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INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS  
ADOPTED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS  
ON 16 DECEMBER 1966

NOTIFICATION BY COLOMBIA UNDER ARTICLE 4 OF THE COVENANT

The Secretary-General of the United Nations, acting in his capacity as depositary, communicates the following:

I

On 21 July 1992, the Secretary-General received from the Government of Colombia a notification, dated 16 July 1992, made under article 4 (3) of the Covenant, to the effect that the national Government had proclaimed a state of emergency throughout the national territory. The measure was adopted by means of Legislative Decree No. 1155 of 10 July 1992, to remain in force until 16 July 1992.

The reason for the proclamation was to preserve public order by preventing the cartels responsible for the most serious assaults on public order from evading justice. The prospect of a torrent of releases on parole of persons many of which "awaiting trial for a wide variety of terrorist activities ... in addition to the acts perpetrated by the drug-trafficking cartels", which might have taken place under the provisions of a newly promulgated Code of Penal Procedure, "in ... disregard of the applicability of the special legislation", was causing "serious disturbances of public order".

The provisions of the Pact which were derogated from are articles 12, 17, 21 and 22.

..... A copy of the English translation of the above-mentioned notification is attached herewith.

II

On 20 November 1992, the Secretary-General received from the Government of Colombia a notification, dated 10 November 1992, made under article 4 (3) of the Covenant, to the effect that the "Government has declared a state of emergency throughout the national territory, for a period of 90 calendar days". The measure was adopted by means of Legislative Decree No. 1793 of 8 November 1992, to remain in effect until 6 February 1993.

Attention: Treaty Services of Ministries of Foreign Affairs and of international organizations concerned



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The reason for the state of emergency was that "In recent weeks, the public order situation in the country ... has grown significantly worse because of terrorist activities by guerilla organizations and organized crime." ... "Those criminal groups have also managed to obstruct and evade judicial action because the criminal justice is unable to use military forces as a judicial police organ to gather the necessary evidence."

The provisions of the Pact which have been derogated from are articles 12, 17, 21 and 22.

..... An English translation of the above-mentioned notification is attached herewith.

## III

On 29 March 1993, the Secretary-General received from the Government of Colombia a notification, dated 5 March 1993, to the effect that the state of emergency in effect has been extended for a further period of 90 calendar days. The measure was adopted by means of Legislative Decree No. 261 of 5 February 1993 and will remain in effect until 7 May 1993.

The reason for this extension is a continuation of the public order disturbances.

The provisions of the Pact which continue to be derogated from are articles 12, 17, 21 and 22.

..... An English translation of the above-mentioned notification is attached herewith.

17 September 1993

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Translated from Spanish

REPUBLIC OF COLOMBIA  
MINISTRY OF FOREIGN AFFAIRS

DM 01826

Santafé de Bogotá, 16 July 1992

Sir,

On behalf of the Government of the Republic of Colombia, I have the honour to inform you, in accordance with the provisions of article 4 of the International Covenant on Civil and Political Rights, that the Colombian Government, in exercise of the powers granted to it under article 213 of the Political Constitution, has proclaimed a state of civil unrest.

The Political Constitution of the Republic of Colombia provides for various states of emergency, according to the gravity of the circumstances, with a state of civil unrest being that which impairs the peacetime legal order to the least extent.

This measure, the basis for which lies in the deterioration of internal public order, was adopted by means of Legislative Decree No. 1155 of 10 July 1992, and remains in effect until Thursday, 16 July 1992.

Pursuant to article 215 of the Political Constitution, legislative decrees are subject to review by the Constitutional Court. Accordingly, the Government has referred the above-mentioned decree to the Court.

His Excellency Mr. Boutros Boutros-Ghali  
Secretary-General of the United Nations  
New York

Likewise, in accordance with the constitutional norms of the Republic of Colombia, the Government has today submitted to the National Congress a documented report giving reasons for the measures adopted.

The report states the reasons for the proclamation of a state of civil unrest, which I should like to explain.

The opening paragraphs of Decree No. 1155 of 1992 refer to the earlier manifestations of the serious disturbance of public order. The country remembers, with sorrow and righteous indignation, the horrendous events which took place during the so-called war of narcoterrorism, namely, the assassinations of judges and the intimidation of the judicial system, the car-bomb attack on the Administrative Security Department (ASD) facilities, the assaults on journalists and newspaper publishers, the bombing of the Avianca aircraft, the police officers and civilians who died unable to defend themselves, and the assassination of three presidential candidates - Luis Carlos Galan, Carlos Pizarro and Bernardo Jaramillo.

Within the framework of the previous state of siege, a special regime was designed which proved to be effective in combating criminal activities unthinkable even in recent times. In this context, provisions were adopted which led to the establishment of the public order jurisdiction and measures to uphold the judicial system and the rule of law.

These measures were shown to be effective in controlling some of the more dramatic manifestations of the disturbance of public order.

As stated in the fifth preambular paragraph of Decree No. 1155 of 1992, "the causes and the effects of these disturbances have not disappeared".

I should like to inform you, further to the note which we sent to your Office on 31 July 1991, that the Constituent Assembly, aware that the causes of disturbance were clearly still present and operative, decided to maintain the public order jurisdiction and its respective instruments in force under a different name, within the ordinary judicial structure.

In this context, and on the basis of interpretations which the Government, the Procurator-General of the Nation and the Office of the Attorney-General of the Nation do not share, it has been claimed that the special regime enacted within the framework of the state of siege is not

applicable, on the grounds that those provisions, which were adopted under emergency conditions, had been superseded by the promulgation of a new Code of Penal Procedure governing ordinary legal situations, as distinct from those provided for in the decrees on the rule of law and upholding of the judicial system.

Thus, an interpretation arose to the effect that the public order legislation was not applicable to release on parole. On 9 July, the Procurator-General expressed the view that the provision applicable to release on bail, in the case of offences which came under the jurisdiction of regional judges (formerly public order judges), was article 59 of Decree No. 2271 of 1991. Once the Procurator-General's views had been made known, the Attorney-General of the Nation also stated that he was in favour of that provision being applied.

On the afternoon of Thursday, 9 July, more than 400 petitions for release from custody were filed. These petitions were based on the application of article 415 of the Code of Penal Procedure, and were thus in blatant conflict with the application of the special legislation.

Between Thursday and Friday, this flood of petitions swelled to more than 1,000: 592 in Medellín, 192 in Cali, 88 in Cucuta, 312 in Bogotá and 80 in Barranquilla.

The situation was all the more worrisome in that many of those petitioning for release were awaiting trial for a wide variety of terrorist acts, such as the assassinations of Luis Carlos Galán, Carlos Mauro Hoyos and Jorge Enrique Pulido, the attack on the ASD facilities and the most atrocious kidnappings and homicides ever carried out in the country, in addition to the acts perpetrated by the drug trafficking cartels.

The probability that the legislation relating to the former public order jurisdiction would not be applied was confirmed when orders for release began to be issued on the basis of article 415 of the Code of Penal Procedure, in total disregard of the applicability of the special legislation.

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During the course of Thursday, 9 July, 10 persons who had been awaiting trial for offences against public order were released pursuant to writs of habeas corpus and requests for the application of article 415 of the Code of Penal Procedure, without consideration being given to the existence and the applicability of the special legislation. The prospect of a torrent of releases, in view of the number of petitions already noted, further aggravated the disturbance of public order which still existed, and which the emergency decrees, converted into permanent legislation, had begun to address.

The gravity of the events was confirmed when the Procurator-General of the Nation informed the Government that the above-mentioned situation was causing "serious disturbances of public order", and urged the Government to adopt the relevant measures. The Procurator-General stated in his letter:

"In accordance with the provisions of article 251, paragraph 5, of the Political Constitution and article 8 of Decree No. 2699 of 1991, I should like to inform you that today, and in the days immediately preceding today, numerous petitions for release on bail and writs of habeas corpus were filed by persons accused of offences which come under the jurisdiction of the former public order judges, now regional judges, and the National Tribunal. All these requests are based on interpretations of the legislation permanently adopted by the Special Legislative Commission, and of the Code of Penal Procedure promulgated by that Commission, which in my view do not reflect a correct understanding of the said legislation and statute.

"The situation described above is, in my view, causing serious disturbances of public order; accordingly, I have seen fit to draw your attention to it, so that the Government may, in exercise of its powers, adopt whatever measures it deems relevant."

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The Government made a thorough assessment of the situation. Failure to apply the special legislation in force would be to open the doors that were restraining the cartels responsible for the most serious offences against Colombian society. If public order had been maintained with the help of the judges and the procedures mobilized to fight terrorism, then clearing the way for the perpetration of terrorist acts would amount to nothing less than jeopardizing the survival of the citizenry.

Accordingly, the National Government proclaimed a state of civil unrest throughout the Republic, to remain in force until 16 July 1992, in order to prevent the cartels responsible for the most serious assaults on public order from evading justice. Had such an awkward situation arisen the efforts of our judicial system would undoubtedly have lost all legitimacy.

We will inform you in due course of the results of the political and the constitutional review carried out by the Congress and the Constitutional Court, respectively, of the legislation promulgated and the causes which warranted the proclamation of a state of civil unrest.

I take this opportunity to convey to you the renewed assurances of my highest consideration.

(Signed) Noemi SANIN de RUBIO  
Minister for Foreign Affairs

REPUBLIC OF COLOMBIA  
MINISTRY OF FOREIGN AFFAIRS

No. 02661

Bogotá, 10 November 1992

Sir,

On behalf of the Government of the Republic of Colombia, I have the honour to inform you, pursuant to article 4 of the International Covenant on Civil and Political Rights, that the Government of Colombia, exercising the powers vested in it by article 213 of the Constitution, has declared a state of internal disturbance throughout the national territory, for a period of 90 calendar days, in full compliance with our legal system.

The Constitution of the Republic of Colombia provides for various states of emergency, depending on the seriousness of the circumstances. The declaration of a state of internal disturbance decreed by the national Government was motivated by the disturbance of the internal public order. This measure was adopted by means of legislative decree No. 1793 of 8 November 1992 and will remain in effect until 6 February 1993.

Pursuant to article 215 of the Constitution, legislative decrees are subject to the oversight of the Constitutional Court. Accordingly, the Government has transmitted the aforementioned decree to the Constitutional Court.

Likewise, in keeping with the constitutional norms of the Republic of Colombia, the Government will present to the National Congress a substantiated report on the causes of the measures taken.

I should like to explain to you the reasons which prompted the Government of Colombia to declare a state of internal disturbance.

His Excellency Mr. Boutros Boutros-Ghali  
Secretary-General  
United Nations  
Geneva

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- In recent weeks, the public order situation in the country, already disrupted for a long period of time, has grown significantly worse because of terrorist activities by guerrilla organizations and organized crime.
- In addition to armed actions against public security forces, guerrilla groups have stepped up their strategy of targeting the civilian population and the production and service infrastructure in order to undermine public support for the authorities, weaken the country's economy and obtain various concessions and benefits from public officials or private individuals.
- In order to finance and pursue their criminal activities, guerrilla groups have managed to obtain considerable financial resources by various unlawful means. According to intelligence reports, these resources are being administered and channelled through financial entities and other institutional mechanisms.
- According to intelligence reports, guerrilla groups are gaining access to public resources by various means, such as intimidation of Government officials and State contractors, particularly in certain territorial entities, and are distorting the implementation of State programmes including agrarian reform programmes, in certain areas of the country in order to promote their illegal activities.
- Guerrilla groups have used some mass media to obstruct action by the authorities, advocate violence, justify their criminal activities and create confusion and anxiety among the population.
- Guerrilla groups are putting pressure on some officials of territorial entities to persuade them to enter into direct contact or understandings with them, thereby violating presidential policy with regard to the preservation and restoration of public order.
- Those criminal groups have also managed to obstruct and evade judicial action because the criminal justice system is unable to use military forces as a judicial police organ to gather the necessary evidence.

- Guerrilla groups have tried to use various legitimate social organizations to persuade them to carry out activities contrary to the Constitution and the law.
- Guerrilla organizations are also targeting various prisons.
- According to intelligence reports, guerrilla groups are being aided and abetted by organizations set up to supply them with the necessary goods and services to pursue their activities against public order.
- In addition, organized crime has stepped up its activities in the city of Medellín in recent days by targeting for attack members of the National Police and DAS, indicating an increase in terrorist activities by organized crime.
- In addition to stepping up military and police activity, it is necessary to respond to the guerrilla groups' strategy with measures which will win public support, cut off the flow of resources which is funding guerrilla activities and prevent guerrilla groups from obtaining the goods they need for their criminal activities.
- It is necessary to step up action by judicial bodies in the areas of investigation and prosecution; protect judicial officials, officials of criminal investigation bodies and witnesses; allow military forces to perform judicial police functions and combat certain kinds of conduct which contribute to the success of operations by organized crime.
- A female judicial official was murdered recently and threats continue to be made against members of the judiciary; immediate measures are therefore needed to guarantee the personal integrity of such officials and to enable them to perform their functions with independence and in safety.
- Measures must be taken to increase protection for victims of violence and to keep up the morale of public security forces.
- It is also essential to introduce measures to increase the effectiveness of public security forces, for instance, measures relating to availability of resources, soldiers, officers and

sergeant-majors, troop mobilization, acquisition of supplies and strengthening of intelligence mechanisms.

- New expenditures must be written into the general budget and appropriate legal and budgetary mechanisms adopted to finance the new appropriations needed to respond to the escalation of terrorism.
- Measures must be taken to permit increased rehabilitation and normalization activities under the National Rehabilitation Plan in the main areas in which guerrilla groups are active.
- In order to deal with the difficult public order situation described above, given its origin, nature and extent, and to forestall its further repercussions, emergency measures must be taken which exceed the sphere of ordinary police powers.
- According to the Charter, peace is a mandatory right and duty.
- According to article 2 of the Constitution, one essential goal of the State is to ensure peaceful coexistence and the existence of a just order and to guarantee the effectiveness of the principles, rights and duties enshrined in the Constitution.
- According to article 189 (4) of the Constitution, the President of the Republic has the duty to preserve public order throughout the territory and to restore it wherever it is disturbed.
- According to article 213 of the Constitution, the President of the Republic has the power to declare a state of internal disturbance when there is a serious disturbance of public order which poses an imminent threat to institutional stability, State security or public coexistence which cannot be averted by using the ordinary powers of the police authorities.

The emergency measures which the Government believes it must take as part of the state of internal disturbance can be enumerated as follows:

1. The Government intends to administer and disburse centrally the petroleum royalties of the Departments of Arauca, Putumayo and Casenaré, respecting the distribution made by the corresponding departmental assembly.
2. The Government will seek to freeze assets which are presumed to have been acquired through crimes of abduction or extortion and which are intended to finance subversive activities. Special audits will also be made of some

allegedly community entities which may be serving as fronts for guerrilla groups.

3. The Government will have the power to terminate any State contracts being executed by national or foreign companies if it finds that they are helping to finance guerrilla activities, and to prohibit such companies from obtaining new State contracts.

4. If public officials of any rank, including governors and mayors, fail to obey the orders of the President with regard to public order and maintain any kind of contact with guerrilla members and criminals, they will be temporarily suspended and, if necessary, dismissed.

5. In coordination with the Attorney General of the Republic, the Government will seek to establish new types of crimes under the heading of aiding and abetting guerrilla activities, and will increase the penalties for such crimes, for persons who promote or fail to report guerrilla activity; this would of course, include persons who interview guerrilla members and do not denounce them to the authorities.

6. To strengthen the links between peasants, citizens, merchants, businessmen and carriers and the authorities, the Ministry of Communications will provide all the authorizations necessary for establishing private communication networks which will serve to prevent criminal attacks and to prosecute criminals.

7. Ways will be sought of preventing violence from being advocated in the media, military operations and subversive activities from being transmitted live and direct, communiqués from being published and broadcast and criminals from being interviewed.

8. The power of INCORA regional managers in Arauca, Cesar and Casenare to grant land title will be revoked and assumed by the national manager, and efforts will be made to establish land reserves in areas bordering petroleum exploration sites in order to prevent settlement promoted by guerrilla organizations.

9. With regard to the public security forces, life insurance for members of the armed forces and DAS will be increased. With regard to Government action in areas where there is violence, activities under the National Rehabilitation Plan will be reinforced. The programme of protection

and immunity for national and foreign witnesses will be strengthened to provide more means of combating drug terrorism. Special importance will be given to the statutory law on states of emergency currently before Congress, which incorporates important instruments for combating guerrilla activities, drug trafficking and other forms of crime.

10. The Government will also offer rewards to anyone who gives information on commanders of guerrilla fronts, on leaders of guerrilla groups and on those who plan and/or carry out the murder of members of the police and security forces.

We will notify you in due course of the results of the political oversight and the constitutional oversight exercised by Congress and the Constitutional Court respectively over the norms thus adopted and the causes which motivated the declaration of the state of internal disturbance.

I take this opportunity to convey to you the renewed assurances of my highest consideration.

(Signed) Noemí Sanín de Rubio  
Minister for Foreign Affairs

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REPUBLIC OF COLOMBIA  
MINISTRY OF FOREIGN AFFAIRS

Bogotá, 5 March 1993

Sir,

On behalf of the Government of the Republic of Colombia, I have the honour to inform you, pursuant to article 4 of the International Covenant on Civil and Political Rights, that the Government of Colombia, exercising the powers vested in it by article 213 of the Constitution, has extended for a period of 90 calendar days the state of internal disturbance in effect throughout the national territory, in full compliance with our legal system.

The Constitution of the Republic of Colombia provides for various states of emergency, depending on the seriousness of the circumstances. The extension of the state of internal disturbance, decreed by the national Government, was motivated by the disturbance of internal public order. This latest measure was adopted by means of Legislative Decree No. 261 of 5 February 1993 and will remain in effect until 7 May 1993.

Pursuant to article 215 of the Constitution, legislative decrees are subject to the oversight of the Constitutional Court. Accordingly, the Government has transmitted the aforementioned decree to the Court.

Likewise, in accordance with the constitutional norms of the Republic of Colombia, the Government has submitted to the National Congress a documented report on the reasons for the measures taken.

For your further information, the Government of Colombia transmits herewith the documented report submitted to the Congress of the Republic on the reasons which prompted the extension of the state of internal disturbance.

I take this opportunity to convey to you the renewed assurances of my highest consideration.

(Signed) Noemi SANIN DE RUBIO  
Minister for Foreign Affairs

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His Excellency Mr. Boutros Boutros-Ghali  
Secretary-General of the United Nations  
Geneva