



Labour rights in Colombia in the perspective of a Free Trade Agreement with the EU

SUMMARY *The EU's Free Trade Agreement (FTA) with Colombia and Peru, on which the European Parliament is expected to vote in the coming months, is the subject of deep controversy. NGOs from both sides of the Atlantic question whether such an agreement should be concluded, because of the continued violation of human rights, especially in Colombia.*

Colombia suffers persistent internal violence, which stems from competition for resources and local influence between various paramilitary groups. Violence is used by economic operators to secure their interests.

Therefore the situation of trade unions' and workers' rights is one of the major points of concern with the FTA. Indeed Colombia is one of the most dangerous countries in which to exercise one's labour rights, with huge numbers of trade-unionist workers harassed and even killed over recent decades.

The actions taken by the Colombian government to comply with its international engagements in this field, have been severely criticised by civil society groups. They regard them as insufficient, and point to a lack of real political will to implement them. Therefore, there are calls to the European Parliament to block the FTA or to make consent conditional on measurable progress in the field of human and labour rights.

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Towards an FTA with Colombia and Peru

Following the agreement of the Council at its [meeting of 31 May 2012](#) to the signing and provisional application of the [FTA with Colombia and Peru](#), in the coming months the European Parliament (EP) will be called upon to give consent to an agreement seen as highly controversial.

A trade issue...

The EU is the second largest trade partner of both Colombia and Peru (after the United States), whereas the two Andean countries accounted together for only 0.6% of the EU's foreign trade in 2011.

EU trade with Peru and Colombia (2011) <i>in billion euros</i>		
	Colombia	Peru
EU imports from	6.9	6.4
EU exports to	5.0	2.8
Source: Eurostat		

Negotiations began in 2007 between the EU and the Andean Community of Nations (CAN) trade bloc, which comprises Ecuador, Bolivia, Colombia and Peru. By 2009 Ecuador and Bolivia had left the discussions, mainly because they feared an FTA would be detrimental to some sectors of their economies.

The FTA foresees the elimination of duties for 100% of trade in industrial products in



Colombian flag on construction helmet

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ten years, and 85% of agricultural trade in 17 years. It would also lead to the removal of technical obstacles to trade, liberalisation of services market as well as the opening of public procurement markets. It includes protection for EU geographical indications.

In a difficult context...

Among concerns highlighted by civil society groups, opposed to the FTA are:

- Limitation of the agreement to trade issues, whereas the initial draft in the form of an association agreement also included development cooperation and political dialogue;
- Human rights problems, such as forced internal displacement, informal executions, and persecution of human rights activists.
- Negative environmental and social consequences of trade liberalisation (e.g. destruction of local industries to benefit multinationals, and expanded plantation of biofuels, to the detriment of forest resources and subsistence farming).

Indeed after 60 years of internal conflict, insecurity reigns in Colombia. The numerous military groups persist in terrorising the population, and persecuting – often with the collaboration of state agents – the leaders of trade unions, local and human-rights movements who try to defend their rights. The motives are often competition for land, natural resources or control over local government revenues.¹

One of the major issues in the human-rights fields is the deficit in labour rights and the persecution of trade-union activists, which occurs in Colombia at unprecedented levels.

Labour rights deficit in Colombia

Colombia subscribes to the [main international instruments on human and labour rights](#) but its implementation of these is far from complete, as shown in the conclusions/recommendations of the last [UN Universal Periodic Review](#). The situation in Colombia has been closely monitored by

the International Labour Organisation (ILO) in recent years, and the ILO has carried out numerous fact-finding missions to the country and maintains a permanent unit to monitor violations of human, labour and trade-union rights.

One indicator of the labour-rights deficit is the decline in union membership in Colombia: from 13% of the formal labour force in 1965 to 4.4% in 2010.² One reason is linked to increasingly bad working conditions and persistent persecution of trade unionists. Indeed the [press](#) repeatedly reports on the "anti-union policy" of numerous multinationals present in Colombia, and their links with paramilitary groups hired to harass or even kill union leaders and members.

Deficient labour market

One of the structural reasons for the reduction in unionisation is the increasing use by employers of third-party subcontracting, known in Colombia as [Cooperativos de Trabajo Asociado](#) (CTAs). This extremely insecure form of employment does not give workers the right to benefits such as sickness insurance or pension schemes that are foreseen in other types of employment contract. Companies do not have to engage with these workers in "collective bargaining", which also discourages unionisation.³ It may be noted that almost 60% of the labour forces is employed in the unregulated informal sector.⁴

Murder and persecution of trade union leaders

Colombia has a reputation for being the most dangerous country in the world for trade unionists. According to the database of the CUT trade union federation, nearly 2 886 union activists have been assassinated since 1986. In 2010 alone, 49 unionists were killed. In the first three months of 2012, three out of 13 human-rights activists killed were trade union members.

In addition members of trade unions regularly receive death threats, leading many to flee their homes and jobs, sometimes into exile abroad.

The main people responsible for the ongoing violence against rights defenders, community leaders, and trade unionists are the right-wing paramilitary groups, although left-wing guerillas (FARC) and national security forces are also implicated in some cases.

Despite numerous demobilisation efforts since 2002, which offered paramilitaries reduced sentences in exchange for revealing the truth about their crimes, successor paramilitary groups have regained territorial, economic and social control in the same zones. These groups maintain extensive ties with public security force members and local officials.

Violence against trade-union members stays largely unpunished. In 2011 it was estimated that a court conviction was obtained in less than 10% of 2 886 trade unionist killings. Moreover, such convictions are limited to the actual perpetrators and exclude those who "ordered" assassinations. Indeed according to local civil society representatives, paramilitaries kill trade unionists on behalf of third parties with a particular interest in eliminating trade unions from their sector.⁵ Only 10% of 275 judgments since 2006 have convicted "strategic intellectual authors" such as politicians, landowners, employers or members of the security forces.

Government policy (re)actions

The Colombian government has recently taken a series of measures to comply with its international and internal obligations related to labour rights. Among the most significant are:

Action Plan related to Labour Rights

The Action Plan on Labour Rights was introduced in April 2011 as a precondition of the FTA between the USA and Colombia.

One of the main elements of this plan was the elimination from the Colombian labour market of employment cooperatives. According to the US government, this plan has brought significant progress for Colombian workers through the following elements:

- creation of a new ministry of labour
- efforts to enforce new regulations concerning the abolition of employment cooperatives,
- strengthening the labour inspection system by hiring new labour inspectors,
- new web-based government complaint mechanism, to report improper labour practices.⁶

Protection programme

Under the Colombian judicial protection programme, in 2009 1 550 trade unionists were under protection. That accounts for 14% of all persons under protection.

Measures against impunity

The government has recently taken several steps showing its willingness to combat the impunity that undermines the judicial system. Some 33 new prosecutors were put in place to work exclusively on crimes against union members. In 2011, 84 sentences were pronounced for crimes against union members, compared to one in 2001.

The government has already pushed for a reform of Article 200 of the Penal Code, to increase the prison sentences and fines provided for impeding or disturbing trade union meetings or the exercise of labour rights, or for taking reprisals in response to legal strikes, meetings or free association.

Collaboration with unions

In January 2012, the national public prosecutor's office and the *Escuela Nacional Sindical* (national trade union school), concluded an agreement to exchange information and work towards a unified methodology for defining, identifying and documenting crimes against members of trade-union organisations.

Civil society positions

Position on government policy

While acknowledging the actions taken recently by government to improve the situation of unions, Colombian civil society doubts both their sufficiency and efficiency. [Calls](#) from civil society emphasise that the Action Plan on Labour Rights should not be considered a success, stressing that it is mostly public rhetoric that has improved and not the reality. Concerning the fight against impunity, some commentators note that the majority of convictions relate to crimes committed before the 2006 demobilisation in the framework of the [Justice and Peace process](#), or previous more liberal amnesty laws. In this view recent efforts are not helping to prosecute crimes committed after demobilisation ended in 2006.⁷ Others note failures of the existing legal framework to address victims' rights to truth, justice and reparations.⁸

NGO representatives strongly oppose the fresh proposal to reform Article 221 of the Constitution, which would assign the initial investigation of possible human-rights abuses committed by members of the security forces to the military courts.

Concerning measures taken to eliminate employment cooperatives, NGO representatives claim that the government lacks real commitment. In most cases, employment cooperatives continue to function but under new names. They use the same model in order to deny workers the possibility to establish a direct contract with the company.⁹

Position on FTA in the context of labour rights

The three main Colombian trade unions, as well as international trade union organisations, have expressed opposition to the FTA. Their main point, expressed in particular in a [position paper](#) of May 2010, is that rewarding Colombia with such an agreement before major improvements are made in the field of human and workers'

rights, would legitimise the status quo. They stress as well that the [EU's Generalised System of Preferences](#) – Colombia's GSP status expires in 2013 – gave the Commission, in theory, the possibility to investigate cases of human-rights abuses. It has never done so, despite numerous requests from NGOs and trade unions.

More recently, the International Federation for Human Rights in its position of May 2012 considered as well that the current human rights situation in Colombia should stop the European Parliament from voting for the FTAs's ratification. The group advocates making EP consent conditional on the fulfilment of strict recommendations formulated in the Universal Periodic Review framework by the UN Human Rights Council. It also states that the human-rights "mainstreaming" included in the FTA is insufficient.¹⁰

Some NGOs go even further, stressing the potential negative impact of the FTA on an already difficult human rights situation. Trade liberalisation would increase incentives for mining and biofuel production, further endangering local people's rights to the land, water and fair working conditions.¹¹

EU institutions' views

The European Commission (EC)

In its [country strategy paper 2007-2013](#) the EC recognised the problem of continuing violations of human rights in Colombia, in particular towards vulnerable groups such as trade union leaders.

From the [EC perspective](#) the FTA includes a far-reaching agreement on the protection of human rights and the rule of law as well as commitments to effectively implement international conventions on labour rights as well as environmental protection. All parties commit to developing and improving labour and environmental standards. According to the EC the agreement contains a mechanism to ensure

effective implementation, foreseeing the involvement of civil society.¹²

The European Parliament

The EP expressed its position at the beginning of the negotiation process in 2007, via a [resolution](#) stressing the necessary focus on human rights, democracy and social standards in the negotiation of an association agreement (later changed to an FTA). This approach was further developed and confirmed in the November 2010 [resolution](#) on human rights and social and environmental standards in international trade agreements. More recently, in June 2012, the EP voted a [resolution, criticised by NGOs](#) as not strong enough, calling for a road map to ensure labour, human rights and environmental protection to accompany the FTA with Peru and Colombia. Two procedures are currently before Parliament: [first](#), under ordinary legislative procedure, a Regulation on implementation of the bilateral safeguard clause and the stabilisation mechanism for bananas in the framework of FTA with Colombia and Peru (rapporteur Bernd Lange, S&D, Germany) voted at first reading in the September plenary session; and second, the [consent procedure](#) for the FTA

itself (rapporteur Mario David, EPP, Portugal), foreseen for the November plenary session.

Main references

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Endnotes

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² [US-Colombia Free trade Agreement: Labour issues/](#) Congressional Research Service, January 2012, p. 6.

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⁴ [US-Colombia Free Trade Agreement: Labour issues/](#) Congressional Research Service, January 2012, p. 4.

⁵ [EU Trade Agreements with Central America, Colombia and Peru: Roadblocks for sustainable development/](#) ALPOP, APRODEV, ODHACO, CIVCA, GRUPO SUR, Briefing for MEPs, July 2011.

⁶ [Historic Progress on Labour Rights in Colombia/](#) Office of the US Trade Representative.

⁷ [Colombia: Ensure justice for anti-union violence/](#) Human Rights Watch, October 2011.

⁸ [Ceasefire & Demobilisation: Law 418/](#) The Centre for Justice and Accountability.

⁹ [Impunity Reigns in Cases of Labour Rights Violations in Colombia/](#) WOLA letter to the US Congress on labour rights abuses in Colombia, 24 January 2012; [Ineffectiveness of Colombia's Labour Action Plan/](#) summary report by AFL-CIO, April 2011.

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