated that 55 ethnic collective reparation subjects already have a Comprehensive Reparations Plan in place after conducting their respective prior consultations.<sup>151</sup>

129. The State recalled that in 2020 it executed the highest victim assistance budget in history, equivalent to US\$263 million, and that the budget allocated to the Land Restitution Unit has been increasing.<sup>152</sup> Likewise, it submitted the following information: “Compensation to 339,740 victims, with an investment of more than 2.88 billion pesos (US\$758 million); 34,387 victims have agreed to measures of satisfaction, such as a letter to restore dignity and support for dignified turning over of the remains of persons who had been disappeared, among other things; 28 non-ethnic collective reparations cases with their comprehensive collective reparation process completed, amounting to an investment of close to 21.761 million pesos (US\$5.7 million); 30 historic collective reparations cases completed; 2,446,239 humanitarian care packages have been delivered to households that were the victims of forced displacement and included in the Single Registry of

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<sup>151</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 41-43, IACHR Archive.

<sup>152</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 41-43, IACHR Archive.

Victims (RUV), with an investment of close to 1.54 billion pesos (US\$405 million), providing support for around 1,183,000 victim households.”<sup>153</sup>

130. In addition to the above, the information from the State indicates the following outcomes: “Restitution has reached 203 new areas in some of the most remote municipalities of the country, extending to more than 80% of the national territory; in the last 4 years, a total of 2,098 sentences have been issued, through which 3,482 requests for restitution were resolved. These correspond to 150,894 hectares with a compensation and/or restitution order (50,883 hectares via the individual route and 100,011 in the framework of the ethnic route), benefiting 25,660 victims of dispossession and forced displacement who are part of campesino, indigenous, and Afro-descendant communities; a total of 1,946 productive projects have been implemented, benefiting the same number of families.”<sup>154</sup>

131. Additionally, it is worth highlighting the establishment of the Office for Replacing Illegal Crops within the Territory Renewal Agency, which enjoys administrative and financial autonomy. To fund this office, 1.08 billion pesos (from 2018 to 2021) have been allocated through the Fondo Colombia en Paz.<sup>155</sup> The strategies for implementing this program include prioritizing special management areas like national natural parks, reserve zones and collective territories. Activities are to be carried out in coordination with environmental and planning authorities.<sup>156</sup>

132. Also, according to official information, the Comprehensive National Program for the Substitution of Illegal Crops (PNIS) reported the following results: the eradication of 45,002 hectares, with 98% compliance with the commitment to voluntarily eradicate crops and 0.8% compliance with reseeding. In addition, 76,185 families received cash transfers during launch of their productive projects; 73,302 were receiving technical assistance for their productive projects; and 65,830 families received supplies and tools for home gardens.<sup>157</sup>

133. For the reasons stated, the IACHR deems compliance with this recommendation to be partial and urges the State to redouble efforts to implement Law No. 1,448, especially in terms of reparations and restoring land to the victims. Likewise, it urges the State to guarantee the safety of those who lead the implementation of the PNIS, ensure subsistence for those who are part of this program, and convene a broad roundtable for talks on transforming the reality of these territories.

134. In its observations on the draft of this report, the State provided additional information on the development of the PNIS since its inception, which extends beyond the period covered by this report. However, the IACHR welcomes the State's efforts in implementing this program, while taking note of complaints by social organizations and of the decrease in the budget of this program indicated by the Attorney General's Office.<sup>158</sup>

135. As far as the recommendation to ensure, in practice, implementation of a differential approach for women, children and adolescents, persons with disabilities, indigenous peoples, Afro-descendants, lesbian, gay, bisexual, trans and intersex persons, human rights defenders, among others, the State indicated that the

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<sup>153</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 41-43, IACHR Archive.

<sup>154</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 41-43, IACHR Archive.

<sup>155</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 41-43, IACHR Archive.

<sup>156</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 41-43, IACHR Archive.

<sup>157</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 41-43, IACHR Archive.

<sup>158</sup> Attorney General's Office, Third Report to Congress on the State of Progress in the Implementation of the Peace Agreement, August 2021, p. 333.



public policy on victims contained in Law 1448 of 2011 and the ethnic decrees on black, Afro-Colombian, Raizal, and Palenquera communities are complemented by the National Development Plan, entitled “Pact for Colombia, Pact for Equity” (2018-2022), and the Framework Plan for the Implementation of the Final Agreement, in order to strengthen the reparation component.<sup>159</sup>

136. Likewise, regarding the implementation of differentiated approaches, the State mentions that one of the fundamental contributions of the Victims' Law is the creation of the Administrative Program for Collective Reparation, which is based on the recognition of the collective damages that have affected peasant and neighborhood communities, ethnic communities and peoples, organizations, groups, and pre-existing social movements. The objective of this program is to contribute to providing reparations to victims with political, material, and symbolic components in the form of measures of restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. In relation to ethnic communities, the first reparation measure for these collective subjects is collective compensation by providing tools for carrying out important projects in the communities. The program also incorporates a line of action for organizational strengthening that contributes to imbuing subjects with management and development capacity, and a Strategy for Recovering the Social Fabric, in terms of strengthening the bonds of trust, the dignity of the victims, and recovery of their traditional practices.

137. According to the information presented by the State, in view of this policy, significant progress has been made, adjusted to the territorial and cultural realities. To date, nearly 2,000 remedial actions have been carried out under the Comprehensive Collective Reparation Plans (PIRC) and a total of 33 subjects have been fully compensated in a process to accelerate reparatory measures in the country. They also indicate that the actions in the PIRCs emerged through the process of consulting with the communities (1,947 actions). It has therefore been possible to implement 415 actions related to guarantees of non-repetition (58 actions), compensation (27), rehabilitation (57 actions), restitution (175 actions), and satisfaction (104 actions), highlighting articulation with the initiatives under the Action Plans for Regional Transformation, mainly in section 8: reconciliation, coexistence, and peace building.

138. Additionally, the State indicates that the Framework Plan for the Implementation of the Final Agreement includes indicators on incorporating the gender approach in the collective reparation route, constituting an essential component of the efforts to enhance the participation of women at the different levels of the collective reparations processes. It also indicates that, within the framework of effective implementation of Law 1448 of 2011, the Unit for Comprehensive Victim Support and Reparations has developed programs directed towards women and girls intended to implement actions that contribute to transforming discriminatory social attitudes and redressing different behaviors of violence. The entity implements the Comprehensive Reparation Strategy for Women Victims of Sexual Violence, which recognizes the importance of addressing—in a differentiated manner and with a gender approach—the effects of “Crimes against sexual freedom and integrity,” including when perpetrated against black, Afro-Colombian, raizal, and palenquera women. The State also noted that the Ministry of Interior Affairs was taking a crosscutting approach to the issues involved in placing a differentiated focus on indigenous peoples and communities; black, Afro-Colombian, Raizal and Palenquera communities; and women. The IACHR notes that the Truth Commission

139. The Commission appreciates the measures being adopted by the State to ensure a differentiated approach is used in reparation measures. However, it highlights that it has received information on the lack of reparation for Afro-descendant women who are victims of sexual violence and on the failure to recognize them as a collective subject of reparation.<sup>160</sup> In this sense, the Commission deems this

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<sup>159</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 45-50, IACHR Archive.

<sup>160</sup> IACHR, 182nd Period of Sessions, Public Hearing, Situation of human rights of Afro-descendant communities in the Colombian Pacific, December 16, 2021.

recommendation to meet with partial compliance and calls on the State to ensure progress on measures of reparation that take into account the intersectionality of factors that the victims bring together.

140. Regarding ensuring effective participation for victims in the bodies set forth in Law 1448, and take into account their expectations, in determining appropriate measures of reparation, the State indicated that the Collective Reparations Program is, in its essence, based on victim participation. Additionally, it stated that the plans are the outcome of an extensive process of dialog with the entities that must implement it and with the collectives that will be its recipient. This vision is based on the recognition and importance of the participation of victims in defining reparations mechanisms and recognizing them as active subjects within transitional justice mechanisms. In addition, it indicated that the program for ethnic communities is implemented in strict compliance with guarantee of the fundamental right to prior consultation, such that agreements can be reached with each community on the measures that will be established in the ethnic plans in accordance with the specific characteristics and the collective harm identified.<sup>161</sup>

141. It also noted that during 2021, the national and territorial instances for representation of victims were strengthened. In this regard, it highlighted: a) the monthly meetings held by the different bodies of the National Roundtable for the Effective Participation of Victims; b) meetings between representatives of the National Roundtable, the Victims Unit, and the Presidential Council for Stabilization and Consolidation to agree on developing a work agenda that would include the participation of the management teams of the entities of the National Comprehensive Victim Care and Reparations System involved, as well as the Unit for Comprehensive Victim Response and Reparations (UARIV); c) the holding of 16 conferences with roundtable representatives on the effective participation of victims, within the framework of meetings enhancing victim participation in the Development Programs with a Territorial Approach-PDET; and d) preparation of progress reports on the departmental roundtables for effective victim participation.<sup>162</sup>

142. Likewise, the State of Colombia reported the selection of members of the councils for effective victim participation for 2021-2023, which included the municipal, departmental, and national levels. Representatives were selected through votes held for the different differentiated approaches, victimizing acts, subjects of collective reparation, and victims abroad. It indicated that the representatives of the victims will be responsible for managing the victim population's advocacy proposals and indicated that the following were elected: i. 1,089 effective municipal participation councils in the 1,103 municipalities reported at the departmental level, accounting for 98.2% of all municipalities in the country; ii. 32 effective victim participation councils for the departmental level; iii. one effective victim participation council for the capital district; iv. 20 local effective participation councils for the District of Bogota; and v. one effective victim participation council for the national level.<sup>163</sup>

143. Additionally, the State reported on the training of 2,103 victims during 2021 in the framework of the "Course on Participation in the Legal System," held by the UARIV to comply with orders of the Constitutional Court to develop a mass training plan for victims who are not organized and victims living abroad; the guidelines of the Follow-up and Monitoring Commission of the control bodies to this Law, among others. Additionally, over the course of the year, support was provided for 94 Comprehensive Collective Reparation Plans (PIRC) in the departments of Choco, Valle del Cauca, Putumayo, Nariño, Casanare, Arauca, Caldas, Caquetá, Risaralda, Cauca, Norte de Santander, Guajira and Cordoba; the Ministry of the Interior

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<sup>161</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 45-50, IACHR Archive.

<sup>162</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 45-50, IACHR Archive.

<sup>163</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 45-50, IACHR Archive.

coordinated the pre-consultation and prior consultation spaces managed logistically by the UARIV in 66 meetings held in 10 departments of Colombian territory, in which 60 Community Councils participated.<sup>164</sup>

144. According to official information, the Office for Black, Afro-Colombian, Raizal, and Palenquero Community Affairs (NARP) has been pursuing a strategy aiming to produce the conditions for strengthening real and effective inclusion of Black, Afro-Colombian, Raizal, and Palenquera Women. The focus is on rights, gender, intersectionality, and territories in the different areas of participation and representation in decision-making. Along these lines, awareness-raising and trainings have been carried out to strengthen women, increase their visibility, and improve recognition vis-a-vis the enforceability of their rights in the different regions of the country; and progress has been made on consolidating the NARP Women's Interagency Roundtable. The purpose is to join efforts toward articulation, coordination, and cooperation between government entities for their effective inclusion in national public policy, thereby guaranteeing their rights in the different spheres of participation and representation from gender, ethnic/racial, intersectional, and territorial perspectives. Two sessions have been held with the participation of entities and ministries serving Afro-Colombian, Raizal, and Palenquera women.<sup>165</sup>

145. For its part, the Office of the Public Defender presented the IACHR with information regarding this recommendation. Worth underscoring is the meticulous monitoring conducted by the Victims' Law Follow-up Commission regarding the eighth report on the elections of the 32 departmental councils and 10 municipal councils, along with their respective sessions, as well as the response to contributions to the PDT, PAT, or CONPES 4031 of 2021 - National Policy for Comprehensive Victim Response and Reparation. In this regard, it was found that for 2013 to 2021, all the Victims' Effective Participation Councils were elected. It was likewise found that 40% of the proposals of the departmental Territorial Action Plans received responses in the framework of council sessions, and 32% received them during meetings, of which 53% were positive, 10% negative, 16% partial, and 4% pending study as to its inclusion. It was also indicated that the issues with the most proposals involved income generation, prevention and protection, and health; 5% were specifically aimed at youths, 4% at women, 4% at ethnic peoples, and 3% at victims with disabilities. Thus, 863 victims' proposals were submitted to the departmental PATs, of which 89% received a response. Regarding municipal PATs, 227 proposals were presented and 91% answered—with 56% receiving a positive response and 33% partially answered or under review. Regarding the process that resulted in CONPES 4031 of 2021, seven sessions were held with the Victims' Effective Participation Roundtables in 30 cities and one with the national plenary. From this, 674 ideas were collected, of which 212 were included explicitly or implicitly.<sup>166</sup>

146. The Commission expresses thanks and appreciation for the information provided on the different actions taken to ensure and promote the participation of victims in the various spaces set aside for devising and implementation policies and measures on reparations and non-repetition of the violations that took place in the context of the internal armed conflict. It likewise highlights the notion of effective participation, which goes beyond establishing mechanisms for consultation and deliberation to incorporate—emanating from these mechanisms—contributions to the decision-making of the different public policy cycles.<sup>167</sup> In this regard, the IACHR deems it important to continue monitoring this recommendation in order to observe, on the one hand, the development and operation of these and new mechanisms, as well as the impact on the different instances provided for in Law 1448; and on the other hand, how victim expectations are taken into consideration when defining the pertinent measures of reparation. In view the foregoing, the Commission deems this recommendation to meet with partial compliance.

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<sup>164</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 45-50, IACHR Archive.

<sup>165</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 45-50, IACHR Archive.

<sup>166</sup> Office of the Ombudsperson of Colombia, Follow-up to the recommendations contained in the "Truth, Justice and Reparation" Report, January 14, 2022, pgs. 10 and 11, IACHR archive.

<sup>167</sup> IACHR, [Public policies with a human rights focus](#), September 15, 2018, pgs. 23-24.

## D. Forced Internal Displacement

- Adopt the necessary measures to prevent forced displacement, including instances attributed to illegal armed groups subsequent to the demobilization of paramilitary organizations.
- Implement the appropriate measures to ensure the protection and security of persons returning to the territories from which they were displaced, including demining of territories. Additionally, take a differential approach to displaced person prevention and protection policies.
- Move forward in the prosecution of cases of forced disappearance, in order to help to raise awareness about them.

147. As for the recommendation to adopt the necessary measures to prevent forced displacement, including instances attributed to illegal armed groups subsequent to the demobilization of paramilitary organizations, the Commission expressed its concern over the notable increase in internal displacement in Colombia.<sup>168</sup> According to data from the United Nations High Commissioner for Refugees (UNHCR), Colombia has the highest number of internally displaced people in the world, with a total of 8.3 million people at the end of 2020.<sup>169</sup>

148. In addition to this, data from the Information System on Human Rights and Displacement (SISDHES) of the Consultancy for Human Rights and Displacement (CODHES) indicate that between January and November 2021, a total of 167 events of mass and multiple displacement in Colombia, affecting 82,846 people.<sup>170</sup> According to CODHES, 2021 was the year seeing the highest number of victims of forced displacement since the signing of the Peace Agreement.<sup>171</sup> Along these same lines, between January and November 2021, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) documented an increase of 196% in the number of victims of mass displacement, compared to the same period in 2020.<sup>172</sup>

149. In addition, the Commission notes that most of these events took place—on a recurring basis—in the municipalities of Roberto Payán and Magüí (Nariño), Argelia (Cauca), Cáceres and Ituango (Antioquia), Buenaventura (Valle del Cauca), Santa Rosa (Bolívar), and Litoral de San Juan (Chocó), among other locations in the departments of the Pacific coast and the northwestern area of the country.<sup>173</sup> Likewise, according to the United Nations Office for the Coordination of Humanitarian Affairs, displacement disproportionately affects indigenous peoples and Afro-descendant communities.<sup>174</sup>

150. Likewise, recent OCHA reports indicate that direct threats from non-state armed groups, clashes between non-state armed actors, and harassment are among the main causes of forced displacement.<sup>175</sup> Additionally, the IACHR was informed that the acts of violence causing displacement in municipalities like Buenaventura were associated with seizing territorial control in order to build port and tourist infrastructure.<sup>176</sup>

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<sup>168</sup> IACHR, Press Release 258/21- [IACHR Expresses Concern Over the Notable Increase in Forced Internal Displacement in Colombia](#), September 30, 2021.

<sup>169</sup> UNHCR, [Global Trends: Forced Displacement in 2020](#), June 18, 2021.

<sup>170</sup> CODHES, [2021, el año con mayor número de víctimas de desplazamiento en 5 años](#), December 22, 2021.

<sup>171</sup> CODHES, [2021, el año con mayor número de víctimas de desplazamiento en 5 años](#), December 22, 2021.

<sup>172</sup> OCHA, [Colombia: Impacto y tendencias humanitarias entre enero y noviembre de 2021](#), December 30, 2021.

<sup>173</sup> IACHR, Press Release 258/21- [IACHR Expresses Concern Over the Notable Increase in Forced Internal Displacement in Colombia](#), September 30, 2021.

<sup>174</sup> OCHA, [Colombia: Impacto y tendencias humanitarias entre enero y noviembre de 2021](#), December 30, 2021.

<sup>175</sup> OCHA, [Colombia: Impacto y tendencias humanitarias entre enero y noviembre de 2021](#), December 30, 2021.

<sup>176</sup> IACHR, Press Release 258/21- [IACHR Expresses Concern Over the Notable Increase in Forced Internal Displacement in Colombia](#), September 30, 2021.

151. In addition to this, the magnitude of individual and family displacement was noted with concern. According to civil society organizations, this disc displacement is difficult to document due to its nature and impacts a greater number of people than mass displacement. This is particularly relevant for people who are social leaders who have to leave their territories due to threats. Similarly, civil society organizations reported that people with positions as social leaders who are claiming that territories belong to displaced families and communities face a variety of acts of violence, including murder.<sup>177</sup>

152. Additionally, civil society organizations informed the Commission that State efforts to address the extent of internal forced displacement were insufficient, and furthermore, the State does not guarantee effective protection of the rights of victims. Likewise, regarding whether the causes behind the phenomenon are addressed, the IACHR received information indicating a lack of progress on implementing the Peace Agreement, especially the components intended to mitigate the structural causes of violence by substituting illegal crops (PNIS) and providing economic development with a territorial approach (PDET).<sup>178</sup>

153. Additionally, the organizations denounced the expansion of non-State armed groups that threaten and expel the local population from their territories; the reduction in the budget for contingency care; the lack or insufficiency of victim support; and the carrying out of immediate returns without any risk analysis or safe return guarantees.<sup>179</sup>

154. Lastly, with regard to incidents of confinement, the IACHR observes that a high number of confinement situations and incidents of mobility restriction continue to take place in Colombia. According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), between January and November 2021, at least 57,700 people were held in confinement in Colombia.<sup>180</sup> It added that between January and October 2021, Chocó accounted for more than 65% of the people held in confinement in Colombia.<sup>181</sup> Additionally, the Commission notes that according to OCHA, the main causes of confinements are the same as forced displacement (threats and violence by armed groups), but causes also include accidents due to Antipersonnel Mines (APM) and Unexploded Munitions (UXO). This is because the risks posed by these devices restricts peoples daily activities, forcing them to restrict their mobility, producing situations of confinement in communities nearby to these areas.<sup>182</sup> The Commission observes that situations of confinement impact practically all indigenous and Afro-descendant persons.<sup>183</sup>

155. In this sense, the Commission observes that numerous incidents of mass forced displacement persist, increasing the number of displaced persons. Based on this, the IACHR deems its recommendation to meet with partial compliance. It consequently urges the State to enhance the measures implemented to prevent the forced displacement of people—in particular, measures to prevent the causes of mass displacement.

156. In its observations on the draft of this document, the State reported on the Defense and Security Policy for the investigation and prosecution of members of illegal armed groups. In this context, it

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<sup>177</sup> IACHR, Press Release 258/21- [IACHR Expresses Concern Over the Notable Increase in Forced Internal Displacement in Colombia](#), September 30, 2021.

<sup>178</sup> Information provided to the Commission during meetings with civil society organizations on August 30 and September 2, 2021.

<sup>179</sup> Information provided to the Commission during meetings with civil society organizations on August 30 and September 2, 2021.

<sup>180</sup> OCHA, [Colombia: Impacto y tendencias humanitarias entre enero y noviembre de 2021](#), December 30, 2021.

<sup>181</sup> OCHA, [Colombia: Impacto y tendencias humanitarias entre enero y octubre de 2021](#), November 30, 2021.

<sup>182</sup> OCHA, [Colombia: Impacto y tendencias humanitarias entre enero y octubre de 2021](#), November 30, 2021.

<sup>183</sup> OCHA, [Colombia: Impacto y tendencias humanitarias entre enero y octubre de 2021](#), November 30, 2021.

pointed to the capture of 570 members of the Gulf Clan and the activation during 2021 of 17 resolutions setting in motion the protection mechanism for at-risk or displaced ethnic communities, called the Ethnic Route.<sup>184</sup>

157. With regard to the recommendation to implement the appropriate measures to ensure the protection and security of persons returning to the territories from which they were displaced, including demining of territories, the State contributed information on the measures taken in 2021. Specifically, it highlighted the Returns and Relocations Protocol.<sup>185</sup> According to the State, this instrument defines the scope of support provided by the entities of the National System of Comprehensive Victim Support and Reparations (SNARIV) to populations subjected to forced displacement that have made the decision to return, relocate, or integrate locally, following the principles of safety, dignity, and voluntariness.<sup>186</sup>

158. Likewise, it was reported that between January and December 2021 support was provided via existing routes: i) individual support; ii) support for victims abroad; and, iii) community support. Of these, individual support was provided to a total of 16,259 people who decided to return, integrate locally, or relocate. Support was also provided for 90 requests from victims abroad, along with community support.<sup>187</sup> Additionally, the State indicated that, under the reparations model, a total of 774 communities received special community support arrangements amounting to an approximate value of 29.219 billion Colombian pesos (approximately US\$7.69 million).<sup>188</sup>

159. In addition to the foregoing, the State indicated that the Unit for Comprehensive Victim Support and Reparations provided technical assistance to update the Return and Relocation plans in 133 indigenous communities, in the departments of: Arauca (3 communities), Boyacá (2 communities), Caquetá (6 communities), Cauca (2 communities), Chocó (90 communities), Guainía (2 communities), Guaviare, (1 community), La Guajira (2 communities), Meta (4 communities), Nariño (1 community), Putumayo (9 communities), Quindío (2 communities), Risaralda (3 communities), Sucre (3 communities), and Valle del Cauca (3 communities).<sup>189</sup>

160. For its part, the Commission observed that, under the coordination of the Return and Relocation Group of the UARIV Office of Reparation, an announcement was published inviting victims of displacement in the process of returning or relocating to apply for the Special Community Support Arrangements (EEAC).<sup>190</sup> According to the coordinator of the Returns and Relocations Group, the purpose of this instrument is to develop and increase productive potential in the homes of the victims. Additionally, it seeks to make the most of their skills and create opportunities for them to achieve medium and long-term social and economic stabilization by delivering machinery, equipment, supplies, raw, materials, and/or products to

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<sup>184</sup> Observations of the Colombian State on the Draft Annual Report in Follow-up to Recommendations Made by the IACHR in the Country Report "Truth, Justice, and Reparation: Fourth Report on the Human Rights Situation in Colombia," April 13, 2022, p. 29-31

<sup>185</sup> Government of Colombia, [Resolution 03320 of November 22, 2019](#), whereby the Return and Relocation Protocol is adopted in accordance with Article 2.2.6.5.8.8 of Decree 1084 of 2015.

<sup>186</sup> Republic of Colombia, Recommendations of the report Verdad, Justicia y Reparación: cuarto informe sobre la situación de los derechos humanos en Colombia, Archive of the IACHR, January 2022, pg. 52.

<sup>187</sup> Republic of Colombia, Recommendations of the report Verdad, Justicia y Reparación: cuarto informe sobre la situación de los derechos humanos en Colombia, Archive of the IACHR, January 2022, pg. 52-53.

<sup>188</sup> Republic of Colombia, Recommendations of the report Verdad, Justicia y Reparación: cuarto informe sobre la situación de los derechos humanos en Colombia, Archive of the IACHR, January 2022, pg. 53.

<sup>189</sup> Republic of Colombia, Recommendations of the report Verdad, Justicia y Reparación: cuarto informe sobre la situación de los derechos humanos en Colombia, Archive of the IACHR, January 2022, pg. 53.

<sup>190</sup> Unit for Comprehensive Victim Support and Reparations, Colombia, ["Abren convocatoria para que población víctima acceda a Esquemas Especiales de Acompañamiento Familiar \(EEAF\) en 2021."](#) February 3, 2021.

start or strengthen businesses. This will guarantee a dignified subsistence and make their process of return, relocation, or local integration sustainable.<sup>191</sup>

161. Additionally, as regards returns to the territories, the IACHR notes that according to OCHA data, only 26% of people displaced by massive emergencies during 2021 have returned to their places of origin.<sup>192</sup> In addition to this, information was received indicating that in many cases, the return process is carried out without adequate security guarantees to ensure it is safe.

162. Regarding land restitution, the Commission takes note of the enactment of Law 2,078, of January 8, 2021, extending the validity of the Victims and Land Restitution Law for 10 years.<sup>193</sup> In this regard, the IACHR noted that, according to data from the Fundación Forjando Futuros, a total of 1,011 cases of land restitution were resolved judicially, and 718 sentences were handed down in 2021, resulting in a total of 102,107 hectares restored.<sup>194</sup>

163. Regarding the demining of the territories, the Commission continues to take note of the implementation of the Strategic Plan 2020-2025 "Towards a Colombia free of fear of antipersonnel mines for all Colombians," which seeks to eliminate the contamination of the territory by antipersonnel mines (APM) and unexploded ordnance (UXO). The strategic plan's main outputs include the following: i) humanitarian demining; ii) mine risk education; iii) comprehensive assistance to victims; and, iv) territorial and information management.<sup>195</sup> In this regard, according to data from the Office of the High Commissioner for Peace, Colombia has 391 municipalities declared Free of Suspicion and Free of Reports of Antipersonnel Mines out of a total of 713 municipalities that have some type of contamination. Additionally, for humanitarian demining tasks, 156 municipalities are assigned to national capacity and to civil organizations.<sup>196</sup> Despite the State's efforts to advance demining in the territories, the Commission observes with concern that as of November 30, 2021, 141 victims of accidents caused by these devices had been registered.<sup>197</sup>

164. Additionally, regarding application of a differentiated approach to prevention policies and policies to protect displaced persons, the State informed the IACHR that through the exercise carried out with the territorial entities, 134 projects were presented with municipal mayoral offices to benefit indigenous communities with an approved return and relocation plan. In addition, it highlighted that the return and relocation plans are closely related to the indigenous ethnic-territorial safeguard plans set forth in Order 004 of 2009 of the Constitutional Court, as well as indigenous communities' life plans.<sup>198</sup>

165. The IACHR has observed that mass displacements in Colombia mainly affect people in a situation of historical and structural vulnerability, such as the campesino population, indigenous communities, and communities of African descent.<sup>199</sup> In this regard, the most recent data from the Office of the Ombudsperson of Colombia indicates that during the first half of 2021, 59% of ethnic indigenous and Afro-

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<sup>191</sup> Unit for Comprehensive Victim Support and Reparations, Colombia, "[Abren convocatoria para que población víctima acceda a Esquemas Especiales de Acompañamiento Familiar \(EEAF\) en 2021.](#)" February 3, 2021.

<sup>192</sup> OCHA, [Colombia: Impacto y tendencias humanitarias entre enero y noviembre de 2021](#), December 30, 2021.

<sup>193</sup> Congress of Colombia, [Law 2078 of 2021 "Amending Law 1448 of 2011 and Ethnic Decrees 4633 of 2011, 4634 of 2011, and 4635 of 2011 to extend validity for 10 years"](#), January 9, 2021

<sup>194</sup> Fundación Forjando Futuros, [Sistema de Información Sembrando Paz](#), January 25, 2022.

<sup>195</sup> Office of the High Commissioner for Peace, Colombia, Anti-mining Actions, [Strategic Plan 2020-2025](#).

<sup>196</sup> Office of the High Commissioner for Peace, Colombia, Anti-mining Actions, [Strategic Plan 2020-2025](#).

<sup>197</sup> Office of the High Commissioner for Peace, Colombia, Anti-mining Actions, [Estadísticas de Asistencia Integral a las Víctimas de MAP y MUSE](#), November 30, 2021.

<sup>198</sup> Republic of Colombia, Recommendations of the report Verdad, Justicia y Reparación: cuarto informe sobre la situación de los derechos humanos en Colombia, Archive of the IACHR, January 2022, pg. 53-54.

<sup>199</sup> IACHR, Press Release 258/21- [IACHR Expresses Concern Over the Notable Increase in Forced Internal Displacement in Colombia](#), September 30, 2021.

descendant communities were impacted by situations of displacement, while 41% of non-ethnic communities affected mainly involved campesinos.<sup>200</sup>

166. The IACHR also took note of the differentiated impact of internal displacement on women. In particular, the Commission notes that when women are displaced, they face specific needs and problems arising from their status as women. In this regard, the IACHR recalls that the Colombian Constitutional Court has highlighted that forced internal displacement entails specific risks for women based on gender. They include the following: i) the risk of violence, exploitation or sexual abuse; ii) exploitation or enslavement to perform domestic labor; iii) the danger of forced recruitment of children; and, iv) obstacles to accessing land ownership and asset protection.<sup>201</sup>

167. The Commission takes note of the measures implemented by the State to guarantee the protection and safety of persons who return to the places from which they were displaced. Similarly, the IACHR welcomes the actions taken to demine the territories. At the same time, it welcomes the implementation of policies and programs with a differential approach to internally displaced persons. However, the Commission observes with concern that the conditions of risk to the life and personal integrity of the victims of forced displacement persist, with a profound and differentiated impact on indigenous, Afro-descendant, and campesino communities in Colombia. The IACHR additionally notes that people remain in danger from the presence of antipersonnel mines and unexploded ordnance.

168. Based on the foregoing, the Commission finds that this recommendation remains pending compliance. It therefore urges the State to reinforce the measures implemented to protect displaced persons who return to their territories. Likewise, the IACHR calls for continuing to apply a differentiated approach to protecting the rights of displaced persons and urges the State to move forward with demining of the affected territories.

169. Finally, regarding the recommendation to move forward in the prosecution of cases of forced disappearance, in order to help to raise awareness about them, the State reported that Decree Law 898/2017 strengthens the Office of the Attorney General of the Nation (FGN), better enabling it to dismantle criminal organizations and behaviors that threaten the implementation of the peace agreements and peace building efforts. In addition to this, the State indicated that the mandate of the FGN was expanded, adding the Thematic Central Issue of Displacement and Forced Disappearance, which was previously under the Office of National Prosecutors. As a consequence of this, it highlighted that approximately 12,967 investigations into the crime of forced displacement involving 21,350 victims were put before the office.<sup>202</sup>

170. In addition to the foregoing, the State provided information on the implementation of a strategy aimed at applying criteria drawing connections between and linking cases investigating forced displacement. The aim of these criteria is to understand the phenomenon of displacement based on the criminal structures involved—using timeframe or georeferencing—and not as an isolated event. It added that between July 2017 and November 2021, 2,655 orders were issued to connect cases as part of the investigations into the crime of forced displacement. The State also recorded that as of November 1, 2021, the DECVDH had 6,294 active investigations into forced displacement, 46.6% fewer cases than the initial 2017 caseload.<sup>203</sup>

171. Likewise, the State indicated that, in order to continue giving procedural impetus to the cases of displacement before the DECVDH, during 2022, it is planned to develop a strategy targeted based on armed

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<sup>200</sup> Office of the Ombudsperson of Colombia, "Defensoría alerta ante el aumento de eventos de desplazamiento masivo y confinamiento de comunidades", July 13, 2021.

<sup>201</sup> Constitutional Court of Colombia, Order 092-08.

<sup>202</sup> Republic of Colombia, Recommendations of the report Verdad, Justicia y Reparación: cuarto informe sobre la situación de los derechos humanos en Colombia, Archive of the IACHR, January 2022, pg. 55-56.

<sup>203</sup> Republic of Colombia, Recommendations of the report Verdad, Justicia y Reparación: cuarto informe sobre la situación de los derechos humanos en Colombia, Archive of the IACHR, January 2022, pg. 56-57.



actor. The aim of the strategy is to link—based on territory and subjective criteria—incidents that can be attributed to the commanders of the different armed actors. It would also seek to connect the incidents based on supplementary criteria, including the time for the years in which they took place and for the commanders of the fronts or blocs, as appropriate.<sup>204</sup>

172. Additionally, according to official data, during 2021, 1,213 processes were launched for the crime of forced displacement; a total of 965 were active as of November 30, 2021.<sup>205</sup> Likewise, the Office of the Attorney reported that during 2021, alleged members of different criminal organizations were prosecuted for their involvement in incidents of forced displacement of people.

173. In particular, the Commission observes that, in July, a city-wide arrest warrant was issued for an alleged member of the criminal organization "La Oficina," which is engaged in extortion, forced displacement, and other crimes in the municipality of Tuluá (Valle del Cauca).<sup>206</sup> Likewise, in September, three presumed members of the organization "Los Sureños" were jailed as a preventive security measure for the crime of forced displacement. This was because of their possible participation in the murder of a human rights defender that took place in 2020 in the village of San Antonio, a rural area of the Tolima capital.<sup>207</sup> According to the Prosecutor's Office, the modus operandi of the "Los Sureños" gang was to threaten people with firearms—most of them victims of the armed conflict—so that they would once again leave the lands to which they were returning peacefully. According to the Prosecutor's Office, this situation amounts to revictimization and impacts the proper execution of Law 1448 of 2011, whose objective is to ensure this population can return to its lands.<sup>208</sup>

174. Likewise, the IACHR takes note that in November, a proceeding was initiated against an alleged member of the Tito Marín Company of the Darío Ramírez Castro War Front, of the ELN armed group, for a case related to the forced displacement of a couple and their three minor children, which occurred on July 9 in a village called Mina Caracol, in the municipality of Montecristo (Bolívar).<sup>209</sup> Finally, according to information from the Prosecutor's Office, in December two alleged members of the "Los Chuma" organization were held in pretrial detention, accused of intimidating families from the Islas del Sol sector, in Campoalegre (Huila), with firearms and knives.<sup>210</sup>

175. The Commission takes note of the progress made in prosecuting cases of forced displacement in Colombia. Based on this, the IACHR deems its recommendation meets with partial compliance and urges the State to continue investigating and prosecuting the crime of forced displacement, as well as continue implementing comprehensive reparations measures for the victims.

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<sup>204</sup> Republic of Colombia, Recommendations of the report Verdad, Justicia y Reparación: cuarto informe sobre la situación de los derechos humanos en Colombia, Archive of the IACHR, January 2022, pg. 57.

<sup>205</sup> Office of the Attorney General of the Nation, Colombia, Datos abiertos de la Fiscalía General de la Nación - Conteo de Procesos, up to date through November 30, 2021.

<sup>206</sup> Office of the Attorney General of the Nation, Colombia, "A la cárcel presunto integrante de grupo delincuencia La Oficina, dedicado a la extorsión y desplazamiento forzado", July 15, 2021.

<sup>207</sup> Office of the Attorney General of the Nation, Colombia, "Impactada organización delincuencia Los Sureños, dedicada al parecer al desplazamiento forzado en Ibagué y el sur del Tolima" September 3, 2021.

<sup>208</sup> Office of the Attorney General of the Nation, Colombia, "Impactada organización delincuencia Los Sureños, dedicada al parecer al desplazamiento forzado en Ibagué y el sur del Tolima" September 3, 2021.

<sup>209</sup> Office of the Attorney General of the Nation, Colombia, "Medida de aseguramiento para supuesto integrante del ELN por desplazamiento forzado en Montecristo (Bolívar)", November 14, 2021.

<sup>210</sup> Office of the Attorney General of the Nation, Colombia, "A la cárcel dos presuntos integrantes de 'Los Chuma' por desplazamiento forzado", December 2, 2021.

## E. Economic, Social, Cultural, and Environmental Rights (ESCR)

- Continue to adopt measures for the reduction of poverty and extreme poverty

176. Regarding the recommendation to continue to adopt measures to eradicate poverty and extreme poverty to guarantee economic, social, cultural, and environmental rights (DESCA), the Commission and its SRESCER observe that the high levels of poverty and existing inequality in the country have worsened. The IACHR also notes that these situations have a particular affect on the groups and regions historically impacted by the conflict and the structural violence resulting from the internal armed conflict. Additionally, the worsening of this structural situation due to—among other factors—the impacts of the Covid-19 pandemic has been identified by State authorities and an array of social actors as one of the main causes of the social discontent expressed in the nationwide demonstrations that began on April 28, 2021.

177. Understanding poverty as a structural problem that impacts the enjoyment and exercise of human rights,<sup>211</sup> the IACHR and its SRESCER highlight the efforts and measures implemented by the State to address poverty and extreme poverty. In this sense, the State reported on the resources allocated to implement the Development Programs with a Territorial Approach and their implementation through the 16 Action Plans for Regional Transformation (PATR). In this framework, it highlighted the Master Plan for Structuring-Infrastructure (PME) and the identification of projects and approximate estimates of their cost in the transportation, education, health, drinking water, energy, and economic development sectors.<sup>212</sup> Likewise, it also pointed to the Plan for the Mass Formalization of Rural Property and highlighted that 1,216,816 hectares had been entered into the National Land Fund, equivalent to 11,076 properties, as well as the delivery of 247,021 hectares to 10,032 families. Additionally, government figures indicate the regularization of 730,000 hectares and the issuance of titles to 39,927 families. Lastly, information was submitted on support and lines of credit for small producers.<sup>213</sup>

178. Additionally, the Commission has taken note of the information published by the World Bank, which highlights that the existing high levels of inequality in Colombia limit the country's economic growth and social progress.<sup>214</sup> According to government figures, since 2017, inequality that had been on the decline has increased. In addition, the Gini index, which had a value of 0.508 in 2017, increased to 0.517 in 2018, 0.526 in 2019, and 0.544 in 2020.<sup>215</sup> These values make the country one of the most unequal in the world.<sup>216</sup> This inequity especially impacts social groups that have seen their rights structurally violated. The IACHR underscores that a woman is 1.7 times more likely to be unemployed than a man; an indigenous person receives on average two years less of formal schooling than other persons in the country; two-thirds of Venezuelan migrants of school age are not enrolled in an educational institution; and an Afro-Colombian person is twice as likely to live in a neighborhood with high poverty rates.<sup>217</sup>

179. The World Bank has also maintained that Colombia's fiscal policy does not substantially redistribute income and called on the State to develop a more redistributive fiscal system.<sup>218</sup> The Bank recently

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<sup>211</sup> IACHR, [Poverty and Human Rights](#), OEA/Ser.L/V/II.164, September 7, 2017

<sup>212</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 61-62, IACHR Archive.

<sup>213</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 61-62, IACHR Archive.

<sup>214</sup> World Bank, [Building an Equitable Society in Colombia](#), 2021

<sup>215</sup> National Administrative Department of Statistics (DANE). [Press Release: Monetary Poverty](#), April 29, 2021.

<sup>216</sup> World Bank, [Building an Equitable Society in Colombia](#), 2021

<sup>217</sup> World Bank, [Building an Equitable Society in Colombia](#), 2021, pg. 6.

<sup>218</sup> World Bank, [Fiscal Policy in Colombia: Tapping Its Potential for a More Equitable Society](#), 2012, pg. 2.

said that “in Colombia, taxes and transfers do little to reduce income inequality.”<sup>219</sup> Similarly, the Organization for Economic Cooperation and Development (OECD) underscores the need to build a legislative consensus that enables increasing tax revenues in the country from levels it currently considers to be relatively low.<sup>220</sup> Likewise, it warns that social spending in Colombia is low and that converting the emergency support for working people provided during the COVID-19 pandemic into a permanent social benefit would constitute a positive expansion of social protection in the country.<sup>221</sup>

180. At the same time, monetary poverty in 2020 rose to 42.5% of the population, while extreme poverty—that is, people without access to a basic food basket of essentials for life—affected 15.1% of Colombian society.<sup>222</sup> Poverty is overrepresented in households headed by women under 35 with low levels of education, especially where the head of the household is unemployed. Additionally, the departments with the highest share of population below the poverty line are located in the regions where indigenous peoples and communities of African descent predominate, including Chocó (64.6%) Cauca (55.6%), and La Guajira (66.3%),<sup>223</sup> departments that have also been impacted by the armed conflict and its reemergence since the signing of the agreement. The poverty rate is particularly alarming in the capitals of these departments: In Quibdó, 66% live below the poverty line and 30% in extreme poverty, while in Popayán, those figures stand at 51% and 20%, respectively.<sup>224</sup>

181. Along the same lines, multidimensional poverty grew in 2020, impacting 18.1% of households in the country, increasing sharply in populated and remote rural areas, where it affected 37.1% of households.<sup>225</sup> As far as the indicators that comprise this index, the reduction in barriers to access health services stands out (from 5.5% to 2.2%), as do the increases in failure to attend school (reaching 16.4%), long-term unemployment (to 14.2%), and informal work (to 74.2%).<sup>226</sup> Likewise, variation was not homogeneous throughout the national territory: Antioquia and the Eastern region saw a decrease in households affected by multidimensional poverty of 0.8% and 0.7% respectively, down to 14.9% and 17.9% of households in each of these regions. Additionally, such households in the Pacific region (not including Valle del Cauca) and the Central region increased by 4.6% and 2.7%, respectively. This means that 30.9% of households in the Pacific region, 17.9% in the central region, and 28.7% in the Caribbean region are facing multidimensional poverty.<sup>227</sup>

182. Additionally, the IACHR observes that, at the national level, in households where the male or female head self-identifies as Afro-descendant, 29.2% live in poverty, while among those that self-identify as indigenous, 50% of households experience multidimensional poverty. For dense urban centers and remote rural areas, 48.1% of households headed by an Afro-descendant person experience multidimensional poverty, while 57.8% of households headed by an indigenous person are in this situation.<sup>228</sup> These differences expose the historical discrimination and structural accumulation of human rights violations faced by indigenous peoples and people of African descent in Colombia.

183. Additionally, the Commission also noted with concern the increase in malnutrition in children and adolescents, especially, those belonging to at-risk populations like indigenous peoples. In this regard,

<sup>219</sup> World Bank. [Building an Equitable Society in Colombia](#), 2021, p.5

<sup>220</sup> Organization for Economic Cooperation and Development (OECD). [Economic policy reforms 2021: Going for growth](#), pg. 3.

<sup>221</sup> Organization for Economic Cooperation and Development (OECD). [Economic forecast](#), May 2021.

<sup>222</sup> National Administrative Department of Statistics (DANE). [Press Release: Monetary Poverty](#), April 29, 2021.

<sup>223</sup> National Administrative Department of Statistics (DANE), [Monetary Poverty and Extreme Poverty](#), 2021.

<sup>224</sup> National Administrative Department of Statistics (DANE), [Monetary Poverty and Extreme Poverty, national monetary poverty annex](#), 2021

<sup>225</sup> DANE, [Press Release on Multidimensional Poverty in Colombia 2020](#), September 2, 2021.

<sup>226</sup> DANE, [Press Release on Multidimensional Poverty in Colombia 2020](#), September 2, 2021.

<sup>227</sup> DANE, [Press Release on Multidimensional Poverty in Colombia 2020](#), September 2, 2021.

<sup>228</sup> DANE, [Press Release on Multidimensional Poverty in Colombia 2020](#), September 2, 2021.

figures from the National Institute of Health indicate that as of September 11, 2021, a total of 10,011 cases of malnutrition were documented in girls and boys between the ages of 0 and 5. These figures amount to increases of 28.5% compared to the same period in 2020. In addition, the IACHR notes that 16.4% of children and adolescents who suffer from malnutrition belong to indigenous peoples, while 23.1% reside in rural areas.<sup>229</sup> In line with the above, the Commission received with concern information indicating that between January 1 and September 4, 2021, the deaths of at least 115 girls and boys under the age of 5 years were documented, possibly due to malnutrition or other causes associated with it.<sup>230</sup> Additionally, the Commission expresses concern over reports from the Office of the Ombudsperson of the deaths of at least 17 Wayúu children who lived in La Guajira due to malnutrition or associated diseases.<sup>231</sup> The Commission observes that the Caribbean Guajira remains one of the territories where multidimensional poverty is greatest in Colombia.<sup>232</sup>

184. In this context, the Commission received information about the failure to provide nutritional packages from the School Food Program (PAE) to children and adolescents from the Businchama Indigenous Reservation, in the municipality of Pueblo Bello (Cesar). According to the Office of the Ombudsperson, this has been the case since the end of 2020.<sup>233</sup> It is of particular concern to the IACHR because, according to the most recent data from the Office of the Ombudsperson, the proportion of households that consume three meals a day fell by 20% due to the confinement measures imposed in response to the COVID-19 pandemic.<sup>234</sup> In addition, 75.4% of households with three or more children under the age of 12 live in poverty.<sup>235</sup> In this regard, the Inter-American Commission urges the State to adopt measures to prevent and eradicate malnutrition in children and adolescents, in particular, by adopting public policies to reduce poverty and strengthen nuclear families.

185. The IACHR and its SRESCER reiterate that poverty constitutes a human rights problem that poses serious obstacles to the ability of the persons, groups, and communities experiencing it to enjoy and exercise their human rights under conditions of true equality.<sup>236</sup> Thus, this situation of multidimensional poverty that affects more than 9 million people in the country<sup>237</sup> amounts to a situation of hunger and food insecurity, in which information indicates that, as of September 2021, 30% of households do not eat three meals a day,<sup>238</sup> with estimates that 7 million people experience hunger in Colombia.<sup>239</sup> In this framework, Colombia was included by the Food and Agriculture Organization of the United Nations (FAO) on its list of countries

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<sup>229</sup> National Institute of Health, Informe de evento Desnutrición severa, moderada y aguda en menores de 5 años, Epidemiological period IX. Colombia 2021.

<sup>230</sup> Office of the Ombudsperson, Defensoría del Pueblo pide acción conjunta para preservar derechos nutricionales de la primera infancia en el país, September 20.

<sup>231</sup> Office of the Ombudsperson, Defensoría realiza seguimiento a situación de derechos humanos de los niños y niñas Wayuu, June 4, 2021.

<sup>232</sup> DANE, Comunicado de prensa Pobreza Multidimensional en Colombia 2020, September 2, 2021, pg. 72

<sup>233</sup> Office of the Ombudsperson, Defensor advierte que niños indígenas en Pueblo Bello (Cesar) no están recibiendo alimentación del PAE, July 22, 2021.

<sup>234</sup> Office of the Ombudsperson, Desnutrición en la primera infancia - Causas estructurales y vulneraciones prevenibles y evitables, 2021.

<sup>235</sup> Office of the Ombudsperson, Desnutrición en la primera infancia - Causas estructurales y vulneraciones prevenibles y evitables, 2021.

<sup>236</sup> IACHR, Report on Poverty and Human Rights (2017), para. 91.

<sup>237</sup> *Actualidad RT*, Casi medio millón de nuevos pobres: La "pobreza multidimensional" crece en Colombia (y estas son las zonas más afectadas), September 2, 2021.

<sup>238</sup> Infobae, DANE: 30% de los hogares colombianos no consumen las 3 comidas diarias, October 26, 2021

<sup>239</sup> *El Espectador*, Ingreso Solidario y hambre en Colombia, October 3, 2021

whose populations face high levels of food insecurity, with 63% of Venezuelan migrants in the country facing food insecurity.<sup>240</sup>

186. Additionally, information was received from the State on the decrease in the national unemployment rate, which stood at 11.8%.<sup>241</sup> Additionally, the Commission took note of the decrease in the informal economy rate, which went from 48.5% in 2020 to 46.8% in 2021. In addition to entailing greater exposure to risk and jobs with low productivity and pay, informality also limits access to social security programs.<sup>242</sup> Regarding this, the IACHR took note of the report of the United Nations Development Program indicating that 63% of Colombia's workforce is excluded from social protection programs.<sup>243</sup> The IACHR especially welcomes the reduction in informality to the extent that it means improved access to labor rights and social security and calls on the State to extend its efforts in this regard.

187. Regarding the right to education, the Commission and SRESCER have been monitoring the decrease in illiteracy, which dropped to 9.3% of households in 2019, and in students falling behind, as well as the persistence of failure to attend school and barriers to accessing early childhood care. However, it notes with concern information indicating that indigenous and Afro-Colombian populations miss the equivalent of 4.5 years of education when comparing years of schooling to learning outcomes.<sup>244</sup> Likewise, the impacts of COVID-19 mitigation measures on the right to education are noted with concern, to the extent that 78.9% of households considered multidimensionally poor do not have access to the Internet and 96.9% do not have a computer at home.<sup>245</sup>

188. The IACHR has indicated that human rights are universal, indivisible, and interdependent—that is, all human rights exist in relation to each other and mutually reinforce each other, and in principle, no one right takes precedence over the others in a way that would empty them of their essential content. In this sense, the Commission notes that, first of all, violations of ESCER must be understood as intersectional, to the extent that the effects are interrelated with processes of structural discrimination. In this regard, the accumulation of these historical effects on social groups like women, indigenous peoples, persons of African descent, campesinos, people with disabilities, migrants, and people experiencing poverty must be addressed. Based on the information submitted, the Commission deems its recommendation to be **pending compliance**.

## F. Groups acutely Affected in Contexts of Armed Conflict

### 1. The Invisibility of People of African Descent, *raizales*, and *palenqueras*

- Adopt urgent measures to overcome the structural discrimination that the Afro-Colombian population endures, as well as positive measures to eliminate racial discrimination and guarantee that people of African descent are able to exercise their rights on an equal footing with the rest of the population.
- Have specialized personnel and financial resources for the forthcoming population census, and make certain that appropriate channels are in place to enable civil society to participate and thereby ensure that

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<sup>240</sup> Food and Agriculture Organization of the United Nations (FAO), World Food Program (WFP), [Hunger Hotspots. FAO-WFP early warnings on acute food insecurity](#), February to May 2022

<sup>241</sup> Republic of Colombia, Ministry of Foreign Affairs, Recommendations of the Truth, Justice and Reparation Report: Fourth Report on the Human Rights Situation in Colombia: Emphasis 2021, January 2022, pgs. 60, IACHR Archive.

<sup>242</sup> National Administrative Department of Statistics (DANE), [Boletín técnico. Medición de empleo informal y seguridad social](#), October 13, 2021.

<sup>243</sup> United Nations Development Program (UNDP), [Trapped: High inequality and low growth in Latin America and the Caribbean](#), 2021, pg. 267

<sup>244</sup> World Bank, [Building an Equitable Society in Colombia](#), 2021

<sup>245</sup> National Administrative Department of Statistics (DANE), [Boletín técnico. pobreza multidimensional en Colombia año 2020](#), September 2021, p. 7

the categories used in the self-identification questions are properly assembled. The question on self-identification should be among the first questions asked on the basic questionnaires.

- Urgently adopt positive measures with a gender approach to address the multiple forms of discrimination facing women of African descent and their specific needs.
- Implement adequate mechanisms for prior consultation on all measures affecting people of African descent and guarantee that communities can enjoy and make use of their territories, free from interference.
- Move forward in the effective implementation of multiple policies and programs created to guarantee the rights of the Afro-descendant population by guaranteeing adequate mechanisms for participation and representation.

189. The Commission views positively the State's adoption of a number of initiatives by the State regarding the rights of people of African descent and actions to combat racial discrimination. It specifically praises the submission of a bill by the current administration to adopt the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance, on December 16, 2021.<sup>246</sup> The IACHR encourages the State to make quick progress on passing it and deposit the instrument of ratification and highlights this as a sign of its commitment to preventing and eradicating discrimination in the region.

190. However, the Commission observed that during 2021, acts of violence intensified in the regions historically affected by violence, particularly impacting the black, Afro-Colombian, Raizal and Palenquero communities, with a differentiated impact on children, adolescents, youths, and women.<sup>247</sup> In this regard, the IACHR urges Colombia to adopt urgent measures to guarantee the integrity of this ethnic group and combat all patterns of structural racial discrimination, along with redoubling its efforts aimed at eradicating persistent racial profiling practices in State institutions and by security forces.

191. Regarding the recommendation to **adopt urgent measures to overcome the structural discrimination that the Afro-Colombian population endures, as well as positive measures to eliminate racial discrimination and guarantee that Afro-descendent persons are able to exercise their rights on an equal footing with the rest of the population**, the State reported that the Ministry of the Interior is advancing the "Power of the 3 Es Strategy, Equity + Empowerment + Ethnodevelopment," which seeks to produce the conditions necessary to strengthen Black, Afro-descendant, Raizal, and Palenquero women and ensure their real and effective inclusion. In this framework, awareness-raising and training actions were carried out with a view to raising women's visibility and acknowledging the enforceability of their rights.<sup>248</sup>

192. Likewise, regarding protection for people of African descent, the State highlights a number of examples of progress, including the issuance of 146 early warnings with 21 direct recommendations to the Department of Black, Afro-Colombian, Raizal, and Palenquero Community Affairs of the Ministry of the Interior; participation in the humanitarian mission carried out in the department of Cauca, on the Pacific Coast of Cauca, López de Micay, Timbiquí, and Guapi; the implementation of 10 collective measures benefiting the community councils of Afro-descendant communities on the Nariño Pacific Coast; coordination with the competent rapid response instances and enhancing work with the traditional ethnic and Afro-descendant authorities; agreement and joint implementation with the National Protection Unit, territorial entities, and other institutions that supplement the comprehensive support provided under a differential ethnic approach; and

<sup>246</sup> Republic of Colombia, recommendations of the report Verdad, Justicia y Reparación: Cuarto informe sobre la situación de los derechos humanos en Colombia, énfasis 2021, document submitted to the IACHR for inclusion in the 2021 Annual Report, January 15, 2022, pgs. 68-69. IACHR archives.

<sup>247</sup> See IACHR, [354/21](#), IACHR Calls on Colombia to Take Urgent Measures to Protect the Rights of Indigenous Peoples and Black, Afro-Colombian, Raizal, and Palenquero Communities, December 29, 2021; IACHR, [167/21](#), IACHR Completes Working Visit to Colombia and Issues Observations and Recommendations, July 7, 2019.

<sup>248</sup> Republic of Colombia, recommendations of the report Verdad, Justicia y Reparación: Cuarto informe sobre la situación de los derechos humanos en Colombia, énfasis 2021, document submitted to the IACHR for inclusion in the 2021 Annual Report, January 15, 2022, pg. 69. IACHR archives.

the development of the project to provide payments in outlying areas to prevent forced recruitment of children and adolescents and guarantee respect for the rights of leaders and social civil organizations.<sup>249</sup>

193. However, in its monitoring work, the IACHR was able to gather information related to challenges regarding collective property, and publicly-available information indicates that in Colombia, two million hectares of Afro-descendant territories are not titled. To date (October 2021) in Colombia, about 5.5 hectares have been titled to black communities, the majority in the Pacific region, leaving other regions out.<sup>250</sup> In this context, the Commission takes note of the social demonstrations over annulment of the collective title of the Community Council of La Boquilla pursuant to a ruling of the Administrative Court of Bolívar, which was appealed by the black community.<sup>251</sup>

194. Likewise, the IACHR underscores challenges in terms of access to justice. In particular, the Commission takes note of the progress on the "Llano Verde case," the massacre of the five young Afro-descendants in Cali on August 11, 2020, in particular noting the arrest of three people allegedly connected to the murders. However, relatives of the victims state that a year since, the facts have still not yet been established, and they ask the State to guarantee the truth.<sup>252</sup>

195. The Commission highlights the efforts made by the State to comply with this recommendation; however, at the same time, it observes the increase in challenges facing Afro-descendant communities in the post-agreement framework, and therefore deems the recommendation to meet with **partial compliance**.

196. As for the recommendation to **have specialized personnel and financial resources for the forthcoming population census, and make certain that appropriate channels are in place to enable civil society to participate and thereby ensure that the categories used in the self-identification questions are properly assembled, in particular the question on self-identification should be among the first questions asked on the basic questionnaires**. The State reported that, through the National Administrative Department for Statistics (*Departamento Administrativo Nacional de Estadística—DANE*), work is being done for the systematic and cross-cutting mainstreaming of the differentiated ethnic approach and highlighting statistics on the Afrodescendant population.<sup>253</sup>

197. The state especially underscored the strategy implemented to calculate the number of the black, Afro-Colombian, Raizal, and Palenque population and thus to respond to the factors linked to the outcomes of the 2018 National Population and Housing Census (*Censo Nacional de Población y Vivienda—CNPV*). Regarding this, the present census had incorporated the question on ethnic self-recognition that yielded, as a result, the figure of 2,982,224 persons who self-identified as belonging to that ethnicity. Along this line, the state added that, between 2020 and 2021, the DANE had focused and convened awareness-raising forums on the figures of the Afrodescendant population drawn from the 2018 Census and the estimates that were calculated on the basis of available sources of information.<sup>254</sup>

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<sup>249</sup> Republic of Colombia, recommendations of the report Verdad, Justicia y Reparación: Cuarto informe sobre la situación de los derechos humanos en Colombia, énfasis 2021, document submitted to the IACHR for inclusion in the 2021 Annual Report, January 15, 2022, pg. 70. IACHR archives.

<sup>250</sup> *Caracol Radio*, [Dos millones de hectáreas de comunidades negras no están tituladas](#), October 9, 2021

<sup>251</sup> *El Universal*, [En La Boquilla piden que se respete su titulación colectiva](#), September 12, 2021; *El Espectador*, [Anulan título colectivo de tierras del Consejo Comunitario La Boquilla \(Cartagena\)](#), August 20, 2020

<sup>252</sup> *El Tiempo*, [El misterio sin resolver de la tortura y masacre de cinco niños en Cali](#), August 11, 2021

<sup>253</sup> Republic of Colombia. Recommendations of Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, document submitted to IACHR for inclusion in its Annual Report 2021, January 15, 2022, p. 71. In IACHR files.

<sup>254</sup> Republic of Colombia. Recommendations of Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, document submitted to the IACHR for inclusion in its Annual Report 2021, January 15, 2022, p. 71. In IACHR files.

198. Furthermore the Commission was informed by civil society organizations about the Administrative Court of Cundinamarca's ruling of admissibility on an appeal filed against the DANE for having allegedly rendered the Afrodescendant population invisible in national statistics. According to information submitted, in the 2018 Census, because of classification flaws, there were more than 1.3 million persons from this ethnic-racial population group who had not been identified. As a result the Afrodescendant population fell from 4,311,757 persons in the 2005 Census to 2,982,234 persons in the last census, in 2018.<sup>255</sup> According to official reports from the DANE, self-recognition of this population group declined by 30.8% between the 2005 Census and that of 2018.<sup>256</sup>

199. In its observations on the draft of this document, the State reported that the results of the 2018 census are attributable to a set of diverse factors where, in addition to possible errors of classification, there are difficulties in terms of access, the design of the questions and how they are posed, and broader elements such as the very racism and discrimination that exist in society. On the basis of census analysis and statistical probability, the State reported that, officially, the Black, Afro-Colombian, Afro-descendant, Mulatto, Palenquero, and Raizal populations together make up 9.34% of the national population, that is, 4,671,160 people. It also noted that it has included the ethnic focus in the national statistical system and that an agreement is being developed with the Ministry of the Interior to strengthen self-censuses of Black, Afro-Colombian, Raizal, and Palenquero communities.<sup>257</sup>

200. Regarding this, the IACHR reminds the Colombian state to coordinate previously with Afrodescendant grassroots and civil society organizations, using adequate and accessible communication channels, in order to structure the ethnicity-race categories used in the self-identification questions in the survey questionnaires and forms, censuses, and other tools for compiling statistical records in order to guarantee their effective participation in the different stages of designing, implementing, data processing, monitoring, and evaluating the Census. At the same time, the state must rely on technical teams specializing in data gathering and processing, and it must also train them about the intercultural perspective, the rights of Afrodescendant persons, and racial discrimination. The Commission also urges the state to implement institutional strategies at all levels in order to promote self-identification of the Afrodescendant ethnic-racial origin and the defense of their rights. Because of the above, the Commission finds that compliance with this recommendation is **complete**.

201. As for the recommendation to **urgently adopt positive measures with a gender approach, to examine the multilayered discrimination that Afrodescendant women suffer and their particular needs**, the state reported that, between February and March 2021, five socialization sessions were organized as part of the Comprehensive Program of Guarantees for Women Leaders and Human Rights Defenders (*Programa Integral de Garantías para Mujeres Líderesas y Defensoras de Derechos Humanos—PIG*) with 54 women leaders and defenders from the department in order to consolidate their knowledge about the Program. Likewise, the second meeting with women leaders and defenders from the department of El Chocó was held in August 2021 with the attendance of 43 women leaders and defenders from the department, representatives from the Office of the Governor, the Public Ministry, the Human Rights Platforms, and international cooperation organizations.<sup>258</sup>

202. The IACHR acknowledges efforts made by the state to comply with this recommendation. At the same time, it stresses that said measures fail to include a structural perspective and specific approaches

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<sup>255</sup> *W Radio*. [Admiten acción popular contra el DANE por haber "borrado" a la población afro](#) [Popular action against DANE is admissible for having "erased" the Afro population], June 10, 2021.

<sup>256</sup> DANE. Ethnic groups, technical information ([información técnica](#)).

<sup>257</sup> Observations by the Colombian State on the draft annual report following up on recommendations made by the IACHR in the Country Report "Truth, Justice, and Reparation: Fourth Report on the Human Rights Situation in Colombia," April 13, 2022, p. 38-44.

<sup>258</sup> Republic of Colombia. Recommendations of Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, document submitted to the IACHR for inclusion in its Annual Report 2021, January 15, 2022, p. 73. In IACHR files.



that would make it possible to mainstream several intersections such as ethnic-racial origin and gender. In that regard, the Commission reminds the state that it must, in all of its public policies on women's rights, mainstream a cross-cutting and intersectional ethnic-racial and gender approach, as well as an intercultural perspective. Therefore it finds that compliance with this recommendation is **partial**.

203. As for the recommendation to **implement suitable mechanisms for prior consultation on all measures affecting Afrodescendant persons and ensure that the communities are able to enjoy their lands free of any form of interference**, the state, in its response, did not submit up-to-date or relevant information on prior consultation processes in the Afrodescendant communities. At the same time, the IACHR was informed of the administrative and legislative measures aimed at regulating prior, free, and informed consultation and consent. According to information received on March 26, 2021, the Ministry of the Interior had submitted to the consideration of the public the draft decree on "Guidelines to exercise the duty of prior consultation to be conducted by the authorities, especially with respect to inter-agency coordination and the relationships with ethnic communities."<sup>259</sup>

204. In the view of the claimant organizations, the draft decree shows a clear step backwards in terms of the fundamental rights of ethnic communities, because it provides that dialogues established by the institutions with ethnic groups in the framework of prior consultations would be subjected to peremptory terms, which would erect barriers to undertaking an evenly balanced dialogue. Likewise, the timeframe assigned for the consultations would not respect cultural specificities, which would undermine the guarantee of a differentiated approach that must prevail in this kind of process. At the same time, the Commission is concerned that, on the basis of the information provided, although progress had been made in the consultations on this draft decree with ethnic organizations, there were indigenous peoples and black communities that had not participated in previous consensus-building consultations.<sup>260</sup>

205. The IACHR reminds Colombia to adopt appropriate institutional policies to guarantee the full exercise of the right to prior, free, and informed consultation and consent for the Afrodescendant communities in line with the principle of self-determination, guaranteeing their right to participating in all corresponding stages, which would entail respect for these population groups' own internal protocols when they are being consulted. Because of the above, the IACHR finds that compliance with this recommendation is **partial**.

206. As for the recommendation to **make progress on the effective implementation of the many policies and programs created to ensure the rights of the Afrodescendant population, while guaranteeing suitable mechanisms of participation and representation**, the state informed that, in the framework of the Development Programs with a Territorial Approach (*Programas de Desarrollo con un Enfoque Territorial—PDET*), 715 indigenous councils and reservations and 715 community councils of the Black and Afro-Colombian communities participated actively in drawing up the roadmap for their construction. In this exercise, there were 17, 531 initiatives identified in the 16 Action Plans for Regional Transformation (*Planes*

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<sup>259</sup> Documents submitted to IACHR: Regional Indigenous Council of Cauca (CRIC), Urgent request for Statement from the Inter-American Commission on Human Rights in response to repeated nationwide and territorial administrative and legislative measures regulating prior consultation and prior, free, and informed consent, which is an action that systematically breaches the fundamental rights of indigenous peoples and international standards, 2021 - 03003, March 30, 2021; National Indigenous Organization of Colombia (ONIC), National Organization of Indigenous Peoples of Colombia's Amazon Region (OPIAC), Indigenous Authorities of Colombia (AICO), National Commission for Indigenous Territories (CNTI), Communiqué to public opinion to defend the fundamental right to prior consultation and prior, free, and informed consent in Colombia, April 12, 2021.

<sup>260</sup> Documents submitted to IACHR: Regional Indigenous Council of Cauca (CRIC), Urgent request for Statement from the Inter-American Commission on Human Rights in response to repeated nationwide and territorial administrative and legislative measures regulating prior consultation and prior, free, and informed consent, which is an action that systematically breaches the fundamental rights of indigenous peoples and international standards, 2021 - 03003, March 30, 2021; National Indigenous Organization of Colombia (ONIC), National Organization of Indigenous Peoples of Colombia's Amazon Region (OPIAC), Indigenous Authorities of Colombia (AICO), National Commission for Indigenous Territories (CNTI), Communiqué to public opinion to defend the fundamental right to prior consultation and prior, free, and informed consent in Colombia, April 12, 2021.

*de Acción para la Transformación Regional—PATR*) with an ethnic component. To date, 3,772 ethnic initiatives are benefiting from an active management roadmap.<sup>261</sup>

207. The state also reported that the mid-Pacific subregion has 258 ethnic initiatives, accounting for 41% of the subregion's initiatives, and 100 of these initiatives have an active management roadmap whereas 3 have an intersectional gender approach. Furthermore, the state pointed out that 3 ethnic projects are being implemented via PDET project management for the benefit of 776 families with an investment amount of about 714 million Colombian pesos.<sup>262</sup>

208. The IACHR reaffirms what is stated in paragraphs 24 to 27 of this report regarding challenges in implementing the PDETs and, especially, of initiatives having an ethnic focus, the execution of which is markedly delayed. Additionally, as mentioned in paragraphs 28 to 30 of this report, the IACHR noted that electoral participation by ethnic communities was restricted to the 16 seats for peace.

209. The IACHR commends the state for the measures it has adopted to comply with this recommendation. Nevertheless, it stresses that it is necessary to continue adopting cross-cutting policies that include an ethnic-racial approach. Therefore, the IACHR finds that compliance with this recommendation is **partial**.

210. In its observations on the draft of this report, the State stressed that PDETs are one of the instruments it has to achieve the objectives set forth in this recommendation. In this sense, it emphasized that the PDETs are a planning and management instrument for rural development in 170 prioritized municipalities, 16 subregions, and 19 departments, with a planning timeframe of 15 years. The State also reported on the creation of Special Consultation Mechanisms (MEC) and the formation of teams to drive participation in all stages of the PDETs.<sup>263</sup>

## 2. Violence against Children and Adolescents

- Conduct the necessary investigations to obtain full and truthful information on the children and adolescents recruited by illegal armed groups and then informally separated.
- Ensure equal treatment of children and adolescents demobilized and adopt appropriate mechanisms for their full reintegration into civilian life, including specific measures for demobilized girls.

211. In connection with the recommendation to conduct the necessary investigations to obtain full and truthful information on the children and adolescents recruited by illegal armed groups and then informally separated, the state informed that the Special Jurisdiction for Peace (*Jurisdicción Especial para la Paz—JEP*) continues to move forward with case 07 "Recruitment and use of children and adolescents in the armed conflict." In addition, in the context of Ruling 159 of August 4, 2021, the Chamber for the Recognition of Truth and Responsibility (*Sala de Reconocimiento de Verdad y Responsabilidad—SRVR*) outlined its lines of reasoning in its work in connection with children and adolescents: i) recruitment and use of male and female children and adolescents under 15 years of age; ii) recruitment and use of male and female adolescents between 15 and 17 years of age; and iii) perpetration of other crimes against recruited male and female children and adolescents and their next of kin and communities. The state also provided information indicating that, at July

<sup>261</sup> Republic of Colombia. Recommendations of Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, document submitted to the IACHR for inclusion in its Annual Report 2021, January 15, 2022, p. 75. In IACHR files.

<sup>262</sup> Republic of Colombia. Recommendations of Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, document submitted to the IACHR for inclusion in its Annual Report 2021, January 15, 2022, p. 75. In IACHR files.

<sup>263</sup> Observations by the Colombian State on the draft annual report following up on recommendations made by the IACHR in the Country Report "Truth, Justice, and Reparation: Fourth Report on the Human Rights Situation in Colombia," April 13, 2022, p. 45-47.

31, 2021, there were 411 male and female children and adolescents demobilized, according to data from the Office of the High Commissioner for Peace 2021 (*Oficina del Alto Comisionado para la Paz—OACP*),<sup>264</sup>

212. Regarding efforts to prevent the phenomenon of recruitment, it indicated in particular that, between January and February, 144 male and female children and adolescents were involved in the program “Súmate por mí” (Join for me) that strives to prevent recruitment in high-risk territories. In addition, it referred to launching the strategy of the Office of the Ombudsperson entitled “2021, Year against Forced Recruitment of Male and Female Children and Adolescents,” aimed at doing the following: i) providing services, legal aid, and orientation to male and female children and adolescents victims of forced recruitment or who are at risk of being recruited and their families; and ii) motivating the judicial system to investigate, bring to trial, and punish the recruitment of children and adolescents.<sup>265</sup>

213. Furthermore, the IACHR received information on three complaints filed by the Colombian Family Welfare Institute (*Instituto Colombiano de Bienestar Familiar—ICBF*) with the Office of the Prosecutor-General of the Nation (FGN) and the Special Jurisdiction for Peace (*Jurisdicción Especial para la Paz—JEP*) against illegal armed groups for the forced, recurrent, systematic, and officially endorsed recruitment of male and female children and adolescents. According to information received, the complaints seek to reestablish truth, justice, reparations, and non-repetition for 465 male and female children and adolescents who left the National Liberation Army (*Ejército de Liberación Nacional—ELN*) and the residual Organized Armed Groups (*Grupos Armados Organizados residuales—GAOr*) between November 25, 2016 and January 31, 2021. In addition, as part of these complaints, information has been forwarded to the Prosecutor-General’s Office to shed light on more than 1,288 cases of child and adolescent recruitment by the ELN from 1999 to the present date.<sup>266</sup>

214. Likewise, the Ombudsperson’s Office pointed out that, since adoption of Regulations for the Early Warning System in December 2017, by March 2021 a total of 200 warnings had been issued, and of these alerts 156 had been warnings on the risk of forced recruitment, use, and exploitation of male and female children and adolescents.<sup>267</sup> Likewise, the most recent figures from the Observatory on Children and Armed Conflict pointed out that, between January and June 2021, a total of 126 armed conflict events was recorded, directly impacting about 14,321 male and female children and adolescents. Alongside this, over the first semester of 2021, 36 recruitment events were recorded, impacting 96 male and female children and adolescents, accounting for a 49.47% decline compared to the 190 children impacted registered over the same period of time in 2020. Nevertheless, the Observatory indicated that the decline could be the result of an under-registration of cases because oftentimes they are not reported.<sup>268</sup> On the basis of available information, the Commission finds that compliance with the present recommendation is **partial.2**

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<sup>264</sup> Republic of Colombia. Recommendations of Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, document submitted to the IACHR for inclusion in its Annual Report 2021, January 15, 2022, p. 77. In IACHR files.

<sup>265</sup> Office of the Human Rights Ombudsperson of Colombia. “Defensoría lanza la estrategia: 2021. Año Contra el Reclutamiento Forzado de Niños, Niñas y Adolescentes” [Ombudsperson’s Office launches strategy: 2021, Year against Forced Recruitment of Male and Female Children and Adolescents], February 12, 2021.

<sup>266</sup> Colombian Family Welfare Institute (ICBF), Colombia. “Directora ICBF interpone denuncias colectivas por el reclutamiento forzado de niños, niñas y adolescentes” [ICBF Director files collective complaints regarding forced recruitment of children and adolescents], February 22, 2021.

<sup>267</sup> Office of the Human Rights Ombudsperson of Colombia. [@@DefensoriaCol]. (March 10, 2021). 1/5 “Expresamos nuestra preocupación por las informaciones que reportan la muerte de un menor de edad en enfrentamientos armados en Guaviare. Solicitaremos a @MinDefensa @MedLegalColombi y autoridades territoriales aclarar lo acontecido y suministrar detalles”, Defensor Camargo [We voice our concern over information reporting death of minor in armed clashes in Guaviare. We shall request Defense Ministry and Medical Examiner of Colombia and territorial authorities to ascertain facts of event and provide details, Defender Camargo] [Tweet]. Twitter: <https://twitter.com/DefensoriaCol/status/1369685409949769734?s=20>

<sup>268</sup> Observatory on Children and Armed Conflict of COALICO (ONCA). Boletín de monitoreo N° 25: Niñez y conflicto armado en Colombia [Monitoring bulletin No. 25: Children and armed conflict in Colombia], June 2021, p. 9.

215. In its observations on the draft of this document, the State reported on the official figures on forced recruitment of children, which are compiled from the care of demobilized children, and in this context a presumed recruitment date is determined by what is stated by the victim. Information records of the Unit for Comprehensive Care and Reparation for Victims (UARIV) and the Colombian Institute of Family Welfare (ICBF), are updated as of the entry of new children to their care programs and/or into their systems and data.<sup>269</sup>

216. Furthermore, the Commission recommended the state to **ensure equal treatment of demobilized children and adolescents and adopt appropriate mechanisms for their full reintegration into civilian life, including specific measures for demobilized girls.** Regarding this, the state informed on the mandate of the ICBF to implement the specialized program for children and adolescents demobilized from illegal organized armed groups and the process of reinstating their rights and services to meet their needs and their individual specificities, especially with respect to the certifications required by the Agency for Reinsertion and Normalization.<sup>270</sup>

217. The ICBF pointed out that, up to February 2021, services had been provided to 6,958 male and female children and adolescents demobilized from illegal armed groups.<sup>271</sup> As for the United Nations Population Fund (UNFPA), it reported that, according to information from ICBF, 12% of all demobilized children and adolescents identify as indigenous persons, whereas 8% identify themselves as Afro-Colombians,<sup>272</sup> whereas the Ombudsperson's Office reported having known that 51 children and adolescents had been demobilized from illegal armed groups. No information was received on the actions adopted to reinstate rights in these cases in particular.<sup>273</sup>

218. Along with that, civil society organizations informed the IACHR that armed violence continues to impact young ex-combatants and the communities they belong to, even after they have surrendered their weapons and sought reinsertion into civil society. They added that, between 2016 and 2021, at least 48 homicides perpetrated against persons demobilized from the FARC targeted young people under 29 years of age, accounting for 18% of all homicides reported.<sup>274</sup>

219. The Commission deems that the state did not provide information on specific actions to guarantee equal treatment for demobilized children and adolescents or adopt relevant mechanisms to ensure their complete reinsertion into civilian life, nor does information sent by the state provide any evidence of a gender-based perspective to comply with this recommendation. In that regard, it is not possible to ascertain

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<sup>269</sup> Observations of the Colombian State on the draft annual report in follow-up to recommendations made by the IACHR in the Country Report "Truth, Justice, and Reparation: Fourth Report on the Human Rights Situation in Colombia," April 13, 2022, p. 48.

<sup>270</sup> Republic of Colombia, Recommendations of Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, document submitted to the IACHR for inclusion in its Annual Report 2021, January 15, 2022, p. 79. In IACHR files.

<sup>271</sup> Colombian Family Welfare Institute, Colombia. "Arranca megaoperativo contra el reclutamiento ilegal y la utilización de niños y jóvenes. Grupo Especial y Cartel de los más buscados entre iniciativas" [Mega raid launched against illegal recruitment and use of children and young people: Special Group and Cartel most widely sought among these initiatives], March 29, 2021.

<sup>272</sup> United Nations Population Fund (UNFPA). Análisis de la situación de la juventud en Colombia 2021 [Review of situation of young people in Colombia 2021], p. 23.

<sup>273</sup> Office of the Human Rights Ombudsperson of Colombia. Follow-up on recommendations in Truth, Justice and Reparation, Note No. 10-0031-22, IACHR files, January 14, 2022, p. 16.

<sup>274</sup> National Afro-Colombian Peace Council, Race & Equality, and ILEX Acción Jurídica. Human rights situation of Afrodescendant communities in Colombia's Pacific Region. Thematic hearing granted in framework of IACHR's 182 period of sessions, Bogotá and Washington, D.C., December 21, 2021, p. 19, in IACHR files; and United Nations Security Council, Informe del Secretario General. Misión de Verificación de las Naciones Unidas en Colombia [UN Verification Mission in Colombia: Report of the United Nations Secretary-General], S/2021/298, 26 March 2021, para. 85.

progress achieved to fully comply with the present recommendation. As a result, the IACHR finds that compliance with the present recommendation continues to be **partial**.

### **3. The armed Conflict's Differentiated Impact and the risk of Extinction Looming over the Indigenous Peoples of Colombia**

- Take urgent, determined, and comprehensive measures to ensure the physical and cultural survival of the Colombian indigenous peoples brought to the brink of extinction by violence, poverty and their fragile demographics.
- Intensify efforts to protect the effective enjoyment of the territorial rights of the indigenous peoples and their members as the first step toward safeguarding their fundamental rights in the context of the internal armed conflict, bearing in mind the singular importance that inter-American human rights law has attached to the territorial rights of indigenous peoples and because so many of the violations committed against them can be traced to the fact that much of the armed conflict is being fought on their ancestral territories and to the fact that economic interests are after the natural resources that those territories hold. Both factors have often left indigenous peoples dispossessed of their land.
- Establish, with the full participation of the indigenous peoples, the legislative or other kinds of measures necessary to enforce the right to prior, free, and informed consultation and consent in good faith, in accordance with international human rights standards.
- Investigate human rights violations committed against indigenous peoples and their members, punish the material and intellectual authors, and make individual and collective reparation to victims. [In the current context, inform about measures adopted to protect those who are members of the Indigenous Guards and investigations into acts of violence against them.]
- Prevent assaults and harassment against traditional indigenous authorities and leaders when the state has knowledge of a real and imminent risk; conduct a serious investigation of the facts brought to its attention; if appropriate punish the responsible parties and provide adequate reparation to the victims, regardless of whether the acts were the work of state agents or private parties.
- Take determined measures to return displaced indigenous peoples, communities, and individuals through a process that ensures respect for traditional forms of participation and organization, security and, especially, protection of traditional indigenous authorities and leaders, and legal and material possession of the land so that the traditional use and exploitation of the territory and its management by the traditional authorities can be restored.
- Bring the process of forming, expanding, and clearing the indigenous reserves to a swift conclusion, bearing in mind the inter-American standards on indigenous peoples' rights to collective property.
- Take measures to draw up special accident prevention plans, with special emphasis on the peoples with the highest contamination of antipersonnel mines and unexploded ordnance (APM-UXO) and related victimization, to be structured in coordination with these peoples; increase resources for education on the risk stemming from APM-UXO; boost efforts to demine indigenous territories, in full coordination with their traditional authorities; focus attention on the victims, their families, and communities with the implementation of a culturally adequate approach; and give consideration to the ethnic and territorial component in the information system so that it can be publicly accessible to the specific people to which the victim belongs, as well as the number and surface area of the indigenous reservations impacted by APM-UXO.

220. Regarding the recommendation to take urgent, determined, and comprehensive measures to ensure the physical and cultural survival of the Colombian indigenous peoples brought to the brink of extinction by violence, poverty and their fragile demographics, the state reported that, through the Ministry of the Interior, the methodological roadmap has started with drawing up the plans to safeguard the 41 indigenous peoples given priority by the Constitutional Court in rulings 004 of 2009, 382 of 2010, and 266 of 2017.

221. Regarding this, the IACHR appreciates the information provided by the state on launching the methodological roadmap to draw up plans to safeguard 41 indigenous peoples at risk of extinction. The Commission observes that indigenous peoples sustain disproportionately higher impacts from Colombia's

structural violence, because of the state's limited presence and the actions of non-state armed groups in their territories. This becomes especially serious for those peoples who are at risk of extinction. It takes note of information indicating that, in 2021, among the most affected indigenous peoples impacted by human rights violations, such as displacement, confinement, threats, homicide, and other gross violations, there are several who were identified in Ruling 004 of 2009 by the Constitutional Court for their situation of risk.<sup>275</sup> These include the Wounaan, Embera Dobidá, Embera Katío, Awá, and Embera Chamí peoples.<sup>276</sup> The Commission highlights the need to redouble efforts to implement safeguard plans to effectively guarantee the human rights of peoples who are at risk of disappearing.

222. Because of the above, the IACHR finds compliance with this recommendation is partial.

223. Regarding the recommendation to protect the effective enjoyment of the territorial rights of the indigenous peoples and their members, the state reported on the establishment of the National Commission for the Prevention and Protection of the Rights of Indigenous Peoples Living in Voluntary Isolation and the progress in drafting and submitting internal regulations for this forum to function and its corresponding work plan. It also reported on the actions undertaken to establish and register the Indigenous Councils that would be governing the indigenous territories bearing in mind their traditions and customs.<sup>277</sup> Furthermore, it reported on the implementation of the Comprehensive Alternative Development Plans (*Planes Integrales de Desarrollo Alternativo—PISDA*) of the indigenous peoples linked to the National Comprehensive Crops Substitution Program (*Programa Nacional Integral de Sustitución de Cultivos*), whereby 16 initiatives were agreed upon to respond to the interest of the indigenous peoples in the municipalities of Miranda and Jambaló in the subregion of Alto Patía, and that 3,957 hectares of crops for illicit use were voluntarily eradicated in ethnic territories.<sup>278</sup>

224. Regarding this, the IACHR commends measures launched by the state. Regarding the establishment of the National Commission for the Prevention and Protection of the Rights of Indigenous Peoples Living in Voluntary Isolation, the IACHR recommends the redoubling of efforts for the protection of the rights of these peoples to life and territory, in view of the human rights violation situation being encountered by indigenous populations in general. Regarding the establishment and registration of the Indigenous Councils in indigenous territories, the IACHR deems it is necessary that actions be expedited so that, on the basis of these councils, indigenous peoples can exercise their right to self-determination.

225. Regarding crop substitution, the IACHR reiterates what had been pointed out previously with respect to its disagreement with the level of implementation of this item that is part of the Ethnicity Chapter of the Peace Accord and its recommendation on the need to make progress on crop substitution agreements that respect ethnic peoples as collective subjects and ensuring their cultural adaptation (see paras. 39-48 above).

226. Because of the above, the IACHR finds compliance with this recommendation is partial.

227. Regarding the recommendation to establish, with the full participation of the indigenous peoples, the legislative or other kinds of measures necessary to enforce the right to prior, free, and informed consultation and consent, the state informed about the continuation of forums of dialogue in the framework of the Permanent Consensus-Building Bureau (*Mesa Permanente de Concertación—MPC*) and the National

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<sup>275</sup> Constitutional Court of Colombia. [Auto 004/09](#) [Ruling 004/09], January 6, 2009.

<sup>276</sup> National Indigenous Organization of Colombia (ONIC). [Informe de afectaciones a los derechos humanos y territoriales en los pueblos indígenas de Colombia](#) [Report on how undermining human and territorial rights impacts indigenous peoples of Colombia], period from April 1 to September 30, 2021, second and third quarters, August 7, 2018 to September 30, 2021, in *Indigenous Peoples on the Border*, p. 46.

<sup>277</sup> Ministry of Foreign Affairs Colombia. *Recommendations of Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia*, emphasis 2021, January 2022, p. 87.

<sup>278</sup> Ministry of Foreign Affairs of Colombia. *Recommendations of Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia*, emphasis 2021, January 2022, p. 85.

Dialogue Commission (*Comisión Nacional de Diálogo—CND*). It reported that, in 2021, five sessions of the MPC were held with indigenous peoples on topics in connection with coordinating the formal notarization of the budget allocations for the agreements of the National Development Plan for 2018-2022, methodological roadmaps for consultations relative to a multipurpose land registry (cadaster) and the Public Youth Policy, the building of an indigenous subchapter for the National Culture Plan and for the implementation of the Emergency and Humanitarian Aid Plan to assist the communities impacted by the violence. Likewise, it reported on the functioning of the Special Consultation Mechanism in the 12 subregions with the Development Programs with a Territorial Approach (PDET). It highlighted the participation of 1,232 ethnic authorities, among which indigenous towns and community councils, in the phase of designing and drafting those plans, and it indicated that 3,772 ethnic initiatives benefit from a management plan that has been activated.<sup>279</sup>

228. Regarding this, the IACHR reiterates what it had indicated earlier on the limited progress reported in implementing the Development Programs with a Territorial Approach (PDET) in indigenous territories. Therefore it deems that the necessary consensus-building and prior consultation processes must be conducted for their implementation in ethnic territories.

229. Likewise, the IACHR refers to what it had previously stated about the concerns of indigenous peoples over state initiatives to regulate prior consultation (see paras. 31-33 above). The Commission reiterates the state's duty to conduct prior, free, and informed consultations with ethnic peoples and communities with respect to administrative and legislative initiatives that might undermine their rights, in order to secure their consent. It also reiterates the importance of taking into account and incorporating the proposals made by the ethnic peoples themselves for effective implementation.<sup>280</sup> Because of the above, the IACHR finds that compliance with this recommendation is partial.

230. Regarding the recommendation to investigate human rights violations against indigenous peoples and their members, punish the material and intellectual authors, make individual and collective reparation to victims, and report on the measures adopted to protect those who are Indigenous Guards and the investigations into acts of violence against them, the state informed, that in 2021, progress was made in building a database of crimes perpetrated against members of indigenous peoples and that they expanded coordination efforts between local branches of the Prosecutor-General's Office to identify the contexts and relationships between different cases involving crimes against indigenous persons. That included consideration of the work carried out by Indigenous Guards as the reason for the homicides against them. It also reported that the Prosecutor-General of the Nation issued Directive 005 of 2021 developing criteria for the competences between the regular jurisdiction and the special indigenous jurisdiction and guidelines for inter-jurisdictional coordination for the joint investigation into crimes that occur in indigenous territories.<sup>281</sup>

231. In connection with the progress made in the investigations, out of the 53 cases of violations of the rights of indigenous peoples documented by the Office of the UN High Commissioner for Human Rights (OHCHR) between 2016 and 2020, 38 of them (61.29%) have seen progress achieved in their investigations and are in the following stages of the proceedings: sentence enforcement in 7 cases, trial in 16, investigation in 10, inquiry with arrest warrant issued by a judge in 3, and termination because of statute of limitations in 2. It also reports that, in 2021, the Office of the Human Rights Ombudsperson documented 27 victims as indigenous

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<sup>279</sup> Ministry of Foreign Affairs of Colombia. Recommendations of Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 2022, p. 85.

<sup>280</sup> IACHR. Press Release No. 354/21 ([Comunicado de Prensa 354/21](#)), IACHR Calls on Colombia to Take Urgent Measures to Protect the Rights of Indigenous Peoples and Black, Afro-Colombian, Raizal, and Palenquero Communities, December 29, 2021.

<sup>281</sup> Ministry of Foreign Affairs of Colombia. Recommendations of Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 2022, pp. 85-86.

leaders, of which 8 cases (29.62%) have seen progress made in terms of investigation. Of these cases, 2 are in the trial stage, 5 under investigation, and 1 under inquiry with arrest warrant issued by a judge.<sup>282</sup>

232. Furthermore, the state also reported that the National Protection Unit (*Unidad Nacional de Protección—UNP*) renewed its agreements with the Association of Indigenous Councils of Norte del Cauca (*Asociación de Cabildos Indígenas del Norte del Cauca—ACIN*) and the Regional Indigenous Council of Cauca (*Consejo Regional Indígenas del Cauca—CRIC*) to strengthen the Indigenous Guard and make progress in protecting its members. It reported that the UNP has provided individual protection measures and shared arrangements for 1,530 beneficiaries of ethnic origins.<sup>283</sup>

233. Regarding this, it continues to be concerned over the high levels of violence against indigenous peoples and the scant progress achieved in investigating and punishing those responsible for killings and other rights violations against member of indigenous peoples. The IACHR takes note of information from the Peace-Building Studies Institute (*Instituto de Estudios para el Desarrollo de la Paz—INDEPAZ*): there were 168 killings of social leaders in 2021, and 55 of these killings were of indigenous leaders, young people, and members of the Indigenous Guard.<sup>284</sup>

234. In 2021, the IACHR condemned the killing of various indigenous leaders, including the April 20 killing of Sandra Liliana Peña, an Indigenous Authority and Governor of the Reservation of La Laguna.<sup>285</sup> In September, it condemned the killing of Efrén Bailarín, former governor the Reservation of Chidima Tolo belonging to the Embera Eyabida people in the municipality of Acandí, in Chocó, and member of the Indigenous Guard there.<sup>286</sup> To these must be added other indigenous authorities killed for defending their rights, including the following: the indigenous leader María Bernarda Juajibioy, mayor of the town of Camentzá Biyá, killed along with her granddaughter;<sup>287</sup> El Jaibaná and cultural manager of the Embera Eyábida people, Rafael Domicó Carupia;<sup>288</sup> Argenis Yatacué, teacher and ancestral authority of Norte del Cauca;<sup>289</sup> and Nasaria Calambas Tunubalá, a Misak leader.<sup>290</sup>

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<sup>282</sup> Ministry of Foreign Affairs of Colombia. Recommendations of Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 2022, p. 86.

<sup>283</sup> Ministry of Foreign Affairs of Colombia. Recommendations of Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 2022, pp. 84-85..

<sup>284</sup> INDEPAZ. [Cifras de la violencia en las regiones 2021, entre el 1 de enero y el 24 de diciembre](#) [Figures on violence in the regions between January 1 and December 24, 2021], p. 11.

<sup>285</sup> IACHR. [103/21 - La CIDH condena la violencia en el Cauca e insta a Colombia a reforzar el desarrollo de políticas públicas que transformen las causas estructurales de la violencia en el país](#). [Press Release No. 103/21, IACHR Condemns Violence in Cauca and Urges Colombia to Strengthen Public Policies to Address Structural Causes of Violence in the Country], Washington, D.C., April 27, 2021; and Twitter. [CIDH condena el asesinato de Sandra Liliana Peña, Gobernadora del Resguardo indígena La Laguna Siberia, territorio Sa'th Tama Kiwe](#). [IACHR condemns killing of Sandra Lilian Peña, Governor of La Laguna Siberia Indigenous Reservation in Sa'th Tama Kiwe Territory], April 23, 2021.

<sup>286</sup> Twitter. [CIDH condena el asesinato de Efrén Bailarín, ex gobernador del resguardo Chidima Tolo del Pueblo Embera Eyabida en el municipio de Acandí, Chocó e integrante actual de la Guardia Indígena](#). [IACHR condemns killing of Efrén Bailarín, former governor of Chidima Tolo Reservation of Embera Eyabida People in municipality of Acandí, Chocó, and current member of Indigenous Guard], September 18, 2021.

<sup>287</sup> *El Comercio*. [Asesinan a una Alcaldesa indígena y su nieta de un año en el sur de Colombia](#). [Indigenous mayor and her one-year-old granddaughter killed in southern Colombia], March 18, 2021.

<sup>288</sup> ONIC. [La ONIC rechaza el homicidio del Jaibaná y gestor cultural Rafael Domicó Carupia en Dabeiba, Antioquia](#). [ONIC condemns homicide of Jaibaná and cultural manager Rafael Domicó Carupia in Dabeiba, Antioquia], April 9, 2021.

<sup>289</sup> CNTI. [Comunicado a la opinión pública #CNTIRechaza el asesinato de Argenis Yatacué, profesora y autoridad ancestral del norte del Cauca, y su compañero Marcelino Yatacué](#) [Communique to public opinion: CNTI condemns killing of Argenis Yatacué, teacher and ancestral authority of Norte del Cauca and her partner Marcelino Yatacué], June 9, 2021.

<sup>290</sup> *El Tiempo*. [Rechazo por asesinato de líder indígena misak, en Morales \(Cauca\)](#) [Condemnation of killing of Misak indigenous leader in Morales (Cauca)], October 26, 2021.



235. The IACHR once again urges the state to investigate, prevent, and punish human rights violations of member of indigenous peoples and to establish mechanisms for working together and coordinating with indigenous authorities for this purpose and to guarantee effective and efficient proceedings using an intercultural approach.

236. Because of these incidents, the IACHR finds that compliance with this recommendation is partial.

237. As for the recommendation to prevent assaults and harassment against traditional indigenous authorities and leaders when the State has knowledge of a real and imminent risk; conduct a serious investigation of the facts brought to its attention; if appropriate punish the responsible parties and provide adequate reparation to the victims, the state reported that the Office of the Delegate Prosecutor for Public Safety has a Prosecutor specializing in case of homicides against leaders committed as of the year 2020. It indicated that the Human Rights Group of the Delegate for Public Safety supports the investigations into these crimes in order to ensure an ethnic and territorial approach.<sup>291</sup>

238. Regarding information from the state about this recommendation, the IACHR deems it must obtain further information on prevention and protection actions for the benefit of traditional authorities and indigenous leaders, as well as the outcomes of the above-mentioned investigations, the punishment of those responsible, and the provision of adequate reparations to the victims.

239. The IACHR recognizes the state's efforts to focus on preventing conduct that violates human rights and international humanitarian law in the context of the armed conflict, using the Early Warning System of the Office of the Human Rights Ombudsperson and measures adopted to strengthen the Indigenous Guards in certain territories of the country drawn up in coordination between the state and indigenous peoples organizations. According to information received by the IACHR, between 2020 and June 2021, the Office of the Human Rights Ombudsperson issued 66 early warnings, and 44 of these alerts included indigenous peoples. In the context of this work, said institution has recommended the orchestration of the differentiated ethnic approach to indigenous and Afro-Colombian communities among the individual and collective prevention options and capacity-building of self-protection systems, such as Indigenous and Maroon Guards.<sup>292</sup>

240. The IACHR reiterates the high level of violence against indigenous peoples, the presence of armed stakeholders in their territories, the situations of displacement and confinement, and other human rights violations that they encounter. Civil society organizations reported the upsurge of structural violence, in connection with the state's limited presence and the occupation of their territories by armed groups. This is directly tied to the persistence of forced recruitment, armed clashes, and the operations of illicit economies in these areas such as crops for producing drugs and mining activities involving deforestation of these territories, mercury pollution of their waterways, and other serious environmental impacts. The IACHR stresses the differentiated impact of this violence on indigenous and Afrodescendant women, children, and adolescents, as well as on leaders and human rights defenders. This process of occupation and armed clashes has led to several killings, massacres, threats against life and integrity, and harassment of persons who are members of these peoples, as well as the massive confinement or displacement of ethnic communities.

241. The IACHR reiterates the need to redouble and consolidate efforts to ensure timely and effective institutional actions with differentiated measures and approach to address the specific contexts and

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<sup>291</sup> Ministry of Foreign Affairs of Colombia, Recommendations of Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 2022, p. 86.

<sup>292</sup> Office of the Human Rights Ombudsperson of Colombia, Communication to the IACHR, Recommendations of Truth, Justice and Reparation, emphasis 2021, January 14, 2022, p. 18.

risks of indigenous peoples, including strengthening the implementation of their self-protection systems.<sup>293</sup> Because of the above, the IACHR finds that compliance with this recommendation is partial.

242. As for the recommendation to take determined measures to return displaced indigenous peoples, communities, and individuals, the state informed on coordination efforts between the National Land Agency (*Agencia Nacional de Tierras—ANT*) and the Unit for Comprehensive Services and Reparations for Victims (*Unidad para la Atención y Reparación Integral a las Víctimas—UARIV*) based on a “Roadmap to coordinate the purchase or formal titling of plots of land under development relative to plans for the return and/or resettlement of ethnic communities victims of the armed conflict” formalized in 2020. According to the information, from 2017 to 2020, the UARIV focused the ANT on 31 cases involving return or resettlement so that the ANT could move forward with the purchase or formal land titling of the territories, depending on the case. In 2021, 3 more cases were worked on, amounting to a total of 34 cases using the coordination roadmap between the two entities. In 2021, it was possible to complete 3 cases of returns and meetings, leading to a total number of 9 cases completed and 25 in different stages of implementation in terms of land purchase or establishment, enlargement, formal land titling, or ownership clearance of reservations.<sup>294</sup>

243. The IACHR appreciates the information provided by the state on the stages at which the return of indigenous communities is now proceeding. The IACHR reiterates its observation on the serious situation of violence affecting indigenous peoples, because of which they continue to be recurrent victims of forced displacement and confinement. According to information published by the National Indigenous Organization of Colombia (*Organización Nacional Indígena de Colombia—ONIC*), the massive confinement and displacement has escalated further over the last quarter of 2021. As explained by ONIC, armed groups state their intentions to the communities of uprooting them from their territories to enable them to undertake their illegal activities.<sup>295</sup> It also notes that, of the 72,300 persons victims of forced displacement between January and November 2021, 11,113 (15%) of them were indigenous persons.<sup>296</sup>

244. Furthermore, the IACHR reiterates its concern over land restitution processes in the framework of comprehensive reparations to victims of the armed conflict under the three Law Decrees on Ethnic Group Victims: Law Decrees 4633, 4634, and 4635 of 2011. In particular, regarding the need to focus equal attention on land restitution for the benefit of both indigenous communities holding formal land deeds and those who do not have any formal land deeds.<sup>297</sup> It also notes the information provided by the Office of the Ombudsperson, indicating that, 10 years after Law Decree 4633 entered into force, implementation of collective reparations under these decrees continues to be limited, accounting for no more than 12% in the case of indigenous peoples. In its 2021 report to parliament, the Office of the Ombudsperson recommended fast tracking the implementation of comprehensive collective reparation processes by building up the institutional capacity of the UARIV and the National System of Comprehensive Services and Reparations for

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<sup>293</sup> IACHR. Press Release No. 354/21 ([Comunicado de Prensa 354/21](#)), IACHR Calls on Colombia to Take Urgent Measures to Protect the Rights of Indigenous Peoples and Black, Afro-Colombian, Raizal, and Palenquero Communities, December 29, 2021.

<sup>294</sup> Ministry of Foreign Affairs of Colombia, Recommendations of Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 2022, pp. 88-89.

<sup>295</sup> ONIC, [Informe de afectaciones a los derechos humanos y territoriales en los pueblos indígenas de Colombia](#) [Report on how undermining human and territorial rights impacts indigenous peoples of Colombia], period from April 1 to September 30, 2021, second and third quarters, August 7, 2018 to September 30, 2021, in Indigenous Peoples on the Border, p. 40.

<sup>296</sup> United Nations Office for the Coordination of Humanitarian Affairs (OCHA), [Colombia: Impacto y tendencias humanitarias entre enero y noviembre de 2021](#) [Humanitarian Advisory Team Colombia: Impact and Humanitarian Trends between January and November 2021], at December 30, 2021, pp. 1 and 2.

<sup>297</sup> IACHR. [Informe Anual 2020, Seguimiento de recomendaciones formuladas por la CIDH en el Informe Verdad, Justicia y Reparación: Sexto informe sobre la Situación de Derechos Humanos en Colombia](#) [Annual Report 2020, Follow-up on the recommendations made by the IACHR in the report entitled Truth, Justice and Reparation: Sixth Report on the Human Rights Situation in Colombia], para. 318.

Victims (*Sistema Nacional de Atención y Reparación Integral a las Víctimas—SNARIV*) in order to facilitate consensus-building processes in the framework of prior consultations with indigenous peoples.<sup>298</sup>

245. The IACHR deems that the state must redouble its efforts to reach agreements with indigenous peoples on mechanisms to ensure the safe return of indigenous communities to their territories of origin. Because of the above, the Commission finds that compliance with the recommendation is partial.

246. In its observations on the draft of this document, the State reported that the professional teams have been strengthened within the Directorate of Ethnic Affairs - DAE of the Special Administrative Unit for the Management of Restitution of Dispossessed Lands - UAEGRTD at the central level, and within the territorial directorates.<sup>299</sup>

247. Concerning the recommendation to bring the process of forming, expanding, and clearing the indigenous reserves to a swift conclusion, bearing in mind the inter-American standards on indigenous peoples' right to collective property, the state informed that the Department of Indigenous, Romani, and Minorities Affairs (*Dirección de Asuntos Indígenas, Rom y Minorías*) has responded to different requests for socioeconomic, legal, and land ownership studies for the establishment of reservations for groups claiming territorial rights as required by the ANT's Sub-Department of Ethnic Affairs. It pointed out that, from January to December 20, 2021, there were 18 indigenous reservations established for the benefit of 1,045 families, that is, 3,821 personas, formalizing land titling for a total of 30,377,3017 hectares. During the same period of time, 11 indigenous reservations were expanded for the benefit of 2,847 families, amounting to 9,425 persons, formalizing land title for a total of 129,205,9772 hectares.<sup>300</sup>

248. The IACHR appreciates the progress achieved in establishing and expanding indigenous reservations in 2021. Nevertheless, it reiterates its concerns over the functioning of land subaccounts for the benefit of indigenous and Afrodescendant peoples in conformity with Decree 902/2017, whereby measures are being adopted to implement the Comprehensive Rural Reform enshrined in the Peace Accord, in particular concerning access to and formal titling of land through the Land Fund (*Fondo de Tierras*).<sup>301</sup>

249. According to official information on the implementation of the Peace Accord, there were 31 proceedings for collective land titling between June 2017 and May 2020 (4 for the benefit of Afrodescendant peoples and 27 for the benefit of indigenous peoples). Nevertheless, the dates on which the land titling applications were filed are not specified, nor is it indicated whether the titled lands being formally registered had previously been in the possession of these peoples or involved processes for new lands in response to petitions for expanding community reservations and councils envisaged in the Accord.<sup>302</sup>

250. It has been noted that the implementation levels reported on this item of the Accord are significantly low when taking into account the number of pending petitions for land titling, expansion, or formal clearance for ethnic peoples. According to data from the National Land Agency (ANT), in 2019 said entity had

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<sup>298</sup> Office of the Human Rights Ombudsperson of Colombia. Communication to the IACHR, Recommendations of Truth, Justice and Reparation, emphasis 2021, January 14, 2022, p. 18.

<sup>299</sup> Observations of the Colombian State on the draft annual report following up on recommendations made by the IACHR in the Country Report "Truth, Justice, and Reparation: Fourth Report on the Human Rights Situation in Colombia," April 13, 2022, p. 54.

<sup>300</sup> Ministry of Foreign Affairs of Colombia, Recommendations of Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 2022, pp. 92-93.

<sup>301</sup> IACHR. [Informe Anual 2020, Seguimiento de recomendaciones formuladas por la CIDH en el Informe Verdad, Justicia y Reparación: Sexto informe sobre la Situación de Derechos Humanos en Colombia](#) [Annual Report 2020, Follow-up on the recommendations made by the IACHR in the report entitled Truth, Justice and Reparation: Sixth Report on the Human Rights Situation in Colombia], para. 323.

<sup>302</sup> Barometer Initiative, Peace Accords Matrix, Kroc Institute for International Peace Studies. "[Informe especial del Instituto Kroc sobre el estado efectivo de la implementación del enfoque transversal étnico del Acuerdo Final de Paz de Colombia](#)" [Kroc Institute Special Report on the Monitoring of the Ethnic Perspective in the Implementation of the Colombian Final Peace Accord](University of Notre Dame, Notre Dame, Indiana, and Bogotá, Colombia, 2021), p. 28.

1,565 applications from ethnic peoples in their registry, most of which belonged to the backlog of cases from the former Colombian Rural Development Institute (*Instituto Colombiano de Desarrollo Rural—INCODER*). According to the information, 989 of these applications pertained to indigenous peoples and 246 to Afrodescendant communities.<sup>303</sup>

251. The IACHR reiterated to the state that it must step up its efforts to establish, expand, and formally clear indigenous territories, focusing as well on the need to move forward with the implementation of the component on access to land in conformity with the Peace Accord, which includes the allocation of sufficient resources and the necessary regulation and functioning of the land subaccount by the ANT.<sup>304</sup> Because of the above, the IACHR finds that compliance with this recommendation is partial.

252. Regarding the recommendation on the matter of antipersonnel mines and unexploded ordnance (APM-UXO) in indigenous territories, the state reported on the Humanitarian Demining Operation Plan for 2020-2025, which includes concrete interventions using an ethnic approach in target areas. It reported that, in 2021, 16,551 indigenous persons, of whom 5,430 were children and adolescents, participated in activities of Educating on the Risk of Antipersonnel Mines. It also reported on the drafting of a handbook and other instruments providing guidelines for coordinating with ethnic territories for humanitarian demining activities. Finally, it underscored that, by the cutoff date of November 30, 2021, there were 211 ethnic territories declared free of APMs and 11 other territories benefiting from coordination processes and developing activities accounting for a total of 57.5%.<sup>305</sup>

253. The state informed on education activities in the matter of risks stemming from antipersonnel mines, as well as on demining progress achieved in indigenous territories. It can be highlighted, for example, that the first demining process completed by Corporación Humanicemos DH, made up of ex-combatants engaged in reinsertion, was in October 2021 in the Indigenous Reservation of El Cedrito belonging to the Emberá Chamí people.<sup>306</sup>

254. Nevertheless, the existence of APM-UXOs continues to be a serious source of risk for indigenous peoples, including indigenous women and children, leading to deaths and injuries and exerting grave impacts on their traditional activities, health, education, and other human rights. According to official figures, from 2006 to November 2021, there have been 444 indigenous persons victims of APM-UXO accidents. Although this accounts for 3.5% of the total number of victims nationwide, it must be taken into account that “36.99% (163) of these victims have been minors, and out of the total number of victims 27.63% died from the accident.”<sup>307</sup>

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<sup>303</sup> Barometer Initiative, Peace Accords Matrix, Kroc Institute for International Peace Studies. [“Informe especial del Instituto Kroc sobre el estado efectivo de la implementación del enfoque transversal étnico del Acuerdo Final de Paz de Colombia”](#) [Kroc Institute Special Report on the Monitoring of the Ethnic Perspective in the Implementation of the Colombian Final Peace Accord] (University of Notre Dame, Notre Dame, Indiana, and Bogotá, Colombia, 2021), p. 28, quoting the National Land Agency (ANT), “Report on the Management of the Ethnic Affairs Department” (Bogotá, 2019), p. 12.

<sup>304</sup> IACHR. [Informe Anual 2020. Seguimiento de recomendaciones formuladas por la CIDH en el Informe Verdad, Justicia y reparación: Sexto informe sobre la Situación de Derechos Humanos en Colombia](#) [Annual Report 2020, Follow-up on the recommendations made by the IACHR in the report entitled Truth, Justice and Reparation: Sixth Report on the Human Rights Situation in Colombia], para. 324.

<sup>305</sup> Ministry of Foreign Affairs of Colombia. Recommendations of Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 2022, pp. 93, 97, and 98.

<sup>306</sup> Reliefweb. [HUMANICEMOS DH entrega su primera área libre de minas antipersonal en Resguardo Indígena de la Montaña, Caquetá](#) [Humanicemos DH delivers its first area free from antipersonnel mines in the Indigenous Reservation of Montaña, Caquetá], October 7, 2021.

<sup>307</sup> Office of the President of the Republic of Colombia. [Estadísticas de Asistencia Integral a las Víctimas de MAP y MUSE](#), [Statistics on Comprehensive Services to Victims of APM-UXO], cutoff date: November 30, 2021.

255. Furthermore, the IACHR notes that delays in complying with this item of the Peace Accord stem from the security conditions in certain territories, which hamper demining activities.<sup>308</sup> Therefore, the IACHR finds compliance with this recommendation is partial.

#### 4. Women and the Armed Conflict

- Implement and strengthen measures to comply with the duty to act with due diligence to prevent, sanction, and eradicate violence and discrimination against women, exacerbated by the armed conflict, including concrete efforts to fulfill its four obligations: prevention, investigation, sanction, and reparation of the human rights violations of women.
- Implement dissemination measures and campaigns for the general public regarding the duty to respect the civil, political, economic, social, cultural, sexual, and reproductive rights of women; the available services and resources for women who have experienced violations of their rights; and the judicial consequences for perpetrators.
- Design and adopt policies taking into account the specific needs of indigenous and Afro-Colombian women within the armed conflict in regard to health, education, justice, and livelihoods. National policies designed to promote the rights of all women must consider the specific needs of indigenous and Afro-Colombian women and have an integral vision of how to address important issues such as health, education, and justice. National policies geared toward improving the situation of indigenous and Afro-Colombian groups must also include the specific needs of women.
- Ensure that the legal framework and the demobilization programs are compatible with the international principles and norms about the rights of victims to truth, justice, and reparation and, as such, address the specific needs of women.

256. Regarding the recommendation to implement and strengthen measures to comply with the duty to act with due diligence to prevent, sanction, and eradicate violence and discrimination against women in terms of prevention, investigation, sanction, and reparation of the human rights violations of women, the state submitted information on the actions carried out to comply with this recommendation. Regarding this, it indicated that the Implementation Framework Plan (*Plan Marco de Implementación—PMI*) envisages measures to comprehensively tackle violence and discrimination against women, exacerbated in the context of armed conflict. It stressed that the PMI incorporates differentiated approaches to drafting and implementing policies, plans, programs, and projects developed to ensure compliance with the Final Accord, which includes 52 commitments to bridge gender gaps in the country, of which 9 have been fulfilled and 42 are in the process of being implemented.<sup>309</sup>

257. In turn civil, society indicated that implementation of the specific measures of the Peace Accord aimed at guaranteeing women's rights has deteriorated because of the absence of institutional coordination, widespread underfunding, and restricted regional coverage, among other issues.<sup>310</sup>

258. In terms of providing services for victims of violence, preventing violence and protecting women from violence, the Commission commends the start of actions in January 2021 of the Coordination Mechanism to Comprehensively Tackle Violence based on Sex and Gender as an inter-agency coordination strategy at the national, departmental, district, and municipal levels, with the goal of providing timely and

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<sup>308</sup> Barometer Initiative, Peace Accords Matrix, Kroc Institute for International Peace Studies. "[Informe especial del Instituto Kroc sobre el estado efectivo de la implementación del enfoque transversal étnico del Acuerdo Final de Paz de Colombia](#)". [Kroc Institute Special Report on the Monitoring of the Ethnic Perspective in the Implementation of the Colombian Final Peace Accord](University of Notre Dame, Notre Dame, Indiana, and Bogotá, Colombia, 2021), p. 31.

<sup>309</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 101. In IACHR files.

<sup>310</sup> Colectivo de Abogados José Alvear Restrepo (CAJAR). Report following up on compliance with the recommendations in Truth, Justice and Reparation: Fourth Report on the Human Rights Situation in Colombia, December 30, 2021, p. 3.

coordinated responses to incidents of violence against women, girls, boys, and adolescents.<sup>311</sup> It also commends the adoption of the National Criminal Policy Plan for 2021-2025, which gives priority to highlighting, preventing, and prosecuting gender-based violence.<sup>312</sup> It takes note as well of the project for capacity building of Family Services Division of the Police (*Comisarías de Familia*) that strive to improve services, prevent violence, and protect women from domestic violence, as well as to facilitate and guarantee access to justice by expanding and enhancing infrastructure, sources of funding, working conditions, and staff training.<sup>313</sup>

259. In terms of investigation, the Commission underscores the priority given to ascertaining the facts in femicides, domestic violence, and sexual offenses, with a priority focus on girls and adolescents, as set forth in the 2020-2024 Strategic Direction of the Office of the Prosecutor-General of the Nation (FGN),<sup>314</sup> as well as the inclusion of training courses on tackling gender-based violence and providing services and reparations to the victims, in the FGN's 2021 Institutional Training and Education Plan.<sup>315</sup> As for reparations, the IACHR commends the update of the general guidelines of the National Plan to Provide Comprehensive Services and Reparations to the Victims, adopted in June 2021, which strengthens the implementation of the differentiated gender perspective in the service and reparation measures for women victims of the armed conflict.<sup>316</sup>

260. Despite these efforts, the Commission reiterates its concern over the persistently high levels of gender-based violence against women. According to official information, in the period from January to September 2021, the FGN recorded 1,074 reports of femicide, of which 555 pertain to actual incidents and 519 to attempted femicides.<sup>317</sup> Furthermore, according to official figures from the National Institute of Forensic Medicine, from January to August 2021, there were 24,492 registered cases of domestic violence against women, girls, adolescents, and older women, and there were 11,523 forensic examinations conducted for the alleged crime of sexual violence.<sup>318</sup> Likewise, during and after its visit to Colombia in June 2021, the Commission received alarming information about incidents of gender-based violence against women in the context of the social protests that began on April 28, 2021.<sup>319</sup>

261. Furthermore, the Commission commends the adoption, in March 2021, of the policy for equality and non-discrimination based on gender, sex, gender identity, gender expression, and sexual

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<sup>311</sup> Presidential Advisory Council for Women's Equity. Mecanismo Articulador creado por el Gobierno Nacional presenta acciones estratégicas para responder oportuna y articuladamente a la violencia de género en el país [Coordinating Mechanisms created by National Government presents strategic actions to provide timely and coordinated responses to gender-based violence in the country]; January 17, 2021; and Administrative Department of Government Civil Service. Decreto 1710 de 2020 [Decree 1710 of 2020], December 19, 2020;

<sup>312</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 105. In IACHR files.

<sup>313</sup> Congress of Colombia. Law No. 2126, "Por la cual se regula la creación, conformación y funcionamiento de las comisarías de familia, se establece el órgano rector y se dictan otras disposiciones" [Whereby the creation, establishment, and functioning of the Family Services Divisions of the Police are regulated, the governing body established, and other provisions set forth], August 4, 2021; Presidential Advisory Council for Women's Equity. Comisarías de Familia se robustecen para atender violencia contra las mujeres [Family Services Divisions of the Police are strengthened to tackle violence against women], August 31, 2021; and "Es un avance como sociedad: Vicepresidente exalta aprobación de proyecto de ley que fortalece Comisarías de Familia, ["It is a step forward for society": Vice-President praises adoption of the draft law that strengthens Family Services Divisions of the Police], June 19, 2021.

<sup>314</sup> Office of the Prosecutor-General of the Nation. Resolución 0-1159 [Resolution 0-1159], November 5, 2020.

<sup>315</sup> Office of the Prosecutor-General of the Nation. Plan Institucional de Formación y Capacitación PIFC 2021 [Institutional Training and Vocational Plan PIFC 2021], January 2021.

<sup>316</sup> National Economic and Social Policy Council. Documento CONPES 4031 [CONPES 4031 Document], June 11, 2021.

<sup>317</sup> Calculated on the basis of the monthly report of complaints registered. Office of the Prosecutor-General of the Nation. Estadística de denuncia por delitos [Statistics on complaints filed for crimes], consulted on November 1, 2021.

<sup>318</sup> National Referral Center for Violence (Centro de Referencia Nacional sobre Violencia—CRNV). Boletín estadístico mensual, [Monthly statistical bulletin], August 2021.

<sup>319</sup> IACHR. Observaciones y recomendaciones Visita de Trabajo a Colombia [Observations and recommendations of working visit to Colombia], June 2021; and IACHR. Hearing on Seguimiento a las observaciones y recomendaciones de la visita de trabajo a Colombia [Follow-up observations and recommendations of working visit to Colombia], 180 period of sessions, October 26, 2021.

orientation of the Special Jurisdiction for Peace (JEP).<sup>320</sup> Nevertheless, the Commission takes note of the allegations made by civil society pointing to the presence of stereotypes and the absence of a gender approach when the facts and victims' testimonies are assessed, as well as the normalization and minimization of sexual violence in Ruling 019 of 2021 by the JEP court, in macro case 01 in which members of the former secretariat of the extinct FARC-EP were held responsible for crimes against humanity and war crimes.<sup>321</sup> In that respect, the IACHR echoes the call repeatedly made by civil society organizations and the Office of the Human Rights Ombudsperson to the JEP to bring to court a national case against sexual violence that would make it possible to investigate and examine this subject as a core element of violence, rather than as isolated or collateral incidents.<sup>322</sup>

262. The Commission commends the state's efforts to tackle gender-based violence against women. Nevertheless, it notes the urgency of tackling the structural causes of the violence, using a gender, ethnic-racial, and intersectional perspective, on the basis of transformative measures aimed at eliminating sociocultural conducts and practices that enable and legitimize violence against women. It also highlights the challenges that are pending in terms of ensuring access to justice and reparations for women victims of gender-based violence in the context of the armed conflict. It also observes that adequate information is missing to assess compliance with the duty to act with due diligence, especially in connection with the investigation into, punishment of, and reparations for the violations of women's rights. Because of the above, the Commission finds that compliance with the recommendation continues to be partial.

263. As for the recommendation to implement dissemination measures and campaigns for the general public regarding the duty to respect the civil, political, economic, social, cultural, sexual, and reproductive rights of women; the available services and resources for women who have experienced violations of their rights; and the judicial consequences for perpetrators, the state reported that the national government had invited private-sector enterprises to join the initiative to promote reporting violence against women in the framework of the lockdown because of the COVID-19 pandemic.<sup>323</sup> It also indicated the Advisory Council for Women's Equity (*Consejería para la Equidad de la Mujer—CPEM*) has launched media campaigns on sharing household chores and child-raising activities.<sup>324</sup>

264. As for the Commission, it commends the measures established to strengthen Helpline 155 for comprehensive services to victims of gender-based violence, including the launch of the campaign entitled "Cross the line" promoting the use of Helpline 155; the launch of a primer that facilitates early identification of signs of violence; the training of staff operating Helpline 155; and the dissemination of information on the prevention of violence, the rights of victims, protection measures, and service options.<sup>325</sup> Likewise, the IACHR noted the launching of both the strategy and protocol '#PreguntaPorÁngela' providing guidelines for staff of

<sup>320</sup> Special Jurisdiction for Peace (JEP). [Acuerdo AOG No. 06 de 2021](#), [AOG Agreement No. 06 of 2021], March 8, 2021.

<sup>321</sup> Special Jurisdiction for Peace (JEP). Chamber for the Recognition of Truth, Responsibility, and Determination of the Facts and Conducts. [Auto No 19 de 2021](#), Ruling No. 19 of 2021, January 26, 2021; Corporación Sisma-Mujer, Corporación Humanas-Colombia, Women's link Worldwide, Colombia Diversa, Red Nacional de Mujeres. Attachment to request for thematic hearing for 180 period of sessions, Register 163607, Annex 2, April 21, 2021. In IACHR files.

<sup>322</sup> Colombia humanas. [Paz con mujeres. Boletín diciembre 2021](#); Corporación Sisma-Mujer, Corporación Humanas-Colombia, Women's link Worldwide, Colombia Diversa, Red Nacional de Mujeres. Attachment to request for thematic hearing for 180 period of sessions, Register 163607, Annex 2, April 21, 2021. In IACHR files; and Office of the Human Rights Ombudsperson of Colombia. [Defensoría del Pueblo Colombia. Defensoría del Pueblo reitera llamado a la JEP para que abra un macrocaso de violencia sexual](#) [Ombudsperson's Office reiterates call to JEP to open a macro case on sexual violence], August 27, 2021.

<sup>323</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 103. In IACHR files.

<sup>324</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 103. In IACHR files.

<sup>325</sup> Presidential Advisory Council for Women's Equity. [Línea de atención 155 se fortalece con la campaña 'Cruza la línea'](#) [Helpline 155 is strengthened thanks to 'Cross the Line' campaign], December 13 2021; [Línea 155 trabaja 24/7 para que Colombia sea un país con mujeres libres de violencias](#). [Helpline 155 operates 24/7 so that Colombia can be a country with women free from violence], December 9, 2021; and website, [Mujeres libres de Violencias](#) [Women free from violence], consulted in January 2022.

nightclubs to protect women's life and integrity in these nightspots,<sup>326</sup> the campaign of the National Prevention Plan 'Zero Complicity with Human Trafficking' including information, education, and communication strategies for the purpose of reducing crime and steering people towards available services and assistance,<sup>327</sup> and the strategy called "More women, more democracy," aimed at promoting a broader participation of women in politics in view of elections in 2022.<sup>328</sup>

265. The Commission acknowledges the state's efforts to disseminate information on available services and resources, as well as to promote women's rights. At the same time, it reiterates the importance of adopting nationwide dissemination measures using a gender and ethnicity-race approach. It also stresses that the recommendation under review requires efforts to deter the perpetration of violence against women, based on measures disseminating information addressing the duty to respect their rights, as well as the legal consequences of infringing these rights. Because of the above, the IACHR finds that compliance with the present recommendation continues to be substantially partial.

266. As for the recommendation to design and adopt policies taking into account the specific needs of indigenous and Afro-Colombian women within the armed conflict in regard to health, education, justice and livelihoods, the state informed that the strategies of the Comprehensive Reparations for Women Victims of Sexual Violence (*Reparación Integral a Mujeres Víctimas de Violencia Sexual—VIVIFICARTE*) tackle the impact stemming from violence against black, Afro-Colombian, Raizal, and Palenque women (*mujeres negras, afrocolombianas, raizales y palenqueras—NARP*) using a differentiated gender-based approach.<sup>329</sup> It also informed that the membership of the Special Women's Unit (*Instancia Especial de Mujeres*), whose mandate is to follow up on the gender-based approach and to guarantee women's rights in the implementation of the Final Accord, was initially composed of six territorial women, but that it was then expanded to include one seat for an indigenous woman and a rural woman, as well as the designation of a former woman FARC-EP combatant as a permanent guest.<sup>330</sup>

267. In addition, the state indicated that, through the Power Strategy of the 3 "E"s (*Estrategia de Poder de las 3E*), efforts are being made to establish conditions to build up and ensure the real and effective inclusion of NARP women in the different forums for participation and representation in decision making.<sup>331</sup> To this end, it indicated that it had made progress with awareness-raising and training actions to strengthen, highlight, and recognize women's rights and with the consolidation of the Inter-Agency Forum of NARP Women to coordinate and cooperate with government institutions to guarantee their rights in different participation and representation spaces using a gender, ethnic-racial, intersectional, and territorial perspective.<sup>332</sup>

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<sup>326</sup> Presidential Advisory Council for Women's Equity. [#PreguntaPorÁngela llega a Bogotá](#) [Ask for Angela campaign reaches Bogotá], September 19, 2021.

<sup>327</sup> Ministry of the Interior. '[Plan Nacional de Prevención «Cero Complicidad con la Trata»](#)'. [National Prevention Plan 'Zero Complicity with Human Trafficking'], 2021; and Presidential Advisory Council for Women's Equity. [#CeroComplicidadConLaTrata](#), September 30, 2021.

<sup>328</sup> Office of the Attorney-General of the Nation. [Tercer informe al Congreso sobre el estado de avance de la implementación del Acuerdo de Paz](#) [Third report to Congress on progress achieved in implementing the Peace Accord], August 2021, p. 275; and Presidential Advisory Council for Women's Equity. [Se acerca el lanzamiento de 'Más mujeres, más democracia: rumbo a la paridad'](#) [Upcoming launch of 'More women, more democracy: The road to parity'], September 29, 2021.

<sup>329</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 104. In IACHR files.

<sup>330</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 101. In IACHR files; and Office of the Attorney-General of the Nation. [Tercer Informe al Congreso sobre el estado de avance de la implementación del Acuerdo de Paz](#) [Third report to Congress on progress achieved in implementing the Peace Accord], August 2021.

<sup>331</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 501. In IACHR files.

<sup>332</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 50. In IACHR files.



268. Furthermore, the Commission notes the Ministry of Health's adoption of the Guidelines for Mainstreaming the Cross-Cutting Gender Approach in the Health Sector to Bridge the Gender, Gender Identity, and Sexual Orientation Gap, which incorporate a differentiated approach to health by acknowledging diverse population groups and their specific needs on the basis of their life cycle, ethnic belonging, disability status, among others.<sup>333</sup>

269. The Commission acknowledges the state's efforts to reduce social inequalities afflicting indigenous peoples and Afrodescendant communities, as well as to mainstream differentiated approaches to the measures aimed at promoting women's rights. Nevertheless, the Commission reminds the state of the importance of mainstreaming a cross-cutting intersectional approach to every measure involving the rights of indigenous and Afro-Colombian women, bearing in mind that the convergence of gender and ethnicity-race entails specific needs that require differentiated measures to effectively guarantee enforcement of their rights. In that regard, the IACHR finds that compliance with the recommendation is partial.

270. As for the recommendation to ensure that the legal framework and the demobilization programs are compatible with the international principles and norms about the rights of victims to truth, justice, and reparation and, as such, address the specific needs of women, the state provided information on the actions implemented for compliance with this recommendation. Regarding this, it indicated that, of the total number of persons who are in the process of being reinserted, there are 3,272 women, accounting for 25%. At the same time, the Commission notes that, at March 31, 2021, 2,997 women former members of FARC-EP had gained access to the early reinsertion option, accounting for 90.4% of all women in the process of being reinserted.<sup>334</sup> In addition, the state indicated that 3,077 women involved in the reinsertion process now have access to a bank account.<sup>335</sup>

271. The state has also informed that the Technical Gender Forum of the National Reinsertion Council (*Mesa Técnica de Género del Consejo Nacional de Reincorporación—CNR*) is now operating and is in the process of drafting guidelines to guarantee a reinsertion policy with a gender approach. It also indicated that it is implementing the Security and Protection Strategy for former women combatants, which was orchestrated in 2020. Regarding the latter, it specified that at present 178 women are beneficiaries of protection arrangements for collective and/or individual reinsertion arrangements for persons being reinserted.<sup>336</sup>

272. Furthermore, the Commission commends the adoption, in April 2021, of the Gender Protocol of the National Comprehensive Illicit Crop Substitution Program (*Programa Nacional Integral de Sustitución de Cultivos de Uso Ilícito—PNIS*) as a technical and methodological guideline for working with families involved in the PNIS, as well as its implementation coordinated with the security actions of those supporting the implementation of illicit crop substitution models.<sup>337</sup> It also notes Resolution 5 of 2021 of the National Rural Credit Commission, which establishes special conditions for access to a special credit line for rural women to purchase land.<sup>338</sup>

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<sup>333</sup> Ministry of Health and Social Protection. [Resolución Número de 2021](#), Resolution Number of 2021.

<sup>334</sup> Office of the Attorney-General of the Nation. [Tercer informe al Congreso sobre el estado de avance de la implementación del Acuerdo de Paz](#) [Third report to Congress on progress achieved in implementing the Peace Accord], August 2021, p. 310.

<sup>335</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 104. In IACHR files.

<sup>336</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 105. In IACHR files.

<sup>337</sup> Agencia de Renovación del Territorio (Territorial Renewal Agency). [Resolución No. 0009](#) Resolution No. 0009 of April 5, 2021; and Office of the Attorney-General of the Nation. [Tercer informe al Congreso sobre el estado de avance de la implementación del Acuerdo de Paz](#) [Third report to Congress on progress achieved in implementing the Peace Accord], August 2021, p.452.

<sup>338</sup> Office of the Attorney-General of the Nation. [Tercer informe al Congreso sobre el estado de avance de la implementación del Acuerdo de Paz](#) [Third report to Congress on progress achieved in implementing the Peace Accord], August 2021, p. 68.

273. The IACHR commends the state's efforts to protect and reinsert former women combatants, but it underscores the need to mainstream a cross-cutting gender, ethnic-racial, and intersectional approach to all peace-building measures and policies. At the same time, it highlights the importance of establishing indicators and objectives that would make it possible to monitor and measure the real impact of these measures on women's rights. Because of the above, the Commission finds that compliance with the recommendation is partial.

## 5. Journalists and Media Workers

- Continue to adopt adequate preventive mechanisms in order to avert violence against media workers, including the public condemnation of all acts of aggression, the training of public officials, particularly police and security forces, and, if necessary, the adoption of operation manuals or guidelines regarding respect for the right to freedom of expression.
- Compile detailed, disaggregated criminal statistics on violence against journalists and the criminal prosecution of these crimes.
- Carry out diligent, impartial, and effective investigations of the murders, attacks, threats, and acts of intimidation committed against journalists and media workers. This entails the creation of specialized units and special investigative protocols, as well as the identification and exhaustion of all possible case theories related to the professional work of the victim
- Prosecute, under impartial and independent courts, within the standards established by international law, the persons responsible for the crimes committed in retaliation for the exercise of the right to freedom of expression, and make adequate reparation for their victims and family members.

274. The IACHR and its Rapporteurship observe that journalism continues to be a profession facing risks in Colombia. In 2021, the Special Rapporteurship followed up on several reports of assaults, threats, and harassment against media workers who report on matters of public interest, especially corruption, gender-based violence, armed clashes, and criminal groups. Furthermore, this office observed with concern the complaints filed on the excessive use of force against protesters in the framework of the protests that started on April 28 in Colombia. The reports received also highlight the possible use of technology to disable or restrict the Internet signal, such as blocking web resource addresses (URL) containing information about the protests.<sup>339</sup> During its onsite working visit, the Commission and the Rapporteurship observed that online conversations were highly relevant for discussing the human rights situation in Colombia. Both the state and civil society agreed that that Internet is a platform of the utmost importance for public deliberations, while also stating their fears that certain narratives could be inciting violence, widely spreading disinformation, and removing the voices of those who wish to express themselves on matters of public interest.

275. In connection with the recommendation to **continue to adopt adequate preventive mechanisms in order to avert violence against media workers**, the state pointed out that, as part of its prevention pillar, it has a public policy to prevent stigmatization in general, which is in line with the differentiated approach used by public forces of order and is applicable to their procedures.<sup>340</sup>

276. On this matter, the state also underscored the establishment of the Observatory to promote inclusion and the fight against any form of discrimination or stigmatization "Colombia belongs to All of Us" (*Colombia es de Todos*), by the adoption of Resolution No. 338 of March 12, 2021, which follows the guidelines set by the National Peace and Reconciliation Council. As indicated, said mechanism proposes "monitoring and

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<sup>339</sup> *El País*. May 6, 2021. *La interrupción de internet durante las protestas enardece a los manifestantes en Colombia* [Internet interruption during protests Angers protesters in Colombia]; and *El Observador*. May 7, 2021. *Colombia: denuncian bloqueos de transmisiones en vivo, censuras de videos y cortes de internet* [Colombia: Reports of live broadcasts being blocked, censorship of videos, and Internet outages].

<sup>340</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 106.

following up on the different acts or practices of discrimination based on race, ethnicity, religion, gender, sexual orientation, political opinion or participation, disability, or any form of discrimination or stigmatization.” Among the functions of the Observatory there is “investigating, reviewing, describing, characterizing, assessing, questioning, and discussing any act or practice that might constitute discrimination based on race, ethnicity, religion, gender, gender identity, sexual orientation, opinion, ideology, participating in politics or other activities that it might be appraised of.”<sup>341</sup>

277. Furthermore, the state indicated that, on December 1, 2021, a national workshop was held in Bogotá with media and journalism sectors focusing on human rights defense work and non-stigmatization. The forum was aimed “at strengthening alternative and community media so that they can contribute to promoting peaceful coexistence, reconciliation, and non-stigmatization and for their development,” according to information provided by the state.<sup>342</sup>

278. The state also informed the Commission, that through the Public Policy of Guarantees and Respect for Human Rights Defense Work in CONPES 4063 of November 29, 2021, work is being done “to bridge the gaps relative to the efficient management of information, early prevention, individual and collective protection.” According to information being provided, the drafting of the policy took place on the basis of a participatory process involving more than 600 human rights leaders and in conformity with the guidelines of the Timely Action Plan (Decree 2137 of 2018) in response to the violence encountered by the country’s social leaders, media workers, and journalists.<sup>343</sup>

279. According to information provided by the Office of the Human Rights Ombudsperson of the Colombian state, the National Complaints Review and Processing Department (*Dirección Nacional de Atención y Trámite de Quejas—ATQ*) received, between January and November 2021, 49 complaints of death threats and 14 assaults on the personal integrity of journalists and media workers, who benefit from the state’s special protection in accordance with Decree 1066 of 2015. In this context, the Office of Human Rights Ombudsperson indicated that it was participating permanently in the Committee for Assessing Risks and Recommending Measures (*Comité de Evaluación de Riesgo y Recomendación de Medidas—CERREM*). It also informed that, via Decree 1139 of 2021, the National Protection Unit (UNP) amended the procedure and eliminated the Preliminary Evaluation Group (*Grupo de Valoración Preliminar—GVP*), which the Ombudsperson’s Office was attending until its last session in September 2021.<sup>344</sup>

280. In 2021, the IACHR and its Special Rapporteurship have documented attacks, threats, and harassment against journalists for engaging in their professional activities, especially against those who are providing coverage of highly sensitive issues in various regions of the country, such as the drug trade and violence by armed groups, a factor which in many cases increases the media’s situation of risk. The IACHR and its Special Rapporteurship were apprised of the fact that the social protests in Colombia as of April 28 also included from the very start an important rollout of media coverage. During the working visit between June 8 and 10, 2021, the Commission and the Rapporteurship received reports about journalists who were victims of assaults and obstructions to their work of providing information in the context of the social protests.

281. In 2021, the Commission and its Special Rapporteurship were informed of the killing of the journalist Marcos Efraín Montalvo on September 19 in the municipality of Tuluá, department of Valle del Cauca. According to available information, the reporter had been attacked by gunfire from an unknown individual

<sup>341</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 106.

<sup>342</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 106 and 107.

<sup>343</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 107.

<sup>344</sup> Report of the Office of the Human Rights Ombudsperson of Colombia to follow up on IACHR recommendations in the report Truth, Justice and Reparation, January 14, 2022, p. 22.

when the journalist was in a store in the district of La Esperanza.<sup>345</sup> Marcos Montalvo had been working as local radio broadcasting journalist and as a reporter for local newspapers such as *El Tabloide* and *El Mercurio* of Tuluá, as well as for the newspaper *El País* in Cali. As reported to the Rapporteurship, over the past few years, he was mainly reporting on his social media about matters involving government corruption and irregularities in Tuluá and about organized crime. According to reports received in 2019, the journalist had been the target of physical aggression and harassment, and over the past few months he had also received threats on his social media channels. Colombia's Office of the Ombudsperson insisted on the importance of securing "rapid results from the investigations being conducted by the authorities to ascertain the facts of the incidents and to find those responsible." The state also informed that it is working actively to investigate the facts of the case.<sup>346</sup>

282. The Rapporteurship recalls that the killing of journalists is the most extreme form of censorship and that impunity contributes to the media's self-censorship. States must investigate the facts fully, effectively, and impartially, determine the motives behind the killings, and uncover in judicial proceedings the ties between killings and the activities of journalists and the right to freedom of expression.

283. In turn, the Rapporteurship was informed of the death of the indigenous media worker Beatriz Elena Cano after an assault on June 4 in the municipality of Santander de Quilichao, department of Cauca. The media worker had sustained three gunshot wounds in a violent attack allegedly perpetrated by armed groups.<sup>347</sup> Beatriz Cano was working as a newscaster for the community radio station *Radio Payumat* and was a member of the community media workers team of the reservation Cerro Tijeras César Galarza and the Communication Network for Truth and Life (*Tejido de Comunicación para la Verdad y la Vida*).<sup>348</sup>

284. Among other incidents reported in 2021 with respect to attacks and harassment of the media,<sup>349</sup> the IACHR and its Rapporteurship were informed of the alleged aggression against Camilo Fajardo, the independent journalist and correspondent of *CM&* in the region of Cauca, by members of the Mobile Anti-Riot Squad (*Escuadrón Móvil Antidisturbios—ESMAD*) when he was providing coverage of the student protest and the alleged clashes with the police on February 15 in the city of Popayán.<sup>350</sup> The IACHR and its Rapporteurship also received with concern the reports on the attempts on the life of the photojournalist Luis Carlos Ayala on April 20 in Cali, which might have been in connection to his job. According to available information, the journalist was outside the house of an acquaintance when an unidentified individual riding a

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<sup>345</sup> *Deutsche Welle (DW)*. September 21, 2021. *Colombia: asesinan a tiros al periodista Marcos Montalvo*; [Colombia: Journalist Marcos Montalvo shot and killed]; and *CPJ*. September 28, 2021. *El periodista colombiano Marcos Efraín Montalvo muere asesinado a balazos* [Colombian journalist Marcos Efraín Montalvo is shot and killed].

<sup>346</sup> IACHR. Special Rapporteurship for Freedom of Expression. October 15, 2021. Press release R275/21. *La Relatoría Especial condena el asesinato del periodista Marcos Efraín Montalvo en Colombia y llama al Estado a investigar los hechos* [Special Rapporteurship condemns killing of journalist Marcos Efraín Montalvo in Colombia and calls on state to investigate the facts].

<sup>347</sup> *El Tiempo*. June 8, 2021. *Falleció Periodista Radio Payumat, Beatriz Cano* [Journalist for Radio Payumat, Beatriz Cano, dies]; and *Revista Semana*. June 7, 2021. *Falleció la comunicadora indígena Beatriz Cano, luego de ataque ocurrido en Santander de Quilichao, Cauca* [Indigenous media worker Beatriz Cano dies after attack in Santander de Quilichao Cauca].

<sup>348</sup> *El País Colombia*. June 8, 2021. *Comunicadora indígena, otra víctima de ataque armado contra la Policía en Santander de Quilichao* [Indigenous media worker, another victim of armed attack against the police in Santander de Quilichao]; and *Noticias Caracol*. June 8, 2021. *Dolor por muerte de Beatriz Cano, comunicadora víctima de atentado en Cauca* [Sorrow at death of Beatriz Cano, media worker victim of attack in Cauca].

<sup>349</sup> Coalition for Women in Journalism (CFWIJ). *Colombia: CFWIJ Demands an Investigation into the Assassination Attempt on Rebecca Linda Marlene Spóressor*; *RCN*. September 10, 2021. *Disidencias plagiaron y obligaron a periodista a grabar pruebas de supervivencia de coronel secuestrado: Flip* [Dissidents abducted and forced journalist to record evidence of kidnapped colonel's survival: FLIP]; *CPJ*. July 2, 2021. *Agentes de la policía antidisturbios colombiana golpean a dos periodistas de RCN Radio que documentaban la violencia policial* [Colombian anti-riot police officers hit two of RDN-Radio journalists documenting police violence]; and *Informativo del Guaico*. September 15, 2021. *Amenazan a comunicadores de emisora comunitaria de Puerres* [Media workers of community radio station of Puerres threatened].

<sup>350</sup> *El Tiempo*. February 15, 2021. *Periodista, agredido tras choque entre estudiantes y Esmad, en marcha* [Journalist assaulted after clash between students and ESMAD in protest march]; and *Pulzo*. February 16, 2021. *[Video] Periodista denuncia ataque de agente del Esmad en protestas estudiantiles* [Video: Journalist reports assault by ESMAD agent at student protests].

motorcycle called out to him by his name and when the journalist tried to flee, he was shot twice, leaving him with gunshot wounds on the face and right arm.<sup>351</sup>

285. Furthermore, on June 8, eight unidentified individuals riding motorcycles shot at the residence of the journalist Pincen Mora, director of the independent online media outlet *Extrema Noticias*, in Medellín. According to information received, the journalist had already received threats in previous weeks, which were in connection with his reports published on alleged scams involving the sale of plots of land in his neighborhood by a local gang.<sup>352</sup> The Special Rapporteurship was also apprised of death threats reported by journalist Katia Ospino, presumably in connection with her investigations into alleged cases of gender-based violence and corruption, according to information received.<sup>353</sup>

286. Likewise, according to information provided to the Commission and its Rapporteurship, there is climate of forced silencing among journalists who have provided coverage of the forced displacement conflict in the municipality Ituango, Antioquia, because of threats and harassment by illegal groups. In addition to being afraid of reporting, the press has pointed to the lack of access to information, being obstructed in doing their job of reporting the news, and being treated with hostility by government authorities, according to information from public sources.<sup>354</sup>

287. The Commission and its Rapporteurship also received information about alleged actions monitoring and gathering personal and sensitive data without due authorization from the National Protection Unit to the detriment of the journalist Claudia Julieta Duque, who since 2009 is a beneficiary of IACHR precautionary measures.<sup>355</sup> According to information from public sources, it was indicated that more than 25,000 records compiled by the UNP had been taken between February and August 2021 by means of the GPS device installed in the motor vehicle assigned to protect the journalist.<sup>356</sup> The Rapporteurship had previously sent alerts about the situation of threats and harassment targeting Claudia Julieta Duque. In August 2020, the Administrative Court of Cundinamarca had determined that the Administrative Department for Security (*Departamento Administrativo de Seguridad—DAS*), the Prosecutor-General's Office, and the Ministry of the Interior were responsible for the harm done to the journalist and her next of kin as a result of the kidnapping,

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<sup>351</sup> CPJ. April 27, 2021. *El periodista colombiano Luis Carlos Ayala sobrevive atentado* [Colombian journalist Luis Carlos Ayala survives attempt on his life]; and *El Tiempo*. April 22, 2021. *Antes de dispararle, a reportero gráfico lo llamaron por su nombre* [Before shooting at him, they call out to photojournalist by name]

<sup>352</sup> CPJ. June 17, 2021. *El periodista colombiano Pincen Mora sale ileso de ataque en Medellín* [Colombian journalist Pincen Mora uninjured in attack in Medellín]; and *Blu Radio*. June 10, 2021. *Atacaron a bala casa de un periodista independiente y su familia en Medellín* [Gunshot attack on house of independent journalist and his family in Medellín].

<sup>353</sup> *Diario del Norte*. July 27, 2021. *Autodefensas Gaitanistas de Colombia amenazan de muerte a la periodista Katia Ospino* [Gaitán Self-Defense Supporters of Colombia send death threat to journalist Katia Ospino]; *Semanario La Calle*. July 28, 2021. *Amenazan de muerte a reconocida periodista de Valledupar* [Death threat to well-known journalist from Valledupar]; and FLIP. October 8, 2021. *Rechazamos amenazas contra la periodista Katia Ospino* [We condemn threats against journalist Katia Ospino].

<sup>354</sup> FLIP. August 4, 2021. *Censura indirecta al cubrimiento periodístico en Ituango* [Indirect censorship of news coverage in Ituango]; Movimientos Ríos Vivos. July 25, 2021. *Los desterrados de siempre. Desocupan el campo en Ituango Antioqui* [Always the same evicted persons: They raid the camp in Ituango Antioquia]; and *Colombia Informa*. June 27, 2021. *Crisis humanitaria en Ituango por desplazamientos forzados*. [Humanitarian crisis in Ituango because of forcible displacements].

<sup>355</sup> *El Tiempo*. October 6, 2021, *Denuncian que UNP estaría recolectando datos sensibles de periodistas* [Reports that UNP is hacking journalists' sensitive data]; *Latam Journalism Review*. October 27, 2021, *Colombian press freedom organization warns about collection of sensitive data belonging to at-risk journalist*; and *Infobae*. October 27, 2021, *La ONU se pronunció por la supuesta persecución de la UNP a la periodista Claudia Duque* [UN makes statement about alleged UNP persecution of journalist Claudia Duque].

<sup>356</sup> FLIP. October 25, 2021. *Carta a la UNP: Recolección masiva y sin autorización de datos altamente sensibles de la periodista Claudia Julieta Duque* [Letter to UNP: Unauthorized massive hacking of highly sensitive data belonging to Claudia Julieta Duque].

threats, and psychological torture of which she has been the victim since August 1999 because of her work reporting on the killing of comedian Jaime Garzón.<sup>357</sup>

288. In connection with this same recommendation, in particular the subject of **public condemnation of all acts of aggression**, the IACHR and its Rapporteurship received information that acts of violence against the press, according to witness statements, had led to a widespread climate of silencing and “forbidden zones” where news coverage could not be carried out for fear of retaliation, assault, or stigmatization. As indicated by several journalists who met with the Commission, this has led to journalists deciding not to go out to report the news or, in some cases, opting not to display their press identification pass or any other media outlet credential. Furthermore, according to information received, because of the escalation of violence against media workers in the streets, part of the news coverage of the protests started being based on photos and videos taken from the Internet.<sup>358</sup>

289. Despite the above, the IACHR and its Rapporteurship have commended the adoption of Directive 011 of 2021 from the Office of the Attorney-General of the Nation, urging members of the federal government, town halls, governorships, forces of public order, and in general all civil servants of the state to be the guarantors of the rights to freedom of expression and to information.

290. Regarding the **training of public officials, particularly police and security forces, and, if necessary, the adoption of operation manuals or guidelines regarding respect for the right to freedom of expression**, the state reported that, in 2021, the Policy on Education for Security Forces (*Política de Educación para la Fuerza Pública*), “which enshrines as a fundamental pillar the assimilation, mainstreaming, and cross-cutting enforcement of human rights, international human rights law, and international standards on the use of force.” The policy is aimed at “continuing to build up a culture respectful of human rights in each member of the Security Forces.” In observance of said policy, the Colombian state has informed that training has been provided to 151,270 members of the Security Forces in human rights issues such as the use of force, special groups protected by the Constitution, petitions for defense filed with international organizations, prevention of sexual violence, among others. As indicated by the state, “training, education, and instruction are the permanent institutional principle underlying the Security Forces.”<sup>359</sup>

291. In 2021, the Commission and its Special Rapporteurship followed, with much concern, the reports on violence against journalists in the context of the social protests. Diverse testimonies received by the Commission and its Rapporteurship during their working visits concurred that the guarantees for news coverage had deteriorated in that context. According to information taken by the IACHR in its observations and recommendations published on July 7, 2021, there had been at least 236 attacks since the start of the protest marches, including physical assaults, threats to their news coverage activities, thefts and destruction of documentary materials, harassment, obstruction of journalistic activities, illegal detentions, and assaults on media outlets, among others.<sup>360</sup>

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<sup>357</sup> *El Espectador*. August 8, 2020, *El Estado es responsable de la tortura psicológica a Claudia Julieta Duque: Tribunal* [State responsible for psychological torture of Claudia Julieta Duque: Court]; and *El Tiempo*. August 10, 2020, *Condenan a la Nación por caso de periodista Claudia Julieta Duque* [Nation condemned for the case of journalist Claudia Julieta Duque].

<sup>358</sup> IACHR. Files of the Special Rapporteurship for Freedom of Expression. Testimonies and information received in the framework of IACHR’s working visit; and IACHR. *Observaciones y recomendaciones. Visita de trabajo a Colombia* [Observations and recommendations of working visit to Colombia], July 7, 2021, para. 90.

<sup>359</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, pp. 106 and 107.

<sup>360</sup> IACHR. *Observaciones y recomendaciones. Visita de trabajo a Colombia* [Observations and recommendations of working visit to Colombia], July 7, 2021, para. 87; CPJ. May 7, 2021. *El CPJ y organizaciones aliadas instan a las autoridades colombianas a abordar las violaciones de la libertad de prensa en su respuesta a las protestas* [SPJ and partner organizations urge Colombian authorities to tackle violations of right to freedom of the press in its response to protests]; FLIP. May 28, 2021. *Tras 28 días de paro, la violencia contra la prensa no cesa* [After 28 days of strike, violence against the press does not cease]; and RT. May 8, 2021. *“Somos prensa, ¿por qué nos dispararon?”*.

292. Likewise, the IACHR and its Rapporteurship received information about the fear among women journalists of being targeted for sexual violence when reporting the news. Regarding this, the Commission was informed about a case of sexual violence against a journalist in the city of Cali.<sup>361</sup> According to the Antonio Nariño Project that brings together various journalism-related organizations and guilds in Colombia, this period of protests has been the most violent one against the media over the past few decades.<sup>362</sup> According to the Foundation for Freedom of the Press (*Fundación para la Libertad de Prensa—FLIP*), 54.1% of the 236 assaults could be attributed to public forces of order, 31.6% to individuals, 4% to government civil servants, and the remaining 10.8% to unknown perpetrators.<sup>363</sup>

293. According to testimonies received from more than 40 reporters in Bogotá, Cali, and Popayán, harassment of the press has come from public security agents, as well as from protesters themselves and armed civilians. Although the state has reported on the launch of at least eight disciplinary investigations in response to reports on assaults against journalists, there have also been complaints that most of these attacks had not been diligently investigated by the authorities.<sup>364</sup>

294. Regarding compliance with the recommendation indicated above, it is underway, and on the basis of progress recorded in 2021, the Commission finds that compliance with the recommendation continues to be **partial**.

295. Regarding the recommendation to **compile detailed, disaggregated criminal statistics on violence against journalists and the criminal prosecution of these crimes**, the state pointed out that, on homicides and according to data provided by the Foundation for Freedom of the Press (FLIP), there were 9 cases of journalists killed in incidents in connection with their profession or occupation between 2016 and 2021. As reported by the state, 7 of the cases (one case has 3 victims) were investigated, and the Office of the Prosecutor-General has achieved progress in ascertaining the facts in 4 cases (2 now being tried and 2 in the indictment stage). Furthermore, regarding cases that have been received “in the shift of availability, that is, cases reported at the time the incidents were taking place” whose alleged victims had been identified as journalists, there were 21 cases of threats being investigated in 2021, of which 15 are currently active.<sup>365</sup>

296. In addition, the state indicated that, for several years now, the Office of the Prosecutor-General has promoted “working partnerships with civil society organizations to improve their investigative work and monitoring of cases involving the freedom of expression of journalists and media workers.”

297. Furthermore, in terms of security, the National Protection Unit (UNP) reported that, according to figures provided by the Sub-Department of Protection and its Strategic Population Analysis Group (*Grupo de Análisis Estratégico Poblacional—GAEP*), between January 1 and June 30, 2021, there were 31 journalists

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*3 periodistas colombianos graban cómo el Esmad les dispara con perdigones mientras cubrían protestas* [“We are the press, why are they shooting at us?”: Colombian journalists record how ESMAD shoots at them with pellets while they report the news].

<sup>361</sup> IACHR. *Observaciones y recomendaciones. Visita de trabajo a Colombia* [Observations and recommendations of working visit to Colombia], July 7, 2021, para. 88.

<sup>362</sup> Fundación Gabo. June 11, 2021, *Peticiones urgentes por una prensa libre de violencia en Colombia* [Urgent petitions for violence-free press in Colombia].

<sup>363</sup> See information at: [www.flip.org.co](http://www.flip.org.co).

<sup>364</sup> IACHR. Files of the Special Rapporteurship for Freedom of Expression: Testimonies and information received in the framework of IACHR’s working visit; IACHR. *Observaciones y recomendaciones. Visita de trabajo a Colombia* [Observations and recommendations of working visit to Colombia], July 7, 2021, para. 89; and *Voces del Sur*. June 9, 2021, *Fiscalía colombiana ordena el archivo de la investigación de la agresión del ESMAD a periodistas* [Colombia’s Office of the Prosecutor General orders archiving investigation into ESMAD aggression against journalists].

<sup>365</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 109.

included in its protection program. As indicated by the state, a total of 187 journalists are beneficiaries of security measures provided by the UNP.<sup>366</sup>

298. As in its latest report, the IACHR observes that the state has not provided information that would be commensurate with the dimension of the context of violence against journalists and media workers in Colombia, as a result of which the IACHR finds that, as in its last report, compliance with the recommendation is **pending**. It also calls upon the state once again to redouble its efforts to standardize parameters for the gathering of detailed and disaggregated statistics.

299. In connection with the recommendation to **carry out diligent, impartial, and effective investigations of the murders, attacks, threats, and acts of intimidation committed against journalists and media workers**, the Colombian state pointed out that “it is seriously committed to do all that is needed to protect the freedom of the press and the freedom of expression and to ensure that no aggression against anyone whose duty is to defend the truth and freedom will go unpunished.”<sup>367</sup> Regarding this matter, it reported that the Office of the Prosecutor-General of the Nation issued Directive 002 of November 30, 2017, “*Whereby guidelines are set to investigate crimes against human rights defenders*” providing the following definition: “*a person must be deemed a human rights defender when he or she directly or indirectly gives impetus to or engages in activities promoting and protecting rights recognized nationwide and internationally.*” It indicated that the “holistic understanding of the concept of human rights defender” also encompasses “the work of journalists and media workers (...), as they concretely address the defense of the right to freedom of expression.”<sup>368</sup>

300. In line with the above, the state indicated that the 2020-2024 Strategic Direction of the Office of the Prosecutor-General of the Nation (FGN) stipulates that one of its strategic objectives is to protect the life of persons, with emphasis on certain priority population groups, among whom human rights defenders. Therefore, in 2016, a Strategy for the Investigation and Prosecution of Crimes against Human Rights Defenders was drawn up, and in 2020 it was consolidated by the work of the Special Investigation Unit and the institution’s other bodies, especially the Delegate for Public Security and the Delegate against Organized Crime.” In addition, it reported that it established the Strategy to Investigate and Prosecute Threats against Human Rights Defenders, for the purpose of effectively responding to threats against human rights defenders.<sup>369</sup>

301. The IACHR and its Rapporteurship commend certain progress reported in Colombia in the framework of the judicial investigations into attacks on journalists while they were doing their job. According to information received by this office, Criminal Circuit Court 19 of Bogotá convicted the perpetrator of the crime of threats against the following journalists: Julio César González Quiceno (also known as the “Matador”), Daniel Samper Ospina, and María Antonia García de la Torre. The court ruling deemed that messages posted on social media between 2017 and 2018 impacted the community of journalists and public opinion, as they were used as tactics to scare the press.<sup>370</sup> The Rapporteurship was also apprised of the conviction of the person responsible for posting threats on social media in July 2018 against Luis Carlos Vélez, Broadcast News Director

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<sup>366</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 110.

<sup>367</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 110.

<sup>368</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 108.

<sup>369</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 108.

<sup>370</sup> Office of the Prosecutor-General of the Nation. October 15, 2021, *Condenado abogado que amenazó de muerte a tres periodistas a través de redes sociales* [Attorney convicted for sending death threats to three journalists on social media]; *Infobae*. October 14, 2021, *Tuitero que amenazó a Matador, Daniel Samper y María Antonia García, condenado a 76 meses de prisión* [Twitter user sentenced to 76 months prison for threatening Matador, Daniel Samper, and María Antonia García]; and *Semana*. October 15, 2021. *Por amenazar desde redes sociales al caricaturista Matador y a otros periodistas fue condenado el abogado Ariel Ortega* [Attorney Ariel Ortega convicted for threatening comedian Matador and other journalists on social media].



of *RCN Radio*.<sup>371</sup> As this office has learned, the journalist has been the target of harassment and death threats on several occasions.<sup>372</sup>

302. The Rapporteurship has been pleased at the judgment of the Constitutional Court of May 14, 2021, which recognized the rights of women journalists to benefit from a working environment that promotes real gender equality, free from gender-based violence and discrimination.<sup>373</sup> The court's ruling is the result of the motion for protection filed by the journalist Claudia Vanessa Restrepo against the newspaper *El Colombiano* for its insufficient and revictimizing response, after she reported the alleged sexual violence by a newsroom colleague. Quoting standards and reports of the IACHR and its Special Rapporteurship for Freedom of Expression, the Constitutional Court understood that both the state and individuals have clear obligations to prevent, prosecute, and punish gender-based violence and/or discrimination, mainly in the field of journalism and media and in the context of ties involving subordination or dependency that could lead to the replication of power disparities.<sup>374</sup>

303. Nevertheless, the IACHR and its Rapporteurship observe that, although there are institutional efforts to make progress in investigating and punishing those responsible for crimes against journalists and media workers, there continue to be major challenges in connection with securing justice in these cases. On November 2, in the framework of the International Day to End Impunity for Crimes against Journalists, the Foundation for Freedom of the Press (FLIP) drew attention to "the context of violence against the press" and "the widespread environment of impunity." As they indicated, impunity in cases of killings of journalists in the country has reached 78.8%, a figure that is even higher if other crimes are included, such as threats, where the impunity rate is 98%.<sup>375</sup> **In view of the above, it is deemed that compliance with this recommendation is partial.**

304. In its observations on the draft of this document, the State reported that seven of the nine cases reported by FLIP are being considered at the Prosecutor's Office and that progress has been made in clarifying four of these seven cases.<sup>376</sup>

305. Finally, regarding the obligation to **prosecute, under impartial and independent courts, within the standards established by international law, the persons responsible for the crimes committed in retaliation for the exercise of the right to freedom of expression, and make adequate reparation for their victims and family members**, the state has informed that "the Office of the Prosecutor-General of the Nation is coordinating all of its capabilities to guarantee, in accordance with the standard of due diligence, the investigation, prosecution, and punishment of those responsible for human rights violations." In that regard, it points out that "investigative activities are conducted as an *ex officio* legal duty in itself, to be

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<sup>371</sup> *La FM*. September 2, 2021, *Condenan a 2 años de prisión a hombre que amenazó a Luis Carlos Vélez en redes sociales* [Man threatening Luis Carlos Vélez on social media sentenced to two years prison]; and *El Tiempo*. September 3, 2021, *Condenan al hombre que amenazó por redes al periodista Luis Carlos Vélez* [Man threatening journalist Luis Carlos Vélez on social media convicted].

<sup>372</sup> *Las 2 Orillas*. August 4, 2021, *El peligro que corre Luis Carlos Vélez* [The danger that Luis Carlos Vélez runs]; and *Infobae*. August 5, 2021, *Flip expresó su preocupación por las amenazas contra el periodista Luis Carlos Vélez por su trabajo* [Foundation for Freedom of the Press FLIP voices concern over threats to journalist Luis Carlos Vélez because of his work].

<sup>373</sup> *Dejusticia*. June 10, 2021, *En un fallo histórico. Corte Constitucional condena la violencia de género en espacios laborales* [In historic ruling the Constitutional Court condemns gender-based violence at work].

<sup>374</sup> Constitutional Court of the Republic of Colombia. May 14, 2021, *Sentencia de Constitucionalidad T-140/21* Constitutional Court Judgment T-140/21; Constitutional Court of the Republic of Colombia. June 9, 2021, *Boletín No. 54. Corte Constitucional protege derechos de periodista a trabajar en un ambiente libre de violencia y discriminación de género y exhorta al Gobierno a ratificar convenio de la OIT sobre acoso laboral* [Bulletin No. 54. Constitutional Court protects rights of journalist to work in environment free from violence and gender discrimination and urges government to ratify ILO Convention Eliminating Violence and Harassment in the World of Work].

<sup>375</sup> Freedom of the Press Foundation. November 2, 2021, *La impunidad en los crímenes contra periodistas, una deuda histórica del Estado colombiano* [Impunity for crimes against journalists, historical debt of Colombian state]; and *Global Voices*. August 28, 2021 *Pocas posibilidades de justicia para periodistas asesinados en Colombia* [Little chance of obtaining justice for journalists killed in Colombia].

<sup>376</sup> Observations of the Colombian State on the draft annual report in follow-up to recommendations made by the IACHR in the Country Report "Truth, Justice, and Reparation: Fourth Report on the Human Rights Situation in Colombia," April 13, 2022, p. 58

conducted independently and impartially, with the necessary exhaustiveness guaranteed by technical expertise and the victims' participation."

306. On the basis of this information, the IACHR concludes that compliance with both recommendations is **partial**.

## 6. Discrimination against Lesbian, Gay, Bisexual, Trans, and Intersex Persons

- Design and adopt the measures necessary to prevent acts of violence and discrimination against lesbian, gay, bisexual, trans, and intersex persons, to protect them from these abuses, and to act with due diligence when responding to these acts, whether committed by state agents, third persons, or armed groups, throughout the national territory.

307. The state forwarded up-to-date information on the status of implementing the Public Policy to guarantee the effective exercise of the rights of persons belonging to LGBTI sectors and persons with diverse sexual orientations and gender identities and its Action Plan for 2019-2022.<sup>377</sup> The Policy consists of 35 goals, 72 strategic actions, and 95 measurement indicators, as well as coordination with 21 national institutions.

308. According to the information, in 2021, at least 50 technical assistance initiatives for territorial entities and inter-agency forums were launched, including awareness-raising and training sessions for staff of government institutions. In addition, the state led initiatives for territorial public policymaking in the departments of Cesar, Tolima, and Huila, among others.<sup>378</sup>

309. Nevertheless, the IACHR also received information from civil society voicing concern over the absence of substantive measures to implement the above-mentioned Public Policy nationwide.<sup>379</sup> In the Commission's view, the mechanisms envisaged in the Policy, including the Urgent Cases Unit, have the potential to contribute to the prevention of structural discrimination and violence based on prejudice. Because of this, the IACHR urges the state to continue boosting its efforts to implement the Public Policy and its Action Plan.

310. According to information provided by the Office of the Human Rights Ombudsperson, in 2021, at least 27 cases of killings of transgender women were reported, along with 111 complaints filed for acts of violence against transgender persons and 9 complaints of threats against LGBTI rights defenders.<sup>380</sup> Civil society organizations have reported a rise in transfemicides in the country<sup>381</sup> and have denounced that state information systems are under-recording acts of violence against LGBTI persons, which has adverse impacts on the adequate monitoring<sup>382</sup> and understanding of the phenomenon of violence and discrimination against LGBTI persons.<sup>383</sup>

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<sup>377</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 110.

<sup>378</sup> Report of the Colombian State to follow up on IACHR recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 110.

<sup>379</sup> According to information received by the IACHR at meeting with organization called Caribe Afirmativo on October 12, 2021.

<sup>380</sup> Report from the Office of the Human Rights Ombudsperson of Colombia, p. 23.

<sup>381</sup> IACHR. [La CIDH reitera su preocupación por la persistencia estructural de la violencia en Colombia](#) [IACHR reiterates concern over persisting structural violence in Colombia], November 24, 2021.

<sup>383</sup> Information provided to IACHR on October 29 by Caribe Afirmativo (Affirmative Caribbean); Fundación Grupo de Acción y Apoyo a Personas Trans (Action Group and Support for Transgender Persons Foundation); International Institute on Race, Equality and Human Rights; and Colombia y Colombia Diversa, document available in IACHR files.

311. As for state actions responding to acts of violence and discrimination, the Commission highlights the decision of the Office of the Prosecutor-General of the Nation to continue, as a priority, investigating cases involving LGBTI victims in those areas with the highest concentration of incidents, including Cali, Medellín, Bogotá, Barranquilla, Antioquia, Santander, Magdalena, and Arauca,<sup>384</sup> as well as providing training to staff of the prosecution to guarantee criminal investigations with a diversity-based perspective,<sup>385</sup> which is noted as positive.

312. In 2021, the Commission also monitored the status of the investigations into the death of Juliana Giraldo Díaz, a transgender woman who, in September 2020, died as a result of a gunshot by a member of the Third Division of the National Army in Cauca.<sup>386</sup> According to public information, said investigations were conducted with a gender perspective, taking into account the victim's gender identity.<sup>387</sup> The IACHR also commends progress achieved in investigations with a diversity perspective in 2021, including the detention of the alleged perpetrator of two homicides, presumably motivated by the victims' sexual orientation.<sup>388</sup>

313. The state also reported holding a meeting with black, Afrodescendant, Raizal, and Palenque LGBTI persons in the framework of the National Prior Consultation Forum and highlighted the "*participation with a differentiated approach in the Strike Committee, with affirmative actions for and inclusion of the LGBTI sector.*"<sup>389</sup>

314. On the basis of the above, taking into consideration that the state has continued to draft and adopt measures to prevent violence and discrimination, but also acknowledging the persisting challenges to preventing violence, especially against trans women, the Commission finds that compliance with this recommendation is **partial**.

315. In its observations on the draft of this document, the State reported on the cross-cutting strategy to fight discrimination against the LGBTI population, focused on issuing documents for trans persons, training prosecutors and investigators, and prioritizing cases of violence based on gender identity. The State also noted that the Prosecutor's Office is investigating the 29 homicides of transgender women that occurred in 2021, of which two were deemed femicides of transgender women, nine were deemed homicides, and three were classified as torture of trans women.<sup>390</sup>

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<sup>384</sup> Office of the Prosecutor-General of the Nation. [Fiscalía General de la Nación, firme en la lucha contra la discriminación basada en identidad de género u orientación sexual](#). [Prosecutor-General's Office firm in fight against discrimination based on gender identity or sexual orientation], May 17, 2021.

<sup>385</sup> Office of the Prosecutor-General of the Nation. [Fiscalía General de la Nación, firme en la lucha contra la discriminación basada en identidad de género u orientación sexual](#). [Prosecutor-General's Office resolute in combating discrimination based on gender identity or sexual orientation], May 17, 2021.

<sup>386</sup> RCN Radio. [Caso de Juliana Giraldo será resuelto por la justicia ordinaria](#) [Case of Juliana Giraldo shall be tried in regular court of justice]; IACHR. IACHR condemns killing of Juliana Giraldo Díaz, September 25, 2020; Army of Colombia. Press release, September 24, 2020; and *France 24*. Transgender woman killed by army serviceman in a Colombia shaken by police violence, September 24, 2020.

<sup>387</sup> CNN. [Fiscalía agrega perspectiva de género a investigación por la muerte de Juliana Giraldo en Colombia](#) [Prosecutor-General's Office adds gender perspective to investigation into death of Juliana Giraldo in Colombia], September 25, 2020.

<sup>388</sup> Office of the Prosecutor-General of the Nation. [A la cárcel presunto responsable de homicidio de dos hombres en Antioquia, al parecer por su orientación sexual](#) [Jailing of alleged perpetrator of homicide of two men in Antioquia apparently because of their sexual orientation], May 14, 2021.

<sup>389</sup> No further information was provided.

<sup>390</sup> Observations of the Colombian State on the draft annual report in follow-up to recommendations made by the IACHR in the Country Report "Truth, Justice, and Reparation: Fourth Report on the Human Rights Situation in Colombia," April 13, 2022, p. 59.

## 7. Persons Deprived of Liberty

- Adopt the administrative, judicial, and legislative measures needed to ensure that the pre-trial detention of persons who have not been convicted with a firm judgment is used as the measure of last resort and for the shortest possible time, in keeping with the international standards presented in this report, so as to bring about a reduction in the number of persons subjected to this precautionary measure.
- Adopt effective measures to ensure the delivery of adequate medical and psychiatric care at every prison and jail in the country. Implement mechanisms of external supervision and monitoring of the health services that are provided in prisons. And make adequate reparation, in keeping with domestic law, to all those persons who have suffered harm stemming from the deficient provision of health services in the prisons, as well as the family members of those who have died as a result of this cause.
- Adopt, on an urgent basis, effective measures to guarantee the supply of drinking water and water to satisfy other needs of persons deprived of liberty in the prisons, in keeping with the international minimum standards set forth in this report.
- Ratify the Optional Protocol of the United Nations Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

316. Regarding the recommendation to **adopt measures to use the pre-trial detention of persons as the measure of last resort and for the shortest possible time**, the state pointed out the conditions on the basis of which court orders for pre-trial detention are issued, highlighting its exceptional character. Moreover, it reported that, of the 97,125 persons in custody, 73,185 have been convicted and 23,305 are registered as indicted.<sup>391</sup>

317. The Commission observes that, in 2021, the use of pre-trial detention continued to decline as it had in 2020. Regarding this, the data provided by the state indicated that 23.9% of the persons deprived of liberty are subject to this measure,<sup>392</sup> compared to 24.1% at December 2020<sup>393</sup> and 33.3% at December 2019.<sup>394</sup> In particular, the state indicates that the decline in the use of pre-trial detention was the result of the adoption of Legislative Decree No. 546 of April 2020, aimed at granting measures replacing incarceration and pre-trial detention in penitentiaries by transition house-based imprisonment or house arrest for persons who are at a higher risk of catching and suffering from COVID-19.<sup>395</sup>

318. Along with that, the IACHR takes note of the National Criminal Policy Plan for 2021-2025 adopted by the national government on July 26, 2021, whose goal is to reduce the use of deprivation of liberty and pre-trial detention by promoting alternative measures. In particular, this Plan proposes the following strategies: i) promoting the priority and reasonable use of alternative measures during the proceedings enforcing the sentence; and ii) conducting promotional campaigns aimed at institutions and society about the advantages of applying these measures.<sup>396</sup>

319. Furthermore, the Commission observes the implementation of a pilot project on alternative penalties consisting of optimizing the use of alternatives to incarceration available in Colombia's Criminal Code.

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<sup>391</sup> Government of Colombia. Recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 2022, p. 112.

<sup>392</sup> Government of Colombia. Recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 2022, p. 112.

<sup>393</sup> National Penitentiary and Prison Institute of Colombia (INPEC). No. 12 Informe Estadístico Población Privada de Libertad – INPEC – Diciembre 2020 [No. 12 Statistical Report on Population Deprived of Liberty – INPEC – December 2020], January 21, 2021, p. 39.

<sup>394</sup> National Penitentiary and Prison Institute of Colombia (INPEC). No. 12 Informe Estadístico Población Privada de Libertad – INPEC – Diciembre 2019 [No. 12 Statistical Report on Population Deprived of Liberty – INPEC – December 2019], January 31, 2020, p. 36.

<sup>395</sup> Ministry of Justice and Law, Colombia. Decreto Legislativo No. 546 Legislative Decree No. 546 adopted on April 14, 2020.

<sup>396</sup> Superior Council on Criminal Policy, Colombia. Plan Nacional de Política Criminal 2021-2025 [National Criminal Policy Plan for 2021-2025], 2021, pp. 46-47.

Its main goal is to break the cycle of organized crime's recruitment, activities, and recidivism by reducing the number of low-risk offenders deprived of their liberty who are eligible for these alternatives, as well as reducing recidivism and preventing overcrowding in prisons.<sup>397</sup>

320. Without detriment to the above, the IACHR notes with concern the executive branch's failure to adopt draft Law No. 093/21S-498/20C, which sought to establish alternative measures for the benefit of women and mothers heads of household sentenced to prison.<sup>398</sup> In particular, said draft law would have allowed women convicted for misdemeanors to benefit from alternative measures consisting of community work, provided it could be demonstrated that said offenses were committed in conditions of "marginalization."<sup>399</sup> The Commission recalls that, in view of the disproportionate impact of incarceration on women and persons depending on them, states should promote mainstreaming a gender perspective and, when appropriate, the focus on the paramount interest of the child and special protection for other persons who belong to groups at special risk.<sup>400</sup>

321. Along with the above, the IACHR took note of information from the Office of the Human Rights Ombudsperson relative to housing conditions in Transitory Detention Centers. In that regard, it expressed its serious concern that, as stated by Ombudsperson Carlos Camargo, among Colombia's prisons, pre-trial detention centers had the worst living conditions,<sup>401</sup> with those of Cali, Valledupar, and Bogotá cited as the worst for housing persons.<sup>402</sup>

322. The IACHR observes the progress made by the state to reduce pre-trial detention. Nevertheless, in view of what was expressed above, it finds that compliance with this recommendation is **partial**.

323. As for the recommendation to **adopt effective measures to ensure the delivery of adequate medical and psychiatric care, ensure external supervision and monitoring of the health services, and make adequate reparation to all those persons who have suffered harm stemming from the deficient provision of health services in the prisons**, the state informed the IACHR that the National Penitentiary and Prison Institute (*Instituto Nacional Penitenciario y Carcelario—INPEC*) is implementing the Human Rights Promotion, Prevention, and Monitoring Strategy (*Estrategia de Promoción, Prevención y Monitoreo de Derechos Humanos*), which strives to guarantee and respect human rights, as well as establish the differentiated approach, in incarceration establishments. In particular, regarding health services, the state indicated that the healthcare division, through the health insurance group in coordination with the Ministry of

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<sup>397</sup> Ministry of Justice, Colombia. [Ministerio de Justicia y la Embajada de Estados Unidos ponen en marcha proyecto piloto de alternatividad penal](#) [Ministry of Justice and United States Embassy launch pilot project for alternative penalties], March 31, 2021.

<sup>398</sup> IACHR. Information provided to IACHR by Mujeres Libres Colombia at technical meeting on October 14, 2021. See also: [Ámbito jurídico. Objetan proyecto que buscaba que madres cabeza de hogar cumplieran condenas con trabajos comunitarios](#) [Objecting project aimed at having mothers heads of household to serve sentence by doing community work], July 21, 2021.

<sup>399</sup> Congress of Republic of Colombia, Senate of the Republic, Colombia. [Senado aprobó que madres cabeza de hogar cumplan condenas con trabajos comunitarios](#) [Senate ratify measure allowing mothers heads of household serve sentence by doing community work], June 23, 2021.

<sup>400</sup> IACHR. [Informe sobre medidas dirigidas a reducir el uso de la prisión preventiva en las Américas](#) [Report on Measures Aimed at Reducing the Use of Pretrial Detention in the Americas], para. 231, Recommendation K "Women and Other Persons Belonging to Groups at Special Risk," para. 4.

<sup>401</sup> Office of the Human Rights Ombudsperson of Colombia. Temporary pretrial detention centers in worse conditions than prisons, warns Human Rights Ombudsperson, September 9, 2021.

<sup>402</sup> Office of the Human Rights Ombudsperson of Colombia. Cali, Valledupar, and Bogotá are most inhumane pretrial detention centers in the country, September 14, 2021.

Health and Social Protection, “has guaranteed healthcare coverage for 100% of the population deprived of liberty.”<sup>403</sup>

324. In addition, the Commission takes note of the actions carried out by the Ministry of Justice and Law and the Penitentiary and Prison Services Unit (*Unidad de Servicios Penitenciarios y Carcelarios—USPEC*) under the agreement with the Pan American Health Organization (PAHO), to enlarge the immunization plan for the penitentiary population of many of the country’s incarceration centers. In particular, there was the delivery of 42,530 vaccines against measles, mumps, and rubella, as well chickenpox and hepatitis B, whose administration had begun in December 2020.<sup>404</sup>

325. Furthermore, the Commission observes with concern that, in 2021, in various detention centers, the provision of healthcare services had been suspended for budgetary or administrative reasons. According to available information, in many of the country’s detention centers, healthcare activities came to a standstill because of the failure to pay healthcare professionals or hire medical services.<sup>405</sup> In particular, information made available to the IACHR indicates that diverse detention centers do not provide daily ongoing 24-hour healthcare services and that, in some of them, general medical services were suspended because said services had not been hired or professional fees had not been paid. For example, according to data from the Office of the Human Rights Ombudsperson, this situation was apparent in at least the following penitentiaries: those of El Bosque and La Modelo located in the capital of El Atlántico Department and the prisons and jails of Salamina (Caldas) and Apartadó (Antioquia).<sup>406</sup>

326. Along with the above, the IACHR noted with concern the situation encountered by persons deprived of liberty in La Esperanza Penitentiary and Prison Establishment (*Establecimiento Penitenciario y Carcelario—EPC*). In particular, according to the Office of the Attorney-General of the Nation, said center was noteworthy for violations of the right to health, including the following: absence of medical staff, insufficient medicines and oxygen, and deficiencies in the ambulances and other motor vehicles allocated for transporting detainees.<sup>407</sup>

327. In the context of the COVID-19 pandemic, the Commission takes note of Resolution No. 313 of March 10, adopted by the Ministry of Health and Social Protection. Said statute amends Resolution No. 843 of 2020 on the biosecurity protocol requiring implementation in penitentiaries and jails and establishes general biosecurity measures for the prevention, monitoring, and management of COVID-19 cases that must be adopted by the authorities of said establishments.<sup>408</sup> It also notes the publication of Decree No. 466 of May 8 governing the priorities in terms of the target population, phases, and stages for administering the vaccines against the

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<sup>403</sup> Government of Colombia. Recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 2022, p. 112.

<sup>404</sup> National Penitentiary and Prison Institute of Colombia (INPEC). “Entrega de vacunas para la población privada de la libertad” [Delivery of vaccines for population deprived of liberty], October 29, 2021.

<sup>405</sup> In that regard, see: Office of the Human Rights Ombudsperson of Colombia. Defensor del Pueblo denuncia que le impidieron tomar evidencias sobre la situación de DDHH de reclusos en cárcel el Bosque de Barranquilla [Human Rights Ombudsperson reports he was prevented from taking evidence on human rights status of inmates in Bosque de Barranquilla prison], September 17, 2021; *Semana Agoniza el sistema de salud en las cárceles de Colombia* [Healthcare system in Colombia’s prisons is collapsing], August 18, 2021; and *El Diario*. Inmates of Cóbbita prison report they have no healthcare services, August 16, 2021.

<sup>406</sup> In that regard, see: Office of the Human Rights Ombudsperson of Colombia. Defensor del Pueblo denuncia que le impidieron tomar evidencias sobre la situación de DDHH de reclusos en cárcel el Bosque de Barranquilla [Human Rights Ombudsperson reports he was prevented from taking evidence on human rights status of inmates in Bosque de Barranquilla prison], September 17, 2021; *Semana Agoniza el sistema de salud en las cárceles de Colombia* [Healthcare system in Colombia’s prisons is collapsing], August 18, 2021; and *El Diario*. Inmates of Cóbbita prison report they have no healthcare services, August 16, 2021.

<sup>407</sup> Office of the Attorney-General of the Nation, Colombia. “Procuraduría requirió al INPEC, USPEC y a Dirección de la cárcel de La Esperanza, Tolima presentar plan de mejoramiento para garantizar los derechos fundamentales de las personas privadas de la libertad” [Attorney-General’s Office ordered INPEC, USPEC, and Management of La Esperanza Penitentiary to submit improvement plan to protect the fundamental rights of persons deprived of liberty], June 16, 2021.

<sup>408</sup> Ministry of Health and Social Protection, Colombia. Resolución No. 313 Resolution No. 313 adopted on March 10, 2021.

virus.<sup>409</sup> On the basis of this scenario, as stated by the Director of the Penitentiary and Prison Services Unit (USPEC) to national media on November 26, close to 83% of the detainees had been vaccinated with one dose, and about 35% had been administered a full vaccination schedule.<sup>410</sup>

328. Regarding this matter, the Commission reiterates to states that they must provide timely and adequate healthcare services to persons in their custody. Regarding this, the Inter-American Court has pointed out that this duty entails guaranteeing the physical and mental health of persons deprived of liberty, especially by providing a regular medical checkup and, when required, adequate, timely, and specialized medical treatment.<sup>411</sup>

329. Likewise, the IACHR notes that the state did not provide information about the measures adopted to grant reparations to those who have sustained harm stemming from the deficient provision of healthcare services when in the state's custody, as well as the next of kin of those who had lost their lives as a result of the above failure. Bearing in mind the above review, the Commission finds that compliance with the recommendation is **pending**.

330. In its observations on the draft of this report, the State announced the entry into force, on July 1, 2021, of the National Health Fund for Persons Deprived of Liberty for the management of health care, prevention, and promotion. The State also reported that, during 2021, five court orders concerning deficient health services were fulfilled, with reparations delivered to four persons deprived of liberty and seven relatives.<sup>412</sup>

331. On the recommendation to **adopt effective measures to guarantee the supply of drinking water and water in penitentiaries and to satisfy other needs of persons deprived of liberty in the prisons**, the state provided information giving an account of actions undertaken by the Penitentiary and Prison Services Unit (USPEC) to provide clean water in detention centers. In particular, it indicated that, on July 1, 2021, USPEC signed, with the Water Supply and Sewage Utility, the agreement to start work on Contract No. 202 of 2021, whose purpose is to develop the operation of Drinking Water Treatment Plants and Wastewater Treatment Plants in National Penitentiary Establishments in 35 cities.<sup>413</sup> To this end, the Sub-Department for Building and Conservation of the Infrastructure Directorate has forecast an investment amounting to 17,769,172,490 million Colombian pesos for their development. The actions being planned encompass the following: assessment, priority designs, operation, adaptation, maintenance, updating of operation manuals, management of licenses and/or permits, constant monitoring, and related emergencies submitted.<sup>414</sup>

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<sup>409</sup> Colombia. Decreto No. 466 Decree No. 466 adopted on May 8, 2021, Article 1.

<sup>410</sup> *Caracol Radio*. 83% de privados de la libertad en el país están vacunados con primera dosis [83% of persons deprived of liberty in the country administered first dose of vaccine], November 26, 2021.

<sup>411</sup> I/A Court H.R. Caso Chinchilla Sandoval y otros Vs. Guatemala. Excepción Preliminar. Fondo. Reparaciones y Costas. Sentencia de 29 de febrero de 2016 [Case of Chinchilla Sandoval et al. v. Guatemala. Preliminary objections, merits, reparations, and costs. Judgment of February 29, 2016], Series C No. 312, paras. 171-72.

<sup>412</sup> Observations of the Colombian State on the draft annual report in follow-up to recommendations made by the IACHR in the Country Report "Truth, Justice, and Reparation: Fourth Report on the Human Rights Situation in Colombia," April 13, 2022, p. 61-62.

<sup>413</sup> In particular, in the cities of: Chiquinquirá, Moniquirá, Santa Rosa de Viterbo, and Cóbbita in the department of Boyacá; Neiva and La Plata in El Huila; Socorro, Bucaramanga, Vélez, and Girón in Santander; Leticia in Amazonas; Tumaco and Ipiales in the department of Nariño; Quibdó and Itzminá in Chocó; Apartadó and Puerto Triunfo in Antioquia; Florencia in Caquetá; Yopal in Casanare; Guaduas in Cundinamarca; Acacías, Meta, Popayán, Cauca, Jamundí Valle del Cauca, La Dorada, Caldas, and Calarcá in Quindío; Magangué in Atlántico; Santa Marta in Magdalena; San Andrés and Providencia; Tierralta in Córdoba; Valledupar in Cesar; and Cúcuta in Norte de Santander.

<sup>414</sup> Government of Colombia. Recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 2022, p. 112-113. See also: Penitentiary and Jail Services Unit, Colombia. "USPEC garantiza la operación de Plantas de Agua Potable y Plantas de Agua Residuales en los Establecimientos Penitenciarios del País" [USPEC guarantees the operation of clean water and wastewater treatment plants in the country's penitentiaries], July 2, 2021.

332. Furthermore, the state indicated that it would continue the actions of the USPEC in the framework of the National Development Plan “Pact for Colombia, Pact for Equity” (2018-2022) in order to contribute to better spaces and uphold quality for detainees.<sup>415</sup> Despite the above, the Commission is concerned over the obstacles that detainees encounter in La Esperanza EPC. Regarding this, according to what was documented by the Office of the Attorney-General of the Nation, water testing results provided evidence that, because of its poor quality, the water entailed high risks for human consumption and that water supply was intermittent.<sup>416</sup>

333. Furthermore, the IACHR supported access of women detainees to food. In particular, the Commission was informed that women deprived of liberty in Bogotá’s penitentiary for women did not have access to adequate nutrition. According to civil society, in 2021, the state renewed the contract for the company in charge of providing food, despite complaints filed against that company since 2020.<sup>417</sup> The claims indicated that said company delivered poor-quality food and in small amounts.<sup>418</sup>

334. In that regard, the Commission reminds the Colombian state of its duty to ensure that persons deprived of liberty must benefit from detention conditions that are compatible with their dignity as human beings, including access to clean water and sufficient amounts of quality food.<sup>419</sup> Because of the above, the IACHR finds that compliance with this recommendation is **partial**.

## 8. The Aggravated Risk to Human Rights Defenders

- Step up its efforts to consolidate a culture of respect for those who defend human rights, both at the different levels of the state and in the citizenry in general through promotion and educational activities aimed at publicly recognizing the contribution of human rights defenders to upholding human rights in the context of the armed conflict and in seeking peace and the consolidation of democracy in Colombia.
- Ensure that the authorities of the state or private persons not use the punitive power of the state and its organs of justice to criminalize human rights defenders in retaliation for their activities protecting human rights. In addition, ensure that its officials refrain from making statements that stigmatize human rights defenders or that suggest that human rights organizations act improperly or unlawfully because of their work to promote and/or defend human rights.
- Continue designing and implementing comprehensive and effective public policies for protecting human rights defenders at risk with special attention to those groups of defenders who may be especially vulnerable. As part of this policy the Commission considers that, in addition to the material measures of protection, the state should effectively investigate the sources of risk to human rights defenders with the aim of defusing them.
- Guarantee the effective participation of the human rights defenders who are the beneficiaries of the measures in question in all procedures to adopt, implement, monitor, and lift special measures of protection. In particular, the Commission recommends to the state that it ensure that the personnel who

<sup>415</sup> Government of Colombia. Recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 2022, p. 113.

<sup>416</sup> Office of the Attorney-General of the Nation, Colombia. “[Procuraduría requirió al INPEC, USPEC y a Dirección de la cárcel de La Esperanza, Tolima presentar plan de mejoramiento para garantizar los derechos fundamentales de las personas privadas de la libertad](#)” [Attorney-General’s Office ordered INPEC, USPEC, and Management of La Esperanza Penitentiary to submit improvement plan to protect fundamental rights of persons deprived of liberty], June 16, 2021.

<sup>417</sup> IACHR. Information provided to IACHR by Mujeres Libres Colombia (Free Women Colombia) at technical meeting on October 14, 2021. See also: Encierro dentro del encierro! [Confinement inside confinement!]. Twitter account of Mujeres Libres Colombia (@Mujeres Libres Co), posted on June 5, 2021 ([Publicación del 5 de junio de 2021](#)).

<sup>418</sup> IACHR. Information provided to IACHR by Mujeres Libres Colombia (Free Women Colombia) at technical meeting on October 14, 2021. See also: Encierro dentro del encierro! [Confinement inside confinement!]. Twitter account of Mujeres Libres Colombia (@Mujeres Libres Co), posted on June 5, 2021 ([Publicación del 5 de junio de 2021](#)).

<sup>419</sup> In that regard, IACHR. [Informe sobre los derechos humanos de las personas privadas de libertad en las Américas](#) [Report on the Human Rights of Persons Deprived of Liberty in the Americas], OEA/Ser.L/V/II, adopted December 31, 2011, para. 432.



participate in the security schemes for human rights defenders are designated with the participation of and coordinating with the beneficiaries so as to build confidence.

- Develop a public policy aimed at fighting impunity in cases involving violations of the rights of human rights defenders through exhaustive and independent investigations that make it possible to punish both the direct perpetrators and those who planned and ordered the violations. The Commission recommends as part of this policy that the state establish specialized protocols for coordination among prosecutors and, as the case may be, unify the investigations into crimes committed against same civil society organizations and same human rights defenders to give impetus to the investigations and possibly determine patterns of attacks, other acts of aggression, and harassment.

335. Finally, regarding the recommendation to ratify the Optional Protocol of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the state indicated that said ratification would not be needed because it had already developed tools that would perform similar functions. Regarding this, the Colombian state indicated that the above would not preclude once again undertaking relevant consultations to ascertain the advisability of adhering to this instrument.<sup>420</sup> On the basis of the above, the Commission concludes that compliance with this recommendation continues to be pending.

336. In connection with the general situation of vulnerability encountered by human rights defenders, the Commission recommended that the state must step up its efforts to consolidate a culture of respect for those who defend human rights, both at the different levels of the state and in the citizenry in general through promotion and educational activities aimed at publicly recognizing the contribution of human rights defenders to upholding human rights in the context of the armed conflict and in seeking peace and the consolidation of democracy in Colombia.

337. In its response to the Commission, the state pointed out that, in the framework of the Timely Action Plan (*Plan de Acción Oportuna—PAO*), the Inter-agency Forum Monitoring Homicides against Human Rights Defenders (*Mesa Interinstitucional de seguimiento a homicidios contra personas defensoras de derechos humanos*) was established. The purpose of this forum is to analyze each one of the cases submitted to this body, in order to provide detailed monitoring of the information and data referring to the killing of human rights defenders, which would provide inputs for decision making and taking action aimed at resolving said violation. This Forum would function in coordination with Office of the Human Rights Ombudsperson and the Prosecutor-General's Office (FSN) to make progress in clarifying these cases.<sup>421</sup>

338. Furthermore, the state indicated that, on December 10, 2021, the National Economic and Social Policy Council (*Consejo Nacional de Política Económica y Social—CONPES*) adopted the Public Policy of Guarantees and Respect for Human Rights Defense and Social Leadership Work (CONPES 4063 of 2021) for the following purposes: to coordinate inter-agency efforts to intervene in risk factors jeopardizing the exercise of human rights defense; to build up institutional capacities for the early prevention and timely protection of leaders, defenders, and journalists; to motivate the adoption of strategies that strengthen the stages of investigation, prosecution, and punishment of assaults against defenders and journalists; and to build up the individual and collective capabilities of human rights defenders to promote and recognize this work. With this policy, the state indicated that it is reiterating its commitment to protect the population of human rights defenders.<sup>422</sup>

339. The Commission commends the state's commitment to protect human rights defenders and its action to draw up a Public Policy of Guarantees and Respect for Human Rights Defense Work. Nevertheless,

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<sup>420</sup> Government of Colombia. Recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 2022, p. 113.

<sup>421</sup> Government of Colombia. Report to follow up on recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 15, 2022, p. 115.

<sup>422</sup> Government of Colombia. Report to follow up on recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 15, 2022, p. 116.

the Commission underscores the importance of ensuring that the new programs and policies being implemented do not undermine or ignore the work carried out by previously established bodies, such as the National Guarantees Forum (*Mesa Nacional de Garantías—MNG*) and the National Security Guarantees Commission (*Comisión Nacional de Garantías de Seguridad—CNGS*).

340. Regarding this, the Commission observes that, in 2021, the CNGS held only two technical meetings at which progress was presented on the drafting of a public policy to dismantle illegal armed groups and criminal organizations. It also observes that there continue to be challenges to upholding a constructive dialogue between civil society organizations and the state. According to the United Nations Verification Mission, civil society organizations stressed the need for a roadmap up to August 2022 for the purpose of guaranteeing progress in drafting the public policy.<sup>423</sup>

341. As for the civil society organizations themselves, they believe there is an “ineffective institutional parallelism” stemming from the policy on “Peace with Legality,” which would be giving priority to bodies such as the Inter-agency Coordination Forum for Security or the Timely Action Plan (PAO) and which would be constraining the activities and scope of the CNGS.<sup>424</sup>

342. In that regard, the Commission urges the state to continue fostering previously established forums of dialogue for the purpose of convening civil society organizations so that they could participate in the implementation of this new national policy. To this end, it would be necessary for the many institutions involved to coordinate amongst each other and mutually provide feedback in order to reflect upon the effectiveness of previously established institutions and lessons learned, as well as to prevent them from becoming overly bureaucratic.<sup>425</sup>

343. Likewise, in view of the persistence of violence against these collectives, the Commission underscores the need for each policy to tackle the underlying causes of the risks encountered by these collective groups and to implement differentiated and intersectional approaches at all times. Because of the above, the Commission finds that compliance with this recommendation remains substantially unfulfilled and shall continue to monitor the implementation of the above-mentioned National Policy.

344. In connection with the situation of criminalization and stigmatization encountered by human rights defenders, the Commission recommended that the state must ensure that the authorities of the state or private persons not use the punitive power of the State and its organs of justice to criminalize human rights defenders in retaliation for their activities protecting human rights. In addition, it must ensure that its officials refrain from making statements that stigmatize human rights defenders or that suggest that human rights organizations act improperly or unlawfully because of their work to promote and/or defend human rights.

345. The state did not submit any specific information on preventing the criminalization of defenders. In 2021, the Commission received information on criminalization proceedings against human rights defenders, especially in the context of protests during the National Strike. Regarding this, civil society organizations informed the Commission that, in the framework of these protests, the fifth most frequently recorded aggression pertained to the arbitrary detention and prosecution of human rights defenders by the forces of order. They pointed out that these forms of deprivation of liberty were aimed especially at human

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<sup>423</sup> United Nations Security Council. [Misión de Verificación de las Naciones Unidas en Colombia. Informe del Secretario General](#) [United Nations Verification Mission in Colombia: Report of the United Nations Secretary-General], S/2021/824, September 24, 2021, para. 23

<sup>424</sup> Permanent Committee for Defending Human Rights. Request for hearing “Rights of persons signing the Final Peace Accord, ex-combatants of FARC-EP,” in the framework of the 181 period of sessions, April 2021, in IACHR files.

<sup>425</sup> IACHR. [Informe sobre la situación de personas defensoras de derechos humanos y líderes sociales en Colombia](#) [Report on the Situation of Human Rights Defenders and Social Leaders in Colombia], OEA/Ser.L/V/II. Doc. 262, December 6, 2019, para. 273; and IACHR. Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, OEA/Ser.L/V/II, December 31, 2013, para. 460, recommendation 4.

rights defenders who were working to document, record, and question public forces of the law as a way of punishing or accusing said work for being “biased” or “obstructing procedures.”<sup>426</sup>

346. The Commission reiterates to the Colombian state that the criminalization of human rights defenders is a complex obstacle, as it impacts in diverse ways the free exercise of defending human rights.<sup>427</sup> In that regard, the Commission has pointed out that arbitrary detentions are serious because they place defenders in a situation of vulnerability, from which there appears a real and imminent risk of other rights being breached to their detriment.<sup>428</sup> It also recalls that peaceful social protest, as an expression of the right to assembly, is a basic instrument for the work of human rights defenders, which is essential for expressing political and social criticism of the activities of state authorities, as well as for establishing human rights stances and action plans.<sup>429</sup>

347. In connection with preventing the stigmatization of the work of defenders, the state indicated to the Commission that, on December 1, 2021, in Bogotá, a national workshop was held with media workers and journalists on human rights defense work and non-stigmatization. This forum was geared to strengthening alternative and community media outlets so that they could contribute to promoting peaceful coexistence, reconciliation, and non-stigmatization and to their own development. It also pointed out that the Ministry of the Interior has been organizing campaigns against stigmatizing human rights defense work and has also given impetus to a School of Social Leaders to strengthen leadership capacities in the country.<sup>430</sup>

348. The Commission commends this type of initiative. Nevertheless, it observes that, in 2021, smear speeches were made against the work of defenders, especially targeting those who participated in the protests of the National Strike. Regarding this, according to civil society organizations, smearing human rights defenders was the most recurrent assault against them in the context of the National Strike.<sup>431</sup> In turn, the Commission was apprised of statements made by the Minister of Defense, who indicated that several human rights defenders “were gang leaders and had ties with FARC dissidents.”<sup>432</sup>

349. Although there are increasingly fewer cases, the Commission is concerned over the persistence of this type of speech. The IACHR reminds state authorities that they must refrain from making smear statements and broadcasting negative portrayals of defenders’ work and stresses how important their work is to building up and consolidating the rule of law. Because of the above, the Commission finds that compliance with this recommendation continues to be pending.

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<sup>426</sup> Campaña Defender la Libertad [Campaign Defending Freedom]. El riesgo de defender la libertad en las calles: Informe sobre agresiones a personas defensoras de derechos humanos en Colombia desde el 28 de abril de 2021 en el marco de las jornadas del Paro Nacional desde la Campaña Defender la [The risk of defending freedom in the streets: Report on aggression towards human rights defenders in Colombia since April 28, 2021 in the framework of National Strike protests from the standpoint of the Campaign Defending Freedom], June 2021, p. 18.

<sup>427</sup> IACHR. Criminalización de la labor de las defensoras y los defensores de derechos humanos [Criminalization of the Work of Human Rights Defenders], OEA/Ser.L/V/II. Doc. 49/15, December 31, 2015, para. 16.

<sup>428</sup> IACHR. Criminalización de la labor de las defensoras y los defensores de derechos humanos [Criminalization of the Work of Human Rights Defenders], OEA/Ser.L/V/II. Doc. 49/15, December 31, 2015, para. 193.

<sup>429</sup> IACHR. Guía Práctica sobre lineamientos y recomendaciones para la elaboración de planes de mitigación de riesgos de personas defensoras de derechos humanos [Practical Guidelines and Recommendations for the Development of Risk Mitigation Plans for Human Rights Defenders], 2021, p. 8.

<sup>430</sup> Government of Colombia. Report to follow up on recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 15, 2022, p. 107.

<sup>431</sup> Programa Somos Defensores (We Are Defenders Program). Resiste: Informe semestral enero- junio 2021 [Resist: Half-yearly report January to June 2021], p. 65

<sup>432</sup> RCN Radio. Rechazan señalamientos del Ministro de Defensa contra líderes del Cauca [Rejecting Defense Ministry accusing leaders of Cauca], May 15, 2021; Telesur. Rechazan en Colombia señalamientos contra líderes del Cauca [Rejecting Defense Ministry accusing leaders of Cauca], May 16, 2021; and Caracol Radio. Rechazan señalamientos de Mindefensa a dos líderes sociales por desórdenes [Rejecting Defense Ministry accusing two social leaders for unrest], May 15, 2021.

350. Regarding the recommendation to the state to continue designing and implementing comprehensive and effective public policies for protecting human rights defenders at risk, the state reiterated the adoption of CONPES 4063 of 2021 establishing the Public Policy of Guarantees and Respect for Human Rights Defense Work. It indicated that, for the issuance of the Decree implementing CONPES 4063, there was the onsite attendance of close to 700 leaders from 39 municipalities of the departments of Norte de Santander, Santander, Cesar, Magdalena, Guajira, Bolívar, Nariño, Putumayo, Cauca Valle del Cauca, and Choco, as well as four meetings to socialize the CONPES in Cúcuta, Carmen de Bolívar, Popayán, Valle del Cuaca, and Antioquia.<sup>433</sup>

351. The Inter-American Commission commends this type of measure. Nevertheless, it observes that, in 2021, the situation of violence against human rights defenders and social leaders in Colombia continued to be alarming. Regarding this, it received pressing information on acts of violence against these groups, which reflects that the right to defend human rights is being exercised in a hostile climate subject to constant risks and threats.

352. Figures from the Human Rights Ombudsperson point out that, in the first semester of 2021, a total of 407 behaviors violating the rights of social leaders and defenders (among which, assaults, threats, and homicides) had been recorded.<sup>434</sup> As for the We Are Defenders Program (*Programa Somos Defensores*), it recorded 222 assaults against defenders between July and September 2021.<sup>435</sup>

353. According to available information, in the first semester of 2021, threats were the most frequent assaults, accounting for 158 cases, 13.7% more than those recorded in 2020, and social leaders were those most hard hit by this type of violence.<sup>436</sup> Likewise, between July and September 2021, threats continued to be the most recurrent form of aggression.<sup>437</sup>

354. As for the killings, the state informed the Commission that, by November 20, 2021, the Office of the Human Rights Ombudsperson recorded 130 alleged homicides of social leaders and human rights defenders.<sup>438</sup> Up-to-date figures from the Office of the Human Rights Ombudsperson indicate that, by December 31, 2021, 145 homicides of social leaders and human rights defenders had been recorded, accounting for a 20% decline from the 182 cases that had occurred in 2020.<sup>439</sup>

355. Furthermore, figures from the Office of the UN High Commissioner for Human Rights (OHCHR) point out that, between January 1 and December 31, 2021, it had been apprised of 202 allegations of homicide against defenders, 78 of which had been corroborated, whereas 39 cases are in the process of being cross-

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<sup>433</sup> Government of Colombia. Report to follow up on recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 2022, p. 119.

<sup>434</sup> Office of the Human Rights Ombudsperson of Colombia. Defensoría del Pueblo presenta reporte de conductas vulneratorias contra líderes sociales durante el primer semestre de 2021 [Ombudsperson's Office submits report on rights violations against social leaders in first semester 2021], August 25, 2021.

<sup>435</sup> Programa Somos Defensores (We Are Defenders Program). Boletín julio-septiembre 2021. Sistema de Información sobre agresiones contra personas defensoras de DD.HH en Colombia SIADDHH. [Bulletin July to September 2021, Information System on Aggression against Human Rights Defenders in Colombia SIADDHH], November 2021, p. 1.

<sup>436</sup> Electoral Observation Mission (Misión de Observación Electoral—MOE). Informe de violencia contra líderes políticos, sociales y Comunales: un país sin líderes no es un país. informe del primer semestre 2021 [Report on violence against political, social, and community leaders: A country without leaders is not a country, report on first semester 2021], p. 4.

<sup>437</sup> Programa Somos Defensores (We Are Defenders Program). Boletín julio-septiembre 2021. Sistema de Información sobre agresiones contra personas defensoras de DD.HH en Colombia SIADDHH. [Bulletin July to September 2021, Information System on Aggression against Human Rights Defenders in Colombia SIADDHH], November 2021.

<sup>438</sup> Government of Colombia. Report to follow up on recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 15, 2022, p. 119.

<sup>439</sup> Office of the Human Rights Ombudsperson of Colombia. Un total de 145 líderes sociales y defensores de derechos humanos fueron asesinados en 2021 [Total of 145 social leaders and human rights defenders were killed in 2021], January 17, 2022.

checked, and 85 cases are inconclusive.<sup>440</sup> Meanwhile, the We Are Defenders Program indicated that, between January and September 2021, there had been 86 killings of human rights defenders that had been recorded.<sup>441</sup> Other civil society organizations indicate that, by November 2021, they had recorded the killing of 163 human rights defenders.<sup>442</sup>

356. The Commission observes that, although it cannot rely on an exact figure for the number of human rights defenders and social leaders killed, it can be concluded that, in 2021, violence against these groups continued to be alarmingly high. Regarding this, the IACHR has reiterated that one of the principal issues to tackle the situation of violence encountered by defenders and social leaders in Colombia is ensuring that the state records the different types of aggression against human rights defenders and social and community leaders.<sup>443</sup>

357. Regarding this, the state has informed the Commission about the quarterly reports issued by the Presidential Advisory Council for Human Rights and International Affairs (*Consejería Presidencial para los Derechos Humanos y Asuntos Internacionales*), whose goal is to characterize the phenomenon by providing information about the homicide of social leaders and human rights defenders, examining the context in which these rights violations took place, and identifying the interventions being undertaken by the Colombian state and its different agencies to prevent them.<sup>444</sup>

358. The Commission commends this type of measure. Nevertheless, it observes that, in 2021, these quarterly reports were not drawn up. In turn, civil society organizations indicated that, although an announcement was made on February 3, 2021 about the establishment of the Intersector Forum for the consolidation of figures on homicides against social and community leaders and human rights defenders, to date no information has been forthcoming about the progress made to establish this registry.<sup>445</sup>

359. Furthermore, the Commission observes that social, indigenous, and Afrodescendant leaders are the ones who disproportionately encounter the highest number of acts of violence and are victims of harassment, pressure, and threats by unlawful stakeholders who deem that the former are contrary to their

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<sup>440</sup> Office of the UN High Commissioner for Human Rights in Colombia (OHCHR-Colombia). [Homicidios de personas defensoras de Derechos Humanos](#) [Homicides of human rights defenders].

<sup>441</sup> Programa Somos Defensores (We Are Defenders Program). [Boletín julio-septiembre 2021, Sistema de Información sobre agresiones contra personas defensoras de DD.HH en Colombia SIADDHH](#). [Bulletin July to September 2021, Information System on Aggression against Human Rights Defenders in Colombia SIADDHH], November 2021.

<sup>442</sup> Comisión Colombiana de Juristas (Colombian Commission of Jurists). [Listado de violaciones al derecho a la vida de las personas defensoras de DD.HH, líderes y lideresas sociales](#). [List of violations of right to life of human rights defenders, and social leaders], consulted on November 2, 2021.

<sup>443</sup> IACHR. Annual Report 2021, Chapter V: [Seguimiento de recomendaciones formuladas por la CIDH en el informe Verdad, Justicia y reparación: Sexto informe sobre la Situación de Derechos Humanos en Colombia](#) [Follow-up on the recommendations made by the IACHR in the report entitled Truth, Justice and Reparation: Sixth Report on the Human Rights Situation in Colombia], para. 441;

<sup>444</sup> Government of Colombia. Colombia's contributions to drafting IACHR Annual Report 2021, Chapter IV, Section A, "Overview of the Human Rights Situation by Country," para. 37.

<sup>445</sup> Plataforma Colombiana de Derechos Humanos, Democracia y Desarrollo, PCDHDD (Colombian Platform for Human Rights, Democracy, and Development). [Lecciones del Aprendiz. Autoritarismo y Desigualdad. Balance del tercer año de Gobierno de Iván Duque Márquez](#) [Apprentice's Lessons: Authoritarianism and Inequality: Review of Ivan Duque Marquez's third year in office], September 2021, p. 95.

interests.<sup>446</sup> Especially, a rise in the risks for social leadership and exercising human rights defense has become evident.<sup>447</sup> This has also been confirmed by the Office of the Human Rights Ombudsperson.<sup>448</sup>

360. As for previous years, the Commission has observed that the reconfiguration of the armed conflict, disputes for territorial control, and failure to make progress in implementing the Peace Accord, continue to be the principal risk factors being encountered by defenders and social leaders in Colombia. It has been observed that the ongoing attacks against defenders and social leaders have undermined, as a result, the country's social fabric and led to the forced displacement of the chairs of Community Action Boards (*Juntas de Acción Comunal*) and social leaders who have track records working in the region, taking with them their leadership.<sup>449</sup>

361. The Commission observes that both the state and the Office of the Human Rights Ombudsperson and civil society organizations agree that violence against social leaders is concentrated in the departments of Antioquia, Valle del Cauca, Cauca, Nariño, Chocó, Norte de Santander, and Putumayo.<sup>450</sup> In effect, the IACHR observes that violence in these departments has continued since its onsite working visit to the country in November 2018.<sup>451</sup> The Commission is concerned that violence in these territories, as well as the impacts this violence has exerted on the enjoyment of human rights, especially for Afrodescendant and indigenous leaders, will remain over time.

362. As previously pointed out by the IACHR, violence in these territories is characterized by the state's limited presence, high levels of poverty, and the proliferation of illegal armed groups and criminal organizations that clash for control over unlawful economic activities.<sup>452</sup> This has also been corroborated by the United Nations Verification Mission in Colombia.<sup>453</sup>

363. The Commission underscores the vital role that human rights defenders play for ensuring the full rule of law and the strengthening and consolidation of democracy. In the context of Colombia, human rights defenders have been a fundamental pillar for democratizing the country, because they contribute to enforcing

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<sup>446</sup> Comisión Colombiana de Juristas (Colombian Commission of Jurists). Boletín Semestral: Violaciones a los derechos de las personas defensoras, líderes y lideresas sociales [Half-yearly Bulletin: Rights violations of rights defenders and social leaders], August 25, 2021; and Office of the Human Rights Ombudsperson of Colombia. Alerta Temprana No. 019-21 [Early Warning No. 019-21], August 12, 2021, p. 28.

<sup>447</sup> Office of the Attorney-General of the Nation. Informe Report to Congress April 2020 to March 2021, p. 296.

<sup>448</sup> Office of the Human Rights Ombudsperson of Colombia. Defensoría del Pueblo presenta reporte de conductas vulneratorias contra líderes sociales durante el primer semestre de 2021 [Ombudsperson's Office submits report on rights violations against social leaders in first semester 2021], August 25, 2021.

<sup>449</sup> Office of the Human Rights Ombudsperson of Colombia. Alerta Temprana N° 004-21 [Early Warning No. 004-21], February 6, 2021, p. 14.

<sup>450</sup> Government of Colombia. Colombia's contributions to drafting IACHR Annual Report 2021, Chapter IV, Section A, "Overview of the Human Rights Situation by Country," paras. 44 and 45; Office of the Human Rights Ombudsperson of Colombia. Un total de 145 líderes sociales y defensores de derechos humanos fueron asesinados en 2021 [Total of 145 social leaders and human rights defenders were killed in 2021], January 17, 2022; Office of the Human Rights Ombudsperson of Colombia. Defensoría del Pueblo presenta reporte de conductas vulneratorias contra líderes sociales durante el primer semestre de 2021 [Ombudsperson's Office submits report on rights violations against social leaders in first semester 2021], August 25, 2021; and Comisión Colombiana de Juristas (Colombian Commission of Jurists), Boletín Semestral: Violaciones a los derechos de las personas defensoras, líderes y lideresas sociales [Half-yearly Bulletin: Rights violations of rights defenders and social leaders], August 25, 2021, p. 4.

<sup>451</sup> IACHR. Press Release No. 8/19, 8/19 - CIDH culmina visita de trabajo a Colombia sobre la alarmante situación de asesinatos de líderes y lideresas sociales y personas defensoras de derechos humanos. [IACHR Completes Working Visit to Colombia to Assess Alarming Issue of Murders of Social Leaders and Human Rights Defenders], January 15, 2019.

<sup>452</sup> IACHR. Annual Report 2021, Chapter V: Seguimiento de recomendaciones formuladas por la CIDH en el informe Verdad, Justicia y reparación: Sexto informe sobre la Situación de Derechos Humanos en Colombia [Follow-up on the recommendations made by the IACHR in the report entitled Truth, Justice and Reparation: Sixth Report on the Human Rights Situation in Colombia], para. 16.

<sup>453</sup> United Nations Security Council. Misión de Verificación de las Naciones Unidas en Colombia. Informe del Secretario General [United Nations Verification Mission in Colombia: Report of the United Nations Secretary-General], S/2021/298, 26 March 2021, para. 25.

human rights thanks to their monitoring, whistle-blowing, promotion, and educational activities.<sup>454</sup> Because of this, states have the obligation of carrying out positive actions that can create favorable environments for the defense of human rights that can lead, in turn, to the elimination of environments that are hostile or dangerous for human rights protection.<sup>455</sup>

364. In turn, it has been observed that, in December 2021, the state drew up a Public Policy of Guarantees and Respect for Human Rights Defense Work. The Commission commends this initiative and shall be monitoring its implementation in 2022. Nevertheless, information that has been submitted reveals that violence against human rights defenders and social leaders in Colombia continues to be cause for alarm. In addition, it reminds the state that human rights defense activities can only be freely undertaken when the defenders are not the victims of threats or any other type of physical, psychological, or moral aggression or other acts of harassment, retaliation, or undue pressure. Because of the above, the Commission finds that compliance with this obligation continues to be pending.

365. In its report, the Commission recommended to the state to guarantee the effective participation of the human rights defenders who are the beneficiaries of the measures in question in all procedures to adopt, implement, monitor, or lift special measures of protection. In particular, it recommended guaranteeing that staff participating in security arrangements for defenders be designated with the participation and agreement of the beneficiaries, for the purpose of building trust.

366. The state informed the IACHR that the Ministry of the Interior has been promoting and coordinating the implementation of immediate response actions with the competent agencies. It indicated that 49% of the protection arrangements assigned by the National Protection Unit (UNP) are for social leaders and that they would be protecting 3,749 persons. In conformity with the Timely Action Plan (PAO), the state reiterated the reengineering process to strengthen the Technical Corps for Information Gathering and Processing (*Cuerpo Técnico de Recopilación y Análisis de Información—CTRAI*), which to date has made it possible to reduce by 37% the average time to respond to protection requests.<sup>456</sup>

367. The stated indicated it was implementing several differentiated approaches for protection arrangements and had reinforced the 160 collective protection arrangements in force to date. It also pointed out that it had strengthened 8 regional offices of the UNP with 30 analysts and 21 legal advisors and had entered into an agreement with the National Police Force for the purpose of improving their risk assessments.<sup>457</sup>

368. In 2021, the IACHR granted five precautionary measures for the benefit of human rights defenders in Colombia.<sup>458</sup> Along that line, as a result of its monitoring of compliance with precautionary measures currently in force, the Commission has identified several challenges to implementing protection measures for human rights defenders.

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<sup>454</sup> IACHR. [Informe sobre la situación de personas defensoras de derechos humanos y líderes sociales en Colombia](#) [Report on the Situation of Human Rights Defenders and Social Leaders in Colombia], OEA/Ser.L/V/II. Doc. 262, December 6, 2019, para. 32.

<sup>455</sup> IACHR. [Informe sobre la situación de personas defensoras de derechos humanos y líderes sociales en Colombia](#) [Report on the Situation of Human Rights Defenders and Social Leaders in Colombia], OEA/Ser.L/V/II. Doc. 262, December 6, 2019, para. 175.

<sup>456</sup> Government of Colombia. Report to follow up on recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 15, 2022, p. 120.

<sup>457</sup> Government of Colombia. Report to follow up on recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 15, 2022, p. 120.

<sup>458</sup> IACHR. [Resolución No. 80/21](#) Resolution No. 80/21 MC 491-21 – S.G.R.Q. and his nuclear family v. Colombia, October 4, 2021; [Resolución No. 69/21](#) Resolution No. 69/21 MC 512-21 – José Alberto Tejada Echeverri and Jhonatan Buitrago v. Colombia, August 28, 2021; [Resolución No. 53/21](#) Resolution No. 53/21 MC 552-21 – Yiner Hernán Quiguntar Cortés v. Colombia, July 15, 2021; [Resolución No. 45/21](#) Resolution No. 45/21 MC 649-20 – Leyner Palacios Asprilla and his nuclear family v. Colombia, June 1, 2021; and [Resolución No. 6/21](#) Resolution No. 6/21 MC 207-20 – Ricardo Calderón Villegas v. Colombia, January 14, 2021.

369. Regarding this, deficiencies in security measures granted by the state have been noted as a trend, such as the following: security arrangements and related rules which obstruct daily activities and human rights work of beneficiary defenders; unilateral changes in security arrangements without prior notification; deficiencies in security arrangements; absence of approval for requested transfers; insufficient budget for fuel; motor vehicles kept in maintenance for long periods of time; technical and mechanical breakdowns of security vehicles; assignment of escorts who are not trusted by the beneficiaries; absence of implementation of differentiated approaches to the protection measures provided, among others. On occasion, beneficiaries are required to move about unprotected, as a result of which the protection provided is neither complete nor permanent.<sup>459</sup>

370. As for the Office of the Attorney-General of the Nation, it detected that, between April 2020 and March 2021, there were lags in conducting the risk assessments in approving and implementing protection arrangements for which UNP is responsible.<sup>460</sup>

371. Civil society organizations informed the Commission about the challenges of implementing the IACHR precautionary measures. They pointed out that it has been a practice of the UNP to request beneficiaries to prove their status as a target population group when risk assessments are being carried out. They indicated that they have evidence of the UNP “*de facto* lifting” the precautionary measures granted by the IACHR on the basis of resolutions to lift or amend the protection arrangements. These lifting of measures did not take place in response to a decision by the IACHR but rather a unilateral decision taken by the unit in charge of implementing the concrete protection measures. Likewise, they stated their concern to the Commission over the rigidity of the protection measures, as well as over the technical and logistic problems involved in their implementation, mainly relative to the maintenance and change of motor vehicles and the authorization for trips and reimbursement of road tolls paid and the protection staff’s expenses.<sup>461</sup>

372. They also pointed out that protection measures follow-up and consensus-building meetings were not being held periodically. They underscored the need to take the follow-up and consensus-building forums to the territory in order to promote measures that are tailored to the regional context of the people being protected and with differentiated approaches, as well as to encourage the adoption of commitments by local and regional bodies.<sup>462</sup>

373. In particular, the Commission has closely monitored the specific situation of indigenous and Afro-Colombian leaders and has noted the specific dynamics of the territories and the different needs of these groups and the need to apply ethnic-racial and intersectional approaches to the protection measures granted. In view of the situation of violence encountered by these groups, the IACHR urges the state to continue making progress in implementing protection measures with a differentiated and intersectional approach, conducting risk assessments that take into consideration the specific structural contexts and situations of those requesting protection measures.

374. The Commission is aware of the reengineering processes in terms of the protection, which have been taking place since 2020. Nevertheless, it has not received any information about the progress achieved in this process and its impact on the protection mechanism. On the contrary, the Commission observes that challenges in protecting human rights defenders persist. On the basis of information received, the IACHR finds that compliance with the present recommendation is pending.

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<sup>459</sup> Inputs for monitoring enforcement of IACHR precautionary measures.

<sup>460</sup> Office of the Attorney-General of the Nation. *Informe* Report to Congress April 2020 to March 2021, p. 296.

<sup>461</sup> Colectivo de Abogados José Alvear Restrepo (CAJAR). Relevant information on compliance with the recommendations in the report Truth, Justice and Reparation: Fourth Report on the Human Rights Situation in Colombia, January 2022, p. 6, in IACHR files.

<sup>462</sup> Colectivo de Abogados José Alvear Restrepo (CAJAR). Relevant information on compliance with the recommendations in the report Truth, Justice and Reparation: Fourth Report on the Human Rights Situation in Colombia, January 2022, p. 6, in IACHR files.



375. In connection with the recommendation to develop a public policy aimed at fighting impunity in cases involving violations of the rights of human rights defenders, the state reported that the Ministry of Justice and Law has strengthened its institutional presence and promoted punishment of those responsible for the assaults on the population of human rights defenders and social leaders. It pointed out that, between 2020 and 2021, investments amounting to 37,124 million Colombian pesos were made for a project to increase the number of judges and 815 positions were created, among which those for the 11 criminal judges of the specialized circuit court.<sup>463</sup> It indicated that, on the basis of Agreement PCSJA21-11853 of September 20, 2021, it created new specialized criminal circuit courts in various departments of the country.<sup>464</sup>

376. As for the drafting of a public policy to combat impunity in human rights violations of defenders, the Prosecutor-General's Office established a strategic framework to guarantee the life and integrity of those defending human rights. The Strategic Direction for 2020-2024—Results in both the Streets and the Territories—proposes to protect the life of this population group, and the Strategy for the Investigation into and Prosecution of Crimes against Human Rights Defenders is to benefit from eight lines of action.<sup>465</sup>

377. The Commission observes that, among the lines of action, there would be the following: the issuance of precise guidelines for prosecutors to follow in their initial lines of reasoning for their investigations; the victim's status as a human rights defender; working on the institution's culture with all civil servants of the Prosecutor-General's Office; the application of a methodology involving the joinder of cases; the establishment of mobile units to reach the scene of the crime promptly; the drafting and implementation of intervention protocols that would make it possible to better secure the crime scene and the evidence that could identify the perpetrator; strengthening investigations into the crime of threatening human rights defenders; the issuance of guidelines to standardize homicide investigations that would steer the work of prosecutors and investigators in applying due diligence to promote proceedings involving homicides against defenders; and a work plan that would enable internal coordination among the diverse units involved in investigating homicides perpetrated against defenders.<sup>466</sup>

378. As for the state, it reported that, of the 435 cases reported by the OHCHR between January 1, 2016 and December 31, 2020, there are 417 being investigated by the Prosecutor-General's Office in the regular jurisdiction, 7 by military criminal justice, and 11 by traditional authorities in special indigenous jurisdictions. It pointed out that, of those 417 cases, progress had been made in clarifying 68.59% of them, in other words 286 cases as follows: 88 cases leading to judgments and convictions; 107 cases still under way; 32 cases with indictments; 44 cases under investigation with arrest warrants issued; and termination of 15 cases because of the defendant's death.<sup>467</sup>

379. The state informed the Commission that, by August 10, 2021, the Office of the Prosecutor-General of the Nation had managed to convict 89 material perpetrators in 69 cases of homicide against human rights defenders and 8 social leaders, as well as 10 masterminds behind 8 homicide cases.<sup>468</sup>

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<sup>463</sup> Government of Colombia. Report to follow up on recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 15, 2022, p. 115.

<sup>464</sup> Government of Colombia. Report to follow up on recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 15, 2022, p. 118.

<sup>465</sup> Government of Colombia. Report to follow up on recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 15, 2022, p. 116.

<sup>466</sup> Government of Colombia. Report to follow up on recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 15, 2022, p. 116.

<sup>467</sup> Government of Colombia. Report to follow up on recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 15, 2022, p. 119.

<sup>468</sup> Government of Colombia. Colombia's contributions to drafting IACHR Annual Report 2021, Chapter IV, Section A, "Overview of the Human Rights Situation by Country," para. 49.

380. Regarding the threats, the state reported on the establishment of a National Working Group to give priority, support, and immediate responses to the investigation of threats against human rights defenders and other specific population groups and the creation of a coordination mechanism between the National Working Group and the Regional Departments.<sup>469</sup> It also indicated that, between January 1 and July 31, 2021, the Office of the Prosecutor-General of the Nation investigated 961 cases of threats against human rights defenders, for which no convictions have yet been secured.<sup>470</sup>

381. Nevertheless, civil society organizations informed the Commission that most of the threats, harassment, persecutions, assaults, and killings of human rights defenders and social and environmental leaders would continue to go unpunished, unless substantial progress was achieved in investigating, prosecuting, and sentencing all those responsible.<sup>471</sup>

382. As for the Commission, in the framework of the precautionary measures mechanism, it has been informed of the failure to investigate situations of risks encountered by defenders. Persons requesting precautionary measures repeatedly indicated that, although they had denounced incidents of risk to the relevant authorities, they had not received any effective response, with many investigations remaining in the same procedural stage for many years, and that proceedings were at a standstill or steps were being taken to terminate them and that, on other occasions, they were being summoned several years after the complaints had been filed.<sup>472</sup>

383. The IACHR has established that, as part of its obligations to protect, the state must undertake timely and diligent steps to investigate, establish patterns, and punish any aggression against defenders because of their work so as to prevent other actions from being taken against them.<sup>473</sup> The Commission reminds the state that the most effective means to protect human rights defenders is to efficiently investigate acts of violence against them and to punish those responsible, for the purpose of identifying and resolving the causes and thus preventing them from occurring again.

384. The Commission commends the state's efforts to move forward with these investigations. It especially notes how inter-American standards have been positively mainstreamed into public policymaking to combat impunity. Nevertheless, it also observes that, as in previous years, although certain progress has been made in investigating these offenses, it is necessary to step up efforts to tackle persisting impunity in these investigations. Along that line, it calls upon the state to continue conducting exhaustive, serious, and impartial investigations that would make it possible to identify and punish both the perpetrators of these crimes and the masterminds behind them.<sup>474</sup> Because of the above, the IACHR finds that compliance with this recommendation is pending.

## V. CONCLUSIONS

385. The Commission commends the state for its actions in connection with the drafting of public policies for human rights to tackle the complex reality of the victims of the armed conflict and boost their

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<sup>469</sup> Government of Colombia. Report to follow up on recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, emphasis 2021, January 15, 2022, p. 30.

<sup>470</sup> Government of Colombia. Colombia's contributions to drafting IACHR Annual Report 2021, Chapter IV, Section A, "Overview of the Human Rights Situation by Country," paras. 49 and 53.

<sup>471</sup> CAJAR. Relevant information on compliance with the recommendations in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, January 2022, p. 7, in IACHR files.

<sup>472</sup> Inputs for monitoring enforcement of IACHR precautionary measures.

<sup>473</sup> IACHR. [Informe sobre la situación de personas defensoras de derechos humanos y líderes sociales en Colombia](#) [Report on the Situation of Human Rights Defenders and Social Leaders in Colombia], OEA/Ser.L/V/II. Doc. 262, December 6, 2019, para. 200.

<sup>474</sup> IACHR. [Informe sobre la situación de personas defensoras de derechos humanos y líderes sociales en Colombia](#) [Report on the Situation of Human Rights Defenders and Social Leaders in Colombia], OEA/Ser.L/V/II. Doc. 262, December 6, 2019, para. 226.

participation in running for elected office, as well as the efforts to invest both human and financial resources for these purposes.

386. Nevertheless, in view of the information and findings provided in the instant report, the Commission reiterates to the Colombian state the need for it to step up its efforts to comply with the recommendations included in Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia, as well as to consolidate and sustain the results achieved to date.

387. The Commission reiterates its concern over the persistence of structural violence in Colombia and the impacts specifically encountered by human rights defenders and social leaders, as well as the impacts on collective groups that historically and structurally have had their human rights breached, such as indigenous peoples, Afro-Colombians, peasants, children, adolescents, women, and LGBTI persons. The IACHR recalls that defending human rights in one of the pillars underlying the functioning of democratic institutions, and it therefore urges the state to redouble its efforts to protect their rights to life, personal integrity, freedom, and other fundamental guarantees.

388. In that regard, the IACHR calls upon the state to redouble its efforts for the practical and effective implementation of the Peace Accord, in the understanding that it provides an opportunity to tackle the structural causes of the historical violence in the country and to boost the comprehensive presence of the state in the territories most impacted by armed conflict.

389. The Commission shall continue collaborating with the state to look for solutions to the problems and challenges identified in the instant report and providing support, in accordance with its mandate, to the process of implementing and monitoring the measures that the state has deployed in the framework of the Peace Accord as part of its objective of effectively dismantling the obstacles encountered by the victims of human rights violations in Colombia and fulfilling its international obligations.