

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 No-
vember 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