

**DEMOBILISING THE PARAMILITARIES
IN COLOMBIA: AN ACHIEVABLE GOAL?**

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DEMOBILISING THE PARAMILITARIES IN COLOMBIA: AN ACHIEVABLE GOAL?

EXECUTIVE SUMMARY AND RECOMMENDATIONS

The target of disbanding the paramilitary United Self-Defence Forces of Colombia (AUC) by the end of 2005, set when the government of President Alvaro Uribe signed the Ralito I accord with the far-right group nearly a year ago, remains problematic. The government will need to get much tougher, including with credible threats to use force, if negotiations that opened in July 2004 are to succeed. The international community should offer more cooperation if the serious questions that remain about the project can be resolved in a way that respects rule of law and promotes the ultimate goal of ending the long conflict.

The signing of the Ralito II agreement in May 2004 and the opening of talks in the newly established neutral Zone of Location (ZDU), are positive steps, particularly following the near-breakdown earlier in the year, ceasefire violations and continued AUC drug trafficking. While little substance was addressed in the agreement, and a precise timetable for the disarmament, demobilisation and reintegration (DDR) of AUC fighters has yet to be fixed, Ralito II nonetheless provides the Uribe administration an opportunity to move the process forward during its remaining two years in office.

But to achieve real, sustainable progress, the government still needs to develop a legal framework and political strategy for collective demobilisation of all armed groups. Since the April 2004 disappearance and probable murder of its leader, Carlos Castaño, the AUC has become increasingly assertive. Under the new chief, Salvatore Mancuso, the paramilitaries say they are unwilling to accept any jail time for war crimes or extradition of their leaders to the U.S. on drug-trafficking charges, even as their narcotics involvement has continued unabated, and international concern over possible impunity for past crimes has deepened. The

domestically controversial, government-endorsed appearance by Mancuso and two other paramilitary commanders before the Colombian Congress on 28 July 2004 increased this concern. They used the platform to reiterate the AUC proposal to retain a counter-insurgency role after demobilisation by maintaining control of vast regions of the country -- a blatantly self-interested proposition that would allow it to keep illegally acquired land and other property as well as its drug operations.

These demands must be rejected. The only previous experience, in Medellín, shows the dangers of a short-sighted and incomplete approach to DDR. Paramilitaries who were disarmed and ostensibly reintegrated into society there have kept control of numerous city neighbourhoods. Key issues -- their source of income (drugs), continuing contacts with non-demobilised AUC members, and reparations for the victims of their past crimes -- remain unresolved.

The international community has been largely absent from the negotiations, in part due to its distaste for the paramilitaries' links to drug trafficking and involvement in atrocities, but also because of lack of transparency in the process itself. Initial government-proposed legislation on so-called alternative sentencing was criticised for implying the paramilitaries would enjoy impunity for past grave misdeeds. Only the Organisation of American States (OAS) has stepped forward, accepting the role of monitoring and providing information on the ceasefire. It has put its credibility on the line in associating with a controversial beginning to the peace process but if it is to make a serious contribution, its capacity and political will to monitor the ceasefire in all Colombia as well as its inadequate funding will have to be addressed.

The Uribe administration's recent positive response to feelers for ceasefire talks from the smaller of the two insurgent groups (the ELN) could lead it to develop a more comprehensive approach to DDR that provides the foundation for collective demobilisation of all armed groups. In spite of serious differences over how to bring a ceasefire into force and the agenda of future peace talks, negotiations might eventually prove easier with the ELN than the AUC because the group is not as deeply involved in drug trafficking. However, the larger insurgent organisation (FARC) is unlikely to be a passive witness to the demobilisation of either the AUC or the ELN.

If there is to be a definitive agreement with the paramilitaries, the government must threaten them credibly with military consequences should they break the ceasefire and refuse to concentrate and disarm all their forces, end drug trafficking and other criminal activities and pay reparations. Increased activity of the Centre for Integral Action (*Centro de Accion Integral*) -- the Ministry of Defence entity charged with coordinating police, army and intelligence units tasked to pursue, capture or destroy the non-complying AUC leadership or other paramilitary leadership -- would send a good message.

The alternative sentencing legislation is to be reconsidered shortly by the Congress. While amendments already have improved the original proposal, more is needed, particularly to assure at least some jail time for war crimes, confiscation of illegally acquired assets and both reparations and a greater voice for victims. U.S. extradition remains a potential deal breaker. Any compromise -- such as the serving of U.S. convictions in Colombian prisons -- must come only after substantial progress has been achieved toward actual demobilisation and disarmament of the AUC, full disclosure of its links to drug trafficking, its verified disengagement from that activity and satisfactory disposition of illegal assets.

RECOMMENDATIONS

To the Government of Colombia:

1. Negotiate with the AUC -- provided it fully respects the ceasefire and this is verified by the OAS -- based on a strategy that sets precise targets for demobilisation of significant numbers of units starting immediately after signature of an agreement that requires complete demobilisation by the end of 2005.
2. Ensure that any agreement with the AUC:

- (a) respects internationally accepted legal norms;
 - (b) provides adequate reparations for the victims of paramilitary violence; and
 - (c) requires an end to its drug-trafficking operations, full disclosure of narcotics networks and financial flows and forfeit of illegally obtained assets.
3. Design in the shortest possible time a comprehensive approach to disarmament of all armed groups including:
 - (a) a legal framework with clear provisions for punishing war crimes and crimes against humanity, for victim reparation, for return of illegally obtained assets and for reintegration of former combatants;
 - (b) effective social, economic and security programs to benefit the majority of Colombians, especially in rural areas; and
 - (c) involvement of civil society and victims in the public debate.
 4. Designate as soon as possible zones where all paramilitary fighters are to concentrate under protection of the government's armed forces, facilitate the presence there of the OAS monitoring mission, and provide for protection of civilians at the local level, particularly in those zones, by establishing offices for the public prosecutor, attorney general, and ombudsman.
 5. Combat, with specifically designated units coordinated by the defence ministry's Centre for Integral Action, the leadership structures of those parts of the AUC and other non-AUC paramilitary forces that do not disengage from drug trafficking or comply with the ceasefire.
 6. Negotiate demobilisation of the ELN with the facilitation of Mexico and the support of the Catholic Church and civil society organisations and seek if possible to conduct these talks separate from but simultaneous with the AUC negotiations and within the same legal and institutional framework.
 7. Assign funds to the mayor's office in Medellín to improve and strengthen the reintegration program for the *Cacique Nutibara Bloc* (BCN) and expand state presence (police, judicial authorities) in the neighbourhoods where it was demobilised.

To the AUC:

8. Comply with the ceasefire, including by giving clear orders to that effect to all troops on the ground, and cooperate with OAS efforts to monitor it.
9. Accept and promptly act upon the government request to concentrate all forces in designated areas.
10. Disengage from drug trafficking and produce proof of this, including full disclosure of trafficking networks, financial holdings and land and other assets derived from drug trafficking and other illegal revenues.
11. Cease all violent acts against civilians, including threats and intimidation against local officials, and release all kidnapping victims.
12. Contribute to truth and reconciliation by publicly acknowledging responsibility for grave crimes and disclose fully all relevant information.

To the ELN:

13. Cease all hostilities, including kidnapping, free all kidnap victims, negotiate demobilisation with the government and prepare to concentrate forces in a zone designated by the government.

To the OAS:

14. Start urgently to monitor AUC compliance with the ceasefire, expand this mission across the country, and inform the Colombian authorities and population, the OAS permanent council and international public opinion promptly about any breach.
15. Prepare, in conjunction with the UN, to monitor an ELN cessation of hostilities if requested by the government.
16. Strengthen the capacity of the in-country office of the Inter-American Commission for Human Rights to facilitate civilian access to all available protection and remedies and disseminate lessons learned from other DDR processes in the region.

To the U.S. Government:

17. Provide initial support to the OAS in its efforts to monitor AUC compliance with the ceasefire

and insist on full compliance by the AUC and its disengagement from drug trafficking.

18. Assist the government to demobilise the AUC, if the conditions are consistent with international legal standards, reject impunity for war crimes and crimes against humanity and include disengagement from drug trafficking, and provide similar assistance, under the same conditions, with respect to demobilisation of the ELN.
19. Maintain extradition requests for paramilitary leaders wanted on charges of drug trafficking and consider possible compromises only if substantial progress is achieved toward actual AUC demobilisation and disarmament and there is verification of AUC disengagement from drug trafficking, including full disclosure of all links to that activity and of illegally acquired assets.
20. Support training of special Colombian armed forces units directed at the leadership structures of those paramilitary forces which refuse to participate in demobilisation negotiations, violate the ceasefire, refuse to concentrate in the ZDUs in a timely fashion or continue to engage in drug trafficking.

To the UN:

21. Continue to provide good offices and facilitate efforts to advance talks between the government and the ELN and assist, in conjunction with the OAS and others, in monitoring any future ELN ceasefire and DDR process.

To the European Union:

22. Assist the government in a serious demobilisation effort with the AUC and any such future effort with the ELN, pursuant to the same conditions as recommended to the U.S. above.

To the Mexican Government:

23. Continue to provide good offices to establish a framework for negotiations between the government and the ELN.

Bogotá/Brussels, 5 August 2004



DEMOBILISING THE PARAMILITARIES IN COLOMBIA: AN ACHIEVABLE GOAL?

I. INTRODUCTION

On 1 July 2004, representatives of the administration of President Alvaro Uribe and ten members of the leadership of the far-right United Self-Defence Forces of Colombia (AUC) opened a new round of demobilisation negotiations in Tierralta (Cordoba). Two weeks earlier, the government had designated the site of the talks as the Zone of Location (*Zona de Ubicacion* [ZDU]), as stipulated in the Ralito II accord of 13 May 2004. The paramilitary leaders are protected there by 400 of their armed troops, who in turn are monitored by the OAS mission. For the negotiation period, the government has lifted the arrest warrants of the paramilitary leaders. Government police and armed forces, led by the 11th Army Brigade, have established a cordon around the zone and control major roads and air fields, a deployment apparently coordinated with the paramilitary forces that share responsibility for access to the ZDU.¹

The signing of the Ralito II agreement (named after a small village in the northern department of Córdoba, the paramilitary heartland) followed a first accord, Ralito I, in July 2003.² President Uribe has only two years left in his term to deliver a lasting peace.

The government is clearly less confident about what it can achieve than when it embarked on the high-risk endeavour of negotiating the dismantling of paramilitary forces in late 2002. It has run into serious difficulties delivering on its promise to "eliminate one factor of violence from the conflict". It can point to demobilisation of only a single AUC element, the *Cacique Nutibara Bloc* (BCN) in Medellín, Antioquia

(some 850 troops) in November 2003, and serious doubts remain about even that endeavour.

Although the OAS is lending its political prestige and technical expertise with a field verification mission, the international community, especially the EU, the UN and the U.S., have kept a sceptical distance from the negotiations.³ While recent surveys indicate that a majority of the Colombian electorate supports talks with the AUC, the Uribe administration continues to struggle to gain legitimacy internationally for its attempt to demobilise the paramilitaries.⁴

President Uribe's main challenge is that after the disappearance and likely murder of former AUC titular head Carlos Castaño in April 2004, he faces an emboldened group of paramilitary leaders, headed by Salvatore Mancuso and now united in the ZDU, who are deeply involved in the drug business and determined to negotiate no more than a "slap on the wrist" for past crimes while quashing existing or future extradition requests from the U.S. on drug-trafficking charges.

This new AUC leadership insists that the movement emerged in the early 1980s because the state was unable to defend landowners and farmers, who took up arms to protect themselves. It has proposed to the government that the AUC play a continuing counter-insurgency role after demobilisation by maintaining control over the vast regions of Colombia it dominates.⁵ This proposal is blatantly self-interested but also reflects the fear expressed by its negotiation commission that the AUC will lose the backing of powerful supporters in the countryside if Colombia becomes a normal state protected by police and official armed forces.

¹ ICG interview, Bogotá, 19 July 2004.

² On the Ralito I accord, see ICG Latin America Report N°5, *Negotiating with the Paramilitaries*, 16 September 2003.

³ ICG interview, Bogotá, 28 May 2004.

⁴ *El Colombiano*, 14 July 2004.

⁵ ICG interview, Tierralta, 30 July 2004.

The Uribe administration's main strategic goal is to corner the FARC, the major insurgent group, militarily. It believes it still lacks full capacity to expand and maintain territorial control across the country through its police and military. Especially if the DDR process does not advance in 2004, it may be tempted to give in to AUC demands and settle for the formality -- but not reality -- of paramilitary demobilisation. The Medellín experience suggests this is a real danger.

Since May 2004, there has been an exploration of a possible rapprochement between the government and the smaller insurgent group, the ELN, although a number of serious hurdles to substantive peace talks exist. However, an ELN process could open a window of opportunity for the government to advance a comprehensive disarmament, demobilisation and reintegration (DDR) strategy that would serve as a foundation for a future collective process applicable to all armed groups. Progress with the ELN would considerably increase the legitimacy of the government's proposals for demobilising the paramilitaries and boost chances for much needed international support. By the same token, the administration is being advised that ELN talks are likely to fail if they are seen as a cover for lenient treatment of the paramilitaries.

II. FROM RALITO I TO RALITO II

On 13 May 2004, the Uribe administration and the leaderships of the AUC and the Central Bolívar Bloc (BCB) signed an accord establishing a 370-square kilometre zone (*Zona de Ubicación* [ZDU]) in which a ten-member paramilitary negotiation commission and 400 paramilitary fighters would be concentrated.⁶ Located in Tierralta (Córdoba), the ZDU is meant to serve as the site for a new round of negotiations on paramilitary troop concentration, disarmament and demobilisation, with the focus on establishing timetables.

Just how many fighters would be demobilised as a result of these talks remains unclear.⁷ The government appears to have embraced a piecemeal strategy. After Ralito II was signed, Peace Commissioner Luis Restrepo stated that the new aim was to demobilise 3,750 AUC members by the end of 2004 and 1,250 in early 2005. Another 3,750 are planned to be demobilised and a further 3,000 concentrated during 2005.⁸ This would add up to 8,750 demobilised and 3,000 concentrated paramilitaries by the end of 2005, well below the target of 15,000 demobilised AUC members set in Ralito I. The cost for that effort is estimated at \$8,500 per person or \$42 million.⁹

The signing of Ralito II was witnessed by Sergio Carmagna, head of the OAS peace mission in Colombia (*Misión para Apoyar el Proceso de Paz en Colombia*), as well as representatives of the Catholic Church. In the ZDU, the AUC retains weapons and means of communication; it is required to account to the OAS delegate in the zone for both.¹⁰ Further, and importantly for the AUC, all arrest warrants have been suspended. Although the Uribe administration has

⁶ The BCB is not part of the AUC. However on 31 March 2004, the organisations signed a joint document creating a single negotiating committee headed by a ten-member commission including Salvatore Mancuso, Vicente Castaño, Adolfo Paz, Javier Montañez, Julián Bolívar, Hernández Hernández, Jorge Cuarenta, Miguel Arroyave, Ramiro Vanoy and Ernesto Báez. The Centauros Bloc, the Elmer Cardenas Bloc and the group of Martín Llanos of Casanare are not represented in Tierralta. ICG interview, Tierralta, 30 July 2004.

⁷ Figures mentioned range from 10,000 to 20,000 fighters. The AUC claim to have 20,000 men under arms. Newspaper sources give 10,000 as the probable number of fighters controlled by the AUC and BCB. ICG interview, Tierralta, 30 July 2004.

⁸ ICG interview, Bogotá, 29 July 2004.

⁹ All figures in dollars (\$) refer to U.S. currency.

¹⁰ The OAS is still in the process of building its site in the ZDU. ICG visit to Tierralta, 30 July 2004.

always ruled out creation of a special area similar to the 42,000-square kilometre Demilitarized Zone (*Zona de Despeje* [ZDD]), in which the Pastrana government talked with the FARC and from which state institutions withdrew, apart from the army and the police, there are no other institutions exercising their normal powers in the ZDU.¹¹

Despite some concerns related to government military operations in the Montes de Maria (Bolívar) and Sur de Bolívar as well as, allegedly, near Tierralta in early June 2004, the AUC leadership agreed to concentrate in the zone.¹² On 25 June, the government issued two resolutions (91 and 92), formalising the negotiation format, establishing the ZDU and suspending arrest warrants for six months.¹³ Talks officially began on 1 July with a low-key ceremony not attended by international organisations or government dignitaries.¹⁴

Ralito II is a significant step back from Ralito I of July 2003, which stipulated complete AUC demobilisation by 31 December 2005 and required AUC troops to concentrate "in due course" and fully comply with the ceasefire.¹⁵ Ralito I was based on the ten recommendations of the six-member exploratory commission appointed by Uribe in early 2003.¹⁶ The establishment of the ZDU, in Ralito II, cannot be considered a decisive move toward demobilisation but rather a preliminary and purely operational step. While the OAS monitors the ceasefire in the zone, serious

doubts remain as to how it will operate nationally. There are also concerns that the leaders concentrated in the ZDU continue to command troops who engage in illicit and criminal activities, across the country.¹⁷ In Tierralta, the AUC leadership has stated clearly that it will not disengage from drug trafficking until the government implements a broad illicit crop substitution program.¹⁸

Although, in Colombia, many see both agreements as road markers in a continuous process, a number of factors contributed to profound changes from Ralito I to Ralito II. During the first months of 2004, the negotiations between Peace Commissioner Luis Restrepo and the AUC approached a dead end. The government encountered increasing domestic and international criticism of the process because of the AUC's continued violation of the "unilateral" ceasefire it had declared in December 2002.¹⁹ Further, in April 2004, the AUC, whose leaders have on several occasions said they are not willing "to spend a single day in prison", rejected the amended version of the bill (now named the justice and reparation bill or *ley de justicia y reparación*), which envisages detention (though not necessarily in a prison) of between five and ten years.

AUC infighting as well as murder of dissident commanders allegedly opposed to the group's involvement in drug trafficking was paralleled by the rise of Salvatore Mancuso as the new paramilitary chief. This was linked to the emergence of a new AUC negotiation agenda.²⁰ The presumed death of Carlos Castaño, the former titular head, most likely at the hands of his brothers in arms, paved the way for the new leadership's agreement to concentrate, with 400 fighters, in Tierralta as requested by the government.²¹ Mancuso's recent political offensive presents the AUC as victims of the state's lack of capacity and interest to protect landowners and farmers against the FARC and ELN. It also underscores the AUC's willingness to negotiate as the key to promoting comprehensive peace talks with all irregular armed groups. The

¹¹ ICG interview, Bogotá, 19 July 2004. This is in part due to the fact that the ZDU is composed of *coregimientos*, that is, territorial entities that do not have a mayor's office, a court of justice, and so on. However, to guarantee that the rights of citizens are fully respected in the ZDU, the government should bring in officials of the public prosecutor's office, the attorney general's office and the ombudsman's office.

¹² Defence Minister Jorge Uribe stated that it was "not clear" whether military operations had taken place near the ZDU, *El Tiempo*, 15 June 2004, p.10. Sergio Caramagna, head of the OAS mission in Colombia, argued that the military operations were routine and did not affect the ZDU, *El Colombiano*, 14 June 2004, p.8A. The AUC leadership was not convinced and stated that the situation was too insecure for the negotiations to begin, even though some 300 AUC troops had already regrouped in the area. ICG interview, Bogotá, 29 July 2004.

¹³ Resolución N°091 de 2004 and Resolución N°092 de 2004, Presidencia de la Republica, 15 June 2004.

¹⁴ Neither the UN nor any European country were present at the opening ceremony. The U.S. was represented by a second-level functionary of its embassy in Colombia, *El Tiempo*, 1 July 2004, p.2.

¹⁵ "Acuerdo de Santa Fe de Ralito para contribuir a la paz en Colombia", 15 July. See ICG Report, *Negotiating with the Paramilitaries*, op. cit.

¹⁶ See ICG Report, *Negotiating with the Paramilitaries*, op. cit.

¹⁷ ICG interviews, Bogotá, 28 and 29 July 2004.

¹⁸ ICG interview, Tierralta, 30 July 2004.

¹⁹ ICG Report, *Negotiating with the Paramilitaries*, op. cit.

²⁰ Castaño's disappearance is shrouded in mystery. See "Con quién se está negociando", *Revista Semana*, 14 June 2004.

²¹ A prominent individual in Montería (Córdoba) who is very close to the paramilitaries told ICG: "I am convinced that Castaño was killed by his brothers in arms because he was willing to disclose their wealth and means of funding and pay society back. This conviction made me extremely unwilling to meet with the people again who did this to their brother". High-ranking government officials in Bogotá also believe that Castaño was killed by his fellow paramilitaries. ICG interviews, Bogotá and Montería, 28-30 July 2004.

congressional decision to postpone discussion of the alternative sentencing bill until July 2004 illustrated that the administration and the AUC both continue to harbour strong interest in the negotiations.²² Indeed, both have made last-minute concessions to save an ailing process.

A. THE AUC CEASEFIRE

The AUC declared a unilateral ceasefire on 1 December 2002 and reiterated this in Ralito I.²³ However, it became rapidly apparent that it was not in compliance.²⁴ Senator Antonio Navarro Wolff of the Polo Democrático Independiente party quoted NGO findings registering 600 violations during 2003.²⁵ On 11 February 2004, Vice President Francisco Santos also announced that the AUC had not complied.²⁶ Peace Commissioner Restrepo reported that, between December 2002 and December 2003, the AUC committed 362 homicides, sixteen massacres and 180 kidnappings.²⁷ Nonetheless, he said that these figures represented reductions of 44, 59 and 27 per cent respectively over the previous twelve-month period.²⁸

Under considerable pressure, Restrepo and the OAS started calling for the concentration of AUC fighters to facilitate a thorough verification of the ceasefire.²⁹ Just before his disappearance, Castaño, as well as AUC sympathisers such as Congresswoman Rocio Arias, argued that the violations were linked to its unilateral nature and that the FARC and ELN were provoking the

AUC.³⁰ The AUC made it clear it was not ready for concentration without a clearer government strategy to protect its fighters and territories.³¹ On 3 March 2004, Restrepo stated that negotiations were at a "critical stage" due to AUC unwillingness to concentrate and ceasefire violations.³²

Ralito II brought new momentum to the process even though the AUC leadership agreed only to concentrate its negotiators and initiate demobilisation talks. This broke the deadlock but left the road toward AUC troop concentration longer and more uncertain than envisaged in Ralito I.

A number of ceasefire violations following the signing of Ralito II have again put into question the credibility of the process. Among the most disturbing was a massacre of eleven people in villages in Tame, Arauca province, on 21 May 2004.³³ Government sources claim the AUC has been responsible for three massacres and 25 homicides since January 2004.³⁴ NGOs and human rights organisations have registered a further six homicides, two massacres and twelve death threats.³⁵

There have also been recurrent attacks against the indigenous Wayuu people in La Guajira department. The UNHCR charged that 309 Wayuus were forced to flee to neighbouring Venezuela.³⁶ Forcing their way into the contraband and drug business run by groups of Wayuu, AUC fighters killed several female members of the community. ICG analysts heard from a number of sources that the Wayuu retaliated by killing seven paramilitaries and are preparing to drive the AUC from their territory. This indigenous group, which has traditionally carried weapons, is believed to be heavily armed.³⁷

²² Three parliamentarians wrote asking for the postponement of the bill's discussion in Congress to which President Uribe agreed, Alto Comisionado para la Paz, Para Proxima Legislatura Proyecto de Ley Justicia y Reparación, Bogotá, 17 June 2004.

²³ "Acuerdo de Santa Fe de Ralito", op.cit.

²⁴ See ICG Report, *Negotiating with the Paramilitaries*, op. cit.

²⁵ *El Tiempo*, 29 January 2004, p.4. The Colombian office of the UN High Commissioner for Human Rights condemned the murder of Maria Henao, president of the Junta de Acción Comunal in Meta department, on 6 February 2004. The Centauros Bloc committed the crime in clear violation of the ceasefire, *El Colombiano*, 13 February 2004, p.12A; Jaime Prieto, Bishop of Barrancabermeja, denounced continued attacks against civilians and selective crimes in the Magdalena Medio region, *El Colombiano*, 6 February 2004, p.12A.

²⁶ *El Espectador*, 12 February 2004.

²⁷ High Commissioner for Peace, "Balance del Cese de Hostilidades", December 2002-December 2003; *El Tiempo*, 20 February 2004, p.3.

²⁸ Ibid.

²⁹ *El Espectador*, 6 February 2004; *El Tiempo*, 25 February 2004, p.6; *El Colombiano*, 9 March 2004, p.6.

³⁰ ICG interview, Medellín, 17 March 2004; *El Tiempo*, 14 February 2004, p.5.

³¹ The head of the Centauros Bloc stated that he would not concentrate his troops since he did not see how the government intended to guarantee the security of his "jurisdiction", *El Tiempo*, 27 February 2004, p.2.

³² *El Tiempo*, 4 March 2004, p.5.

³³ *El Tiempo*, 24 May 2004, p.5.

³⁴ "Grupos de Autodefensa -- Infracciones al Cese de Hostilidades-- Boletines DAS", cited by Alto Comisionado para la Paz, Comunicado de Prensa, 28 May 2004.

³⁵ "Grupos de Autodefensa -- Infracciones al Cese de Hostilidades -- denuncias ONG's, Otros Organismos no institucionales y denuncias de particulares", cited by Alto Comisionado para la Paz, Comunicado de Prensa, 28 May 2004.

³⁶ *El Tiempo*, 22 May 2004, p. 11A.

³⁷ ICG interviews, Riohacha, 1-2 August 2004.

On 28 May, Peace Commissioner Restrepo stated that "the tendency for criminal actions by the AUC is increasing every month, particularly homicides"³⁸ and that attacks against civilians increased during May.³⁹ The security police registered two homicides, one each in Aguadas, Caldas province and in Yopal province; the kidnapping of Ovidio Domicó, governor of the indigenous community of Embera Katío; and the massacre in Arauca, during that month.⁴⁰ NGOs denounced the ceasefire violations and called on the OAS to fulfil its verification role.⁴¹

The kidnapping of former Senator José Gnecco and his family on 27 June 2004, perpetrated by paramilitary groups close to the Sierra Nevada de Santa Marta, imperilled the start of talks in Tierralta. The government responded by reinstating the capture orders on paramilitary leaders Rodrigo Tovar Pupo ('Jorge 40') and Hernán Giraldo, who operate in La Guajira, Cesar and Magdalena departments and are thought to be involved in the crime.⁴² 'Jorge 40' subsequently left the ten-member negotiation team, and Gnecco was freed on 30 June.⁴³ That same day, Interior Minister Sabas Pretelt announced that on the understanding by the AUC that "in the ZDU, crimes cannot be committed", 'Jorge 40' would be permitted to rejoin negotiations.⁴⁴ This statement made it clear that the government expects paramilitary troops whose leaders are in the ZDU to abide by the ceasefire.

On 2 August 2004, President Uribe confronted the Centauros Bloc, which is represented in Tierralta, and the paramilitary group of Martín Llanos, which is in parallel talks with the government, with an ultimatum to cease hostilities immediately. The two paramilitary groups have been engaged in heavy fighting for several months that has caused the forced displacement of hundreds of civilians in rural areas of Casanare department. If they do not comply, the government has threatened to break off negotiations with them.⁴⁵

³⁸ Alto Comisionado para la Paz, Comunicado de Prensa, 28 May 2004; *El Tiempo*, 28 May 2004.

³⁹ Alto Comisionado para la Paz, Comunicado de Prensa, 28 May 2004.

⁴⁰ Ibid.

⁴¹ Instituto de Estudios para el Desarrollo y la Paz "Comunicado de prensa: la OEA no está verificando el cese de hostilidades", 3 June 2004.

⁴² ICG interviews, Riohacha, 1-2 August 2004.

⁴³ *El Tiempo*, 29 June 2004, p.4.

⁴⁴ Sabas Pretelt, *Se normaliza proceso con AUC*, Bogotá, 30 June 2004.

⁴⁵ Oficina del Alto Comisionado para la Paz, "Presidente Uribe exige desmovilización inmediata de autodefensas que operan en Meta y Casanare", Bogotá, 2 August 2004.

B. THE ALTERNATIVE SENTENCING BILL

Following Ralito I, controversy over the alternative sentencing bill (*ley de alternatividad penal*) appeared to be the main hurdle to AUC demobilisation. It originally proposed alternative sentences, in the context of peace accords, to those normally applied under Colombian and international law. The first draft, submitted to Congress on 21 August 2003, included the possibility of alternatives to prison sentences for crimes against humanity (*delitos de lesa humanidad*), for example, five years of restricted movement within agricultural colonies or a demobilised individual's home town, and a requirement to perform social work in the victims' communities.⁴⁶

This raised serious concerns in Colombia and abroad, despite Uribe's affirmation that all negotiations with irregular armed groups would be pursued "within a legal framework and without improvisation".⁴⁷ The EU Council of Ministers stated that it was of primary importance to make the bill consistent with Colombia's obligations regarding international humanitarian and human rights law.⁴⁸ Criticizing the bill, General Prosecutor Edgardo Maya said "the price that Colombian society has to pay to end a conflict that it has suffered for so long cannot be impunity".⁴⁹ The Catholic Church has made it clear that "to forgive and forget" is not the solution for lasting peace.⁵⁰ However, Cardinal Pedro Rubiano also stated that "nobody turns himself in only to be extradited".⁵¹

The Colombian NGO Planeta Paz urged a number of concrete modifications to bring the draft in compliance with international humanitarian law, including provisions guaranteeing reparations for victims and the creation of a truth and historical clarification commission (*Comisión de Esclarecimiento*).⁵² Such a commission, charged with documenting human rights and humanitarian law abuses, is also supported by the Colombia office of the UN High Commissioner for

⁴⁶ Article 13, Proyecto de ley por el cual se dictan disposiciones para facilitar la reconciliación nacional y contribuir a la reparación de las víctimas, Bogotá, 21 August 2003.

⁴⁷ *El Colombiano*, 2 March 2004, p. 12A.

⁴⁸ EU Council of Ministers, General Affairs and External Relations Council, "Colombia -- Council Conclusions", 26 January 2004.

⁴⁹ *El Tiempo*, 23 January 2004.

⁵⁰ *El Tiempo*, 4 February 2004, p.3.

⁵¹ *El Tiempo*, 4 April 2004, p.13.

⁵² Planeta Paz, "Propuesta Alternativa al Proyecto de Alternatividad Penal", Bogotá, 4 March 2004; ICG interview, Bogotá, 11 March 2004.

Human Rights.⁵³ However, Senator Rafael Pardo, a loyal Uribe supporter, warns that creating such a commission in the midst of conflict risks abuse by the FARC for personal retaliation and political gain.⁵⁴

Controversy over the bill became so intense that a number of Liberal and Conservative parliamentarians, including some close to the president, considered asking Uribe to withdraw it.⁵⁵ However, following public hearings in Congress and discussions in departmental chambers, lawmakers made revisions. The new version -- the justice and reparation bill -- includes three important changes: it excludes any mention of extradition (the original version said treaties on extradition should be respected); it includes a truth, justice and reparation tribunal; and it envisages five to ten-year sentences in detention centres (not necessarily prisons) for certain crimes.⁵⁶

The revised bill appears to be a step in the right direction and should be understood as an effort by Uribe to maintain his international credibility. Ambassador William Wood described the U.S. as in "general support" of the new version.⁵⁷ The UN and the EU, however, expressed serious reservations about different provisions. International human rights organisations continue to press for more improvements;

⁵³United Nations, "Patrones Internacionales en material de verdad, justicia y reparación para lograr la superación del conflicto armado interno", Bogotá, 2 April 2004. In the case of Colombia, the activities of a truth commission could range from investigating the conduct of individuals who have massively and systematically violated human rights and identifying the victims (UNHCHR), to clarifying the responsibilities of political, economic, social and state actors who contributed to the development of the paramilitary phenomenon (Planeta Paz).

⁵⁴ Rafael Pardo, "Recomendaciones para superar el fenómeno del paramilitarismo-autodefensas en Colombia", Bogotá, 31 March 2004.

⁵⁵ Conservative Senator Luis Gómez mentioned this possibility, along with liberal Senator Rodrigo Riviera and Uribist Senator Darío Martínez, *El Tiempo*, 27 March 2004, p.4.

⁵⁶ Pliego de Modificaciones al proyecto de ley estatutaria N°85 de 2003, www.altocomisionadoparalapaz.gov.co; *El Colombiano*, 31 March 2004. Article 36 of the revised bill states that the president has the authority to lift prison sentences for members of insurgent groups who take part in a humanitarian accord without a previous ceasefire or peace accord; this would open the way for a possible humanitarian exchange between the government and the FARC. See ICG Latin America Briefing, *Hostages for Prisoners: A Way to Peace in Colombia?*, 8 March 2004.

⁵⁷ Op. cit. Wood comments at "The Peace Process in Colombia with the Autodefensas Unidas de Colombia-AUC", Woodrow Wilson Centre seminar, ICG interview, Washington, D.C., 28 June 2004.

the Colombia office of the UNHCHR has stated there should be further improvements respecting the right to truth, justice and reparation.⁵⁸ Most legal observers also have questioned the degree of discretion afforded the president to decide eligibility for commutation of sentences and conditions of serving them. Most argue that some fixed jail time is required for senior figures responsible for crimes against humanity, even if may be well short of normal requirements.⁵⁹

Colombian government officials, parliamentarians and NGO representatives further argued that there has been too little transparency regarding the ceasefire, security in the zone, the cost of demobilisation and where the funds for it will come from as well as details of the state's role inside the zone.

The AUC leadership rejected the revised bill out of hand, claiming that it was not appropriate in the context of "political" negotiations. Speaking to the press, Ernesto Báez, chief of the Central Bolívar Bloc, insisted the leaders would not spend "one minute, one second in prison, nor within nor outside [Colombia's] borders".⁶⁰ Paramilitary leaders further accused the government of improvising on the theme of justice: "Today, [the government] believes in a dose of impunity and tomorrow it changes its mind". According to several paramilitary leaders, prison sentences never formed part of the talks with the Uribe administration, evidenced by the fact that initially the government "presented a bill that did not even contemplate punishment".⁶¹

The AUC leaders' vociferous press statements seem to reflect their insecurity. In private they give an impression of greater flexibility. Báez claimed to ICG that the degree of punishment the AUC would accept was negotiable. Both he and Mancuso were eager to learn about DDR processes in other countries.⁶²

⁵⁸ UNHCHR, "Observaciones sobre la nueva versión del proyecto de alternatividad penal", Bogotá, 6 May 2004. José Miguel Vivanco, director for the Americas at Human Rights Watch, listed a number of shortcomings in the latest version of the justice and reparation bill, such as the minimum sentences and where such sentences might be served, benefits available and non-differentiation between group and individual demobilisation. "The Peace Process in Colombia with the Autodefensas Unidas de Colombia-AUC", Woodrow Wilson Centre seminar, Washington D.C., 28 June 2004.

⁵⁹ Ibid; comments of various participants.

⁶⁰ *El Tiempo*, 16 May 2004, p.6.

⁶¹ Alvaro Sierre and Luz María Sierra, "Un día en el Corazón de las AUC", in *El Tiempo*, 16 May 2004, p.6.

⁶² ICG interviews, July 2004.

C. DRUG TRAFFICKING AND EXTRADITION

It is no secret that the AUC has links with drug trafficking. According to U.S. Ambassador Wood, it controls 40 per cent of the drug-trafficking business in Colombia.⁶³ Eighteen AUC members were on the latest U.S. tier-II list of foreign narcotics trafficking kingpins worldwide, including key leaders such as the brothers Carlos and Vicente Castaño, Salvatore Mancuso and Diego Murillo (aka Don Berna).⁶⁴ The U.S. seeks extradition of three of the current AUC ten-member negotiation team (Mancuso, Ramiro 'Cuco' Vanoy and 'Jorge 40'), and has issued indictments against Vicente Castaño and Don Berna, which may well lead to extradition requests.⁶⁵

The government has acknowledged the presence of so-called pure narcos in the ZDU. Along with Carlos Castaño, Salvatore Mancuso has been charged with trafficking seventeen tons of cocaine into the U.S. and Europe since 1997.⁶⁶ However, the Uribe administration believes it must negotiate with them and has requested the AUC to publicise their leaders' real identities.⁶⁷ Of the 36 AUC leaders, only thirteen are known by their true names; the remaining 23 by their *noms de guerre*. Access to real identities is crucial for tracking illegal assets and obtaining other information concerning past activities.

The spectre of extradition became a serious sticking point in the demobilisation process after Ralito I. The paramilitary leadership requested the government to promise not to act on extradition requests as long as the talks continued and wanted this included in the new justice and reparation bill.⁶⁸ In an attempt to trade a promise not to extradite for information on the drug trade, the AUC asked the U.S. to join the negotiations.⁶⁹

However, this was rejected by U.S. Assistant Secretary of State Roger Noriega.⁷⁰ The new AUC negotiation team has recently reiterated this offer, but Sergio Caramagna, head of the OAS mission, stated that the presence of the U.S. at the table has not been considered, at least not at this very early stage of negotiations.⁷¹

Uribe has been unequivocal in support of extradition. He has approved 110 petitions for extradition compared to 64 during the entire Pastrana administration.⁷² The U.S., Colombia's largest and most visible external supporter, has not been flexible on the issue. The AUC leadership, on the other hand, has stated that it will not turn itself in to be extradited. Uribe recently said that "extradition is not a negotiating point. He who wants to avoid it has to show to the international community his good will and readiness to rectify",⁷³ thus hinting at possible leniency if the AUC complies with demobilisation. Ralito II seems to have side-stepped the issue by providing that individuals who have been requested for extradition will be safe while negotiations continue.⁷⁴

D. MORE POWER TO THE DRUG LORDS

There are competing versions of the disappearance of and alleged attack on 16 April 2004 against Carlos Castaño, who was one of the main instigators of the negotiation process with the government. In interviews, Salvatore Mancuso, his former close ally, has made contradictory statements, claiming there was no attack and that Castaño probably left the negotiations to make a deal with the U.S.⁷⁵ On the other hand, a number of sources, in Colombia and internationally, have asserted there was an attack perpetrated by other AUC leaders with clear links to drug trafficking. (Vicente Castaño and Don Berna were among those mentioned.)⁷⁶ In his attempt to clean up the AUC image, Castaño had been calling for it to sever such links.

Carlos Fernández (aka Rodrigo Franco or 'Doble Cero'), former head of the Metro Bloc, was murdered on 28 May 2004 in Santa Marta. Along with Castaño, he had been the strongest critic of the infiltration of drug trafficking into the AUC. He had become an obstacle for the "drug traffickers to unite and gain absolute power within the

⁶³ Ambassador William Wood, quoted in *El Tiempo*, 8 February 2004. Mancuso publicly acknowledged his own involvement in drug trafficking in his address in the Colombian Congress on 28 July 2004.

⁶⁴ *El Colombiano*, 8 March 2004, p.11A.

⁶⁵ A number of additional extradition requests seem to have been issued in the U.S. but not yet sent to Colombia, raising questions as to whether they might have been "frozen", *El Tiempo*, 21 June 2004, p.4.

⁶⁶ U.S. Attorney General John Ashcroft, "AUC Indictment Press Conference", Washington, D.C., 24 September 2002.

⁶⁷ Carlos Franco, "Declaraciones de Carlos Franco Casa de Nariño", 9 June 2004.

⁶⁸ Salvatore Mancuso and Carlos Castaño stated that the negotiation process was "hanging by a thread" (*pendía de un hilo*) due to the "ghost of extradition" and that extradition should be a political rather than a judicial issue, AUC, "Con los Pies sobre la tierra", 16 March 2004, www.colombialibre.org.

⁶⁹ ICG interview, Bogotá, 26 March 2004.

⁷⁰ *El Tiempo*, 24 March 2004, p.4.

⁷¹ *El Tiempo*, 23 June 2004.

⁷² *El Colombiano*, 20 February 2004, p.12A; ICG interview, Bogotá, 26 March 2004.

⁷³ *Comunicado Casa de Nariño*, 28 April 2004, www.presidencia.gov.co.

⁷⁴ The extradition issue is discussed further in Section IV below and in recommendation 19.

⁷⁵ *El Colombiano*, 22 April 2004.

⁷⁶ *El Espectador*, 25 April 2004, pp.2A-3A.

AUC so as to radicalise its position in the negotiation with the government".⁷⁷ He had warned that the ZDU would provide a shield against U.S. anti-drug agencies and allow the group to continue its illicit activities.⁷⁸

These two disappearances have silenced the voices within the AUC openly criticising drug trafficking as a cancer eating away at the core of its self-proclaimed mission. Paramilitary leaders such as Mancuso, Ernesto Báez and Hernan Giraldo have always maintained that the only way to combat the insurgents is to control the drug business.⁷⁹ These individuals now have the upper hand within the AUC. A number of sources show there is a large presence of drug lords as well as common criminals-turned-paramilitaries at the negotiations.⁸⁰ Don Berna is a clear example of this trend, as are BCB leaders such as Julian Bolivar and Javier Montañez.⁸¹

The rise to power of the "drug faction" within the AUC must be taken into account in defining acceptable terms for any agreement. Mancuso and Báez are ready to admit that the paramilitaries are still heavily involved in the drug business but claim that the funds obtained from illegal sources only allow them to keep the war going.⁸² At a minimum, and if they want their "good will" to be taken seriously, these individuals must be required to divulge full information about drug trafficking, the identities of those involved, and financial flows and cooperate in efforts to control the entire network. The government must be firm if it wants the country and the international community to believe that the demobilisation process will uphold the rule of law and punish those guilty of the worst crimes adequately.

E. THE NEW AUC AGENDA

On 25 May 2004, Salvatore Mancuso published the new AUC negotiation agenda⁸³ in which the leadership clearly abandons Ralito I, which merely called for the

AUC to "reincorporate itself into civilian life", agreeing to concentrate their troops on the sole condition of obtaining "requisite security guarantees".⁸⁴ Mancuso highlighted a number of new positions that will guide the AUC during negotiations.

First, the AUC's mission would not cease after demobilisation but would continue until the end of the conflict. Secondly, it will not pursue negotiations under the threat of being "brought to justice" or "subject to judicial process" (*sometimiento a la justicia*) in Colombia or elsewhere. Thirdly, the paramilitaries will not yield any areas they control to the insurgencies and will continue to protect those regions through a "strategy of integral defence". This strategy will not only include replacing AUC forces with the army but also safeguarding the economic and social order of the regions, which presumably means letting paramilitaries keep any property they have acquired illegally and promoting rural development as part of a security strategy.

One real danger of such an arrangement would be preservation of links between the armed forces and the demobilised paramilitaries. The paramilitaries would no longer be involved in combating the insurgents but would act as a kind of massive neighbourhood watch in direct communication with local military and police commanders. This would be in the interest of former paramilitary supporters, such as large landowners and cattle ranchers, who would probably be prepared to continue funding the demobilised AUC so as to maintain their own social and political dominance. The AUC negotiation commission in Tierralta appears to fear losing crucial backing and takes any opportunity to argue that the organisation is still necessary to maintain control in the countryside.⁸⁵

Following signature of a joint communiqué by Peace Commissioner Restrepo and Mancuso on establishment of the Tierralta negotiation site on 15 June 2004, Mancuso and Ernesto Báez announced their intention to transform the AUC into a political movement and invited the ELN and FARC to participate in its quest for peace.⁸⁶

Clearly, the AUC has become bolder in its demands. Mancuso recently appeared in Tierralta dressed in plain clothes to brief area residents on the new rules of the zone; this brought a sharp reaction from Vice President

⁷⁷ *El Tiempo*, 31 May 2004, p.6.

⁷⁸ *El Colombiano*, 17 May 2004, p.12A.

⁷⁹ *El Tiempo*, 24 April 2004.

⁸⁰ ICG interview, Bogotá, 10 June 2004; "Con quien se esta negociando", *Semana*, op. cit.

⁸¹ *El Colombiano*, 28 April, p. 3A. In June 2002, Carlos Castaño issued a public statement accusing Javier Montanez, among others, of being a drug lord behind the paramilitary project. In an ICG interview on 30 July 2004 with Central Bolivar Bloc commander Ernesto Báez and AUC leader Mancuso, the following dialogue took place: Baez: "ICG seems to believe that we are a rich organisation ..." ICG: "If you effectively control 40 per cent of Colombia's drug business, you must be rich. ..." Baez: "This is a big lie!".

⁸² ICG interview, Tierralta, 30 July 2004.

⁸³ "Agenda de Negociación AUC: La Triple Cuestión Sustancial y Lo Apenas Elemental", AUC, 25 May 2004.

⁸⁴ "Acuerdo de Santa Fe de Ralito", op. cit.

⁸⁵ ICG interview, Tierralta, 30 July 2004.

⁸⁶ Comunicado del Gobierno y las Autodefensas Unidas de Colombia, Santa Fe de Ralito, 15 June 2004; Salvatore Mancuso and Ernesto Báez, "La fecha histórica", www.colombialibre.org.

Francisco Santos, who asked the AUC to show less "arrogance".⁸⁷ The AUC's address to Congress on 28 July 2004, organised by supportive legislators such as Rocía Arias, and its declared intention to create a political party should also be seen in this context, even though the appearance itself was sharply criticised by many legislators and the international community.⁸⁸ The AUC's intentions and its social base have not fundamentally changed. However, Castaño's disappearance and the rise to power of the factions most deeply implicated in drug trafficking present the government with a more confident, tougher talking and perhaps more politically astute negotiation partner.

F. THE OAS ROLE

For a range of reasons, starting with the paramilitaries' drug links and atrocious crimes as well as the lack of transparency in the negotiation process since Ralito I, the UN, EU and other international actors have refused to support the demobilisation talks openly. The OAS is the only international organisation actively involved.

On 24 January 2004, Secretary General César Gaviria, a former Colombian president (1990-1994), signed an agreement with President Uribe regarding the OAS's "accompaniment" of the process.⁸⁹ This decision made waves in diplomatic circles, especially among OAS member states, as it took place amid revelations of AUC ceasefire violations.⁹⁰ The document limits the OAS role to "assist and verify" the ceasefire, demobilisation and reintegration process.⁹¹

On 6 February 2004, the OAS Permanent Council retroactively approved this decision, although it made one important amendment: inclusion of the Inter-American Commission for Human Rights, which was invited to "provide assistance to the mission".⁹² It is to analyse the situation in its own right, relying on information obtained not only from its regular exchanges with the mission in Colombia but also through the international community, civil society, the government and its own periodic visits. It will also provide the mission with advice on international human rights norms regarding amnesties and reparations as well as reports on other demobilisation and truth and reconciliation processes.⁹³ The OAS mission arrived in Colombia, headed by Sergio Caramagna of Argentina,⁹⁴ on 1 February 2004 and opened an office in Medellín on 15 March to oversee the Medellín demobilisation process. This was followed by offices in Bogotá and Tierralta, with four more planned across the country.⁹⁵

It is not the first OAS involvement in a DDR mission. The OAS and the UN were jointly responsible for the International Commission for Support and Verification in Nicaragua (CIAV/OAS, which operated from 1989 to 1997). That operation demobilised some 23,000 Contras (Nicaraguan resistance forces) and reintegrated them along with 100,000 family members within one year following the final agreement to end Contra operations against the government of Nicaragua, although minor

⁸⁷ *El Colombiano*, 17 May 2004, p.12A; *El Tiempo*, 18 May 2004, p.5.

⁸⁸ *El Tiempo*, 19 June 2004, pp.4,6.

⁸⁹ Gaviria and Uribe have the same political party background: both are Liberals, even though Uribe declared himself a "Liberal dissident" during his election campaign in 2001-02.

⁹⁰ From the outset, the UN and others have questioned the nature of the negotiations with the paramilitary, the evident violation of the ceasefire and the potential for those having committed war crimes to obtain the equivalent of a "get out of jail" card. UN Special Envoy to Colombia James LeMoyne was reportedly accused by some government officials of leaking details about the paramilitary agreement and tensions surrounding it to *El Tiempo*, the major Colombian daily. LeMoyne issued a statement, on 26 January 2004 to the effect that OAS participation could be positive as long as it is "well defined and supported". This was followed by a statement from the Office of the Peace Commissioner welcoming the help given by the UN to the OAS in its task of accompanying the government's peace efforts, *El Tiempo*, 29 January 2004, p.5.

⁹¹ "Convenio entre el Gobierno de la República Colombiana y la Secretaría General de la Organización de los Estados

Americanos para el acompañamiento al proceso de paz en Colombia", Bogotá, 23 January 2004.

⁹² OAS Resolution CP/RES.859(1397/04); *El Tiempo*, 7 February 2004, p.3. Controversy over the role of the OAS in Colombia has been brought to the fore by Human Rights Watch, which warned that the presence of Caramagna in the negotiation process suggested that the OAS was participating directly in the talks and overstepping its mandate, Human Rights Watch, "Letter to OAS Foreign Ministers on the Paramilitary Demobilisation Process", 31 March 2004.

⁹³ Santiago Canton, executive secretary of the Inter-American Commission for Human Rights, Permanent Council of the OAS, Washington D.C., 7 April 2004.

⁹⁴ Sergio Caramagna, a trained sociologist, had been head of the OAS office in Nicaragua (1997-2004). From 1993 to 1997, he was the general coordinator of the CIAV/OAS mission that oversaw the demobilisation of 20,000 Nicaraguan Contras (anti-Sandinista resistance movement financed by the U.S. government).

⁹⁵ The OAS took the decision, during its 34th assembly in Quito, to open five new offices in Colombia. It will now have offices in Bogotá, Medellín, Los Volcanes (Tierralta, Córdoba), Cúcuta (Norte de Santander), Barrancabermeja (Santander), Villavicencio (Meta) and Valledupar (Cesar).

uprisings by small groups of disgruntled individuals required continued OAS diplomatic intervention.⁹⁶

Other UN-supervised demobilisations of combatant forces have dealt with upwards of 50,000 combatants in under a year. In most cases, the definition of an agreed timetable for the demobilisation of specific units has been critical for removing uncertainty in the process.⁹⁷

In Colombia, the OAS received a broad mandate to become involved in monitoring ceasefire compliance and demobilisation of all irregular armed groups.⁹⁸ According to its chief, Caramagna, demobilisation of paramilitaries is only one important element of a comprehensive effort that must be part of any successful peace effort. He acknowledges the difficulties but is convinced of the importance of the challenge and has repeatedly stated that the mission is also to "work with the people" without attempting to apply preconceived models of conflict resolution. The task is to understand the Colombian social reality, including paramilitary motivations. He has entered into

⁹⁶ The Contra demobilisation process was regarded as having a somewhat jerry-rigged organisational structure, in part because of the complicated negotiations between the Sandinista government, the UN, the international community the Contras and their US backers that gave birth to it. Some said it was "treated as a diplomatic orphan or a mischievous stepchild by the OAS". See Caesar Sereseres, "Case Study: The Regional Peacekeeping Role of the Organisation of American States: Nicaragua, 1990-1993", in *Managing Global Chaos*, Chester Crocker, Fen Hampson and Pamela Aall (eds.), (Washington, D.C.: U.S. Institute of Peace, 1996), p.561. Nevertheless, the actual demobilisation was carried out in approximately one month time with support from UN peacekeeping forces who were part of ONUCA (UN Mission in Central America). The all-civilian OAS/CIAV carried the bulk of the responsibility for organising the process including repatriation of some 18,000 additional Contra support elements from Honduras between July and November 1991 and the reinsertion of all ex-Contras. See International Commission for Support and Verification, "Demobilizing and Integrating the Nicaraguan Resistance, 1990-1997", Organization of American States, 1999; and Denise Spencer, "Demobilisation and Reintegration in Central America", BICC Paper No. 8, Bonn International Centre for Conversion, February 1997, at www.bicc.de/publications/papers/paper08/paper8.pdf.

⁹⁷ On Liberia, where more than 50,000 ex-fighters have been demobilised in a half-year, see UNMIL/PIO/PR/90, 13 July 2004, "Disarmament begins in Zwedru", at www.un.org/Depts/dpko/missions/unmil/pr90.pdf. On the experience in El Salvador, see UN DPI, "Completed Peacekeeping Operations El Salvador", ONUSAL, July 1991-April 1995, at www.un.org/Depts/dpko/dpko/co_mission/onusal_backgr2.html#two.

⁹⁸ The mission's mandate is for three years with the possibility of an extension for an additional three years.

contact with the AUC to this end but also says the OAS must trust in the capacity, commitment and good faith of the Uribe administration.⁹⁹

Ralito II defines the concrete OAS role, stating that it is to verify that the agreement is respected, establish an office within the ZDU, serve on the Security Committee (*Comité de Seguridad y Convivencia*)¹⁰⁰ located within that zone, receive an inventory of AUC weapons, ammunition and communication systems, and keep the zone's residents informed of the demobilisation process. Through a Verification Committee that also includes delegates of the peace commissioner and the AUC, it is likewise to verify the ceasefire nationally.

However, it is still unclear how the OAS will be able to verify the ceasefire thoroughly beyond the ZDU. This is worrying, given the increase of violations in recent months.¹⁰¹ Present plans call for it to use its seven offices to monitor the progress of the demobilisation process and report at three-month intervals to the OAS Permanent Council.¹⁰² But in the words of a high-ranking OAS representative, the mission has a "large mandate but no money".¹⁰³ According to diplomatic sources, it seeks more funding from member states and the wider international community.¹⁰⁴

On a recent visit to Europe, Vice President Francisco Santos asked the EU for "political support" in the AUC demobilisation process.¹⁰⁵

Government sources regret, however, that the EU is reluctant to take part in that process because of doubts about the fundamental aims of the negotiation.¹⁰⁶ EU sources have told ICG that involvement in paramilitary demobilisation would make it more difficult for the Europeans to play a substantial role in talks with the

⁹⁹ ICG interview with Sergio Caramagna, Bogotá, 28 May 2004; also, Caramagna speaking during the 'Asamblea Permanente de la Sociedad Civil para la Paz', Bogotá, 15 July 2004.

¹⁰⁰ This tripartite committee includes one member each from the government, the OAS and the AUC. It seeks to coordinate and supervise the carrying of weapons, logistics and security in the ZDU.

¹⁰¹ In 2004 alone, security police statistics show 55 victims of homicides and/or massacres.

¹⁰² For the first report, including the Medellín process, see OAE/Ser.G CP/doc. 3894/04, "Informe Trimestrial del Secretario General sobre la Mision Para Apoyar el Proceso de Paz en Colombia (MAPP/OEA)"; ICG interview, Bogotá, 28 May 2004.

¹⁰³ ICG interview, Bogotá, 28 May 2004.

¹⁰⁴ ICG interview, Bogotá, 3 March 2004; *El Colombiano*, 4 February 2004, p.12 A.

¹⁰⁵ *El Colombiano*, 17 June 2004, p.12A.

¹⁰⁶ ICG interview, Bogotá, 26 March 2004.

insurgents.¹⁰⁷ It appears that the EU would prefer to be involved -- if at all -- in a broader demobilisation process and sees eventual negotiations with the ELN as more realistic.¹⁰⁸

U.S. financial help for AUC demobilisation is complicated by the fact that the AUC is on Washington's list of terrorist organisations. Reportedly the \$2 million that Ambassador Wood and his predecessor, Anne Patterson, pledged to help demobilisation in Medellín is being withheld until U.S. government lawyers can reach an agreement on the legal issue.¹⁰⁹

In Medellín in March 2004, Ambassador Wood had expressed strong concern that the demobilisation process was being implemented without a legal framework and adequate transparency.¹¹⁰ Three months later, however, the Bush administration announced support for the OAS mission, which it said could receive U.S. funds without infringing on terrorism-financing laws.¹¹¹ Nevertheless, that announcement did not indicate resolution of the question whether the U.S. could provide direct funding to the Colombian government or even NGOs if this were to benefit the AUC or its members.

Constraints on U.S. funding might ease when there is greater confidence that the process is moving toward the definitive end of the paramilitary phenomenon. Helpful indicators would be signed agreements by individuals ending membership in the AUC or other groups on the terrorism list, and a general context of the demobilisation process more clearly grounded in international legal norms and respectful of U.S. drug concerns.¹¹²

Meanwhile, expert OAS involvement -- at some risk to the organisation given doubts that still dog the demobilisation process -- is welcome, and the general funding problem needs to be remedied quickly. For its part, the OAS should take care that its commendable desire to understand the AUC agenda does not cause it to lose focus on its technical mandate.

III. THE MEDELLÍN EXPERIENCE

On 25 November 2003, some 870 members of the BCN (*Bloque Cacique Nutibara*) were demobilised in Medellín, Antioquia, the only major such action so far.¹¹³ Three converging factors were responsible: Adolfo Paz (aka Don Berna), BCN's leader, was keen to show a cooperative political side to paramilitary activity; Medellín's former mayor, Luis Pérez, wanted demobilisation in the city, which had established a peace and reconciliation program;¹¹⁴ and the Uribe administration desperately needed to show some results.¹¹⁵ The OAS has been involved with reintegrating the demobilised BCN since opening its Medellín office in March 2004.

According to the OAS mission's quarterly report in May 2004, reintegration is proceeding under "acceptable and positive conditions". The report also noted that legal action against former BCN members is underway as are attempts to find them jobs. These are seen by the OAS as key elements for success.¹¹⁶ ICG confirmed that practical efforts have been made. However, there are real concerns about continued control by the demobilised BCN over some neighbourhoods. The technical efforts have been made on a limited budget, with little central government support and against the backdrop of a partial demobilisation process. They are important but the process has not addressed the more challenging issues of bringing offenders to justice, compensating victims or dealing with drug trafficking and other illegal activities. The long-term risk is that paramilitary power in Medellín will be strengthened by institutionalising it.

The AUC has been the dominant force in Medellín since it penetrated the city with the BCN in 2001.¹¹⁷ By 2003, it controlled three quarters of Medellín's poorer neighbourhoods, including the main entrances to the

¹⁰⁷ ICG interview, Bogotá, 25 June 2004.

¹⁰⁸ Ibid.

¹⁰⁹ *El Tiempo*, 21 June 2004, p.4. The U.S. Justice Department is said to have cautioned the State Department on this in late June 2004.

¹¹⁰ *El Colombiano*, 18 March 2004, p.8A.

¹¹¹ *El Tiempo*, 29 June 2004, p.4.

¹¹² ICG interview, Washington D.C., 28 June 2004.

¹¹³ The exact number cannot be confirmed; sources mention figures ranging from 800 to 874. On 7 December 2003, 168 Self-Defense Peasant Fighters of Ortega (*Autodefensas Campesinas de Ortega*), Cauca region, were demobilised. See www.altocomisionadoparalapaz.gov.co.

¹¹⁴ Luis Pérez is said to have been elaborating a demobilisation project for years. His book describes a plan that would require \$7,650,000 (20 million pesos) to implement, Luis Pérez, *Compro la Guerra, Política Pública de Seguridad y de Reincorporación a la Civilidad* (Medellín, 2002); ICG interview, Bogotá, 2 April 2004.

¹¹⁵ ICG interview, Bogotá, 10 June 2004.

¹¹⁶ MAPP/OEA, "Informe Trimestral del Secretario General Sobre La Misión para Apoyar el Proceso de Paz en Colombia (MAPP/OEA)", 11 May 2004.

¹¹⁷ ICG interview, Medellín, 16 March 2004.

city.¹¹⁸ The general feeling today in Medellín is that the AUC has "won the war in the city" with a "para-peace".¹¹⁹ Estimates of those subject to the AUC command structure there, including gang members, range from 6,000 to 8,000.¹²⁰

A key concern in this demobilisation process is that many who went through it were not actual AUC members. Estimates vary but it is believed that a substantial number of the 875 were either gang members or simply young men attracted by the possibility of legal and employment benefits.¹²¹ Every demobilisation process will tend to attract free-riders, but the issue is the credibility of the process -- and that some genuinely affiliated paramilitaries might not have been included at all. Indeed, in March 2003, a BCN political leader stated that the group controlled 4,000 active fighters in Medellín.¹²² The most prominent example is Don Berna, BCN's chief, who refused to demobilise and is on the AUC negotiating team in Tierralta.

On 25 November 2003, BCN members were gathered into the new National Centre for Coexistence and Peace in La Ceja, outside Medellín. In a highly publicised media event, they ceremoniously handed over a mere 623 firearms, together with their uniforms.¹²³ The aim of this three-week assembly of paramilitaries was to collect data on the demobilised individuals. The mayor's peace and reconciliation unit has developed a program to re-socialise demobilised fighters as lawful citizens within communities where they previously operated.¹²⁴ Follow-up aid is given with employment, training, education, counselling, health care and justice.¹²⁵ As of 15 March 2004, 350 were estimated to be employed, 280 were receiving training 135 were studying at school or at university.¹²⁶ Four BCN members have been killed since demobilisation, supposedly by FARC gunmen.¹²⁷

Financial help (\$100 per person) was allocated for those in training or studying.¹²⁸

A. CONTINUED NEIGHBOURHOOD CONTROL

A number of elements raise questions about the long-term impact and democratic nature of this re-socialisation program. Community leaders and victims in neighbourhoods where the BCN has been demobilised tend to paint a darker picture. Even though the ex-fighters are not generally seen carrying arms, a number of sources have pointed out that they retain a tight grip on certain neighbourhoods, both politically and socially, through intimidation and disappearances.¹²⁹

Homicides appear to have decreased by 52 per cent in January 2004 compared to January 2003,¹³⁰ but reports of extortion attempts by demobilised BCN have risen.¹³¹ The Office of the Peace Commissioner reports that Antioquia has had the most assassinations since the AUC declared a ceasefire, mainly of community, trade union and indigenous leaders, public officials, human rights defenders, and outspoken women activists.¹³² Abductions there have risen by 64 per cent compared to the first three months of 2003,¹³³ and drug-money collection offices (*oficinas de cobro*) remain active in Medellín.¹³⁴

One explanation is that some of the purportedly demobilised have retained their contacts with the active paramilitaries.¹³⁵ Demobilisation in Medellín is complicated by the fact that AUC members as well as criminal gangs still operate there. The demobilised BCN appear to remain in close contact with the AUC through a cellular phone network, to consult their commanders on important decisions, and to operate according to their strict hierarchy.¹³⁶ In this context, guns are not needed

¹¹⁸ *Revista Semana*, 14-21 July 2003, p.27.

¹¹⁹ ICG interviews, Bogotá and Medellín, March 2004.

¹²⁰ ICG interviews, Medellín, 16-17 March 2004.

¹²¹ ICG interviews, Medellín, March 2004.

¹²² *El Colombiano*, 30 March 2004, p.6A.

¹²³ <http://www.altocomisionadoparalapaz.gov.co/>.

¹²⁴ Programa de Paz y Reconciliación, "Hacia la construcción de un modelo de intervención: para volver a la legalidad", 2004.

¹²⁵ ICG interview, Medellín, 16 March 2004.

¹²⁶ *El Colombiano*, 15 March 2004, p.11A. The figures on work appear plausible, but those relating to training and studying may only reflect offers; it has not been possible to verify actual participation, ICG interview, Bogotá, 30 March 2004.

¹²⁷ Sergio Fajardo, mayor of Medellín, quoted in *El Tiempo*, 27 June 2004.

¹²⁸ This subsidy is financed by central (ministry of the interior) and local government sources, *El Colombiano*, 15 March 2004, p.11A.

¹²⁹ ICG interviews, Bogotá and Medellín, March 2004.

¹³⁰ <http://www.altocomisionadoparalapaz.gov.co/>.

¹³¹ *El Tiempo*, 15 February 2004, p.2.

¹³² *El Colombiano*, 22 February 2004, p.6A. According to the non-governmental organisation U.S. Office on Colombia (USOC), in 2002, 17 per cent of all assassinated and disappeared persons were women, *The Impact of War on Women: Colombian Women's Struggle*, Washington, D.C., USOC, 2004.

¹³³ *El Tiempo*, 24 March 2004, p.6. There have been eighteen cases versus eleven.

¹³⁴ *El Tiempo*, 24 March 2004, p. 5.

¹³⁵ ICG interviews, Bogotá and Medellín, March 2004.

¹³⁶ ICG interviews, Medellín, 16-17 March 2004.

for the local population to understand that the BCN still exercises authority in the neighbourhood.

Another worrying trend involves the imposition of rigid social norms by demobilised fighters. In certain neighbourhoods, women are prohibited from wearing mini-skirts, there is a higher degree of persecution against women leaders and the murder rate for women has increased while the general murder rate has gone down.¹³⁷ Homosexuals are persecuted.¹³⁸

The AUC has generally presented itself as an organisation whose main objective is to provide a military solution to the insurgency. It has not put forward any coherent political vision or strategy. However, some neighbourhood leaders say that demobilised BCN members are attempting to impose new -- and co-opt pre-existing -- communal initiatives at the expense of democratic, community-oriented activities.¹³⁹ Four communities within the city recently declared that they have been put under pressure by the demobilised BCN fighters in the context of the elections of "communal action groups" (*juntas de acción comunal*).¹⁴⁰ Their complaints have been referred to the OAS for verification.¹⁴¹

Thirty of 50 demobilised BCN candidates were successful in recent community leadership elections,¹⁴² but the attempt by the mayor's office to transform paramilitaries into political and social leaders is questionable, since it does not take into consideration their previous conduct.

B. VICTIMS AND JUSTICE

The legal basis for the Medellín demobilisation process is Individual Demobilisation Law 782 (2002), Decree 3360 (2003) and Resolution 217 (2003), pursuant to which BCN members are judged for their own actions and not as a group participating in a peace process.¹⁴³ There is no linkage to the alternative sentencing bill.

¹³⁷ 190 women were assassinated in Medellín in 2003, *El Colombiano*, 9 March 2004.

¹³⁸ ICG interview, Medellín, 17 March 2004.

¹³⁹ ICG interviews, Medellín, 17-18 March 2004.

¹⁴⁰ A type of neighbourhood council.

¹⁴¹ The neighbourhoods of Villa de Guadalupe, El Pichacho, Belén Altavista and the 8th Comune, *El Colombiano*, 16 March 2004, p.12A.

¹⁴² *El Colombiano*, 23 May 2004, p.8A.

¹⁴³ These laws regulate the financial and institutional support given to demobilised individuals. Decree 3360 eliminates the need for such persons to be certified by the *Comité Operativo para la Dejación de Armas* (CODA), as proof of membership

ICG interviews suggested that the 800 or so demobilised individuals have probably not committed war crimes or crimes against humanity.¹⁴⁴ Only charges of "political rebellion" have been lifted, and they remain liable for any other offences. To date, 21 have been formally detained since demobilisation, and some 220 are under investigation, for charges ranging from theft to aggravated homicide.¹⁴⁵

The AUC leadership has made it clear that there will be no further demobilisation until the legal regime of the national demobilisation process is determined.¹⁴⁶ Sergio Fajardo, mayor of Medellín, recently added to the confusion surrounding the demobilisation in his city by proposing that the demobilised BCN members with pending charges should be sent into the ZDU, where their cases could be included in the general regime, following passage of the justice and reparation bill.¹⁴⁷

One of the unfortunate follow-on effects of the Medellín process is that more than a third of the demobilised have not received identification documents due to pending investigations.¹⁴⁸ Moreover, and more worryingly, victims of past paramilitary crimes are essentially absent from the demobilisation process and debate there.

Alonso Salazar, government secretary in charge of interior affairs in Medellín, who has become increasingly aware of the importance of justice and reparation to the demobilisation process, has requested creation of a truth commission there to shed some light on the increased number of disappearances and assassinations.¹⁴⁹ However, Peace Commissioner Luis Restrepo dismissed the idea of any type of extra-judicial mechanism as populist.¹⁵⁰ That put an end to a well-meaning initiative that might have helped clarify and legitimize the city's demobilisation process.

C. DRUG TRAFFICKING AND ILLEGAL TRADE

The Medellín process has also not tackled the issue of the paramilitaries' income, which is mainly from

in an illegal armed group. Article 1 of Decree 3360 states that paramilitary group membership of a demobilised individual is proved by a list produced by the leaders of the group. <http://www.altocomisionadoparalapaz.gov.co/>.

¹⁴⁴ ICG interviews, Bogotá and Medellín, March 2004.

¹⁴⁵ ICG interview, Tierralta, 30 July 2004; *El Tiempo*, 27 May 2004.

¹⁴⁶ *El Tiempo*, 16 May 2004, p.6.

¹⁴⁷ *El Tiempo*, 28 June 2004, p.4.

¹⁴⁸ Identification documents are received only after all legal action is resolved.

¹⁴⁹ *El Tiempo*, 15 February 2004, p.2.

¹⁵⁰ *El Tiempo*, 17 February 2004, p.5.

illegal trade and theft. No attempts have been made to establish the degree to which demobilised BCN fighters were involved in drug trafficking. This is the more surprising as the head of the BCN, Don Berna, is widely considered to be in charge of all drug-money collection offices in the north of the country. BCN demobilisation thus needs to take drug trafficking and other illegal activities into account.¹⁵¹ Paramilitaries who continue in the drug business should not be eligible for benefits.¹⁵² Furthermore, reparations are required for the victims of forced displacement (due to land appropriation, a tactic commonly used to launder paramilitary drug money). Reports are growing of increased land acquisition by AUC leaders through both coercion and purchase.¹⁵³

The Medellín experiment has lost much credibility not only because of poor organisation but also because it appears to be running the risk of perpetuating paramilitary control in the city without tackling key issues. The Uribe administration cannot sell it as a first demobilisation success. Rather, it is a reminder of the problems associated with partial processes that lack a solid legal base.

D. CENTRAL GOVERNMENT VS. MUNICIPAL GOVERNMENT

Distancing himself from past governments, President Uribe has made it clear since the beginning of his term that only the central government (the president and the high commissioner for peace) are to negotiate peace agreements with armed groups.¹⁵⁴

The process in Medellín has suffered from this tension between the local and central authorities. It was started at the local level in the mayor's office, but the central government has since asserted its authority, leaving the division of tasks unclear. It is urgent that the roles be clarified, and the central government fully support the process by providing the necessary funds. At present, Medellín's program for peace and reconciliation and Peace Commissioner Restrepo's delegate in the city are attempting to cope with very limited resources. The former has a meagre budget of some \$2,000, the amount left by the past mayor who had received \$7,500 (20 million pesos) for the program and apparently spent the rest on unrelated projects.¹⁵⁵

¹⁵¹ ICG interviews, Medellín, March 2004; *El Tiempo*, 11 February 2004, p.5.

¹⁵² See ICG Report, *Negotiating with the Paramilitaries*, op. cit.

¹⁵³ See "Los señores de las tierras", *Semana*, 31 May-6 June 2004.

¹⁵⁴ ICG interview, Bogotá, 3 March 2004. Under the Pastrana administration, for example, a group of 22 mayors had negotiated an agreement with insurgents, see ICG Latin America Report N°2, *Colombia: The Prospects for Peace with the ELN*, 4 October 2002.

¹⁵⁵ Sergio Fajardo replaced Luis Pérez as mayor of Medellín in January 2004, *El Colombiano*, 31 January 2004, p.12A; *El Tiempo*, 3 February 2004, p.4.

IV. DEMOBILISATION AS A STEP TOWARD PEACE

The difficulties in the current stage of the AUC demobilisation process as well as the Medellín experience underscore that the Uribe administration should reconsider its approach to "eliminating one factor of violence from the conflict". The key concern is that the government will not be able to achieve this important goal within the new negotiation parameters without devising and implementing an effective and integral disarmament, demobilisation and reintegration (DDR) policy that aims also at dismantling the paramilitary structure as a whole. This requires involving civil society and victims' associations in the public debate about demobilisation. It also requires severing any links between the demobilised paramilitaries and local armed forces commanders as well as the large land-owners and cattle ranchers who fund the AUC in exchange for protection against the insurgents. It further includes getting to the root of and eliminating the AUC's deep involvement in drug trafficking without giving the FARC and drug cartels a chance to take over its stake.

Demobilisation should not be subordinate to the government's military efforts, most importantly against the FARC, but rather should seek to build the base for a lasting peace with all the irregular armed groups. This implies that DDR policy focus on establishing as soon as possible the legal framework for the collective demobilisation of all of them, including clear provisions on punishment of war crimes, reparations for victims, return of ill-gotten assets and re-integration of former combatants. This is a complex undertaking that requires time, planning, and substantial funds.

Lessons need to be learned from the unsatisfactory Medellín experiment, especially with respect to why and how the BCN has retained dominance in many neighbourhoods and the costs of not tackling the issues of justice, truth and reparation, and drug trafficking. The AUC negotiators' declared intention not to pay for grave crimes but to hold onto power, albeit as a "political movement", in large parts of the country after demobilisation clearly shows an intent to legitimise and perpetuate the movement.

The Uribe administration is faced with two central conundrums. High-ranking members of the government share the perception that the overtaxed army and police are not capable of expanding and maintaining territorial control. Probably because of a deep-seated fear of giving the insurgents an advantage, they believe that the AUC must be demobilised

gradually so that the areas previously under its control can be secured permanently against the FARC. The AUC leadership plays constantly on this concern.¹⁵⁶ Further, large land-owners and ranchers in AUC-dominated regions -- many with close links to the paramilitaries or even AUC commanders themselves -- clearly have a vested interest in continued protection against the insurgents.

However, other government officials as well as high-ranking military officers, including the inspector general of the armed forces, are convinced that the government is not compelled for purely military reasons to "pacify" the paramilitary front. They insist that the armed forces could combat both the insurgents and the AUC effectively if military operations were restructured, and the AUC complied with the ceasefire so that government troops currently confronting them in several parts of the country (e.g. the departments of Meta, Casanare and Guajira) could be redeployed.¹⁵⁷

The second challenge is to terminate AUC involvement in drug trafficking. Drug traffickers should be brought to justice, not demobilised. The U.S. position that extradition is non-negotiable underscores the problem. The AUC's emphatic refusal of prison sentences, be they in Colombia or the U.S., combined with its "unification" following Castaño's disappearance and the government's demand to concentrate in Tierralta show that Uribe is up against a bolder negotiating partner determined to pursue its own agenda.¹⁵⁸ The AUC negotiating team includes drug lords, commanders of more genuine self-defence groups and common criminals-turned-paramilitaries.

Mancuso's recent political offensive, which presents the AUC's willingness to negotiate as the key to peace negotiations with all irregular armed groups, could tempt the government to seek a quick agreement as in Medellín with the BCN. However, this must not be at the expense of resolving the key issues identified above.

¹⁵⁶ ICG interviews, Bogotá and Tierralta, 29-30 July.

¹⁵⁷ An official at the vice-presidency made the following statement to ICG: "How should one explain that 350,000 men (the total strength of Colombia's armed and police forces) could not do what 15,000 paramilitaries do?" However, the at best modest achievements of a large military operation (Plan Patriota) against the FARC in the southern departments of Caqueta, Guaviare and Meta illustrate the problem. ICG interviews, Bogotá, 4 June and 29 July 2004; "El río de la Guerra", *Semana*, 19-26 July 2004, pp.62-69.

¹⁵⁸ In fact, concentration of the AUC leadership in Tierralta provides the paramilitaries a degree of unity they previously lacked.

It is clear that the AUC leadership is angling to trade its claimed "service to the nation" -- including the chance for the government to concentrate militarily on the FARC -- for assurances its top figures will not be extradited to the U.S. and that it can hold on to at least a portion of its illegally acquired assets, including land. It is plausible that it will be able to count on the continued support of many large land-owners and cattle ranchers. There is a real danger that long-standing links between local army commanders and AUC units would not be severed in any deal because they would still be considered important for protecting areas against FARC or ELN attacks.

Indeed, in order to deny space to the FARC, the government appears to have made a tactical decision to rely at least to a degree on paramilitary presence in large stretches of the country. Thus the ongoing war with the major insurgent group could frustrate President Uribe's declared intention to dismantle the paramilitary apparatus as a whole, including in rural society.

The paramilitaries were the armed group that suffered the most combat casualties in 2003: 1.54 for every 100 men, up from 1.21 in 2002.¹⁵⁹ However, even though military actions against them have been stepped up, they are still less frequent than against the FARC or the ELN, and there has been no comparable attempt to target their leadership structures. Between January and March 2004, strikes against paramilitaries were significantly lower than against the forces of the two insurgencies.¹⁶⁰ Most combat was in Casanare and Meta departments, two regions in which the Alianza de Oriente, which is not part of the AUC negotiating team, operates.¹⁶¹

While it remains to be seen how the negotiations in Tierralta unfold -- and how the FARC will react to them¹⁶² -- any government inclination to give in to

AUC's "self-legitimation" would deepen domestic and international opposition to the process. The government needs politically to keep the process going, and postponing the sticky issues in the justice and reparation bill -- such as prison terms and extradition -- is a move to gain time. The Uribe administration has stated that it will not discuss these thorny issues in Tierralta but only AUC demobilisation in a narrow sense.¹⁶³

The U.S. will almost surely remain outside this process, at least until its presidential election is over. However, the AUC can be expected to try to take advantage of Washington's great interest in obtaining information about drug trafficking in order to cut a deal. That may be the reasoning behind the repeated invitations of several commanders to the Bush administration to participate in the demobilisation talks.

Colombian and international public opinion would react extremely negatively if AUC commanders received only light punishment for their crimes, refused to contribute to reparations for victims and their families and retained their illegal assets. The Uribe administration must develop a demobilisation strategy based on a clear legal and political framework that incorporates these fundamental operational elements, so the Medellín mistakes are not repeated nationally.

There appears to be no way around some form of the proposed new and toughened alternative sentencing bill as a minimum legal framework. In addition, the core issues of drug trafficking, extradition and ill-gotten assets have to be addressed in any demobilisation accord with the AUC. If this is done satisfactorily, the AUC complies fully with the ceasefire, and begins to abide by an agreed upon demobilisation timetable for its forces, the Uribe administration should consider offering to renegotiate extradition with the U.S.¹⁶⁴ A compromise might include the option of U.S. prison sentences to be served in Colombia.

The government's success or failure will be judged by whether it obtains the complete dismantling of the

¹⁵⁹ Fundación Seguridad y Democracia, "Colombia: Balance de Seguridad 2003", p.2.

¹⁶⁰ Fundación Seguridad y Democracia, "Boletín N°4: Evaluación de la Seguridad en Colombia Primer Trimestre 2004", p.2.

¹⁶¹ Fundación Seguridad y Democracia, "Boletín N°3 Oct-Dec 2003", p.2.

¹⁶² On 15 June, 40 FARC fighters killed 34 coca leaf pickers (*raspachines*) in La Gabarra (Norte de Santander), after accusing them of working for the paramilitaries. La Gabarra is in the Catatumbo region close to the Venezuelan border where large swaths of coca crops, possibly up to 30,000 hectares, exist. During the last three to four years, the FARC and the AUC have been fighting over control of the Catatumbo region. The June massacre may in part be seen as an attempt by the FARC to torpedo the government-AUC negotiations by provoking the paramilitaries into retaliation. Government leniency in the demobilisation talks could be

exploited politically by the FARC, which has not missed a chance to brand the Uribe administration as a supporter of the paramilitaries.

¹⁶³ ICG interview, Bogotá, 29 July 2004. Other matters that need to be addressed if a proper framework for DDR is to be developed include the chronic weaknesses in the working of Colombia's judicial institutions and the weak application of law, such as the asset forfeiture law. See ICG Latin America Report N°6, *Colombia: President Uribe's Democratic Security Policy*, 13 November 2003; Council of Foreign Relations, "Andes 2020: A New Strategy for the Challenges of Colombia and the Region", New York, 2004.

¹⁶⁴ ICG interview, Bogotá, 15 July 2004.

paramilitary structure (*desmonte del paramilitarismo*).¹⁶⁵ To achieve that goal, it needs to expand the state presence further across the country and reach out far more decisively with effective social, economic and security programs to the great majority of Colombians, especially in the rural areas, who have been victimised by both the paramilitaries and the insurgents for decades. This requires forcing large land-owners and cattle ranchers in (formerly) AUC-controlled areas to pay taxes to help finance the new security, land access, rural development and other measures. They have financed paramilitary structures; now they must show their willingness to finance the state's efforts.

Demobilisation should not be seen as another of the president's quick achievements in his own version of the "war on terror" but rather as an essential component of a potentially viable peace. For this it needs to be much more solidly grounded. It requires the government to engage civil society organisations and victims' associations in public dialogue about the aims of AUC demobilisation, as well as reparations and the mandate of a commission to document abuses of human rights and international humanitarian law.

The OAS mission can only justify its presence if AUC demobilisation does not entail whitewashing drug lords and paramilitary commanders responsible for grave crimes, including crimes against humanity. Its mandate is medium to long-term and in principal covers verification of the demobilisation of all armed groups. Involvement in a precarious process with the AUC that lacks legitimacy, however, could seriously forfeit any future role with respect to the ELN and FARC.

V. THE PROSPECT OF NEW ELN NEGOTIATIONS

New talks between the Uribe administration and the ELN -- which would reverse the stance taken by the insurgents in 2002 not to negotiate with the Uribe government or accept third party involvement -- could serve as a test case for a different, comprehensive demobilisation strategy. The government's expressed willingness to pursue some form of reciprocal ceasefire with the ELN is positive. Despite serious hurdles, negotiations with the smaller of Colombia's two insurgencies could prove easier than with the AUC because the ELN is not as deeply involved in drug trafficking.¹⁶⁶ It is also smaller (some 4,000 fighters), lacks strategic capacity, has less money and controls very little territory.¹⁶⁷

Colombian analysts have highlighted the contrasts between the government and ELN stances regarding future talks.¹⁶⁸ The Uribe administration wants to commit the insurgents to a ceasefire and may plan to use their demobilisation as cover for a hasty, improvised and lenient AUC demobilisation. The ELN insists on substantial modifications of government policy, a humanitarian accord (including liberation of "political prisoners", its own and FARC's) and a bilateral ceasefire. Perhaps most importantly, the ELN high command has requested that negotiations for a "political solution [to the conflict] do not repeat the errors of the past", in other words, the unconditional and unprotected demobilisation of several insurgent groups in the late 1980s and early 1990s, many of whose members were subsequently assassinated.¹⁶⁹

¹⁶⁶ On the ELN, see ICG Report, *The Prospects for Peace with the ELN*, op. cit.

¹⁶⁷ According to the ELN's own sources, which are probably exaggerated, during the first five months of 2004, it conducted military operations in eight of the 33 Colombian departments. Of 41 total operations, thirteen were in Arauca, nine in Antioquia, eight in Bolivar, four in Cesar, three in Santander, and two each in Cauca and La Guajira. This indicates that some 70 per cent of all ELN operations were in just three departments. All were skirmishes with army units or paramilitaries. The only operation that produced high enemy casualties was a joint FARC/ELN attack on a paramilitary camp in Bolivar that killed 60 paramilitaries and wounded 50. Data processed by ICG on the basis of the ELN's "partes de combate", 30 December 2003-30 May 2004.

¹⁶⁸ Alfredo Rangel, "Dialogo de sordos", *El Tiempo*, 2 July 2004.

¹⁶⁹ COCE, "El acuerdo humanitario y los caminos de la paz", Mountains of Colombia, 14 June 2004.

¹⁶⁵ ICG interview, Bogotá, 26 May 2004.

Exploration began in May 2004, when the insurgents wrote to the left-wing mayors of Bogotá (Luis Garzon) and Medellín (Sergio Fajardo) and the governor of the department of Valle (Angelino Garzon) stating readiness to start regional talks without the central government. Simultaneously, the ELN high command released a program document called "Alternative National Agenda: a Proposal by the National Liberation Army".¹⁷⁰ Importantly, it did not explicitly mention establishment of a "national convention" within a demilitarised zone, a core ELN request during the talks with the Pastrana administration. Instead, it called for "construction of a consensus" on key issues: alternative sentencing, the humanitarian and social crisis, presidential re-election¹⁷¹ and U.S. interventionism and drug trafficking.

Attending the third European Union-Latin American and Caribbean Summit in Guadalajara, Mexico (28-29 May 2004),¹⁷² President Uribe reiterated his offer to begin peace negotiations with the ELN on condition it ceased hostilities.¹⁷³ He also asked his Mexican counterpart, Vicente Fox, for support. On 1 June, the ELN's high command (Comando Central or COCE) stated its intention to establish direct communication with the Fox administration. On 4 June, ELN spokesperson Francisco Galan, imprisoned in Itagui (Antioquia), was released for one day to address Congress during an international forum on landmines. He also met Vice President Santos, Peace Commissioner Restrepo, Director of the Human Rights Office at the Vice Presidency Carlos Franco and Mexico's ambassador to Colombia.

Speaking on behalf of the high command, Galan proposed a humanitarian accord that would include limitation on landmines, a general amnesty of all "political prisoners" and a temporary government/ELN ceasefire. While he made the ELN's traditional plea for

respecting international humanitarian law, he omitted referring to an end to kidnapping and the release of all kidnap victims, which are core requirements if the ELN is to cease hostilities.¹⁷⁴

Nonetheless, the proposal was received with optimism by the Catholic Church, members of the Civilian Facilitating Commission (*Comision Facilitadora Civil*) and the Spanish embassy in Bogotá. Paramilitary leader Salvatore Mancuso expressed "happiness" about the prospect of new peace talks with the ELN.¹⁷⁵ The government stated its intention to stop all military operations against the ELN if the insurgents ceased hostilities. Reportedly, President Uribe and Galan talked by telephone following the latter's appearance in Congress.¹⁷⁶

On 23 June 2004, a former Mexican Ambassador to Colombia, Andres Valencia, designated a week earlier by the Fox administration to facilitate the process, met with Galan in the Itagui prison. The six-hour encounter, which was preceded by a meeting between Uribe and Valencia on 17 June, was also attended by Francisco Caraballo, leader of the Popular Liberation Army (*Ejercito Popular de Liberacion [EPL]*)¹⁷⁷, who is also serving a prison sentence in Itagui. The discussion focused on the government's cessation of hostilities condition and the ELN's proposal of a humanitarian accord, contained in more elaborate form in an ELN document issued on 14 June.¹⁷⁸ Through a communiqué, Restrepo's office expressed support of the meeting as well as its intention to consider the ELN proposal.¹⁷⁹ A second meeting between Galan and

¹⁷⁰ COCE, "Agenda nacional alternativa: una propuesta del Ejercito de Liberacion Nacional", Mountains of Colombia, May 2004. On the national convention concept, see ICG Report, *The Prospects for Peace with the ELN*, op. cit.

¹⁷¹ The 1991 constitution does not allow a president to be re-elected. President Uribe and his supporters have made discussion of a possible constitutional amendment a political priority.

¹⁷² See ICG Latin America Briefing, *Increasing Europe's Stake in the Andes*, 15 June 2004.

¹⁷³ From August to December 2002, the Uribe government pursued the possibility of peace talks with the ELN. Several meetings were held in Cuba. However, in December 2002, the ELN withdrew from these exploratory talks, charging that negotiation was out of the question because of the Uribe administration's aggressive military strategy. In many parts of Colombia at this time, the ELN was being "absorbed" by the FARC.

¹⁷⁴ According to the Colombian NGO Free Country Foundation (*Fundacion Pais Libre*), the ELN has abducted eleven civilians on average during the first five months of the year and holds 391, a 60 per cent decrease from 2003. *El Tiempo*, 8 June 2004.

¹⁷⁵ Salvatore Mancuso, "La Paz es la meta y también el mejor camino", 4 June 2004, at www.colombialibre.org. In early June, the paramilitary leadership claimed to have received a letter from a Ricardo Lara Front of the ELN, asking for inclusion in the negotiations in Tierralta. Responding to this claim, the commanders of the ELN's Carlos Alitio Buirago Front issued a communiqué stating that no such ELN front exists. Direccion CAB, "A la opinion nacional e internacional", Mountains of Antioquia, 2 June 2004.

¹⁷⁶ *El Pais*, 11 June 2004.

¹⁷⁷ The left-wing EPL insurgency was largely demobilised between 1990 and 1994 under accords signed by former Presidents Barco and Gaviria. A few small guerrilla remnants are still active.

¹⁷⁸ COCE, "El acuerdo humanitario y los caminos de la paz", op. cit.

¹⁷⁹ Alto Comisionado para la Paz, "Mexicano Andrés Valencia comienza labor de facilitación entre Gobierno y ELN", 18 June 2004.

Valencia was agreed, and establishment of direct contact between the Mexican government and the ELN high command was left open as a possibility.¹⁸⁰

The ELN is clearly critical of the government's talks with the AUC and sceptical of Uribe's real intention. A bilateral ceasefire would be a sign to the insurgents of a policy change, as would a general amnesty for all "political prisoners", including ELN and FARC fighters.¹⁸¹ The ELN continues to assign great importance to "bringing civil society into the peace process" through participation in negotiations of civic associations -- with or without a National Convention -- and in the design and implementation of socio-economic and political reforms.¹⁸²

Both the government and the ELN have taken risks in going as far as they have, and both appear interested in making new talks happen. However, difficulties were apparent on 7 July, when, in response to the ELN's proposal for a bilateral ceasefire, the government proposed a ceasefire that would be declared first by the ELN then reciprocated. Galán made clear in his response that the ELN did not consider Restrepo's suggestion adequate. He regretted "improvisation" in the government's peace policy and that it did not refer to what he called ELN concern for the country's social and humanitarian crises.¹⁸³ Mexico's facilitating role, which in principal does not exclude possible future involvement of the ELN's mentor Cuba as well as other countries that belonged to the "group of friends" of the peace process with the ELN during the Pastrana administration, is clearly positive.

UN officials have noted that Secretary General Annan's office has maintained channels to the ELN leadership. The UN continues to advocate negotiations with the ELN, and it supports Mexico's efforts along with other steps leading toward renewed dialogue. Should serious and structured negotiations become possible, it is ready to take an active supporting role.¹⁸⁴

The ELN's recent kidnapping of Bishop Misael Bacca of Yopal sparked strong condemnation in Colombia and internationally (especially by the UN and the Vatican).¹⁸⁵ This event shows that the group is divided and unclear as to its political course. Nevertheless, if the

dispute over the nature of a ceasefire can be resolved, there is a real chance that demobilisation talks with the insurgents will get off the ground even though it is likely that these will be difficult because the ELN will presumably insist on including a more explicitly political agenda.

¹⁸⁰ *El Tiempo*, 23 June 2004.

¹⁸¹ COCE, "Agenda nacional alternativ", op. cit.

¹⁸² COCE, "El acuerdo humanitario y los caminos de la paz", op. cit.

¹⁸³ Francisco Galán, "Carta enviada al Facilitador Andrés Valencia", 9 July 2004.

¹⁸⁴ ICG interview, New York, July 2004.

¹⁸⁵ Bishop Misael Bacca of Yopal was subsequently released on 27 July, *El Colombiano*, 28 July 2004, p.12A.

VI. CONCLUSION

The Uribe administration is at a crossroads. Halfway through his tenure, the president could achieve an important breakthrough in the demobilisation of irregular armed groups, thereby providing his "democratic security policy" the one core element it has practically lacked. If that happens, the chances for achieving a sustainable peace and strengthening democratic governance and the rule of law across Colombia could increase considerably.

Much depends on what approach the government takes in negotiations with the AUC and, possibly, the ELN; how it plans to manage the DDR process; and whether Peace Commissioner Restrepo's efforts to bring the AUC leadership to rethink its positions will be successful.¹⁸⁶ The urgent task of "eliminating factors of violence from the conflict" should not come at the expense of leniency toward the AUC -- including accepting impunity for grave crimes and drug trafficking and allowing the paramilitaries to retain a counter-insurgency function after demobilisation. The rights of victims to justice, truth and reparation must be fully respected, and the government must be clear that the fundamental aim of demobilisation is constructing a basis for peace that could help restore the damaged social fabric of Colombian society, not merely to facilitate its own war effort. The goal should be to dismantle the paramilitary structure. International support, including the success of the OAS mission, hinges on the design and implementation of a comprehensive and effective DDR strategy.

The problems evidenced by the Medellín experiment highlight the dangers of hasty and improvised DDR without a coherent legal framework for collective demobilisation and reintegration of irregular armed groups. That experience shows that a demobilisation process narrowly focused on "eliminating one group from the armed conflict", implemented ad hoc, and not treating adequately issues of justice, truth, victim reparation, and gains from illegal activities is likely to fail.¹⁸⁷

It is unlikely the government can demobilise large numbers of paramilitary and ELN fighters (perhaps 16,000 to 24,000 combatants) without the new justice and reparation bill. At the Tierralta negotiations, where it is faced with an emboldened group of paramilitary leaders deeply involved in drug trafficking and determined not to pay for their grave crimes or relinquish their substantial ill-gotten assets and regional control, the Uribe administration should use the extradition threat strategically.

One formula could be to make it clear from the outset that while extradition is not negotiable, if the AUC complies with the ceasefire and other requirements (concentration of forces, cooperation with the OAS mission, complying with a demobilization timeline, proven disengagement from drug trafficking, return of illegally acquired assets, and victim reparations) the Uribe administration could offer to renegotiate the existing requests so that prison sentences could be served in Colombia under conditions stipulated in the justice and reparation bill rather than in the U.S. Delivery on this concession, however, should only come after AUC compliance with all government conditions.

While the new justice and reparation bill provides plenty of "carrots", a major "stick" is also required to make negotiations work. The government should be much more public and visible in warnings to the AUC that failure to cooperate would be met with the full force of the state, led by a special unit of the anti-terrorist force whose sole task would be the pursuit, capture or destruction of AUC leadership structures; it would begin operations against those paramilitary forces refusing to negotiate. This could encourage better AUC behaviour. At the least, it would give the government a Plan B should demobilisation fail.

Simultaneously, the Uribe administration should use the possibility of peace talks with the ELN to devise and implement a comprehensive and integral peace and DDR strategy. It should consider taking up the ELN's demand for broad civil society and church participation with the demobilisation and reintegration of the ELN fighters. Human rights and international humanitarian law as well as the issues of justice, reparations and socio-economic measures to facilitate reintegration of demobilised fighters should be at the heart of ELN negotiations. While talks with the ELN should be kept separate from those with the AUC, they should be conducted simultaneously if possible by the high commissioner for peace, within the same legal and institutional framework and with the same aim: the

¹⁸⁶ In the ZDU, Restrepo is assisted by three young members of his office: Olga Lucia Zuluaga, Maria Paula Muñoz and Liliana Pulido, who seek to bring the AUC leaders a better understanding of the national and international dimensions of the government's effort to demobilize the organisation.

¹⁸⁷ While some of the Medellín mistakes are not retrievable, the government should at least increase police, armed forces and judicial institutions in the neighbourhoods where the

BCN have been reintegrated and involve the local community and social actors in a more transparent way in its programs.

demobilisation of all irregular armed groups in a manner that safeguards the rule of law and victim reparation and provides a solid base for sustainable reintegration.

A first step would include concentrating ELN fighters in an appropriately protected, government-designated area, with arrest warrants lifted and ceasefire verification by the OAS mission. A second step should involve transparent negotiation with civil society and church participation and within a clear timeframe of a DDR strategy. Such a comprehensive peace approach would strongly increase the chances for international support, from not only from the U.S. but also the EU and its member states.¹⁸⁸

At the same time, the government should increase its efforts to reach across the national territory with security, social and economic programs for those Colombians most affected by the armed conflict and poverty. Armed groups, or those parts of them, that violate the basic condition of ending hostilities should be excluded from the negotiations and countered with all legal force.¹⁸⁹ Any future demobilisation of the FARC should be conducted on the same basis.

Bogotá/Brussels, 5 August 2004

¹⁸⁸ See Declaration by the Presidency on behalf of the European Union on the occasion of the formal start of talks between the government of Colombia and the AUC paramilitary groups, 30 June 2004.

¹⁸⁹ The government's disposition to do just that was evidenced by the exclusion of two paramilitary commanders from the talks in Tierralta and the reinstatement of the arrest warrants after a unit under their command kidnapped former Senator Jose Gnecco and his family near Santa Marta on 27 June.

APPENDIX A MAP OF COLOMBIA



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