

# Immigration and Refugee Board of Canada

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## Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website.

30 March 2012

### COL104011.E

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Colombia: State protection programs for victims and witnesses of crimes; requirements to access the programs; statistics on the number of people granted and refused their application for relocation; duration and effectiveness of these programs  
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

#### 1. Legal Obligation to Protect Life

In its [translation] *Report on the Evaluation of the Program for the Protection of Victims and Witnesses, Decree 1737 of 2010, and of the Program for the Protection of Persons at Risk, Decree 1740 of 2010*, the Office of the Inspector General (Procuraduría General de la Nación) indicates that Article 2 of the Colombian political constitution "establishes the duty of public authorities to protect the life of all persons residing in Colombia" (Colombia Jan. 2011, Intro.). The report further indicates that laws 62 of 1993 and 418 of 1997, and decrees 1737 and 1740 of 2010, support this obligation (ibid.). A recent decree -- Decree 4912 of 26 December 2011 -- replaced Decree 1740 of 2010, but maintains the state's obligation to protect the lives of individuals, specifically those whose lives are at special risk because of their political, social or humanitarian activities (ibid. 2011b, Preamble, Art. 53). The Constitutional Court of Colombia (Corte Constitucional de Colombia) has also ruled on four separate occasions that [translation] "the state's obligation to adopt special protective measures to defend the rights to life, security and personal integrity of those at risk, pertains to those whose level of risk is extraordinary or extreme" (ibid. Jan. 2011, Sec. 2.2).

#### 2. National Protection Unit

On 31 October 2011, the Government of Colombia created the National Protection Unit (Unidad Nacional de Protección) under the Ministry of the Interior with the implementation of Decree 4065 of 2011 (Colombia 2011a, Preamble, Art. 1). The purpose of the National Protection Unit is to

[translation]

articulate, coordinate and execute the provision of protection service to those whom the National Government determines, owing to their political, public, social, humanitarian, cultural, ethnic or gender activities, condition or situation or their status as a victim of violence, displaced person or human rights activist, to be at extraordinary or extreme risk of death, personal injury or loss of liberty or personal safety or to be in danger because they hold public office or engage in other activities that may involve extraordinary risk, such as leading a labor union, non-governmental organization (NGO) or groups of displaced persons, and to ensure the timeliness, effectiveness and suitability of the measures taken.

Programs that come under the Attorney General of Colombia, the Chief Public Prosecutor of Colombia and the Protection Program for Victims and Witnesses of the Justice and Peace Law are exempt from the above provision. (ibid., Art. 3)

In a news release dated 29 December 2011, the Government of Colombia outlined the responsibilities assigned to the newly created Unit: receive and process applications made for protection to determine the applicant's eligibility into the program; verify documentation sent along with the application; process emergency applications; interview applicants; implement protection measures; evaluate the implementation of such measures; and forward to the Office of the Attorney General (Fiscalía General de la Nación) any reports of threats made against protected persons (ibid. 29 Dec. 2011).

The subsequent Decree 4912 of 26 December 2011 set up the Unit's prevention and protection program and established the following protection measures:

##### 1. According to the risk.

- a. Protection procedure: Consists of physical and human resources allocated to persons covered by the Program for their protection. ...

- b. Physical resources to support security procedures: The elements necessary to provide protection service to individuals and may consist of armored or ordinary vehicles, motorcycles, bulletproof vests, shields, means of communication and other pertinent items.
- c. Means of travel: ... These may take the following forms:

International airfare. ... Is given only once, if the risk is extreme and the person and/or immediate family are admitted by the receiving country for a period greater than one year.

Domestic airfare. ...

Support for transportation by land, river or sea. ...

- d. Support for temporary relocation: This consists of giving the protected person a monthly allowance of from one (1) to three (3) times the current minimum monthly legal wage .... This payment will be approved for up to three (3) months and the amount will be determined taking into consideration the number of persons in the family unit with whom the protected person is being relocated. ...

Exceptionally, this support may be given for three more months, for half the amount initially approved, when it is established in a satisfactory manner that the risk persists.

- e. Support for relocation: ...
- f. Means of communication: ... given to protected persons so that they can have timely and effective contact with government bodies ....
- g. Shielding of buildings and installation of technical security systems: ...

In all cases, this measure will be implemented in accordance with the recommendations of an architectural assessment by the National Protection Unit.

Paragraph 2. Other protection measures different from those specified herein may be adopted, taking into account a differential approach, the level of risk and the territorial factor .... (Colombia 2011b, Art. 11)

*El Universal*, a Cartagena-based newspaper, reports that the Unit has 1,848 bodyguards and a budget of [translation] "at least" 400 thousand million Colombian pesos (COP) per year (2 Nov. 2011), about C\$224 million (XE 5 Mar. 2012). The US Department of State indicates in its *2010 Country Reports on Human Rights Practices* that the protection program had an initial budget of US\$72 million per year but that, in September 2010, the government announced it would be increased by an additional US\$11 million given the "continued risks posed to human rights defenders and labor leaders" (US 8 Apr. 2011, 51).

The US Department of State also indicates that the program has provided protection to 10,806 "at-risk individuals," including human rights advocates, journalists and "social leaders" (8 Apr. 2011, 51). Human Rights Watch writes in its *2012 World Report* that the program "covers more than 8,000 members of vulnerable groups, including human rights defenders and trade unionists" (Jan. 2012). Statistics indicating the number of people who have had their relocation application refused could not be found among the sources consulted by the Research Directorate.

## 2.2 Accessing the National Protection Unit's Protection Program

According to a Ministry of the Interior and Justice (Ministerio del Interior y de Justicia) document, in order to obtain protection, the concerned person must fill out an application form, enclose the required documents (see 2.3, "Documents Required to Access the Protection Program") and attend an interview for a risk assessment (Colombia n.d.a). The applicant is then required to submit further documentation to the Risk Assessment and Regulation Committee (Comité de Reglamentación y Evaluación de Riesgos) and wait for its decision (ibid.). A copy of the application form is included as an attachment to this Response.

To access the protection program, an applicant must

- be a Colombian citizen or an at-risk foreigner;
- not have a legal reason that would impede access;
- provide evidence that his or her activities constitute a [translation] "risk to life, liberty, integrity and security";
- be a documented member of an organization; and
- be a defender or activist of human rights (ibid.).

## 2.3 Documents Required to Access the Protection Program

The applicant must present the following documents to be considered eligible for protection:

- National identity card (cédula de ciudadanía) or permanent residency card;
- Application form;
- Marriage certificate or declaration of marital status;
- Birth certificate of dependant children;
- Credential, possession act or certification that proves employment for an ombudsmen, mayor, councillor or deputy;
- Documentation issued within the last 30 days that establishes his or her position in the organization;
- Documents that prove that judicial proceedings are underway for the threats made against him or her;
- A copy of the complaint report indicating the nature of the threats and the [translation] "risk situation";

- A certificate of corporate existence (certificado de existencia) and legal representation for the organization to which he or she is or has been affiliated; and
- A power of attorney in cases of third-party representation (ibid.).

### 3. Office of the Attorney General's Protection Program

The website of the Office of the Attorney General indicates that the institution has a protection program called the Protection and Assistance Program for Victims and Witnesses (Programa de Protección y Asistencia a Víctimas y Testigos) (Colombia n.d.b). This program is open to victims and witnesses who are providing information in a criminal proceeding (ibid.). It consists of relocating a person to another area and providing him or her with the financial assistance needed to start a [translation] "new life" (ibid.). Protection may also consist of temporarily relocating the person to another part of the country in a place chosen by program authorities to enable the person to be [translation] "subjected to any necessary security measures" (ibid.). The protection program also provides psychological, medical and dental assistance; moving expenses; orientation; support during the relocation process; and the issuance of documents (ibid.). The program director told the Research Directorate in correspondence that the program is free of charge and that, of the 5,307 applications for protection received in 2011, 540 were accepted (ibid. 3 Mar. 2012).

#### 3.1 Accessing the Protection and Assistance Program

The program director indicated that, to qualify for entry into the program, a person must be involved in a criminal proceeding and, as a consequence, experience an [translation] "extraordinary risk" to his or her life (Colombia 3 Mar. 2012). Without one of these conditions, the director stressed, protection would not be provided by the Office of the Attorney General (ibid.). However, the director also noted that if the person experiences threats before collaborating with the justice system, the police can provide protection (ibid.).

In order to access the program, the person must be referred by either the judicial authority prosecuting the case, the judicial police, the Office of the Inspector General, the Office of the Ombudsman or municipal attorneys (ibid.). Alternatively, the person may file an independent petition for protection (ibid.). Once the application is received, the Risk and Threat Assessment Group (Grupo de Evaluación y Amenaza de Riesgo) has 10 days to evaluate it and decide whether to grant protection (ibid.). If the application is successful, a legal document is produced by the judicial office within five days (ibid.). The document outlines the obligations of both the Protection and Assistance Office and the protected person (ibid.). Afterwards, the document is sent to the Operations Coordination section to organize [translation] "logistics" and inform the protected person of the conditions of the program (ibid.). The website indicates that protected persons must agree to the following: comply with security measures, continue collaborating with authorities during the criminal proceeding, and make a [translation] "rational" use of assigned resources (ibid.).

### 4. Protection Programs Offered by NGOs

In correspondence with the Research Directorate, the General Coordinator of the We Are Defenders Program (Programa Somos Defensores), an association of various NGOs that work together to [translation] "prevent attacks and protect the lives of people at risk because of their work as human rights advocates" (Programa Somos Defensores n.d), indicated that, in addition to the We Are Defenders Program, there are other protection programs offered by NGOs, such as the Fortalecimiento Fund, the DIAKONIA Fund, the Norman Perez Foundation of the Claretian Brothers, and Pastoral Social (ibid. 8 Mar. 2012).

The General Coordinator indicated the following with regard to his organization's protection program: the program only provides protection to human rights advocates and community leaders who are at risk. In order to access protection, the person must send, within six months of receiving threats, a letter endorsed by a [translation] "well-known social or human rights organization" and a copy of the police report. The application is evaluated by a committee that determines the type of protection to be offered. Protection services include [translation] "humanitarian assistance, psychological support, an internship with another NGO for up to six months, international internships with Amnesty International for up to one year, and financial support for productive projects." Protection offered by We Are Defenders does not extend beyond six months and is evaluated every three months. The value of the internship programs range from \$1,200,000 COP [C\$675 (XE 19 Mar. 2012a)] to \$3,600,000 COP [C\$2,027 (XE 19 Mar. 2012b)] for domestic internships; and \$12,000,000 COP [C\$6,763 (XE 19 Mar. 2012c)] for international internships. The protection program is free of charge. The program will also apply for state protection on behalf of the applicant and will follow up on protection measures. When applicants do not qualify for the We Are Defenders protection program, they will be sent a letter and, if necessary, an application for state protection will be made for them. The program was protecting 44 persons during the first six months of 2011 (Programa Somos Defensores 8 Mar. 2012).

### 5. Effectiveness of Protection Programs

Several media sources indicate that the government's protection programs do not provide effective protection (*Semana* 5 Mar. 2012; *El Espectador* 6 Mar. 2012; *El Colombiano* 17 Apr. 2011). A report on threats to human rights defenders in Colombia, which was produced by the Minga Association (Asociación Minga), the Colombian Commission of Jurists (Comisión Colombiana de Juristas) and the Benposta Nation of Children (Benposta Nación de Muchachos), indicates that state protection is [translation] "still in the early stages despite regulatory developments in this regard" (*Semana* 5 Mar. 2012). According to a report by the UN, family members of disappeared persons [translation] "'continue to be the targets of attacks, accusations, threats and persecution, and are not offered effective protective measures'" (qtd. in *El Espectador* 6 Mar. 2012). Furthermore, the president of the National Association of Victims for Land Restitution and Access (Asociación Nacional de Víctimas por la Restitución y el Acceso a Tierras) told the Medellín-based newspaper *El Colombiano* that [translation] "'[m]any

threatened leaders from the [Uraba and Choco] region have asked for protection and the risk assessments always result in a finding of ordinary risk, but then some of them end up assassinated" (17 Apr. 2011).

The director of the Attorney General's protection and assistance program indicated that there is a need to establish cooperation agreements with other countries to share information and facilitate the relocation of witnesses from other countries in Colombia (Colombia 3 Mar. 2012).

In its evaluation report, the Office of the Inspector General writes that delays in processing protection applications are frequent and take [translation] "more than two months" (ibid. Jan. 2011, Sec. 4.2). In addition, the Office has found that authorities at the regional level do [translation] "little or nothing" with regard to protection, and that governors and municipalities do not have "strategic security plans for vulnerable populations" (ibid.). It concludes by stating that the Directorate for Human Rights, which is in the Ministry of the Interior and Justice and is responsible for protection programs in Colombia, [translation] "does not truly assume its function of directing and coordinating" such programs (ibid.). It also says that the National Police are not assuming their full responsibility for conducting surveillance "rounds" (ibid.).

## 5.1. Resources for Protection Programs

Sources indicate that the protection programs lack resources (ibid.; Programa Somos Defensores 8 Mar. 2012; US 8 Apr. 2011, 9). For example, the US Department of State indicates that there are insufficient resources available to protect both witnesses and investigators (ibid.). The Office of the Inspector General notes in its evaluation report that protected persons complain about the lack of vehicles available to them; and for the available ones, the lack of maintenance they receive (Colombia Jan. 2011, Sec. 4.2). Also, the report indicates that among the main [translation] "excuses" given by the Ministry of the Interior and Justice to explain the slow pace in processing applications for protection and for refusing protection, are a lack of budget, bodyguards and weapons (ibid.). According to the General Coordinator of the We Are Defenders Program, in addition to victims' [translation] "mistrust" of the state's ability to provide state protection, state protection measures are offered [translation] "belatedly" and state-run protection programs have fewer resources than protection programs offered by NGOs (Programa Somos Defensores 8 Mar. 2012).

More specifically, the National Commission for Reparation and Reconciliation (Comisión Nacional de Reparación y Reconciliación) in Uraba indicates that, according to officials from the Ministry of Agriculture and the Office of the Attorney General, the government [translation] "cannot provide security plans to all displaced persons who file complaints about threats made against them and it does not have the resources either" (*El Colombiano* 17 Apr. 2011). *El Colombiano* quotes the Minister of the Interior and Justice as saying that [translation] "[i]t is impossible to provide every peasant with a personalized security plan; in some cases it is done due to very serious threats, but it is not possible to do it on a large scale" (ibid.).

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.

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## Additional Sources Consulted

**Oral sources:** Attempts to contact representatives of the following organizations were unsuccessful: Central Unitaria de Trabajadores de Colombia; Colectivo de Abogados José Alvear Restrepo; Colombia – Ministerio del Interior, Policía Nacional; Comisión Colombiana de Juristas; Movimiento Nacional de Víctimas de Crímenes de Estado; and Universidad de los Andes.

**Internet sites, including:** Caracol Noticias; Colombia – Defensoría del Pueblo, Ministerio de Defensa, Ministerio de la Protección Social; Delegación de la Unión Europea en Colombia; Comité Permanente para la Defensa de los Derechos Humanos; Coordinación Colombia-Europa-Estados Unidos; Diakonia; Factiva; Freedom House; Fundación para la Libertad de Prensa; International Crisis Group; International Institute for Counter-Terrorism; *Jane's Terrorism and Security Monitor*; Pastoral Social; United Nations ReliefWeb.

## Attachment

Colombia. N.d. Ministerio del Interior y de Justicia. *Solicitud única de vinculación al Programa de Protección*. (Formato DDH - 001) <<http://www.mij.gov.co/econtent/library/documents/DocNewsNo2086DocumentNo395.DOC>> [Accessed 23 Feb. 2012]

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