



UDENRIGSMINISTERIET

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NOTAT

Land: Colombia
Asylsag
Anmodning om oplysninger
vedr. beskyttelse af LGBTI-
aktivister i Colombia
US ref. nr. 19/274461

Udenrigsministeriet har den 20. oktober 2020 modtaget en anmodning om bistand fra Udlændingestyrelsen i forbindelse med behandling af en asylsag. Udlændingestyrelsen har bedt om oplysninger vedr. muligheden for at deltage i beskyttelsesprogrammer for LGBTI-aktivister i Colombia.

Udenrigsministeriet har konsulteret en uafhængig kilde i Colombia og kan på baggrund heraf oplyse følgende:

- *Is it possible for a person with this profile to participate in of one or both of the two main state protection programs in Colombia?*
 - *National Protection Unit (Unidad Nacional de Protección, UNP) and/or*
 - *Unidad Contra la Discriminación por Orientación Sexual e Identidad de Género, UCD*
- *What kind of protection could a person with this profile obtain and how effective are the protection programs?*

Trans people, who are LGBTI activists, can request the services provided by the National Protection Unit (Unidad Nacional de Protección - UNP) and the Unit against Sexual Orientation and Gender Identity Discrimination (Unidad contra la Discriminación por Orientación Sexual e Identidad de Género – UCD). However, they have to meet specific requirements for each of the institutions-

The National Protection Unit grants protective measures only when there is an individual, collective, or emergency risk. A person seeking protection has to be part of the object population under the Decrees 1066 of 2015 and 1487 of 2018. Specifically, a person has to be an activist, leader, human rights defender or representative of an NGO, human rights defender, communal leader, victims of armed conflict leader, peasant leader, union leader, political leader, an ethnic group leader. Also, the statutes include journalists, victims of human rights violations, or witnesses of human rights violations. The risk has to be directly related to the type of leadership that the person develops.

Even though the Unit is aimed to grant protection services considering gender-related vulnerability situations, there is none express mention of protective measures for trans persons. The Decree 1066 of 2015 requires the Unit to apply a differentiated approach in cases of LGBTI activists. For example, by asking for the sexual orientation and gender identity of the person seeking protection in its forms, and granting adequate measures for their particular risks. Moreover, this obligation has been reinforced by the Colombian Constitutional Court. In its decisions T-924 de 2014, and T-473 of 2018, the Court held that LGBTI people are a specially protected group which made them subject to differentiated approach measures in analyzing, implementing, and granting protective measures by the authorities.

The procedure to request protective measures is the same for any person. Nevertheless, trans people face challenges in accessing them by the National Protection Unit. Trans people may suffer from discrimination or bias-based violence by officials that disregard the differentiated approach or human rights during the procedure. In fact, in some cases, the protective measure puts in more risks to LGBTI activists. Usually, some of the most common protective measures are:

- Self-protection guidance
- Communication devices
- Police checks and patrolling
- “Godfather plan” meaning that a person is assigned to a police officer to be in constant communication and report
- Bulletproof vest
- Bodyguard
- Temporary relocation

Some of these measures may be insufficient when LGBTI activist face barriers and discrimination related to their sexual orientation or gender identity, such as self-protection guidance, communication devices, or police-related measures. There is a high level of police violence in Colombia, which means that police officers are in some cases aggressor for LGBTI people, and there is a lack of trust in the Police as a whole. Furthermore, as Caribe Afirmativo has documented, the greater visibility, the greater the risk. In Colombia, the majority of bias-motivated violence affects visible LGBTI people. Trans persons are more visible than other LGBTI people, given their gender expression. Consequently, most of the protective measures mentioned before are more likely to make them more physically visible. For example, wearing a bulletproof vest or walking with a

bodyguard. Finally, concerning measures of a temporary relocation, it disrupts the activism that the person leads, and it may not be a definitive protective solution.

Given the need for protection for LGBTI persons in Colombia, Bogotá mayor's office created the **Unit against Sexual Orientation and Gender Identity Discrimination**. This Unit is different from the National Protection Unit because it is aimed to provide LGBTI people in Bogotá with legal resources in discrimination cases. Therefore, the difference between the National Protection Unit and the Unit against Discrimination is that: The National Protection Unit is meant to provide physical protection services in cases of risks against the life, security, and freedom of the LGBTI activists (only activist, leaders, and human rights defenders) in Colombia, while the Unit against Discrimination provides legal services and help in accessing justice in discrimination cases in Bogotá.

Notably, the Unit against Discrimination is a strategy to implement the law 1482 of 2011, which includes discrimination in the criminal code of Colombia. Specifically, this is a Unit created to address discrimination based on sexual orientation and gender identity as a result of the lobby made by transgender women in Bogotá. It can provide legal advice in discrimination cases or violence against LGBTI persons, but also it is an interinstitutional strategy which means that it can request protection services to the Police Department, the Attorney Office, among others. Therefore, the protective measures would be similar to those provided by the National Protection Unit, mostly police-kind.

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