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# OIDHACO Newsletter

## July - October 2014

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### Defending human rights: dangerous work

Oidhaco would like, once again, to reiterate its strong concerns about the lack of security surrounding human rights defenders. According to the [quarterly report](#) of the We are Defenders Program - *Programa Somos Defensores*, the number of attacks has increased by 234% compared to the same period last year. **186 human rights defenders were victims of some type of aggression between July and September.** If we add the number of assaults and threats recorded throughout 2014, the number of defenders affected reaches 366. 45 have been killed.

Meanwhile, in September, the [National Award for the Defence of Human Rights](#) was given to Matilde Leonor López Arpusha, an indigenous defender; to Patricia Ariza Flor, a celebrated defender of cultural human rights; to the Network for Life and Human Rights Cauca - *Red por la Vida y los Derechos Humanos del Cauca*, to the Women's House - *Casa de Mujeres* and the Regional Indigenous Council of Cauca (*Consejo Regional Indígena del Cauca* - CRIC). At the same time, 120 community leaders and human rights defenders were threatened by the Central Block

of the Black Eagles paramilitary group. The Oidhaco General Assembly, which met in Brussels, sent a [letter to Baroness Catherine Ashton](#), High Representative of the Union for Foreign Affairs and Security Policy, asking her to publicly condemn the threats and support the work of defending human rights. This was supported by a [Parliamentary Question](#) signed by Javier Couso, Izaskun Bilbao, Linda McAvan, Ernest Urtegasun and Elena Valenciano, asking for details about the actions of the External Action Service and the EU delegation in Bogotá to support defenders.

Meanwhile, concerns have been voiced regarding statements from the Interior Ministry to reduce protection schemes due to budget problems in the National Protection Unit. This is the result of privatizing the protection of people, a responsibility that should fall to the State. Social organisations had warned about the possible negative effects that the privatization of security could cause, and now we are starting to see them: higher expenses but less protected persons, and corruption scandals. While the Minister assured that defenders, land claimants

and social leaders would not be affected by the lack of funds, the [Human Rights Ombudsman](#) described as "worrying" complaints from different social leaders who are the beneficiaries of protection programs, indicating obstacles in the performance of their duties due to the lack of resources for their working trips to different regions of the country.

Oidhaco reiterates that guarantees for the defence of human rights are fundamental for peacebuilding in Colombia.

*All sources can be seen in the digital version of the newsletter.*

See Oidhaco website: [www.oidhaco.org](http://www.oidhaco.org)

#### The International Office for Human Rights - Action on Colombia - OIDHACO

A network of 36 organisations based in the EU Member States, Switzerland and Norway, working with the four main coordination groups of Human Rights, Development and Peace organisations in Colombia. Based in Brussels, OIDHACO promotes the Rule of Law, democracy, and comprehensive respect for human rights, peace and sustainable development in Colombia.

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## Two years of the peace process in Havana

October 18 marked the two-year anniversary since the start of the peace process between the Santos government and the guerrilla of the Colombian Revolutionary Armed Forces (FARC). Despite the persistence of belligerent actions, this is the first time there is *"a reasonable expectation that it can be achieved"*. According to a [DW](#) interview with Ivan Cepeda, Colombian Senator, this is *"the peace process that has so far made the greatest progress with regards to the armed conflict between the Colombian government and the FARC in Colombia"*.

However, it is important to stress that the peace process with the FARC should be understood as a first step towards a true and lasting peace. According to [Barbara Lochbihler](#), a Green Party MEP and vice-president of the EP subcommittee on Human Rights, *"in my experience in the promotion of human rights I have seen over and over again that peace under international standards is sustainable only if impunity is eradicated and the central emphasis is on encouraging and strengthening justice"*. To put an end to the armed conflict, it is also important that progress is made towards a peace process with the guerrilla of the National Liberation Army (ELN) and the parties at the table should show their commitment to peace by agreeing on a bilateral ceasefire. Moreover, to build true peace the structural causes of violence and human rights violations must be addressed. According to [Roberto Menéndez](#), head of the OAS Mission to Support the Peace Process in Colombia, *"aside from these agreements are other agendas, other actors and other dynamics that also have to do with peace building and reconciliation"*.

In early September, the Subcommittee on Gender was created, responsible for verifying that the agreements made between the Colombian government and the FARC take into account a differential approach. This creation was greeted positively by organisations from the women's movement in Colombia.

Currently, in order to accelerate the process, the parties are discussing the negotiation point on the rights of victims in parallel with the point on the terms for the "End of the conflict". Four delegations of victims have travelled to Havana. The first two signed a [joint statement](#) setting out their proposals, expectations and concerns. They are calling for an official rejection by the authorities of the threats and accusations against the victims' delegates who travelled to Havana, backed up by political actions and statements. They are also asking for a participatory victims' process at the local and national level in favour of peace, a cease-fire and

urge the parties at the dialogue table to remain there until they reach a general agreement.

Juan Manuel Santos has toured six European countries (Spain, Belgium, Germany, France, UK and Portugal) to advance efforts related to financial support for the post-agreement period.

Oidhaco reiterates its support for the peace process and hopes to see an early start to negotiations with the ELN and a rapid cessation of hostilities. An end to the criminalization of social movements is fundamental as is the protection of victims' representatives and human rights defenders. European countries should publicly support their work and show political and economic support for the construction of peace with social justice in Colombia. Oidhaco also hopes that European politicians will promote a process of consultation with civil society organisations to identify priorities in a possible post peace accords scenario.



Barbara Lochbihler ©European Parliament

## Paramilitaries released from prison

In August, the first beneficiaries of the 2005 Justice and Peace Law were released after serving the maximum sentence of eight years in prison, as established under the Law. Several sectors from civil society repeatedly expressed their serious concerns about the impunity for many crimes, and the lack of truth and protection guarantees for the victims of the paramilitaries. After this pressure, the government convened the [National Roundtable for Non-Repitition](#) - Mesa Nacional de No Repetición, and decided to develop an "Action Plan for the Prevention and Protection of Human Rights Defenders". The Interior Ministry announced that the plan would focus on seven priority areas: Córdoba, Bajo Cauca, Medellín, Valle de Aburrá, Magdalena, César and Atlántico. In the words of Guillermo Rivera, Presidential Adviser for Human Rights, *"the message from the Government (to the victims) is that we are evaluating the situation and will take the necessary measures to protect and to fulfil the guarantees of non-repetition"*.

In a [statement](#) signed by 36 organisations, Oidhaco has expressed concerns about the release of the paramilitaries who benefited from the Justice and Peace Law without the rights of victims having been recognized. To date, not only has the judicial process not been completed, but also, of the 4,237 members of the United Self Defence Forces of Colombia (AUC) who benefitted from Law 975 of 2005, only 19 have been convicted. According to the MAPP-OAS, *"it is urgent that the national government's contingency plans for the affected territories are made known. Threats to human rights defenders in the country show that there are no guarantees"*. Oidhaco welcomes the establishment of the Plan for Prevention and Protection and expects the EU to monitor its implementation to assist in the protection of victims and human rights defenders.

"In the current situation of the Peace Process in Colombia, meanwhile crimes against human rights defenders and the civil population carry on, we consider essential to continue and to increase our advocacy and activities of human rights violation denunciation that occur every day. Therefore, we would like to improve our capacities and guarantee our economical independence".  
The Friends of Oidhaco will receive information related to the situation in Colombia and to Oidhaco's work (newsletters, analysis documents, events, amongst others) .

**Help us - become a friend of Oidhaco**  
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**The International Office on Human Rights - Action Colombia, Oidhaco** represents a network of European organisations. From its headquarters in Brussels, it accompanies Colombian civil society initiatives which work towards the full respect of human rights and international humanitarian law, and a negotiated solution to the internal armed conflict. Oidhaco works with 4 main platforms of human rights, development and peace organisations in Colombia. Since 2012, Oidhaco has been granted Special Consultative Status before the United Nations Economic and Social Council.

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## The European Union and Colombia

The 36 members of Oidhaco met in Brussels on 17 and 18 September for the network's General Assembly, accompanied by Colombian representatives from the Colombia-Europe-United States Coordination Group (*Coordinación Colombia-Europa-Estados Unidos - CEEUU*) ([Luis Carlos Mejía](#)) Coordination and the USO Oil Workers' Union (Ludwig Francisco Gómez, Hector Yesid Vaca Céspedes and Germán Alfredo Osman). Their analysis of the situation in Colombia focused in particular on the serious human rights situation and the release from prison of paramilitaries who benefitted from terms of the Justice and Peace Law. They also commented on the progress made after two years since the start of the peace process between the Colombian government and the Revolutionary Armed Forces of Colombia (FARC). The Assembly repeated its support for the process but reaffirmed concerns surrounding it (see page 2 of the newsletter). The Assembly took advantage of this important meeting to call upon Baroness Catherine Ashton in an [open letter](#), to issue a public statement on the multiple threats against human rights defenders which had recently occurred.

On October 13, together with the Belgian Coordination for Colombia - *Coordinación Belga para Colombia*, Oidhaco organized a Conference in the European Parliament on Land Grabbing in Colombia, with the participation of Paula Álvarez (researcher), Marylén Serna (small farming leader) and Manuel Eggen (researcher). The Colombian delegation later met with members of the European Parliament and the European External Action Service, drawing attention to the phenomenon of land grabbing by European companies, the bill on "public vacant lands" –  *baldíos* and on the progress and challenges of the Victims' and Land Restitution Law.



August 1 marked the first year of the provisional implementation of the Free Trade Agreement (FTA) between the EU, Colombia and Peru. Despite the promises made, the Treaty has not helped improve the living conditions of the Colombian population. By contrast, conflicts in areas of EU export and investment has been maintained and, in some cases has worsened.

Oidhaco and TNI (Transnational Institute) issued a [press release](#) reporting that "despite the Colombian government's claims that the FTA would provide new opportunities for the countryside, conditions in the rural sector have not improved", "the hostile and repressive attitude of the Government has increased towards social protest and the union struggle", and the system of protection for human rights defenders continues to have serious weaknesses. Unfortunately the EU only reacts with silence. "The new European Parliament should develop clear and transparent monitoring mechanisms for the roadmap. Given the current situation, we continue to believe that the EU favours their economic interests above the fulfilment of Human Rights".

On the other hand, MEP Lola Sanchez Caldente [asked](#) the European Commission whether, in light of the repeated violations of the FTA's human rights clause, it plans to consider suspending it.

At the end of October, a civil society [seminar](#) was organized with the EU in Bogotá to find ways to contribute to the defence of the human rights of those involved in the process of land restitution to people displaced by the armed conflict. High-level [dialogues](#) with the government also took place on human rights and political issues.

In June, an [agreement](#) was adopted between the EU and Colombia that allows the participation of Colombia in crisis management operations in Europe. Oidhaco wonders how the EU can include members of the Colombian security forces in military actions when it has not yet been clarified what happened in cases of Extrajudicial Executions and when the Colombian government insists on expanding military criminal jurisdiction (see page 4 of the newsletter)



## The UK-Colombia BIT

British companies will be able to sue the Colombian government in the international courts for the first time under an investment treaty that critics say will make it harder for Colombia to carry out land reform – a key component of its ongoing peace process. The UK-Colombia bilateral investment treaty (BIT) was ratified by the UK parliament (May-July 2014 parliamentary session).

According to [ABColumbia](#), it is controversial because the agreement gives investors broad protections and the ability to mount claims at private international tribunals against governments. Arbitration happens through an 'Investor-State Dispute Settlement' mechanism (ISDS), which allows companies to challenge governments at private international tribunals, bypassing national courts. [John Ruggie](#), former UN Special Representative for Business and Human Rights said "the international arbiters are three contract lawyers who don't give a damn about human rights obligations". Lawyers have been put in the position of overturning a decision by a sovereign State if it decides to make policy changes that benefit human rights, health or the environment and companies consider that as a result their investment interests have been damaged and therefore they have not received 'fair and equitable treatment'.

The BIT gives too much power to corporations and could expose the government to costly lawsuits. Colombia is a country that is trying to put an end to the conflict with the FARC guerrilla. It is also a country with an extremely poor human rights record. In a country where mining is being rolled out at a rapid rate, Colombia could see its capacity to implement the peace agreements and the Victim and Land Restitution Law threatened by litigation under the BIT. This eventuality could put the UK in the incongruous position of committing to support implementation of measures such as the Victims and Restitution of Land Law while opening avenues to challenging this same implementation through unqualified ISDS proceedings in the BIT. Moreover, the BIT does not reflect the broader UK commitments undertaken in the UN Guiding Principles and its National Action Plan, given that the Treaty provides investors with the right to access the protections of the Treaty and arbitration before international tribunals with no counterbalance or safeguards that conditions these protections to a minimum standard of responsible conduct. The UK is already the second-largest investor in Colombia, after the US.

## The UN reiterates its concern about the expansion of Military Criminal Jurisdiction

The Colombian government continues to insist on expanding military criminal jurisdiction, even though its first legislative proposal (passed by Congress in 2012) was declared unconstitutional by the Constitutional Court. On 1 October 2014, the Minister of Defence adopted a new project, which once again includes several provisions from the rejected 2012 reform, causing concern among many national and international organisations. According to the [Colombian Commission of Jurists - Comisión Colombiana de Juristas \(CCJ\)](#), the “*project places under serious risk the Colombian State’s compliance with its obligation to guarantee human rights, and to investigate, prosecute, punish and redress serious human rights violations and infractions of international humanitarian law. It could also profoundly affect the guarantee of the right to an effective judicial remedy, to truth and to obtain justice for the victims*”. In the view of the CCJ, there are several reasons for not accepting this project, for example, the possibility of leaving unpunished “false positive” cases, represents an obstacle to the fulfilment of state obligations to provide guarantees and judicial protection.

The UN response to the new reform of military criminal jurisdiction was immediate. Before the end of September, [12 special rapporteurs](#) warned that the bill “*could seriously undermine the independence and impartiality of the judiciary, and extend military jurisdiction to crimes that should fall within the jurisdiction of ordinary criminal courts*”. [Human Rights Watch](#) also addressed Defence Minister Juan Carlos Pinzón, expressing deep concern at the possible adoption of this reform. Meanwhile, on August 28, the Congress convened a hearing to raise awareness on the implications of this bill.

On [October 21, 2014](#), the Colombian government renewed the mandate of the United Nations Office in Colombia of the High Commissioner for Human Rights (OHCHR), until 31 October 2016. Should “*an agreement for the ending the conflict and reconstruction of stable and lasting peace*” be reached, OHCHR’s terms of cooperation could be reformulated according to the new post-conflict context, the statement said.

Oidhaco welcomes the decision to renew the mandate of the OHCHR, and stresses the importance of the presence of the High Commissioner in Colombia, as well as its annual report to the UN Human Rights Council in Geneva to contribute to an improvement in the human rights situation in Colombia.

### Unas fechas claves para el futuro

**First week of November:** Juan Manuel Santos visits Europe.

**November, 6:** International Day for preventing the exploitation of the environment in war and armed conflict.

**November, 6/7:** Commemoration of the Justice Palace siege (1985).

**November, 11:** Commemoration of the Segovia massacre (1988).

**November, 12:** Conference in the European Parliament on “Indigenous Peoples and the Peace Process: from the perspective of women”.

**November, 20:** Universal Children’s Day.

**November, 22:** Anniversary of the OAS Human Rights Inter-American Convention

**November, 25:** International Day for the Elimination of Violence against Women.

**November, 29:** International Day of Women Human Rights Defenders.

**December, 9:** Colombian Day of the Human Rights Defender.

**December, 10:** International Human rights’ Day.

**December, 16:** Anniversary of the International Covenant on Civil and Political Rights.

**December, 18:** Anniversary of the Convention on the Elimination of all Forms of Discrimination against Women.

**December, 18-21:** Commemoration of the Curvarado-Jiguamiando Communities’ massacre.

## Verification missions to Colombia: the situation causes concern

The [International Caravan of Jurists](#), composed of 68 members, visited Colombia from 23 to 31 August. After meeting with social organisations and authorities in several regions of the country, in its [preliminary report](#) it concludes that human rights defenders (including justice operators) do their work in an atmosphere of threats and attacks.

The [World Organisation Against Torture](#) concluded its [mission](#) to prepare its report for the consideration of Colombia by the UN Committee Against Torture. The mission visited several prisons and noted concerns about the proposed restructuring of the military justice system; listened with concern to reports indicating the criminalization of peaceful social protest through the misapplication of the Public Safety Act. Likewise, the delegation observed a number of shortcomings in the high security prison of Tramacúa in Valledupar.

[The Asturian and Irish Delegation to Verify the Human Rights Situation in Colombia](#) published the report of its visit in May 2014. One of its conclusions is that “*the social and armed conflicts continue and worsen, with militarization and re-paramilitarization of territories in the interest of multinationals*”.

Meanwhile, [Princess Astrid of Belgium](#) travelled with around 200 Belgian companies to address trade issues with the Colombian government and to support the peace process with the FARC.

The [Norwegian Deputy Foreign Minister Høglund](#) also travelled to support the peace process and strengthen trade relations between the two countries.

At the end of November: **18 information sheets** will be published regarding different issues such as: human rights defenders, women, trade unionists, Indigenous peoples, the peace process, the forced displacement, ESCR, extrajudicial killings, among others.

Available in: [www.oidhaco.org](http://www.oidhaco.org)

