

No. 33391

**UNITED NATIONS
and
COLOMBIA**

Agreement on the establishment in Colombia of an Office of the United Nations High Commissioner for Human Rights (with related letter). Signed at Geneva on 29 November 1996

Authentic text: Spanish.

Registered ex officio on 29 November 1996.

**ORGANISATION DES NATIONS UNIES
et
COLOMBIE**

Accord portant création en Colombie d'un Bureau du Haut Commissaire des Nations Unies aux droits de l'homme (avec lettre connexe). Signé à Genève le 29 novembre 1996

Texte authentique : espagnol.

Enregistré d'office le 29 novembre 1996.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ ON THE ESTABLISHMENT IN COLOMBIA OF AN OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

The Government of the Republic of Colombia, represented by the Minister for Foreign Affairs, Mrs. María Emma Mejía Vélez, and the United Nations, represented by the High Commissioner for Human Rights, Mr. José Ayala Lasso, in fulfilment of the obligations entered into by States when ratifying the Charter of the United Nations, especially obligations connected with the duty to promote universal respect for the human rights and fundamental freedoms of all, and in fulfilment of the pledge contained in Article 56 of the Charter to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55 of the Charter;

Reaffirming the purposes and principles of the Charter of the United Nations, especially those relating to international cooperation in the development and promotion of respect for human rights;

Recognizing the importance of compliance with the Universal Declaration of Human Rights,² the International Covenant on Civil and Political Rights,³ the International Covenant on Economic, Social and Cultural Rights,⁴ and other international human rights instruments, as well as the importance of respect for the international humanitarian standards applicable in armed conflicts, and bearing in mind the complementarity between human rights and international humanitarian law for the purpose of enhancing the protection of the individual and respect for personal dignity in situations of armed conflict;

Considering the invitation extended by the President of the Republic of Colombia to the United Nations High Commissioner for Human Rights (hereinafter “the High Commissioner”) during their personal meeting in December 1994, which was reiterated in a written communication dated 2 April 1996, to the effect that an Office of the High Commissioner should be opened in Colombia;

Considering the statement made by the Chairman of the fifty-second session of the United Nations Commission on Human Rights on 23 April 1996, in which the Commission requested the High Commissioner, on the initiative of the Government of Colombia and having located suitable sources of financing, to establish at the earliest possible date a permanent Office in Colombia with a mandate to assist the Colombian authorities in formulating policies and programmes for the promotion and protection of human rights, to observe human rights violations in Colombia, and to provide analytical reports to the High Commissioner; in that statement, the High Commissioner was requested to report to the Commission on Human Rights at its fifty-third session on the establishment of the Office and on the activities carried out by the Office in implementation of its mandate;

¹ Came into force on 29 November 1996 by signature, in accordance with paragraph 37.

² United Nations, *Official Records of the General Assembly, Third Session, Part I*, p. 71.

³ *Ibid.*, *Treaty Series*, vol. 999, p. 171.

⁴ *Ibid.*, vol. 993, p. 3.

Considering that the establishment of the Office conforms to the mandate given to the High Commissioner by the General Assembly of the United Nations in its resolution 48/141 of 20 December 1993;¹

Considering the entry into force for Colombia of Additional Protocol II to the Geneva Conventions of 1949,² as well as the conclusion in 1996 of the Agreement between the Government of Colombia and the International Committee of the Red Cross (ICRC), which set out the arrangements for the continued performance by ICRC of its humanitarian mission and for facilitating its work in the promotion, dissemination and application of international humanitarian law and in ensuring respect for such law;

Considering that the Office referred to in the present Agreement provides important opportunities for the promotion and protection of the rights of the individual to life, integrity, freedom and other fundamental rights in the context of violence and internal armed conflict in Colombia;

Have agreed as follows:

I. DEFINITIONS

1. For the purpose of this Agreement the following definitions shall apply:

(a) “The Office of the High Commissioner” (hereinafter “the Office”) means the Office opened in Santafé de Bogotá by the High Commissioner as a result of the request made to him by the Commission on Human Rights and of the initiative of the Government of Colombia;

(b) “Premises” means the physical installations of the Office in Santafé de Bogotá and any other additional premises which may be used by the Office in its work, in accordance with the provisions of this Agreement;

(c) “The Government” means the Government of the Republic of Colombia; for the purpose of this Agreement it is understood that the Government represents the Colombian State;

(d) “The Convention” means the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946;³

(e) “The Parties” means the United Nations and the Government of the Republic of Colombia;

(f) “The Director of the Office” means the United Nations official responsible for the conduct and supervision of the Office’s activities, including the necessary logistical and administrative arrangements, on behalf of and under the authority of the High Commissioner and for coordinating the Office’s activities with the Government and with officials of the relevant international bodies represented in Colombia;

(g) “United Nations officials” means the officials of the Organization employed under the Staff Regulations and Rules of the United Nations, with the exception of

¹ United Nations, *Official Records of the General Assembly, Forty-eighth Session, Supplement No. 49 (A/48/49, vol. I)*, p. 261.

² *Ibid.*, *Treaty Series*, vol. 1125, p. 609.

³ *Ibid.*, vol. 1, p. 15, and vol. 90, p. 327 (corrigendum to vol. 1, p. 18).

persons who are recruited locally and paid by the hour, in accordance with General Assembly resolution 76 (I) of 7 December 1946;¹

(h) “Experts on mission” means persons, other than United Nations officials, subject to the provisions of article VI of the Convention;

(i) “The personnel of the Office” means the United Nations officials and the experts on mission assigned to the Office;

(j) “The local staff of the Office” means the persons recruited locally and paid by the hour.

II. PURPOSE AND TERRITORIAL SCOPE OF THE AGREEMENT

2. The purpose of this Agreement is to establish the Office of the High Commissioner in Colombia and to define the purposes, management criteria and functions, and the status of the Office and its personnel.

3. Unless otherwise specified, the provisions of this Agreement as well as any obligation assumed by the Government and any privilege, immunity, facility or concession granted to the Office or to any member of its personnel shall apply to the whole of the territory of Colombia and to any other space under its jurisdiction.

III. APPLICATION OF THE CONVENTION

4. The Office and its personnel, property, funds and assets shall enjoy the privileges and immunities specified in this Agreement and in the provisions of the Convention, to which Colombia is a party.

IV. PURPOSES AND GENERAL CRITERIA FOR THE MANAGEMENT OF THE OFFICE

5. In accordance with the mandate referred to in the preamble to this Agreement, the Office shall observe the human rights situation in order to advise the Colombian authorities on the formulation and implementation of policies, programmes and measures for the promotion and protection of human rights in the context of violence and internal armed conflict in Colombia and to enable the High Commissioner to submit analytical reports to the Commission on Human Rights. In the discharge of its mandate the Office shall base its activities on cooperation with the Government of Colombia in order to help to improve the human rights situation and in conjunction with ICRC to promote, within the limits of their respective mandates, respect for and compliance with human rights and international humanitarian law in Colombia. The Office shall also advise representatives of civil society, human rights non-governmental organizations and individuals on matters falling within its competence.

6. The activities of the Office shall be guided by the following criteria:

(a) The purpose of all the activities of the Office shall be to fulfil its mandate and achieve its objectives;

(b) In view of the complexity of the Colombian situation, the Office, while subject as a whole to the provisions of this Agreement, shall function as a centre for management and dialogue, promoting an atmosphere of trust with all the sectors

¹ United Nations, *Official Records of the General Assembly, First Session, Second Part (A/64/Add.1)*, p. 139.

involved in and concerned with problems of human rights, and maintaining contact and coordination with the national Government;

(c) The Office shall act with discretion and shall be governed in its relations with all the sectors involved in the matters falling within its competence by the principles of the United Nations itself, such as impartiality, independence, objectivity and transparency.

V. FUNCTIONS OF THE OFFICE

7. The functions of the Office, which are within its mandate and shall be performed under the authority of the High Commissioner, shall be the following:

(a) To advise the Executive on the general formulation and implementation of human rights policies. In this context, it may advise the forces of law and order. In addition, to advise the Legislature and ensure that any proposed human rights legislation complies with the relevant international instruments;

(b) To advise representatives of civil society and individuals on any matter connected with the promotion and protection of human rights, including the use of the international protection machinery;

(c) To advise the national institutions responsible for promoting and protecting human rights, both those already in existence and any created in the future, in particular the Office of the General Procurator of the Nation and the Office of the Ombudsman, as well as the Office of the Attorney-General of the Nation and the members of the Judiciary, with a view to enhancing their work;

(d) To advise State agencies and non-governmental organizations on programmes of civic education and programmes for the training of law-enforcement officials, lawyers and members of the Judiciary;

(e) To ensure that the recommendations and decisions of the human rights organs of the United Nations are taken into account by the public bodies having powers and responsibilities with respect to human rights and to advise them on the adoption of specific measures for the exercise of human rights;

(f) To receive complaints of violations of human rights and other abuses, including infringements of the humanitarian standards applicable in armed conflicts. The Office shall transmit such complaints as quickly as possible to the competent national authorities with a view to speeding up the action taken by such authorities in accordance with domestic legal procedures. When in the view of the Office these procedures are not compatible with the provisions of the international instruments, the Office shall so inform the competent authorities and may recommend study of the possibility of adopting corrective measures. When the Office believes that the circumstances so require, it shall keep the identity of the authors of complaints confidential. The Office may also recommend and encourage measures to protect the authors of the complaints received, the victims, and the witnesses to the facts alleged in the complaints. The Office shall urge the persons submitting complaints to it to make their reports to the competent authorities as quickly as possible and provide them with guidance for this purpose. In dealing with the complaints received, the Office shall not usurp the powers of the national and intergovernmental organs on which Colombian law or the international treaties to which Colombia is a party have conferred functions of monitoring, investigation and judgement. In particular, the Office shall refrain from making unequivocal statements identifying a

specific person or organization as being legally responsible for having committed the alleged actions;

(g) To maintain an ongoing dialogue with all the competent agencies of the Government — civilian and military — and of the State, as well as with the organizations of civil society devoted to the promotion and defence of human rights, with a view to observing and ensuring independent and impartial follow-up of the human rights situation, bearing in mind the context of violence and internal armed conflict in Colombia. To this end the Office shall agree with the Government and the competent State agencies on the design and activation of a permanent machinery for communication, consultation and coordination with the agencies mentioned above, without prejudice to the Office's independent right to establish any contacts which it may deem necessary for the conduct of its activities. When it needs to contact persons deprived of their liberty, the Office shall make the necessary arrangements with the competent authorities.

8. The Office shall keep the Government regularly informed about its concerns and the assessments which it makes in connection with the matters within its mandate, in order to encourage a dialogue and obtain comments thereon. The Office shall express opinions publicly solely in the reports and statements of the High Commissioner and of the Director of the Office.

9. The Office shall report exclusively to the High Commissioner on the activities carried out in accordance with its mandate and functions, on circumstances which have facilitated or obstructed such activities, on the commitments to act made by the Government, and on the measures embodying such commitments, as well as on its recommendations for future action.

10. The High Commissioner shall submit analytical and detailed public reports to the United Nations Commission on Human Rights on the activities of the Office and the other matters mentioned in the preceding paragraph, as well as on the human rights situation in Colombia, bearing in mind the context of violence and internal armed conflict. He shall also make any comments and recommendations which he deems fit. For the purposes of the discharge of their respective mandates, the High Commissioner shall make the relevant information compiled by the Office available to the various bodies established under the human rights treaties to which Colombia is a party, as well as to the other human rights bodies and programmes of the United Nations.

11. The Government may give its opinion on the reports of the High Commissioner referred to in the preceding paragraph and make any comments on their content which it regards as relevant, and may request the High Commissioner to transmit such comments to the Commission on Human Rights, without prejudice to the Government's right to approach the Commission itself when it deems necessary.

VI. STATUS AND COMPOSITION OF THE OFFICE

12. The Office shall have its headquarters in Santafé de Bogotá. It may establish additional offices, in agreement with the Government, in the light of its needs and possibilities.

13. The Office shall have six Professional staff members appointed by the High Commissioner and as many local staff as it deems necessary. It shall be headed

by a person of acknowledged competence in the field. The number of Professional staff may be increased, in agreement with the Government.

14. The Office shall be open to the public.

15. The Office and its personnel shall refrain from any activity which is incompatible with the international and impartial nature of their functions or which runs counter to the spirit of this Agreement or Colombian legislation. The Director of the Office shall make all necessary arrangements to ensure compliance with these obligations. The Government shall undertake to respect the exclusively international status of the Office.

16. The Office and any additional premises, its property, funds and assets shall enjoy immunity wherever situated and by whomsoever held, except when in a specific case the United Nations has expressly waived immunity. However, such a waiver shall not extend to enforcement measures.

(a) All premises used by the Office shall be inviolable. The assets and property of the Office and its additional premises, wherever situated and by whomsoever held, shall enjoy immunity from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action;

(b) The competent local authorities shall not enter the premises of the Office except with the express consent of the Director of the Office and on terms agreed with him.

17. The archives of the Office and in general all documents belonging to it or in its possession shall be inviolable wherever situated and by whomsoever held.

18. The Office and its property, income and other assets shall be:

(a) Exempt from any direct taxes and from sales taxes in accordance with the provisions of section 8 of the Convention; it shall be understood, however, that the Office may not claim any exemption from charges which in fact constitute payment for public services;

(b) Exempt from customs duties and prohibitions and restrictions on articles imported or exported for its official use. It shall be understood, however, that articles imported free of duty shall not be sold in Colombian territory except under conditions agreed with the Government;

(c) Exempt from customs duties and prohibitions and restrictions on the import and export of its publications.

19. The Office shall have the communications facilities provided for in article III of the Convention. Accordingly, none of the official correspondence or other official communications of the Office may be censored. This immunity shall extend to printed works and photographic and electronic materials and to other forms of communication. The Office shall be entitled to use codes and to send and receive its correspondence either by courier or in sealed bags, which shall be inviolable and not subject to censorship. The personnel of the Office shall be entitled to communicate with its headquarters in Geneva and with its members in the field by radio, telephone, facsimile, satellite or any other means of communication.

VII. STATUS OF THE PERSONNEL OF THE OFFICE

20. The Director of the Office shall enjoy in Colombia the privileges and immunities provided for in the Convention.

21. The officials of the United Nations assigned to the Office shall enjoy the privileges and immunities provided for in articles V and VII of the Convention.

22. The United Nations experts on mission shall enjoy the privileges and immunities provided for in article VI of the Convention.

23. Such privileges and immunities shall be granted to these officials for the benefit of the United Nations and not for the advantage of the individuals themselves. The Secretary-General of the United Nations shall have the right and the duty to waive the immunity of any official in any case in which, in the Secretary-General's opinion, immunity obstructs the course of justice and may be waived without damaging the interests of the United Nations. The Office shall cooperate with the competent Colombian authorities in order to facilitate the proper administration of justice, ensure compliance with police regulations, and prevent abuses in connection with such privileges, immunities and facilities.

VIII. ENTRY INTO AND DEPARTURE FROM COLOMBIA AND MOVEMENT WITHIN COLOMBIA

24. The personnel and equipment of the Office may enter and leave Colombia in total freedom, without any delay or obstruction caused to the members of the Office or its property, equipment, materials, spare parts or means of transport, in accordance with the Convention.

25. The personnel of the Office shall enjoy total freedom of movement throughout the territory of Colombia. The Government shall facilitate free movement in areas of restricted access, in coordination with the competent authorities. Such freedom of movement shall include the following prerogatives exercised in accordance with the mandate of the Office:

(a) Access to all prisons, detention centres and places of interrogation. The personnel of the Office shall be allowed to interview in private any detained person or any person held in such places, in accordance with the provisions of section V, paragraph 7 (g) above;

(b) Access to the central and local authorities of all sectors of the Administration, including the forces of public order;

(c) Direct contact with private individuals, representatives of non-governmental bodies, private institutions, hospitals and medical centres, as well as with the media;

(d) Access to all official documents required for the proper conduct of the activities of the Office, except for documents covered by legal secrecy.

IX. FLAGS, EMBLEMS AND DISTINGUISHING MARKS

26. The Office may display the flag and/or emblems of the United Nations on its premises and official vehicles and in any other manner agreed by the Parties. The Office's vehicles shall display the United Nations emblem or a distinguishing mark, which shall be notified to the Government.

X. IDENTIFICATION

27. At the request of the Director of the Office, the Government shall issue the necessary identity documents to the personnel of the Office in order to certify that, as staff members of the Office, they enjoy privileges and immunities, especially with respect to freedom of movement.

28. The personnel of the Office shall present, but not surrender, their identity documents to any authorized government official who so requests.

29. When members of the personnel of the Office relinquish their duties or are transferred, the Office shall ensure that their identity documents are returned promptly to the Government.

XI. GOVERNMENT GUARANTEES

30. The Government shall provide the Office and its personnel with the necessary security throughout the territory of Colombia in order to facilitate the effective performance of their activities. To this end the Office shall give the governmental agency designated for this purpose sufficient notice of any proposed movement which may involve a risk to the safety of its personnel.

31. The Government shall undertake to respect the status of the Office and its personnel and to ensure that no person who has contacts with the Office is subjected in any way to abuse, threats, reprisals or prosecution on that ground alone.

32. In all cases in which this Agreement refers to the privileges, immunities and rights of the Office and its personnel or to the facilities which the Government undertakes to grant, the Government shall be responsible for ensuring that the competent local authorities respect those privileges, immunities and rights and provide the facilities in question.

XII. SETTLEMENT OF DISPUTES

33. Any dispute between the Office and the Government relating to the interpretation or application of this Agreement or of any additional agreement which is not settled by negotiation or other agreed mode of settlement shall be submitted to arbitration at the request of either Party. Each Party shall appoint one arbitrator, and the two arbitrators shall in turn appoint a third, who shall be the chairman. If within 30 days of the request for arbitration either Party has not appointed an arbitrator or if within 15 days of the appointment of two arbitrators the third arbitrator has not been appointed, either Party may request the President of the International Court of Justice to appoint an arbitrator. The procedure of the arbitration shall be fixed by the arbitrators, and the expenses of the arbitration shall be divided between the Parties by the arbitrators. The arbitral award shall contain a statement of the reasons on which it is based and shall be accepted by the Parties as final.

XIII. LIAISON WITH THE GOVERNMENT

34. The Government shall designate a high-level liaison body with the authority to take decisions, which shall be responsible for communication with the Office on any matter connected with its activities.

XIV. ADDITIONAL AGREEMENTS

35. The High Commissioner and the Government may conclude agreements additional to this Agreement.

XV. FINAL PROVISIONS

36. The Office and its personnel and the Government shall undertake to comply with the provisions of this Agreement.

37. This Agreement shall enter into force on the date of its signature.

38. This Agreement shall remain in force for 17 months. The Parties may extend it for periods of one year by an exchange of written communications stating their wish to do so. These communications shall be issued at least 90 days before the expiry of the period of 17 months referred to in this paragraph or the expiry of the current annual extension.

39. While the Agreement is in force either Party may terminate it by written communication to the other Party. The termination shall take effect 90 days after the receipt of such communication.

DONE in Geneva on twenty-nine November one thousand nine hundred and ninety-six, in two copies in Spanish, both texts being equally authentic.

For the Government
of the Republic of Colombia:

MARÍA EMMA MEJÍA VÉLEZ
Minister for Foreign Affairs

For the United Nations:

JOSÉ AYALA-LASSO
High Commissioner for Human Rights

RELATED LETTER

UNITED NATIONS OFFICE AT GENEVA
HIGH COMMISSIONER FOR HUMAN RIGHTS
CENTRE FOR HUMAN RIGHTS
PALAIS DES NATIONS

Geneva, 29 November 1996

Mrs. María Emma Mejía Vélez, Minister for Foreign Affairs (on behalf of the Government of Colombia), and Mr. José Ayala-Lasso, United Nations High Commissioner for Human Rights (representing the United Nations), have agreed as follows:

1. The United Nations is grateful for the generous offer of the Government of Colombia to provide the premises for the headquarters of the Office of the High Commissioner in Colombia.

The following procedure shall apply in this matter:

(a) The High Commissioner, in agreement with the Government of Colombia, shall identify premises which he considers to be suitable in terms of neutrality, security and accessibility and to be of a standard equivalent to that of other United Nations offices in Colombia;

(b) Once identified, the premises shall be rented for a period equivalent to the period of operation of the Office of the High Commissioner in Colombia;

(c) The Government of Colombia shall pay the rent for the said premises in monthly instalments.

2. This letter has been signed in Geneva at the same time as the Agreement on the Establishment in Colombia of an Office of the United Nations High Commissioner for Human Rights.

MARÍA EMMA MEJÍA-VÉLEZ
Minister for Foreign Affairs
of Colombia

JOSÉ AYALA-LASSO
United Nations High Commissioner
for Human Rights