

# Annex 5: Colombia: Decree 2788 (2003), Committee for regulation and risk assessment of the protection programmes<sup>1</sup>

REPUBLICA DE COLOMBIA



## MINISTRY OF HOME AFFAIRS AND JUSTICE

DECREE NUMBER 2788 OF 2003

2nd OCTOBER 2003

*"Establishing the Committee for Regulation and Risk Assessment of the Protection Programmes of the Human Rights Directorate of the Ministry of Home Affairs and Justice."*

**THE PRESIDENT OF THE REPUBLIC OF COLOMBIA,**

pursuant to his constitutional and legal authority, in particular that conferred by articles 189 numeral 11 of the Political Constitution and 45 of Law 489 of 1998,

WHEREAS:

In compliance with the Preamble and article 2 of the Political Constitution, the aim of the state is to safeguard and protect the lives, dignity, assets, beliefs and other freedoms and rights recognised for persons residing in Colombia,

Article 81 of Law 418 of 1997, extended and amended by Law 782 of 2002, indicates various parameters to be followed by the National Government to implement Protection Programmes for persons who are in a situation of imminent risk affecting their lives, physical well-being, safety or freedom, due to causes related to political or ideological violence or to the internal armed conflict,

Under numeral 4 of article 17 of Decree 200 of 2003, the National Government has assigned the Human Rights Directorate of the Ministry of Home Affairs and Justice the task of designing and coordinating the general programmes for the protection and prevention of the violation of human rights, for the benefit of persons in a situation of risk, in collaboration with the Presidential Programme for the Promotion, Respect and Guarantee of Human Rights and in application of International Humanitarian Law,

The National Government, through Decrees 1592 of 2000, 1386 and 2742 of 2002, has created Protection Programmes for journalists, media personnel, mayors, members of parliament, councillors and spokespersons which are run by the Ministry of Home Affairs and Justice,

Having established the Protection Programmes the government set up the Committees for Regulation and Risk Assessment to assess the levels of risk and degrees of threat to the persons to be protected and to recommend appropriate protective measures,

It is necessary to establish the Committee for Regulation and Risk Assessment, CRER, for the Protection Programmes run by the Human Rights Directorate of the Ministry of Home Affairs and Justice,

The provisions below are the result of the agreement between the National Government and the representatives of the different target groups of the Protection Programmes, for whom the Human Rights Directorate of the Ministry of Home Affairs is responsible,

**DECREES:**

**ARTICLE 1. - Composition of the Committee for Regulation and Risk Assessment (CRER).** The Committee for Regulation and Risk Assessment of the Protection Programmes run by the Human Rights

<sup>1</sup> [This is] is an older document now superseded as a result of the new policies governing the National Protection Unit (October 2011). We reproduce it here to illustrate the changes that have been made to protection policies.

Directorate of the Ministry of Home Affairs and Justice shall be composed of the following representatives:

1. The Deputy Minister for Home Affairs or his/her representative, who shall chair it.
2. The Human Rights Director of the Ministry of Home Affairs and Justice or his/her representative.
3. The Director of the Presidential Programme for the Promotion, Respect and Guarantee of Human Rights and the application of International Humanitarian Law or his/her representative.
4. The Director of the Administrative Security Department or a representative from the Protection Directorate.
5. The Director-General of the National Police or his/her human rights representative.
6. The Manager of the Social Solidarity Network or his/her representative.

The human rights director of the Ministry of Home Affairs and Justice shall act as Secretary of the Committee.

**Addendum 1.** The Committee will be attended, with only the right to speak, by representatives from the attorney general's office of Colombia, the Ombudsman and the Office of the Treasury.

**Addendum 2.** The Office of the High Commissioner for Human Rights and four (4) representatives from each of the target groups of the Protection Programmes run by the Human Rights Directorate of the Ministry of Home Affairs and Justice shall participate as permanent special guests.

**Addendum 3.** Each of the members, taking into account their constitutional and legal competences, shall be held accountable for their actions and omissions within the framework of the Committee's functions.

**Addendum 4.** Non-governmental members shall only attend the sessions in which matters related to the target group are discussed. During a single session matters affecting a number of target groups may be discussed, in which case representatives of these groups shall participate in the Committee.

**Addendum 5.** The Technical Secretariat of the Committee shall be occupied by the government official from the Human Rights Directorate of the Ministry of Home Affairs and Justice appointed by their Director.

The duty of the Technical Secretary is to prepare the minutes of each session, which must be approved and signed by all attending committee members.

**ARTICLE 2. - The functions of the Committee for Regulation and Risk Assessment (CRER).** The Committee for Regulation and Risk Assessment of the Protection Programmes of the Human Rights Directorate of the Ministry of Home Affairs and Justice shall have the following functions:

1. Assess cases submitted by the Human Rights Directorate of the Ministry of Home Affairs and Justice and, as an exception, by any Committee member. This assessment shall be carried out taking into account the target groups of the Protection Programmes and the applicable rules of procedure.
2. Consider the technical assessments on levels of risk and degrees of threat and the technical studies on secure premises, according to each case.
3. Recommend the protective measures it considers appropriate.
4. Periodically monitor the implementation of the protective measures, and based on this monitoring, recommend any adjustments.
5. Create its own rules of procedure.
6. Take any other action necessary to pursue its objectives.

**ARTICLE 3. - The meetings of the Committee for Regulation and Risk Assessment, CRER.** The Committee shall hold a session at least once every month to attend to each one of the target groups of the Protection Programme of the Human Rights Directorate of the Ministry of Home Affairs and Justice, following an invitation by the Deputy Minister for Home Affairs or the Director of Human Rights of the Ministry of Home Affairs and Justice.

Additionally, extraordinary meetings of the Committee shall be held when deemed appropriate by the Deputy Minister for Home Affairs or the Director of Human Rights of the Ministry of Home Affairs and Justice, or when two (2) or more members of the Committee so request.

**Addendum 1.** The Committee for Regulation and Risk Assessment, CRER, shall hold its sessions at the office of the Human Rights Directorate of the Ministry of Home Affairs and Justice or at a location agreed upon by its members.

**Addendum 2.** There shall be a quorum for the purposes of debate in the Committee when a number equal to or greater than 50% of the representatives of the target groups and the institutional representatives are in attendance. There will be a quorum for the purposes of a vote when an absolute majority of committee members are present.

**ARTICLE 4. - The provision of protective measures.** The protective measures recommended by the Committee shall be implemented by the Ministry of Home Affairs and Justice through the Human Rights Directorate, following the signing of the document of commitment by the beneficiary of the Protection Programme. The Human Rights Directorate shall establish rapid procedures for the signing of these documents.

In an obvious emergency, the human rights director of the Ministry of Home Affairs and Justice may adopt and/or request, without the need for prior approval, protective measures for the recipients of the protection programmes under his responsibility, and shall report to the Committee in the next session, in order to allow it to revise them and recommend definitive measures.

Persons interested in being covered by a Protection Programme must prove that there is a direct connection between the threat or risk and the position held or the activity carried out within the organisation to which they belong.

In any event, in the course of their activities the members of the Committee for Regulation and Risk Assessment, CRER, of the Protection Programmes of the Human Rights Directorate of the Ministry of Home Affairs and Justice, must comply with the principles described in articles 83 and 209 of the Political Constitution.

**Addendum 1.** In order to be admitted to the Protection Programmes run by the Human Rights Directorate of the Ministry of Home Affairs and Justice, the interested party must fill in the form of the directorate and attach any relevant annexes. Failing this a written application containing a minimum amount of evidence to identify the risk or threat factors may be made. In this way their eligibility for the Protection Programme shall be vouched for.

The completed application form must be filed at the offices of the Human Rights Directorate of the Ministry of Home Affairs and Justice.

**Addendum 2.** In the cases mentioned in the second indent of this article, a commitment document shall be signed within ten (10) calendar days following the implementation of the definitive measures.

**Addendum 3.** The Protective measures shall be temporary, subject to periodic review and may be suspended temporarily or definitively, in accordance with the relevant rules of procedure.

**ARTICLE 5. - Budgetary requirements.** The implementation of the protective measures recommended by the Committee shall be subject to an available budget. If there is no budget, the Human Rights Directorate of the Ministry of Home Affairs and Justice must coordinate the implementation of transitional supplementary measures with the national, departmental or local authorities.

**ARTICLE 6. - Applicability.** This Decree is not applicable to the Special Programme on Comprehensive Protection for leaders, members and survivors of the Patriotic Union and the Colombian Communist Party, to which Decree 978 of 2000, amended by Decree 262 of 2001, is applicable.

**ARTICLE 7. - Validity.** This Decree shall come into effect on the date of its publication and shall repeal any provisions that are contrary to it.

**LET IT BE KNOWN AND ENFORCED.**

**Issued in Bogotá, D.C., on 2nd October 2003.**

**ÁLVARO URIBE VÉLEZ**

**The Minister for Home Affairs and Justice,**

**Fernando Londoño Hoyos**