

Refugee Review Tribunal

AUSTRALIA

RRT RESEARCH RESPONSE

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This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

Questions

1. Provide a brief overview of asylum procedures for this country (mentioning whether or not the country is a signatory to the UN Convention and Protocol).
2. Is there a second tier of review (i.e. comparable to the RRT)?
3. What processes are applied by the body/agency at the second tier review level (i.e. inquisitorial process similar to the RRT, or adversarial process applied at the AAT)?
4. Is there judicial review?
5. Is the judicial review process confined to points of law or can facts of cases be re-examined at this level?

RESPONSE

1. Provide a brief overview of asylum procedures for this country (mentioning whether or not the country is a signatory to the UN Convention and Protocol).

Colombia ratified the 1951 UN Convention relating to the Status of Refugees on 10 October 1961 and acceded to the 1967 Protocol on 4 March 1980 (UNHCR 2006, *States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol*, 1 February – Attachment 1).

Decreto 2450 dated 30 October 2002 provides for the granting of asylum in Colombia. A Spanish language version is included as Attachment 2. No English language version of the Decree was found amongst the sources consulted (*Decreto 2450 de 20/10/2002*, ACNUR website <http://www.acnur.org/biblioteca/pdf/1864.pdf> – Accessed 2 June 2006 – Attachment 2). According to UNHCR Bogota, *Decree 2450* “sets out the refugee definition and defines the composition of the Eligibility Commission, the requirements of the asylum petition and the elements of the refugee status determination procedure” (UNHCR Bogota 2005, *Refugee Determination in Colombia* (Email received from UNHCR Canberra on 30 June 2006) – Attachment 3).

Colombia signed the Cartagena Declaration on Refugees on 22 November 1984 (*Decreto 2450 de 20/10/2002*, ACNUR website <http://www.acnur.org/biblioteca/pdf/1864.pdf> – Accessed 2 June 2006 – Attachment 2). The Cartagena Declaration on Refugees extends the definition of refugee to include persons “who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggressions, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order” (Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama (22 November 1984), UNHCR website, Section III(3) <http://www.unhcr.org/cgi-bin/texis/vtx/print?tbl=RSDLEGAL&id=3ae6b36ec> – Accessed 2 June 2006 – Attachment 4).

The extended definition of refugee as found in the Cartagena Declaration on Refugees is not included in *Decreto 2450 de 30/10/2002* whilst it was found in Article 2(3) of the previous *Decreto Numero 1598 de 1995* (*Decreto Numero 1598 de 1995*, ACNUR website <http://www.acnur.org/biblioteca/pdf/0081.pdf> – Accessed 2 June 2006 – Attachment 5; *Decreto 2450 de 20/10/2002*, ACNUR website <http://www.acnur.org/biblioteca/pdf/1864.pdf> – Accessed 2 June 2006 – Attachment 2; UNHCR 2003, *UNHCR Country Operations Plan 2004 – Colombia*, 1 September <http://www.unhcr.org/cgi-bin/texis/vtx/home/openssl.pdf?tbl=RSDCOI&id=3f8c067212> – Accessed 2 June 2006 – Attachment 6; and UNHCR Bogota 2005, *Refugee Determination in Colombia* (Email received from UNHCR Canberra on 30 June 2006) – Attachment 3).

UNHCR Bogota provides the following information on asylum procedures in Colombia:

- Article 2 of *Decree 2450* contains the 1951 refugee definition;
- Article 93 of the 1991 Colombian Constitution protects against refoulement. Article 18 of *Decree 2450* states that “in no case shall the person be returned to the country where their life is at risk”;
- Article 5 of *Decree 2450* requires applications to be submitted within 60 days of arrival in Colombia. The application is made to the Vice-Minister of Multilateral Affairs, by the applicant, UNHCR or immigration authorities;
- *Decree 2450* provides that applicants for asylum are granted leave to remain in Colombia for three months (*salvoconducto*). This “protects them from expulsion and refoulement and guarantees freedom of movement but does not give them the right to work”;
- The Eligibility Commission, chaired by the Vice-Minister of Multilateral Affairs, makes a non-binding recommendation to the Minister of Foreign Affairs who makes the final decision. No written reasons for the decision are given;
- Applicants are personally notified of the decision;
- Successful applicants, are given temporary refugee visas (“generally for two to five years”) although “renewal is virtually automatic”;
- Article 17 of *Decree 2450* provides refugee visas for the “spouse, common law spouse and to the minor or economically dependent children” of the successful applicant;
- Unsuccessful applicants are entitled to seek revision before the Minister of Foreign Affairs. Otherwise they are required to leave Colombia within 30 days; and
- *Secretariado Nacional de la Pastoral Social* (SNPS), UNHCR’s implementing partner in Colombia, provides assistance to refugees and asylum seekers. The SNPS explains the eligibility process, interviews applicants, makes applications on their behalf and requests

salvoconducto (UNHCR Bogota 2005, *Refugee Determination in Colombia* (Email received from UNHCR Canberra on 30 June 2006) – Attachment 3).

According to the Colombian government, 254 recognised refugees reside in Colombia with 17 refugee cases approved during 2005 (US Department of State 2006, Country Reports on Human Rights Practices 2005 – Colombia, 8 March, Section 2d – Attachment 7).

2. Is there a second tier of review (i.e. comparable to the RRT)?

3. What processes are applied by the body/agency at the second tier review level (i.e. inquisitorial process similar to the RRT, or adversarial process applied at the AAT)?

According to UNHCR Bogota, a rejected asylum seeker is entitled to seek revision before the Minister of Foreign Affairs:

Asylum seekers are personally notified of the decision. The rejected asylum seeker is entitled to seek a revision (*reposición*) of a negative decision before the MFA [Minister of Foreign Affairs]. The *reposición* must be presented within 5 working days of the notification, far short of the 30-day limit recommended by UNHCR procedural standards for RSD [refugee status determination]. If a *reposición* is not presented the person is ordered to leave the country. However, if a *reposición* is presented the order to leave the country is suspended and the person is allowed to remain in Colombia until the final decision of the Minister is taken.

No new interviews are normally conducted for *reposición* and the claim is reviewed by the same Minister who took the initial decision. If the negative decision is confirmed, the asylum seeker is ordered to leave the country within 30 days, unless they are granted leave to remain through regular migration procedures (art. 18 of the Decree). In case the asylum seeker has been recognised under UNHCR's Mandate, the authorities may request UNHCR to find a country of resettlement for the Mandate refugee (UNHCR Bogota 2005, *Refugee Determination in Colombia* (Email received from UNHCR Canberra on 30 June 2006) – Attachment 3).

4. Is there judicial review?

5. Is the judicial review process confined to points of law or can facts of cases be re-examined at this level?

No information on judicial review of Colombian refugee decisions was found amongst the sources consulted.

List of Sources Consulted

Internet Sources:

Government Information & Reports

Consulado General de Colombia – Sydney, Australia

<http://www.consuladodecolombiasydney.org.au/>

Immigration & Refugee Board of Canada <http://www.irb.gc.ca/>

Inter-American Commission of Human Rights <http://www.cidh.oas.org/>

Ministerio de Relaciones Exteriores de la República de Colombia

<http://www.minrelext.gov.co/netscape.asp>

Organisation of American States <http://www.oas.org/main/english/>

Portal del Estado Colombia, Gobierno en Línea

http://www.gobiernoenlinea.gov.co/home_ciudadanos.aspx

Presidencia de la República de Colombia <http://www.presidencia.gov.co/>

UK Home Office <http://www.homeoffice.gov.uk/>

US Department of State <http://www.state.gov/>

United Nations (UN)

ACNUR <http://www.acnur.org/>

UNHCR <http://www.unhcr.ch/>

Non-Government Organisations

Amnesty International <http://www.amnesty.org/>

Comisión Colombiana de Juristas <http://www.coljuristas.org/>

Human Rights Watch <http://www.hrw.org/>

International Commission of Jurists <http://www.icj.org/>

International Organisation for Migration <http://www.iom.int/>

Refugees International <http://www.refugeesinternational.org/>

Relief Web <http://www.reliefweb.int/w/rwb.nsf>

US Committee for Refugees and Immigrants <http://www.refugees.org/home.aspx>

Region Specific Links

Infomigrante <http://www.infomigrante.org/>

Pastoral Social Colombia <http://www.pastoralsocialcolombia.org/english.htm>

Search Engines

Google <http://www.google.com.au/>

Databases:

FACTIVA (news database)

BACIS (DIMA Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State Reports)

RRT Library Catalogue

List of Attachments

1. UNHCR 2006, *States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol*, 1 February.
2. *Decreto 2450 de 20/10/2002*, ACNUR website.
(<http://www.acnur.org/biblioteca/pdf/1864.pdf> – Accessed 2 June 2006)
3. UNHCR Bogota 2005, *Refugee Determination in Colombia*. (Email received from UNHCR Canberra on 30 June 2006)
4. Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama (22 November 1984), UNHCR website. (<http://www.unhcr.org/cgi-bin/texis/vtx/print?tbl=RSDLEGAL&id=3ae6b36ec> – Accessed 2 June 2006)
5. *Decreto Numero 1598 de 1995*, ACNUR website.
(<http://www.acnur.org/biblioteca/pdf/0081.pdf> – Accessed 2 June 2006)

6. UNHCR 2003, *UNHCR Country Operations Plan 2004 – Colombia*, 1 September. (<http://www.unhcr.org/cgi-bin/txis/vtx/home/opendoc.pdf?tbl=RSDCOI&id=3f8c067212> – Accessed 2 June 2006)
7. US Department of State 2006, *Country Reports on Human Rights Practices 2005 – Colombia*, 8 March.