

UN WORKING GROUP ON THE USE OF MERCENARIES CONCLUDES VISIT TO ECUADOR

4 September 2006

The Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination has completed its visit to Ecuador, which took place from 28 August to 1 September 2006.

The Working Group expresses its appreciation to the Government of Ecuador for the speedy invitation and cooperation to undertake the visit, which was consistent with the country's standing invitation to all special procedures mandates and its current membership in the Human Rights Council. During its visit, the Working Group has benefited from constructive dialogues with the respective Ministries for External Relations, Labor, Internal Affairs and Police, deputies from the National Congress, the Attorney-General, the Constitutional Court, the Joint Command of the Armed Forces, the Office of the Ombudsperson, as well as with departmental and municipal authorities in Portoviejo and Manta. The Working Group delegation also benefited from meetings with a wide range of non-governmental organizations, academia and individuals.

Completing a regional visit to Latin America, the Working Group has obtained useful information which will contribute towards fulfilling its mandate to study and identify emerging issues, manifestations and trends regarding mercenaries, mercenary-related activities and the role of private military and private security companies and their impact on human rights. The Working Group notes in particular the increasing phenomenon of the recruitment of nationals from countries in the region by subsidiaries of transnational companies with legal personality in another country, and providing services in a third country.

In the specific case of Ecuador, a widely publicized situation in August 2005 involved a non-registered private firm allegedly recruiting Colombians and Ecuadorians through public advertisements for security work abroad. The Working Group has received information regarding alleged interviewing and recruiting which may have taken place in Manta. While welcoming the prompt reaction and investigation by the relevant authorities, the Working Group notes the concerns voiced by civil society over delays in completing and making public the results of these investigations.

The Working Group emphasizes the need for rigorous national legislation, to regulate and monitor the activities of national and transnational private security companies, in order to ensure that the responsibilities of the State to effectively protect and promote human rights are fulfilled. In this regard, the Working Group notes recent legislative and regulatory measures adopted in Ecuador, including the 2003 Law on Monitoring and Private Security. This law prohibits ownership by and recruitment of currently serving army and police personnel in such companies, with a view to avoiding possible conflicts of interest. An appropriate training component on international human rights standards for employees of private security companies, as suggested by the National Police, should be considered in the elaboration of the regulations to implement the above-mentioned law. The Working Group further notes the enacted 2005 Law on Sub-contracting, which aims at enhancing the protection of labour conditions of sub-contractees, considering information received according to which security guards are commonly exploited and work in inhuman conditions. In this regard, the Working Group has been informed of steps taken by an association of employers to challenge this law before the Constitutional Court. The Working Group was informed of the ongoing elaboration of accompanying regulations, intended to include tri-partite arrangements involving the Government, private companies and labor union representatives. The Working Group welcomes the planned inclusion in the regulations of assistance in the form of social workers as well as psychological support, given the high suicide rates of personnel in the security services sector. Moreover, the Working Group was informed that the municipal authorities of Guayaquil had sub-contracted private security firms as a temporary measure until sufficient numbers of national police had been recruited and trained to meet law enforcement requirements.

The Working Group has been informed by authorities that the Ecuadorian army provides protection of wells, pipelines and other facilities owned by oil companies, on grounds that such strategic areas require protection for reasons of national security. The Working Group welcomes Ecuador's implementation of the precautionary measures adopted by the Inter-American human rights system to protect the rights of various indigenous communities, including the Sarayaku. However, the Working Group is concerned by reports from academic circles and civil society that the actions taken by indigenous peoples to claim their legitimate rights, including the right to land and the right to a clean environment, have been considered as acts of terrorism and sabotage by elements of the army which are providing security services for oil facilities.

The Working Group has received information that airborne fumigation activities carried out by private security companies working in connection with Plan Colombia are endangering the population and environment along the northern border zone of Ecuador. The Working Group welcomes measures and resolutions taken by the Ombudsperson and the National Congress in this regard, and notes proceedings in the Inter-American human rights system and a class action complaint filed before a US court. The Working Group notes that the Government of Colombia has acceded to the request by the Government of Colombia to temporarily suspend fumigations in a 10 kilometer buffer zone along the border between the two countries.

In view of the above, the Working Group provides the following preliminary recommendations:

- Swift accession by Ecuador to the 1989 International Convention against the recruitment, use, financing and training of mercenaries, and the establishment as an offence in the Criminal Code of acts committed by mercenaries as well as mercenary-related activities. The Working Group received positive indications from the National Congress and the Ministry of External Relations that steps will be taken in this direction.

- The adoption of regulatory frameworks to implement the 2003 Law on Monitoring and Private Security and the 2005 Law on Sub-contracting. In particular, the regulations should require comprehensive training for private security companies and their employees in international human rights standards and the proper use of arms.

- The speedy investigation and elucidation by relevant authorities of the situation surrounding a private security company operating in Manta and offering to recruit Ecuadorian and foreign nationals for security work in Iraq.

The Working Group will prepare a comprehensive report on the visit to Ecuador, which will be presented to the United Nations Human Rights Council in 2007 and reflected in its report to the General Assembly.

The mandate of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination was established by the Commission on Human Rights in 2005. The Working Group is composed of five independent experts, serving pro bono in their personal capacities: Ms. Najat Al-Hajjaji (Libyan Arab Jamahiriya), Chairperson Ms. Amada Benavides (Colombia), Mr. José Luis Gomez del Prado (Spain), Mr. Alexander Nikitin (Russia) and Ms. Shaista Shameem (Fiji).

For more information on the resolution establishing the mandate and the activities of the Working Group, please consult the website of the Office of the High Commissioner for Human Rights at: www.ohchr.org/English/issues/mercenaries/index.htm.

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