

Document #2077958

IRB – Immigration and Refugee Board of Canada

Colombia: Mechanisms of state protection, including the National Protection Unit (Unidad Nacional de Protección, UNP) and the Office of the Prosecutor General (Fiscalía General de la Nación, FGN); eligibility for UNP and FGN protection; instances of FGN protection (2020–July 2022) [COL201105.E]

Research Directorate, Immigration and Refugee Board of Canada

1. Overview

International Crisis Group (Crisis Group) indicates that "[t]he Colombian government's approach to protecting social leaders focuses on providing security for individuals while attacking armed groups" (Crisis Group 6 Oct. 2020, 29). The same source adds that although the security for individuals has "saved lives," the portion of the strategy focused on "attacking" armed groups has not been successful in "interrupting cycles of violence" and "a number of social leaders" have stated that it "exacerbate[s] the threats they face" (Crisis Group 6 Oct. 2020, 29).

Crisis Group, using information obtained through interviews with government officials, police, and NGOs, describes the following:

One common initial reaction to reported threats is for police officers to conduct regular patrols around a leader's home, until their case can be evaluated for more permanent protection. While patrols are intended to deter, numerous social leaders report that they can result in the leader being seen as an informant, causing an additional risk of retaliation. Police patrols also expose and call attention to the threatened person's location. (Crisis Group 6 Oct. 2020, 30)

The same source notes that "[s]ome attendees" indicate that the Plan for Opportune Action's [1] coordination committee offers "little concrete follow-up," and the source adds that "[t]riggering a high-level response can take weeks or months, if it happens at all" (Crisis Group 6 Oct. 2020, 29–31). The source further describes the following:

Leaders note that filing police reports (*denuncias*) is a time-consuming activity that often requires shuttling from office to office. Denouncing threats can also be a danger in and of itself, as watchful armed groups or other assailants can retaliate against the victim for speaking out. In some cases, leaders believe that members of the security forces are involved in threats against them, making police reports particularly hazardous. (Crisis Group 6 Oct. 2020, 29–31)

Amnesty International notes that the leader of an Afro-Colombian rights group, who has been assigned UNP bodyguards, described the protection as "invasive," noting that it "creates psychological dependencies" and leads to the loss of "the right to intimacy" because the bodyguards "know everything" (Amnesty International 9 Jan. 2020). A report by Friedrich-Ebert-Stiftung (FES) [2] and VerdadAbierta.com [3], describing the perspective of an unnamed "activist," notes that

the excess of security schemes not only takes the protected people, many of them leaders and ethnic authorities, out of context, but also distances them from the community "and puts them in a different status, puts them in a bubble. This has political, social and economic implications and they can get used to the schemes, even if there is a change of context." (FES and VerdadAbierta.com Nov. 2021, 11)

For further information on state protection measures, including the UNP, the Victims and Land Restitution Law (*Ley de Víctimas y Restitución de Tierras, LVRT*), and the Victim Assistance and Comprehensive Reparation Unit (Unidad para la Atención y Reparación Integral a las Víctimas, UARIV) see *Colombia: Fact-Finding Mission Report. Conflict Dynamics in the Post-FARC-EP Period and State Protection* of March 2020.

2. UNP

Crisis Group, using information obtained through interviews with government officials, police, and NGOs, states that the UNP

is responsible for assigning and managing protection schemes, spending much of its \$250 million budget protecting social leaders. Police, local authorities, the state Ombudsman or the UN can recommend cases to the unit, which evaluates their merit. Risk studies often take months and risk analysts rarely recommend urgent interim protection. Each completed risk analysis is brought before a weekly meeting of the Committee for Evaluation of Risk and Recommendations for Collective Measures which determines if and what protection should be provided in as many as 350 cases per week. Security schemes vary enormously, from a mobile phone or self-protection course to a panic button and a bulletproof jacket. More at-risk leaders might be relocated within their region and given one or more bodyguards, while the most imperilled are moved into town with armoured cars, a fuel allowance and a basic income.

While details of security schemes are kept confidential, officials familiar with the system suggest that a significant proportion of leaders under protection are asked to relocate. In those instances, safeguarding a social leader can undermine that community's interests. To avoid having to abandon their homes and the causes they advocate, many social leaders have refrained from requesting security, instead creating their own informal coordination networks and community early warning systems. (Crisis Group 6 Oct. 2020, 31–32)

The UN states that in 2021, the UNP “assessed” 100 percent of “pending requests” and approved 837, including “125 for women and 66 collective protection measures” (UN 27 Dec. 2021, para. 57). According to the same source, “560 of the 686 additional bodyguards ordered by the [Special Jurisdiction for Peace (Jurisdicción Especial para la Paz, JEP)] [4] in 2020 had been hired” as of November 2021, in addition to hiring “specialized personnel” to meet “women's specific needs” (UN 27 Dec. 2021, para. 57).

2.1 Eligibility

According to the International Service for Human Rights (ISHR), an “independent, non-profit organisation” that promotes and protects human rights (ISHR n.d.a), the UNP was created to “not only protect human rights defenders, but rather various people at risk (e.g. politicians)” (ISHR n.d.b). *La República*, a Spanish-language newspaper in Colombia, in an interview with the Director of the UNP, reports that 60 percent of its 8,250 security schemes are for social leaders, which represents an increase of 9 percent from 2018 (*La República* 30 Jan. 2020). According to the website of the Ministry of Environment and Sustainable Development (Ministerio de Ambiente y Desarrollo Sostenible), the [translation] “Collective Protection Route” (Ruta de la Protección Colectiva) of the UNP targets individuals who belong to the following groups:

1. Political groups;
2. Groups that have signed peace agreements with the National Government;
3. Human rights organizations, victims' organizations, labour and trade unions, social, civic, community or peasant organizations, ethnic communities;
4. Medical mission,
5. Journalists, social communicators, teachers; witnesses and victims of human rights and humanitarian law violations; displaced population, land claimants; public servants or former public servants with responsibility for human rights; judicial representatives in legal proceedings for human rights and humanitarian law violations. (Colombia n.d.b)

In correspondence with the Research Directorate, a senior analyst for Colombia at Crisis Group provided the following information:

In general, anyone who is threatened can solicit protection [from the UNP] if they demonstrate that the threat is real and material, and that they are a leader in their community—a social leader or human rights defender. Candidates for public office and other officials can also solicit protection. The burden of proof is high. Applicants need to demonstrate that they are immediately and mortally threatened—which can often be very hard, if the person has received threats via phone call or in person, for example. Social leaders who have unsuccessfully sought protection have shared their frustrations that the process requires you to attach an official crime report, but many of these same leaders are very afraid to report incidents to the security forces, because the police are believed to be complicit or even working with the threatening party.

...

If a person has protection, it certainly helps but it is not a guarantee of safety. In some areas, in fact, having a bodyguard and armoured car can be equivalent to the person putting a larger and more obvious target on their back. Yes, protection often stops mortal threats, but social leaders often trade their privacy, their ability to work in communities, and their leadership in exchange for taking on these security schemes. They are particularly problematic for females, as bodyguards are often men. (Senior Analyst 4 July 2022)

The US Department of State's *Country Reports on Human Rights Practices for 2021* indicates that as of 30 June 2021, the UNP “provided protection” to 187 journalists, and was “providing protection to 255 mayors, 16 governors, and 435 other persons, including members of departmental assemblies, council members, judges, municipal human rights officers and other officials related to national human rights policies”; additionally, “290 trade union leaders or members” were receiving protection as of July 2021 (US 12 Apr. 2022, 17, 25, 38). However, the same source also notes that “some NGOs raised concerns about perceived shortcomings in the [UNP],” including “delays in granting protection and the appropriateness of measures for addressing specific threats” (US 12 Apr. 2022, 17).

For further information on the main population groups that are eligible for UNP protection, see *Colombia: Fact-Finding Mission Report. Conflict Dynamics in the Post-FARC-EP Period and State Protection* of March 2020.

2.2 Effectiveness

According to the ISHR, “[p]ositive aspects” of the UNP include “mandatory risk assessments, importance given to international standards and to the [Ministry of Interior’s] preventive strategy, and an aim to respond to the national context” (ISHR n.d.b). However, the UN notes that there are

shortcomings in the implementation of protection programmes, including failures to ensure that the programmes meet the needs of the intended beneficiaries, particularly women and members of [I]ndigenous communities and communities of persons of African descent. (UN 2 June 2021, para. 24)

The same source adds that the UNP’s “lack of resources” “limits its effectiveness, particularly in rural areas” (UN 2 June 2021, para. 24). Universal Rights Group (URG), an “independent think tank” based in Geneva that focuses on human rights (URG n.d.), states that the UNP “does not have sufficient resources or capacity to effectively respond to all reported cases” and “[t]his situation is often exacerbated by a lack of trust between defenders and local communities and UNP representatives” (URG 12 May 2020). The ISHR indicates that the UNP lacks “an independent review system,” that its appeal process is “limited,” and that “some important protective measures (including the promotion of legal and administrative changes) are only recognised for collective protection, and groups eligible for collective protection are only those certified by the government” (ISHR n.d.b). According to openDemocracy, an “independent international media platform” based in the UK (openDemocracy n.d.), the UNP is “inefficient,” given that “simply using protection schemes, such as employing bodyguards, to tackle the killing of leaders fails to secure structural long-term change” (openDemocracy 10 May 2022). The same source further notes that

[p]reviously, decisions over who needed protection were made based on information from various state entities, including those in the at-risk territories, and discussed with the Office of the UN High Commissioner for Human Rights. [Decree 1139 of 2021 (a decree approved in September 2021 that modified protection mechanisms)] puts the decision solely on UNP analysts, most of whom are based in Colombia’s capital, Bogotá, far removed from the threats and violence. (openDemocracy 10 May 2022)

US *Country Reports 2021* indicates that the UNP “reported that the average time needed to implement protection measures upon completion of a risk analysis was 60 days in regular cases or five days for emergency cases” (US 12 Apr. 2022, 38). However, the Senior Analyst at Crisis Group provided the following information:

There are often long wait times for protection, and there is almost always a massive backlog. In some cases, it can take 6–9 months, despite the person facing immediate threats. An analyst is assigned to each case. That analyst then presents their findings to an evaluation committee. Often these analysts are overburdened with cases, and the committee makes dozens of decisions in just [one] several-hour meeting each week. (Senior Analyst 4 July 2022)

For further information on the effectiveness of the UNP’s protection measures, see Response to Information Request COL200703 of August 2021 and *Colombia: Fact-Finding Mission Report. Conflict Dynamics in the Post-FARC-EP Period and State Protection* of March 2020.

2.3 Examples of Inadequate Protection

Examples of adequate protection provided by the UNP could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Radio Nacional de Colombia, a government-owned radio network in Colombia (CDAC Mar. 2022, 21), reports that according to the Human Rights Network of Putumayo (Red de Derechos Humanos del Putumayo), 50 human rights defenders left their territory due to safety concerns and have not received support from the UNP, despite having submitted a request for assistance (Radio Nacional de Colombia 4 Oct. 2021). The Peace and Reconciliation Foundation (Fundación Paz y Reconciliación, Pares), an NGO involved in research and critical analysis to support Colombia’s democracy, peace processes, and reconciliation (Pares n.d.), indicates that a human rights defender who had [translation] “a security scheme” provided by the UNP is missing, as the UNP “had refused to cover the area of Tibú where he lives” (Pares 14 Sept. 2021). The Washington Office on Latin America (WOLA), a research and advocacy organization that aims to “advance” human rights in the Americas (WOLA n.d.), reports that the UNP notified an Afro-Colombian trade unionist that his security measures would be removed, “despite his risks remaining the same” (WOLA 31 Mar. 2021). According to Amnesty International, the measures granted by the UNP to a human rights defender who was killed in the department of Meta “were mostly of a material nature and did not reduce the risk she faced” (Amnesty International 2 Feb. 2022). Colombia Reports, an English-language online news site, cites a Colombian opposition senator who said he left the country because he received multiple death threats and was not granted protection by the UNP for his travels outside of Bogotá (Colombia Reports 6 Oct. 2021).

3. FGN

US *Country Reports 2021* states that “[b]y law,” the FGN “is the primary entity responsible for investigating allegations of human rights abuses committed by security forces, except for conflict-related crimes, which are within the jurisdiction of the JEP” (US 12 Apr. 2022, 5). For further information on the JEP, see *Colombia: Fact-Finding Mission Report. Conflict Dynamics in the Post-FARC-EP Period and State Protection* of March 2020.

A report by the FGN indicates that from February 2020 to February 2022, 251,188 charges were laid, 70,527 security measures were implemented, and 1,566,407 hearings were held (Colombia 2022a, 3).

The information in the following paragraph was also provided by the FGN using data from the Oral Accusatory Penal System (Sistema Penal Oral Acusatorio, SPOA), a national directorate under the FGN (Colombia n.d.c):

From 13 February 2021 to 12 February 2022, the FGN [translation] "made progress in the investigation" of 134 homicides of human rights defenders documented by the Office of the Ombudsman (Defensoría del Pueblo), with a resolution rate of 32.83 percent. As of February 2022, 16 cases were in the trial stage, 10 were under investigation, 1 sentence was handed down, 17 arrest warrants were issued, and 1 case was "terminated due to the death of the accused." The following departments reported the "highest number of victims" and achieved resolution rates as follows: Cauca (45.45 percent, or 10 of 22 cases), Antioquia (31.57 percent, or 6 of 19 cases), and Valle del Cauca (40 percent, or 6 of 15 cases). (Colombia 2022b, para. 17–18).

3.1 Eligibility

The FGN report states that it works within the following areas:

[translation]

territorial security, collective homicides, defense and reincorporated persons, femicides, domestic violence, sexual crimes, animal abuse, national destabilization, organized crime, drug trafficking, corruption, environment, transitional justice, forfeiture of ownership, criminal finances, international management and institutional strengthening. (Colombia 2022a, 3)

3.2 Effectiveness

Crisis Group states that according to interviews with members of the Senate and House of Representatives from the Democratic Centre, Democratic Pole, Green Party and Radical Change, "judicial probes into violence against social leaders are falling short" and "impunity is the rule for those who orchestrate these crimes" (Crisis Group 6 Oct. 2020, 32). A June 2021 UN report finds a "lack of significant progress in the investigations that the Attorney General's Office and the [JEP] have conducted into cases of enforced disappearance," as well as a "large number of inactive prosecutions," and a "small number of convictions, including of military commanders and high-ranking army officers" (UN 2 June 2021, para. 18). According to Dejusticia, a research and advocacy organization based in Colombia focused on "the strengthening of the rule of law and the promotion of social justice and human rights" (Dejusticia n.d.), the FGN "continues to apply prioritization selectively, that is, only to cases of homicide and not on other attacks experienced by leaders, such as aggression, threats and harassment," and "reports figures of solved cases based only on investigative advances on the perpetrators" (Dejusticia 20 May 2020). A February 2020 UN document indicates that "[a]ccess to justice remained a challenge," noting that the FGN is present in "almost half of Colombia's municipalities" but "continue[s] to face difficulties" in reaching rural areas, "especially in Antioquia, Arauca, Amazonas, Caquetá, Cauca, Chocó, Guaviare, Huila, Meta, Nariño and Vaupés" (UN 26 Feb. 2020, para. 40). The same source further notes that

[t]his limited presence was attributable to insufficient material, technical and human resources, and especially the lack of effective protection so that prosecutors and investigators could safely conduct their work in rural areas. An excessive workload also limited prosecutors' capacity to conduct investigations. An insufficient number of judicial police officers and long delays with forensic support services exacerbated the situation. (UN 26 Feb. 2020, para. 40)

For further information on the judicial system in Colombia and its effectiveness, see Response to Information Request COL200703 of August 2021 and *Colombia: Fact-Finding Mission Report. Conflict Dynamics in the Post-FARC-EP Period and State Protection* of March 2020.

3.3 Examples of Resolution of Cases

The FGN provides the following examples of cases resolved by its Special Investigative Unit (Unidad Especial de Investigación):

- The Unit requested and obtained five arrest warrants against the perpetrators of a [translation] "[h]omicide" of an environmental leader in the department of Meta—two of them "materialized" and "were charged as co-perpetrators" of "[a]ggravated homicide, manufacturing, trafficking, carrying or possession of firearms, accessories, parts or ammunition and conspiracy to commit a crime."
- [The Unit] obtained nine arrest warrants against members of the Guillermo Ariza Front of the National Liberation Army (Ejército de Liberación Nacional, ELN) and the Central Command (Comando Central, COCE) for the murder of the commander of the 37th Front of the Revolutionary Armed Forces of Colombia—People's Army (Fuerzas Armadas Revolucionarias de Colombia—Ejército del Pueblo, FARC-EP) in the department of Bolívar.
- In Magdalena, the Unit captured the murderer of a transgender woman who was a defender of the LGBTI community (Colombia 2022b, para. 188–190).

An article by KienyKe.com, a Spanish-language digital news source in Colombia, states that the FGN reported having resolved the following [translation] "most relevant cases" of murders of human rights defenders, including the following:

- the murder of an environmentalist in the department of Chocó in November 2020;
- the capture of alias Álvaro Boyaco for crimes "against reincorporated persons and human rights defenders";
- the "fall of alias Caín, top leader of 'Los Caparros' for crimes against human rights defenders";
- the resolution of the killing of human rights defender Jorge Luis Solano Vega; and
- the "dismantling of the criminal structure" that was involved in the killing of a human rights defender in Boyacá (KienyKe.com 14 Feb. 2021).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] According to RTVC Noticias, a government-owned news source in Colombia (CDAC Mar. 2022, 20), the Plan for Opportune Action (Plan de Acción Oportuna, PAO) was created in 2018 to [translation] "protect human rights defenders, social and community leaders and journalists" (RTVC Noticias n.d.). The same source indicates that the Commission of the PAO is made up of the following institutions:

[translation]

- The President of the Republic, or their delegate, who is the chair.
- The Minister of the Interior, or their delegate.
- The Minister of National Defense, or their delegate.
- The Minister of Justice and Law, or their delegate.
- Commander of the Military Forces, or their delegate.
- Director General of the National Police, or their delegate.
- The Director of the National Protection Unit, or their delegate. (RTVC Noticias n.d.)

[2] Friedrich Ebert Stiftung (FES) is a "political foundation" with ties to the Social Democrat party (Reuters 11 Apr. 2022) and funded by the German government that promotes the values of social democracy through "civic education, research and international cooperation" (FES n.d.).

[3] VerdadAbierta.com is a digital journalism project that conducts and disseminates research on the Colombian armed conflict; it is managed by the Fundación Verdad Abierta, an organization that supports investigative journalism (VerdadAbierta.com n.d.).

[4] The website of the Special Jurisdiction for Peace (Jurisdicción Especial para la Paz, JEP) indicates that the JEP

[translation]

is the justice component of the Comprehensive System of Truth, Justice, Reparation and Non-Repetition (Sistema Integral de Verdad, Justicia, Reparación y no Repetición), created by the Peace Agreement between the National Government and the [Revolutionary Armed Forces of Colombia–People's Army (Fuerzas Armadas Revolucionarias de Colombia—Ejército del Pueblo, FARC-EP)]. The JEP has the function of administering transitional justice and hearing crimes committed before 1 December 2016, in the context of the armed conflict. ...

The work of the JEP will focus on the most serious and representative crimes of the armed conflict, in accordance with the selection and prioritization criteria defined by the law and the judges. In particular, it may hear crimes committed by former FARC-EP combatants, members of the security forces, other state agents and civilian third parties. Regarding the latter two, the Constitutional Court clarified that their participation in the JEP would be voluntary. (Colombia n.d.a)

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