

Sixth Report of Activities of the International Commission against Impunity in Guatemala (CICIG) (September 2012 - August 2013)

Summary

The present report reflects on the sixth year of work of the International Commission against Impunity in Guatemala (CICIG) and presents the main results obtained during the exercise of the CICIG mandate.

Firstly, information is provided on the organic structure and the current functioning of CICIG as well as on the status of relations with national and international counterparts. Subsequently, a report is given on the substantive work to contribute to the strengthening of case investigations, with details of the cases in which judgments were passed or cases that went to trial. In addition, the main advances and setbacks are described as well as the complaints filed against public officials for their alleged ties to crime or for breaking the law. This analysis highlights the factors which most influenced the progress or stalling of criminal prosecution and punishment in cases investigated by State institutions, with the support of CICIG, over the period in question.

The report on activities undertaken by CICIG in the areas of technical support, training and skills transfer outlines the different areas of expertise shared with State officials and the institutions that benefitted from such efforts. In addition, the main achievements and challenges in the area of institutional strengthening are described therein. Finally, information is provided on the current status of legislative reform proposals drafted by CICIG and the thematic reports it published to help increase the Guatemalan society's awareness of the impact of impunity.

The present annual report offers an opportunity to draw conclusions and identify challenges faced in the field of criminal investigation, prosecution and punishment as well as that of institutional and legislative strengthening, with a view to the culmination of the CICIG mandate.



Contents

	<i>Page</i>
I. Introduction	3
II. Organizational structure and functioning of CICIG	4
III. Relationship with the international community and the UN	5
A. Relationship with national counterparts	5
B. Relationship with international counterparts	7
IV. Exercise of mandate	9
A. Support for criminal prosecution and investigation	9
B. Institutional strengthening	23
C. Recommendations to the State to adopt public policies	31
VI. Conclusions and challenges	34

I. INTRODUCTION

The International Commission against Impunity in Guatemala (CICIG) was created by way of an agreement entered into by the United Nations and the Government of Guatemala on December 12, 2006 and approved by the Congress of the Republic on August 1, 2007. CICIG, which was initially granted a two-year mandate, was set up as an innovative effort to support and strengthen State institutions as well as assisting with the criminal investigation and prosecution of illegal security forces and clandestine security organizations (CIACS). In addition, the Commission would make recommendations to the State regarding the adoption of public policies and legal and institutional reforms—all of which would aim to eradicate and prevent the re-emergence of CIACS.

After six years operating in Guatemala, CICIG will remain in the country for two more years, following the third extension of its mandate. The United Nations Secretary-General Ban Ki-moon exchanged letters with President of Guatemala Otto Pérez Molina, thereby granting the extension request previously made by the President. Both parties took the exchange of letters to be a pledge to extend the aforementioned Agreement between the United Nations and the Government of Guatemala until September 3, 2015.

In accordance with the agreement forged between CICIG and the State of Guatemala to consolidate the results projected for coming years, the Commission adapted its 2012-2013 and 2013-2015 work plans so as to include strategic activities that will be implemented with the ongoing technical support of the Secretariat for Planning and Programming of the Presidency (SEGEPLAN). These strategies will receive inputs from the three branches of the State of Guatemala and the Public Prosecutor's Office (MP), as well as incorporating the exit strategy of the Commission.

Under its transparency policy, CICIG has been accountable to the United Nations, the diplomatic corps in Guatemala and the Guatemalan authorities and people. It has published, to date, 420 reports on the progress of its activities and the results obtained. In a similar vein, the present report includes the results achieved over the course of the sixth year of activities of CICIG and information regarding efforts to reduce impunity levels, coordinate the State in fighting crime, promote public policies on security and justice, and raise awareness of the impact of impunity.

Guatemala de la Asunción, August, 2013

II. ORGANIZATIONAL STRUCTURE AND FUNCTIONING OF CICIG

The Commissioner is the legal head and representative of CICIG, whereas the Secretary is the executive and administrative representative. The Commission is divided into the following sections: Political Affairs, Press Department, Investigation and Litigation Department (including the police investigation, legal, financial and litigation sections), Information and Analysis Department, Administration Department, Security Department and the recently created Institutional Strengthening Department.

The Commission is comprised of 162 national and international officials, 72 of whom perform substantive tasks (45%), 62 work in security (38%) and 28 perform administrative duties (17%). 67% of staff members are male and 33% are female. Excluding the largely male Security Department, the male-female ratio of Commission personnel is 58:42.

- 45% substantive duties
- 38% security duties
- 17% administrative duties
- 67% male
- 33% female

Twenty-one nationalities are represented at CICIG: Argentina, Canada, Chile, Colombia, Costa Rica, El Salvador, Germany, Spain, France, Guatemala (65 officials), Honduras, Ireland, Italy, Mexico, Peru, Portugal, Sweden, the United Kingdom, the United States, Uruguay and Venezuela.

The CICIG is able to operate thanks to the economic support provided by its donor countries: Canada, Denmark, Spain, Finland, Germany, Ireland, Italy, the Netherlands, Norway, Sweden, the United Kingdom, the United States and the European Union. In addition, the following countries provide the Commission with human resources to assist with police investigation work and staff security: Argentina, Chile, Colombia, France, Sweden and Uruguay.

III. RELATIONSHIP WITH THE INTERNATIONAL AND NATIONAL COMMUNITY

A. Relationship with national counterparts

National Government

The support of the executive branch for the work of the Commission is demonstrated by its interest in prolonging the stay of the latter in Guatemala. This support is testament to the work of the Commission to assist with the criminal investigation and prosecution of high-impact crimes and its contribution to the Guatemalan justice system, as well as the need to share experience and skills so as to create stronger, healthier institutions that are capable of delivering justice.

The joint efforts between CICIG and the Ministry of the Interior, under the umbrella of institutional strengthening, focus on creating more professional police officers that are better equipped to fulfill their duties. To achieve this, technical support and training are being provided and CICIG is sharing its investigation, criminal prosecution and security expertise.

Following the approval by Congress of Decree 15-2012 to create the General Directorate of Criminal Investigation (DIGICRI),¹ CICIG was invited to participate in a technical committee with the Ministry of the Interior, with the aim of offering technical support in the selection procedures to name the body's Director General and Inspector General. These procedures culminated on July 22, 2013 when the authorities appointed Carlos Valladares Vásquez as the head and José Estuardo Juárez Rodas as inspector of DIGICRI. During the organization process and functioning of this body, the Commission will offer support in administrative and operational areas.

Public Prosecutor's Office

One of the main achievements of the Public Prosecutor's Office (MP) during 2012 was moving from a case-by-case investigation approach to a more strategic criminal prosecution approach, investigating and dismantling criminal gangs operating in the

¹ A civil State body, with jurisdiction in the whole of the country, responsible for criminal investigation and supporting the administration of justice.



country. Furthermore, impunity levels for solving cases of crimes against life have fallen from 95% in 2009 to 72% in 2012, demonstrating—to a certain degree—the influence of the ongoing support provided by CICIG to the MP, through the Special Anti-Impunity Prosecutor’s Bureau (FECI) and other bureaus, to tackle criminal structures. Through these efforts, tangible results have been achieved in relation to arrests, proceedings and extraditions, which were mainly linked to crimes such as extra-judicial killings, drug trafficking, fuel contraband, illegal adoptions, money laundering and extortion. Such efforts are testimony to the fact that impunity rates in the country can be reduced within the framework of the rule of law.

Our relationship with the Public Prosecutor’s Office (MP) has centered on helping enhance the capacities of its different sections through technical assistance, training and skills transfer. As a result of the implementation of recommendations made by CICIG in 2011 on the creation of the Secretariat of Foreign Affairs and Cooperation, tangible international cooperation results have been seen, with an increase in the number of cases of joint legal assistance and extradition from 251 in 2010 to 393 in 2012. Furthermore, in the framework of the bilateral cooperation agreement signed through a number of letters of understanding on the coordination and skills transfer between the analysis and financial investigation units, CICIG has contributed to strengthening and restructuring the Directorate of Criminal Analysis, which subsequently became the Financial Analysis Department. The human resources of the Directorate have quintupled, increasing from 16 in 2011 to 70 in 2013. Furthermore, an additional 100 officials are set to be incorporated by the end of 2013.

Security is important in facilitating the substantive work of the Public Prosecutor’s Office; therefore, CICIG continues to support the strengthening of a number of MP offices, such as the Witness Protection Office. As part of these efforts, 100% of a first project phase has been implemented, including the drafting and delivery of a diagnosis of staff assignment, role reassignment, operative structure reorganization, and procedure design and implementation. In addition, as part of the support provided to the Department of Security, great strides forward have been made in transforming the administrative and operative structure of the office, and risk levels have been identified and new security officials trained.

Judiciary (OJ)

Following the appointment of Judge Gabriel Medrano Valenzuela as the new President of the Judiciary (OJ) and the Supreme Court of Justice (SCJ) in October 2012, for a one-year term, CICIG restarted its rapprochement with this body, with the aim of optimizing institutional relations, based on the permanent respect of judicial independence. CICIG values the commitment demonstrated by the President of the SCJ to forge ahead with the common agenda established by his predecessor, Judge Thelma Aldana Hernández, addressing four institutional strengthening priorities: the disciplinary system, the separation of administrative and jurisdictional duties, legal and constitutional reforms, and gender issues. On June 10, 2013, the SCJ presented a bill to reform the Judicial Service Law before Congress, whereby the justice system would be strengthened in the areas of independence, impartiality, transparency and ethical duties.

The institutional will demonstrated by the Court to improve the justice system has been evident in the orders to open immunity hearings against judges suspected to have acted irregularly by issuing rulings that breach current legislation. These steps were taken after the Public Prosecutor's Office (MP) remitted applications to lift immunity to the Court against 10 judges and 3 senior judges of the Court of Appeals, in response to accusations made by CICIG on November 28, 2012 against 18 judges. CICIG accused the 18 judges of fostering impunity and favouring criminal, corrupt groups through their legal decisions. To date, six judges have given statements before the eight investigating judges who were assigned to the case by judges of the Supreme Court of Justice.

B. Relations with international counterparts

Donor countries

The continued political support and financial backing that donor countries have provided to CICIG since its inception are the fruits of the political efforts of the United Nations and the State of Guatemala, along with the spirit and good will of partner countries committed to the peace accords, human rights and triumphing over impunity in Guatemala. This has allowed CICIG to be independent in fulfilling its mission, as well as benefitting from confidence shown towards its work by the international community.

In order to highlight the impact of the continued contributions made by donor countries, CICIG, during the current year of activities, organized a series of visits for the diplomatic



community in Guatemala. At the visits, representatives of the embassies of the United States, the Netherlands, the United Kingdom, Uruguay and Sweden were able to witness firsthand the work of the Commission, including the technologies used to facilitate the investigation of criminal structures through geographic localization tools, telephone analysis, forensic information extraction and database management. Such techniques make it possible to identify and resolve case requests in real time.

In the framework of the project launched by the European Union—under the Program to Support Security and Justice (SEJUST)—to continue providing institutional support, CICIG is contributing to actions to strengthen institutions in areas linked to its mandate. The actions will be designed and implemented in the 2013-2015 term as part of ensuring the best possible conditions are in place for the sustainability of the work plan actions, which will be implemented in accordance with the exit strategy.

To support the implementation of these actions, CICIG has coordinated, through SEJUST, the presentation of proposals, the participation of technical advisory experts and the provision of training on technological aspects of information management and the identification of structures. Special training has also been offered on international regulations, current international cooperation laws, special investigation methods, mechanisms to safeguard the integral security of at-risk witnesses, financial analysis, implementation of asset forfeiture methods and special transnational crime knowledge. CICIG projects that these undertakings will begin in the second half of 2013.

UN GUATEMALA

CICIG maintains contact with the United Nations agencies in Guatemala:

- **UNDP.** CICIG coordinates joint interest actions related to institutional strengthening and roadmap planning, with the aim of ensuring its efforts to transfer skills to Guatemalan institutions are continued and consolidated in the future, after its mandate has completed.
- **UN Women.** Under the letter of understanding signed between CICIG and UN Women—which sets forth the interinstitutional cooperation parameters aimed at supporting and strengthening the Guatemalan State institutions responsible for defending the rights of women, adolescents and children—authorization was given to work together in analysis efforts to decipher the link between organized crime in



Guatemala and violence against women, with the aim of placing the issue on the public agenda. A thematic report on the matter is planned to be published in 2014.

Moreover, as part of internal activities, CICIG invited María Machicado, representative of UN Women in Guatemala, to conduct a visit to its offices and talk about gender in the workplace—an issue of great importance in interdisciplinary work and key part of working in harmony.

- **UNICEF.** As trafficking in humans is an issue of global concern, ranked as the third most sizeable and profitable criminal activity in the world (after drug trafficking and arms trafficking), CICIG, with the financial support of UNICEF, has supported the study of sexual exploitation and child pornography in Guatemala, hiring a multidisciplinary team of international and national expert investigators, analysts and lawyers. This team, under the direction of CICIG, has identified individuals and criminal structures involved in trafficking in humans and it plans to dismantle such groups. As part of these efforts, it is envisaged that the Public Prosecutor's Office (MP) and National Civil Police (PNC) will participate and a thematic report shall be presented in 2014.

IV. EXERCISE OF MANDATE

A. Supporting and promoting investigations, criminal prosecution and punishment

During the period in question, significant progress has been made in the investigation and preparatory phases of cases, in contrast to the "bottlenecking" experienced at intermediary and trial phases. In the five criminal cases that went to trial, five judgments were passed down and eighteen sentences were issued. The most influential factors in case progress in Guatemala are linked to the admission of CICIG into proceedings as a complementary prosecutor; the evaluation of technical evidence, expert witness evidence and statements; celerity of proceedings in a number of cases; and the award of constitutional appeals filed by CICIG to address misinterpretations of the law by certain judges.

International cooperation, provided under current reciprocity agreements with Guatemala, facilitated the strengthening of criminal prosecution beyond borders, producing tangible results, in particular in relation to extra-judicial killing investigations. In Europe, interinstitutional cooperation activities were conducted in the framework of the



investigation of former high-ranking officials of the Ministry of the Interior, who are charged with extra-judicial killings and criminal association. The officials in question sought refuge in Spain, Switzerland and Austria (Pavón Case). The evidence provided at the time by the Guatemalan authorities and CICIG, along with recent developments in the investigation, founded significant suspicions as to the involvement of the accused in extra-judicial killings that took place in Guatemala. Therefore, in response to mutual legal assistance requests made by European prosecution offices to Guatemalan authorities, information was sent as quickly as possible, responding to Swiss authorities in July 2012 and to Austrian authorities in January 2013. In addition, as part of security measures, six protected witnesses were transported to Geneva (Switzerland) and Madrid (Spain) in early March 2013, where they were able to provide statements to the respective authorities.

Irrespective of the advances in investigations and the convictions passed down, one of the main criminal prosecution errors in high-impact cases that has characterized the justice system in Guatemala is the judges' failure to efficiently and promptly rule on requests filed by the Public Prosecutor's Office (MP) as part of criminal proceedings (searches of premises, arrest warrants, telephone tapping, requests to banks, etc.). In addition, difficulties are continually faced when trying and punishing individuals. The main causes of these difficulties are the misinterpretation of the law by the Judiciary (Alaska and RENAP cases), the delays in proceedings (Rosalinda Rivera case), the alternative measures awarded to accused individuals,² the modification of charges against accused (Amatitlán and Polochic cases) and the closure of criminal prosecution on the grounds of a lack of evidence (Pavón, Portillo and Amatitlán cases).

CICIG believes *amparo* appeals are a noble part of the ordinary judicial system and can serve to rectify grave judicial errors. However, the abuse of such appeals affects the accused and victims by unnecessarily delaying their proceedings. Moreover, it has been established that in most cases, it is the parties to the proceedings, including the criminal defense of complainants, who overuse *amparo* appeals (Rosenberg,³ Portillo and Amatitlán cases).

² An alternative measure that courts awarded in lieu of pre-trial detention to those accused of committing criminal acts.

³ Investigation into the murder of lawyer Rodrigo Rosenberg in May 2009. The judge of the Third Court of the First Criminal Instance ordered, on August 2, 2013, that brothers Francisco Valdés Paiz and José Valdés Paiz stand trial on the charge of complicity in murder and set a bail of GTQ 500,000.00 for their release and house arrest. The judge awarded these measures despite the fact that the pair had evaded arrest warrants for a number of months. In the investigation, two organized crime groups were dismantled, which were made up of current and former police officers, former army officials and other individuals.



For example, in the framework of the criminal proceedings against the accused Valdés Paiz brothers (Rosenberg Case), the *Office of the Human Rights Ombudsman (PDH)* determined in its report of April 12, 2013 that the parties to the proceedings—including the criminal defense of the complainants and even the above-mentioned accused individuals—excessively used *amparo* appeals and the Constitutional Court prevented the legal situation of the accused from being ruled on within a reasonable term. The report indicated that out of 14 *amparo* appeals, 11 were presented by the accused (in different ways), 2 were filed by CICIG and 1 by the accused. Furthermore, it stated that both ordinary and constitutional courts were to blame as they were responsible for processing and resolving the different legal appeals. Furthermore, they failed to resolve the appeals within the time limits imposed by law.

QUANTITATIVE RESULTS OF CICIG WORK PLAN 2012-2013

STRATEGIC RESULT No. 1: "Contribute to reducing impunity rates"			
PRODUCTS	COMPLETED	GOAL	PROGRESS (%)
Revision of case files	49	70	70%
Investigation plans	18	10	180%
Police investigation reports	466	550	85%
Police investigation-related activities	2772	4000	69%
Criminal analysis reports	212	205	103%
Financial investigation reports	99	70	141%
Procedural activities	844	360	241%

SUBSTANTIVE WORK: SEPTEMBER 2012 TO AUGUST 2013

ACTIVITIES	QUANTITY
Complaints received	95
Open investigations	31
Active investigations during whole CICIG mandate	68
<i>a. Cases investigated by FECl</i>	6
<i>b. Closed cases</i>	2
<i>c. Cases under investigation in other public prosecution offices</i>	20
<i>d. Cases under initial investigation</i>	3

Participation as a complementary prosecutor	2
Participation not as a complementary prosecutor	16
Judgments	5
Accused parties	22
<i>a. with convictions</i>	18
<i>b. acquitted</i>	4
Lifting of immunity hearings	13
Administrative and criminal complaints against public officials	13
Administrative and criminal complaints against judges	13
<i>a. Linked to CICIG cases</i>	12
<i>b. Linked to other cases</i>	1
Assistance with judicial statements	122
Assistance with statements before the Public Prosecutor's Office	19
Support for judicial premises searches	23
Support for judicial arrests	55

Investigations

Judgments

In the five criminal cases that went to trial over the current period, five judgments were issued and eighteen sentences were handed down:

- **Pavón-Infiernito Case.** On August 8, 2013, prison sentences of between 15 and 33 years in length were handed down to four individuals, including Víctor Hugo Soto Diéguez (former Head of Criminal Investigation of the National Civil Police [PNC]) for participating in the extra-judicial killings of ten inmates in 2005 and 2006 in the Pavón and El Infiernito (Zacapa and La Cueva) cases. Furthermore, four accused individuals were acquitted, including María del Rosario Melgar Martínez. The investigations established that a parallel structure was created within the State and it had the power to extra-judicially kill individuals deemed to be the "dregs" or "enemies of society". The group used State power and State machinery to conduct its criminal activity and create impunity for its actions.

As to the sentences, Court B of the First Criminal Instance for High-Risk Matters issued a judgment on August 8, 2013 establishing the existence of a parallel structure within the State. Furthermore, the judgment indicated that the 10 extra-judicial killings of the Zacapa, La Cueva and Pavón cases had been proven and that a hierarchical



responsibility could also be identified. The Court ordered the Public Prosecutor's Office (MP) to continue investigating the high-ranking officials.

At the same time, former high-ranking officials of the Ministry of the Interior are being prosecuted in Switzerland, Austria and Spain, in accordance with the reciprocity agreements on criminal prosecution entered into with Guatemala and thanks to the support of CICIG and other organizations. The accused are Carlos Roberto Vielmann Montes (former Minister of the Interior), Erwin Johan Sperisen Vernon (former Director of the PNC) and Javier Figueroa Díaz (former Deputy Director of PNC Investigations). Under efforts coordinated between the Public Prosecutor's Office (MP) and CICIG, logistical support and security assistance was provided to transfer witnesses requested by the prosecution offices of the aforementioned countries. The hearings were held in early May in Switzerland and Spain, with a video link to Austria. In addition, on May 13, 2013, the Austrian prosecution office indicted Figueroa for murder and on June 6, 2013 the prosecution office attached to the National High Court of Spain requested that Vielmann be charged with the extra-judicial killing of seven inmates at Pavón prison on September 25, 2006 and of three inmates of the El Infiernito maximum-security prison in November and December 2005.

As to the proceedings underway in Guatemala against Alejandro Giammattei, former Director of the Prison System, and Mario García Frech, former Head of Security of the Prison System, the First Court for High-Risk Matters, after dropping the extra-judicial killing charge and pursuing that of criminal association (27.10.2010), closed the criminal proceedings citing a lack of evidence (10.05.2011). An *amparo* appeal filed by CICIG is still pending as well as an application⁴ of the Public Prosecutor's Office (MP) in relation to the *amparo* that ordered a second cassation judgment to be issued by the Criminal Chamber of the Supreme Court of Justice.

On September 25, 2006, a prison operation was conducted by the Ministry of the Interior, which included the General Directorate of the National Civil Police (PNC) and the Directorate of the Prison System. The operation, referred to as "Pavo Real", sought to regain control of Pavón prison; however, in parallel to the official plan, the murder of seven inmates was planned and executed by a team led by Soto Diéguez and Javier

⁴ Chapter 10, Article 72 of the Amparo, Habeas Corpus and Constitutionality Act provides for the legitimacy to file an application before the Constitutional Court (CC) if one of the parties concerned deems that the Court, in processing and executing the writ of *amparo*, failed to comply with the law or the provisions of a judgment. The CC should then take the necessary action within 24 hours of notification.



Figueroa, with the acquiescence and support of the maximum authorities of the Ministry of the Interior and the director of the National Civil Police (PNC). The Pavón case includes the Zacapa and La Cueva cases. In the Zacapa case, on November 3, 2005, members of the police force murdered Edwin Estuardo Santacruz Rodríguez, one of the individuals who had fled the El Infiernito prison in October 2005. The murder was executed in Río Hondo, Zacapa in the afternoon; however, prior to that, the subject had been detained in Morales, Izabal, following an illegal search of premises conducted in the early hours. In the La Cueva case, on December 1, 2005, on the banks of the Los Amates river, two fugitives of the El Infiernito prison were captured by the Anti-Kidnapping Unit of the Criminal Information Service, under the leadership of Soto Diéguez, and then murdered. Their bodies were then transported to the municipality of Oratorio, without waiting for a competent justice of the peace to remove the bodies.

- **Gasofa Case.** Nine PNC officials were sentenced to 18 years in prison, including police chiefs, officers and inspectors, on charges of customs contraband and criminal association. Since 2008, the sentenced individuals had been members of a criminal organization that promoted impunity and violated civil rights, operating through the National Civil Police (PNC) and the Superintendence of Tax Administration (SAT). The group formed part of a structure capable of influencing judicial decisions through the District Prosecutor’s Office of Tecun Uman, in which a prosecutor participated as well as officials of the court of the first criminal instance of Coatepeque, comprised of numerous judges who committed crimes to defraud the State by fostering fuel smuggling that entered the country illegally through the Pedro de Alvarado Customs Checkpoint. The fuel was transported from El Salvador to Guatemala City, where it would be sold illegally. Businessmen and other individuals also formed part of the structure.

On January 17, 2013, Trial Court A of the First Criminal Instance for High-Risk Matters admitted scientific proof, documents and statements—which were presented by the MP and CICIG—as evidence and ordered the payment of GTQ 1,738,665.83 (USD 217,333) for damages suffered by the national treasury. The compensation must be paid by the members of the criminal group. In the case, 12 people are still pending trial.

- **Vidal Requena Case.** Former Deputy Director of the Prison System Vidal Efraín Requena Mazariegos was sentenced to 6 years in prison for money laundering. On



April 24, 2009, an armed confrontation took place in the municipality of Amatitlán between National Civil Police (PNC) officers and suspected drug traffickers, causing the death of five police officers. The authorities also seized 350 kilos of cocaine and an arsenal of weapons from the scene. Among the detained individuals were former PNC officers who, at the time, were assigned to the group known as the Anti-Narcotics Information and Analysis Service (SAIA), as well as members of a criminal organization involved in trafficking in drugs and arms with strong ties to the Mexican Los Zetas organization.

Trial Court B of the First Criminal Instance for High-Risk Matters sentenced Requena to 6 years in prison for money laundering (11.06.2012). Prior to these proceedings, the MP and CICIG had accused the former public official of criminal association, but Carol Patricia Flores ordered to discontinue the criminal prosecution (11.06.2012). CICIG appealed the decision and the First Chamber of the Court of Criminal Appeals overturned the judge's decision on the grounds that she had abused her powers in dropping the charge in question (February 2013). Court A of the First Criminal Instance for High-Risk Matters sentenced Requena to 8 years in prison for criminal association, after determining he had ties to a criminal organization involved in drug trafficking and murder. The Court had admitted statements and documents filed by the MP and CICIG as evidence (12.06.2013); however, the Constitutional Court (CC) subsequently reversed the decision and annulled the judgment passed by Court A. The grounds cited by the CC to substantiate its decision were irregularities committed by the First Chamber of the Court of Criminal Appeals preventing the accused from fully understanding the reasons why the criminal association charge had been ruled admissible. However, the investigative information used in the proceedings (18.06.2013) could have been used for that purpose.

- **Retalhuleu Case.** Fredy Herald De León Barrios and Martín García González were both sentenced to 31 years in prison on charges of criminal association and kidnapping three individuals on November 21, 2009. On September 19, 2012, First Instance Court B for High-Risk Matters admitted 10 witness statements submitted as early evidence, the material and documentary evidence presented at oral proceedings, and the statements of three expert witnesses on technical information related to telephone tapping. This decision was upheld on April 2, 2013. Five additional individuals are pending arrest.



- **Fusión Case.** Enrique Francisco Caal Xoy (former PNC corporal) and his brother Antonio Caal Xoy were both sentenced to 25 years in prison for their alleged involvement in a criminal organization with operations in the departments of Alta Verapaz, Baja Verapaz and Guatemala. In these instances, they took actions, or failed to act in accordance with their duties, so as to create impunity for the members of the organization and their criminal activity. The case was opened by CICIG in July 2011. Enrique Francisco Caal Xoy had served in the National Civil Police Division of Protection of Public Figures protecting judges of the high-risk trial courts. A ruling was passed on November 8, 2012; however, the case is under appeal, after the defense counsel of the sentenced individuals filed a special appeal. The appeal shall be heard on September 11, 2013 before the Third Chamber of the Court of Appeals for Criminal Matters. As to a third accused individual, César Chón Xóna, the Eighth Court of the First Criminal Instance set June 10, 2013 as the deadline for presenting the conclusion of the investigation and June 28, 2013 as the date to file the indictment and send the case to trial.

Subject to appeal (nullification, extraordinary appeal or cassation appeal⁵)

- **Byron Vargas Case.** Byron Humberto Vargas Sosa was sentenced to 90 years in prison for the murder of three women. The accused individuals Esteban Bolvito Pérez and Mario Cojoc Quej were acquitted (07.08.2013). The Criminal Chamber of the Supreme Court of Justice, after hearing a cassation appeal, ruled to sentence Bolvito and Cooj to 75 years in prison and upheld the decision to retry Vargas—a judgment originally issued by the First Chamber of Criminal Appeals on February 10, 2011 and the Constitutional Court (CC). The defense counsel of Byron Vargas filed an *amparo* appeal based on the make-up of judges of the court for the retrial, and the Constitutional Court (CC) ordered that Trial Court B for High-Risk Matters, Drug Trafficking and Crimes Against the Environment rule on the appeal for reversal that had led to the impasse.

The case concerns the events of April 19, 2008, when Byron Vargas Sosa invited three minors to accompany him at the Blue Moon nightclub in Chiquimula. At the venue, the minors were with Vargas Sosa and some of his bodyguards. The following morning, when the minors were returning home, one of the bodyguards called them and told

⁵ An appeal filed against rulings and final decisions of the chambers of the courts of appeal to resolve special appeals filed against decisions within the judgment. Also, this appeal is filed against discontinuances issued by the trial courts, appeals of decisions made by first instance judges, and decisions made by such judges to close proceedings.



them to meet Vargas on the outskirts of Zacapa. At the place where they met, the victims got into vehicles where Esteban Bolvito Pérez, Mario Cojoc Quej and other yet-to-be-identified individuals were travelling. The minors were found dead on April 20, 2008 on the dirt track road that leads to Estanzuela, Zacapa.

- **Víctor Rivera Case.** In May 2011, the Trial Court for High-Risk Matters sentenced 10 individuals to prison sentences of between 5 and 46 years in length for their involvement in a criminal organization led by Jorge Mario Paredes, alias "El Gordo", which was responsible for murdering the security advisor of the Minister of the Interior, Víctor Rivera, on April 7, 2008. Paredes is currently serving a 31-year prison sentence in a US prison after being convicted of drug trafficking. The case is currently under cassation appeal regarding the situation of the ten accused mentioned above. The Eighth Court of the First Criminal Instance ruled to send María del Rosario Melgar to trial on charges of murder and criminal association (23.01.2013). Rosario Melgar is also charged with extra-judicial killing in the Pavón case. However, the Sixth Trial Court for Criminal Matters, Drug Trafficking and Crimes against the Environment ruled to acquit (11.06.2013). The ruling is pending a decision regarding a special appeal.

At trial

- **Amatitlán Case.** Nineteen accused are being tried in Guatemala, including Baltazar Gómez Barrios (former PNC Director), five police officers and members of a drug trafficking organization with strong ties to the Los Zetas of Mexico. The charges include conspiracy, criminal association, illegal possession and storage of firearms, illegal possession of ammunition, illegal searching of premises, illegal apprehension, abuse of authority, seeking to create impunity, obstruction of justice, illegal trade, trafficking and storage, criminal association with armed individuals, and illegal use of uniforms and insignia. The trial was set for July 25, 2013, but it has been suspended on three occasions, due to a number of factors, and it finally began on August 19, 2013 before Trial Court B for High-Risk Matters, Drug Trafficking and Crimes Against the Environment.

On March 24, 2009, at the "Urbanización del Sur" warehouse complex in Amatitlán, an armed confrontation took place between members of the criminal organization and National Civil Police (PNC) officers assigned, at the time, to the then Anti-Narcotics Information Analysis Service (SAIA). The officers were acting under the authorization and approval of the three highest-ranking SAIA officials, Baltazar Gómez Barrios, Nely



Judith Bonilla Estrada and Fernando Antonio Carrillo García—all of whom face charges. After the facts took place, and upon searching warehouse 14, 382 kilos of cocaine were seized along with a large number of vehicles, an arsenal of army-grade weapons, and black-coloured uniforms with the DEA initials.

Progress in investigations

The investigations of various cases, described in detail below, have concluded the preparatory phase and are currently at the pre-trial phases.

- **Militares Case.** In this case, eight military officials are under investigation for the misappropriation of GTQ 471,585,965 (USD 58,948.245) of funds allocated to the Ministry of Defence. The funds were taken between January and December 2001. The Tenth Court of the First Instance for Criminal Matters, Drug Trafficking and Crimes Against the Environment programmed a hearing for August 26, 2013 in order to hear pleas of the accused individuals concerning the involvement of CICIG in proceedings as a complementary prosecutor. After the hearing, it is expected that the Court will order the accused military officials to be sent to trial. The case has been delayed by *amparo* appeals filed by the defense counsel to prevent a trial.
- **Cleopatra Case.** Under this case, Marlene Blanco Lapola (former PNC Director) and eight PNC officers are being investigated for allegedly forming part of a parallel structure involved in carrying out extra-judicial killings. At the end of 2008 and through 2009, there was a continual increase in the number of extortion incidents in Guatemala and the PNC management, therefore, decided to use the institution to enable a group of public officials and advisors to murder individuals suspected of extorting workers of urban and intercity bus routes. The case is currently pending trial before Court B of the First Criminal Instance for High-Risk Matters, which—despite programming the hearing for February 2, 2013—suspended the trial of Marlene Raquel Blanco Lapola due to medical reasons cited by one of her lawyers and the unexplained absence of her other lawyer, José Francisco García Gudiel.
- **Rosalinda Rivera Case.** In this case, a criminal structure involved in trafficking in persons for illegal adoption is under investigation. Seven individuals have been charged with human trafficking, conspiracy, falsification of facts, noncompliance of duties and criminal association, including a notary public, a public official, a doctor, a civil registrar and a former official of the Attorney General of the Nation's Office



(PGN). The Eighth Court of the First Instance for Criminal Matters, Drug Trafficking and Crimes against the Environment is due to program a date to open a pre-trial hearing to open oral arguments against the charged individuals. The court has failed to assign a date to open trial proceedings over the course of the past year.

- **Primavera Case.** In this case, a criminal structure involved in trafficking in persons for illegal adoption is under investigation. The case investigation has demonstrated the existence of a criminal organization, based around the Asociación Civil Primavera home, which acted in collusion with lawyers, notaries, civil registrars, officials of the Attorney General of the Nation's Office (PGN) and the judge of the Court of Children and Adolescents of Escuintla, among others. Twelve individuals have been charged with human trafficking, criminal association and fraud. Trial Court B for High-Risk Matters programmed the trial proceedings of eight of the accused for October 31, 2013. One of the factors fettering case progress is the filing of appeals.
- **Polochic Case:** In this case, Pedro González Rodríguez (Deputy Chief of the PNC Special Forces Division [DIFEP]) has been investigated for extra-judicial killing. On March 15, 2011, the eviction of the "Miralvalle" estate was conducted in Valle de Panzós, department of Verapaz, by order of the First Court of First Criminal Instance of Cobán. This step came in response to the aggravated usurpation complaint lodged by the legal representatives of the sugar refinery Chabil Utzaj against the peasant communities of the region. The eviction was conducted by the Municipal Prosecutor's Office of La Tinta (Alta Verapaz), in conjunction with DIFEP units. As a result of these actions, the peasant Antonio Beb Ac was killed after receiving a blow to the upper part of the skull due to the inappropriate use of a dissuasive device of the Special Forces of the PNC. The Special Anti-Impunity Prosecutor's Bureau (FECI) asked the Criminal Chamber of the Supreme Court of Justice to grant jurisdiction in high-risk proceedings. The Supreme Court approved the request on February 6, 2012.

The case is currently awaiting the filing of an indictment and the opening of trial proceedings. The Third Chamber of the Court of Appeals for Criminal Matters upheld the extra-judicial killing charge against Pedro González Rodríguez. The decision was passed in response to an *amparo* application filed by the MP and CICIG against the actions taken on June 8, 2012 by Judge Carol Patricia Flores Polanco, head of Court A of the First Criminal Instance for High-Risk Matters, to alter the extra-judicial killing charge to one of culpable homicide. With this new decision, the judge must now set a date to hold a hearing with the parties to alter the charge against the accused



individual. The progress of the case has been shaped by the acceptance of constitutional appeals filed by CICIG to redirect the case with an extra-judicial killing charge and to order the arrest of Police Chief Pedro González.

- **Alaska Case.** An investigation is underway into eight soldiers and Coronel Juan Chiroy Sal—members of the Citizen Security Unit of the Army of Guatemala—for their alleged involvement in the extra-judicial killings of six protesters and the attempted extra-judicial killings of sixteen persons (who received firearm injuries) on October 4, 2012 in Cumbre de Alaska, Kilometer 169 of the Inter-American Highway. The army unit was sent to the scene to support the Special Police Forces in their efforts to disperse a demonstration blocking the Inter-American Highway. CICIG provides technical support in the case, which is currently at the intermediary phase. One of the factors hindering case progress is the judicial discretion used to remove the extra-judicial killing charge, which is currently the subject of an *amparo* appeal.
- **Bus Nicaragua Case.** In this case, fourteen individuals accused of criminal association, conspiracy and murder are under investigation. On November 8, 2008, the burned bodies of fifteen Nicaraguan citizens and a Dutch citizen were found on a bus that had been travelling from Nicaragua to Guatemala City. The bus was found burned-out in the department of Zacapa. The work at the crime scene and subsequent expert witness opinions made it possible to determine that the victims had died from firearm shots. Four individuals were indicted, two of whom have since been convicted (one for concealment and the other for murder, criminal association and conspiracy to obtain and traffick in drugs). The trial proceedings are due to be initiated against the accused individuals. One of the factors hindering the judicial proceedings is the abuse of *amparo* appeals.
- **Portillo Case.** The MP and CICIG plan to offer evidence against Jacobo Salán Sánchez and Napoleón Rojas, both of whom are former heads of security of the Alfonso Portillo Cabrera administration. The pair are charged with embezzlement. The investigation of the two individuals began in 2009.

One of the most notable achievements of CICIG was holding former President Alfonso Portillo accountable to the justice system on charges of misappropriation of funds and money laundering. Although the former President was acquitted of all charges in May 2011, the trial was the product of years of work undertaken by the Commission.



The investigation into former President Alfonso Portillo, former Minister of Defence Eduardo Arévalo and former Minister of Public Finance Manuel Maza Castellanos for embezzlement began at CICIG in November 2008. The Eleventh Trial Court, by way of a two-to-one majority, acquitted the three accused individuals, after dismissing the witness and expert witness opinions that had been presented (May, 2011). The MP and CICIG appealed against the ruling of the Eleventh Trial Court on May 30, 2011, citing substantive errors and misinterpretation of the law. Furthermore, they filed a recusal motion against Judge Carlos Ramiro Contreras Valenzuela of the Third Chamber of Appeals due to doubts surrounding his partiality (01.08.2011). The Supreme Court of Justice ruled that Judge Contreras could not form part of the Chamber that heard the appeal (02.02.2012). The Third Chamber of the Court of Appeals for Criminal Matters ruled not to accept the extraordinary appeals filed by the MP and CICIG and upheld the acquittal of Alfonso Portillo, Manuel Maza Castellanos and Eduardo Arévalo Lacs (09.05.2013). Paradoxically, former President Alfonso Portillo filed a cassation appeal before the Criminal Chamber of the Supreme Court of Justice against the acquittal (29.04.2013). The appeal was rejected on the grounds of a lack of seriousness and the intention to stall the proceedings, because no damage was being denounced (12.05.2013). Finally, Portillo was extradited to the United States on May 24, 2013, at the behest of the US Attorney's Office for the Southern District of New York, on the charge of laundering USD 70 million in US banks. Portillo is currently being prosecuted in the US.

New investigations

During the current period eighteen new cases were opened in relation to human rights, civil and political issues, and the possible existence of illegal drug trafficking structures involved in corrupt acts, malfeasance of office, criminal association, extra-judicial killings, forced disappearance, drug trafficking, customs contraband, extortion, threats and murder.

Public officials who have been accused by CICIG of maintaining ties to crime or breaking the law

During the current period, CICIG has used its authority to file charges before the respective authorities against public officials or civil servants who, in the exercise of their duties, have committed alleged administrative or criminal offences. In addition, CICIG has



paid special attention to individuals responsible for impeding it from exercising its duties or powers.

As to State officials with alleged crime ties, the Commission identified nine civil servants, all of whom are now under arrest or investigation as a result of the MP cases where CICIG investigates and offers support. Furthermore, on November 28, 2012, CICIG submitted a report titled "The Impunity Judges" to the Attorney General, thereby requesting that the MP open criminal proceedings against 16 charged individuals. The report accuses 18 judges of the Guatemalan justice system of creating impunity and favouring corrupt criminal networks with unlawful decisions.

In view of the accusations, a handful of the judges concerned have filed complaints before diplomatic offices against the CICIG Commissioner. However, in accordance with established procedures, public officials and civil servants may request that an honour tribunal be assigned to analyse their cases. Furthermore, Article 35 of the Constitution of Guatemala sets forth in the second paragraph therein that it is neither a crime nor offence to publish accusations or criticisms aimed at public officials or civil servants in relation to actions they have taken in the exercise of their duties.

PUBLIC OFFICIALS WITH ALLEGED CRIME TIES WHO HAVE BEEN IDENTIFIED AND ACCUSED BY CICIG (SEP 2012-JUN 2013).

<i>Affected body</i>	<i>Position</i>	<i>Crime</i>	<i>No. of officials</i>
<i>PNC</i>	Police Chief	Customs contraband and criminal association	03
	Officer	Customs contraband and criminal association	
	Officer	Customs contraband and criminal association	
<i>OJ</i>	Judge	Malfeasance of office	16
<i>SAT</i>	Customs Specialist of the Superintendence of Customs Authorities	Customs fraud and criminal association	01
	Customs security specialist of the Superintendence of Customs Authorities	Customs fraud, criminal association and use of false documents	03
<i>Local</i>	Mayor of La Antigua	Fraud, extortion and	01



<i>municipality</i>	(Guatemala)	criminal association	
	Treasurer of La Antigua Guatemala	Fraud, extortion and criminal association	01
TOTAL:			25

B. Institutional strengthening

Against the backdrop of the CICIG commitment to strengthen institutions and coordinate the State of Guatemala in the fight against impunity, the implementation of strategic actions has continued over the course of the current term, with training imparted to 236 public officials and an additional 138 officials have benefitted from skills transfer. In addition, certain offices have received technical support, such as the Public Prosecutor’s Office (MP), the Ministry of the Interior, the National Civil Police (PNC), the General Directorate of Criminal Investigation (DIGICRI), the Judiciary (OJ), the Attorney General of the Nation’s Office (PGN), the Comptroller General’s Office and the Superintendence of Tax Administration (SAT).

The support for better interinstitutional coordination between the Public Prosecutor’s Office (MP), the Ministry of the Interior and the units of the different prosecution bureaus and the National Civil Police (PNC) is provided through the following means:

A) Criminal investigation and prosecution: through the joint work with and continual training of prosecutors, assistant prosecutors, investigators, analysts, PNC corporals and officers to draft investigation plans, conduct procedural activities, and hold analytical and police exercises (procedural and operative techniques).

B) Security: through the joint work and rotation of contingents, reintegrating 10 officers into the Ministry of the Interior and selecting 16 recently graduated PNC officers, who joined CICIG to receive facility security and protection of persons training, after undergoing a training and selection procedure.

The management procedures undertaken with counterparts have produced results such as the implementation of the actions set forth in the 2012-2013 CICIG Work Plan at the Public Prosecutor’s Office (MP), in particular at the Special Anti-Impunity Prosecutor’s Bureau (FECI), the Asset Forfeiture Prosecutor’s Bureau, the Secretariat of International Affairs, the Financial Analysis Department and the Security Department. These same



efforts have also been implemented at the Ministry of the Interior, in particular at the PNC Division of Protection of Public Figures and Security, the Academy, and in relation to the creation of the General Directorate of Criminal Investigation (DIGICRI). The main delays in the implementation of activities set forth in the CICIG Plan have stemmed from the poor interinstitutional coordination in creating internal offices and in defining joint interests; therefore, the implementation of technical assistance, training and skills transfer efforts has also been delayed.

In order to consolidate the work to support institutional strengthening for counterparts, CICIG recently created an internal institutional strengthening office to better coordinate the implementation of the 2013-2015 CICIG Work Plan in the areas of technical support, training and skills transfer. The office will also support the creation and administrative and operative functioning of new criminal investigation offices such as the General Directorate of Criminal Investigation (DIGICRI), special investigation methods, and the creation of an information platform.

QUANTITATIVE RESULTS OF CICIG WORK PLAN 2012-2013

STRATEGIC RESULT No. 2: "Contribute to coordinating the State in the fight against criminality"				
PRODUCTS	PROGRESS		GOAL	COMPLETION (%)
	In progress	Implemented		
Technical assistance	10	8	32	25%
Training	18	15	42	35%
Skills transfer	4	6	19	32%

Public Prosecutor's Office

- **Special Anti-Impunity Prosecutor's Bureau (FECI):** FECI is currently processing more than 50 investigations, which are grouped into cases involving State officials who have committed extra-judicial killings; public office-bearers involved in corrupt acts; public office-bearers and individuals responsible for child trafficking and illegal adoption; and criminal structures involved in drug trafficking. The technical support provided by CICIG during the current term has led to the drafting of an analysis with recommendations aimed at elevating the rank of the unit to "Division of the Public Prosecutor's Office", as well as internally restructuring the office so as to create



internal bureaus for drug trafficking, corruption, extra-judicial killings and trafficking in humans and reviewing the investigation model provided for in MP instruction No. 01/2006. As to training, courses have been given to 34 prosecutors on topics such as indictable offences and criminal prosecution strategies, as well as imparting security training to 30 public officials. The skills transfer work has focused on boosting abilities and the quality of investigations, criminal prosecution and protection of parties to proceedings. To do so, a continual effort has been undertaken with interinstitutional investigation teams, with special emphasis placed upon procedure management and hearings; handling evidence (testimonies, documents and expert opinions); identifying accessories before the fact, perpetrators and motives; and drawing up procedures and legal strategies, material strategies and procedural strategies. Through this knowledge sharing, new tools and methods have been used to investigate criminal structures, and financial analysis has been incorporated as well as the figure of the justice cooperator, protected witnesses and special investigation methods.

- **Money Laundering Division of the Public Prosecutor's Office, Unit of Asset Forfeiture (UNED).** The technical support provided to this Division has produced an analysis with recommendations on the importance of fully staffing the office, as envisaged prior to its creation, in particular with investigators for the Directorate of Criminal Investigations (DICRI) and financial analysts. Further recommendations refer to oversight mechanisms for information management, the streamlining of registration procedures, and case transfers.
- **Witness Protection System.** The protocols delivered by CICIG to the MP and MINGOB have been monitored in relation to the use of best practices in the social assistance provided to witnesses located at maximum-security facilities under the Protection Program, whereby individuals benefit from relocation programs with productive businesses. The Special Protection Group has also been monitored in relation to the implementation of training techniques and security protocols. Since October 2012, the appointment of the Director of the Protection Program has been pending.
- **Directorate of Criminal Investigations (DICRI).** The Directorate benefitted from skills transfer through specific tasks and the continual shadowing of international police officials during their operative work, in accordance with investigation objectives.
- **Directorate of Criminal Analysis.** The Directorate has received skills transfer through the secondment of two analysts to CICIG for an initial period of six months. The pair of



analysts will support certain cases; conduct analyses of criminal information; use databases (iBase); analyse telephone information; analyse information extracted from IT equipment; and analyse images, videos and digital maps—all of which are key tools in identifying structures and ensuring organized crime is effectively fought.

Joint work is also conducted with the Directorate to design, structure and program criminal analysis databases, based on iBase software, complementing the use of the Analyst Notebook tool. To progress with this design process, a consultancy will be used to transfer skills to programmers of the Directorate of Analysis, thus employing databases on financial and criminal analysis and nurturing the technical abilities necessary for their use.

- **Department of Financial Analysis (DAF).** Technical support was provided through a proposal containing personnel profiles and a proposal on the functioning of the Department, which were presented in October and November 2012, respectively. A permanent support and care plan was designed and will be implemented once the DAF is created, which will be assigned to the Directorate of Criminal Analysis. In order to transfer skills to strengthen this department, CICIG ordered that, as of May 5, 2013, some of its personnel be physically transferred there so as to conduct joint, internal coordination work on methodological and organizational issues, thus improving the efficiency of the investigation and prosecution of fiscal and financial crimes, as well as recovering ill-gotten assets for the State.
- **Security Department (DS).** The technical support was provided through the drafting of an assessment report on the security system of the district prosecution offices of Huehuetenango, Escuintla and Chiquimula. These efforts were part of a Public Prosecutor's Office (MP) pilot project to strengthen security of premises, officials and users. As a result of an analysis conducted by the Department at the end of 2011, which recommended the creation of a training unit, a terms of reference list has been drafted and candidates have been selected to participate in a shooting trainer course. The participants will learn how to maintain the operative levels of security personnel through regular training. Furthermore, candidates from the Directorate of Security have taken part in the project—an example of unprecedented interinstitutional cooperation. The course has now finished, after 80 hours of instruction were given.

Ministry of the Interior

- **General Directorate of Criminal Investigation (DIGICRI).** Within the creation process of DIGICRI, CICIG has provided technical assistance through its involvement, as an observer, in a work group on the selection procedures to appoint the Director General and Inspector General. CICIG suggested transparency criteria, the assessment of academic levels, professional experience parameters, psychometric tests, as well as offering support for candidate interviews.

The selection procedure began when the Ministry of the Interior launched a second call for applications on January 7, 2013. On April 4, 2013, the extraordinary sessions of the Special Competitive Examination Commission were opened, under the presence of CICIG observers, who were involved in the five sessions to propose criteria regarding the criminal complaint verification procedure, the selection of suitable candidates, academic merit and professional experience. Of a total of 13 candidates, 6 were selected by the Commission made up of Minister of the Interior officials. On July 22, 2013, the selection procedure culminated in the Minister of the Interior appointing Carlos Manuel Valladares Vásquez as Head of DIGICRI and José Estuardo Juárez Rodas as Chief Inspector.

- **General Directorate of Civil Intelligence (DIGICI).** Given the institution is tasked with conducting civil intelligence efforts to support the fight against organized crime groups, capacities will be importantly transferred through the ongoing work of three police corporals and sixteen police officers alongside the international police of CICIG, in accordance with investigation objectives. For these purposes, knowledge is being shared to enhance skills linked to identifying and locating perpetrators and witnesses, using documentary investigation methods and field investigation methods in a coordinated fashion, drafting of reports (with an emphasis on validly and appropriately documenting case investigations), and analysing telephone taps and financial data.
- **Division of Protection of Persons and Security (DPPS).** Protocols for action have been drafted for the MINGOB Division of Protection of Persons and Security, thus improving the organization of its activities as well as the standardization of work methods; reporting channels; activity management; and coordination with other groups. CICIG is transferring skills to officers who recently graduated from the Academy and others with more experience (6 years). The sharing of skills covers acquiring and strengthening knowledge of premises security and protection of persons.



- **Academy.** Training has been given to PNC Academy instructors on teaching methods and basic shooting courses. The instructors will then be able to maintain the operative level of security personnel through regular training.

Judiciary (OJ)

Over the current term, training has been imparted to the Judiciary (OJ) on security, with basic shooting courses given to candidates to be shooting instructors. Forty hours of instruction have been given.

Superintendence of Tax Administration (SAT)

The SAT has benefitted from skills transfer through audits into different taxpayers linked to cases of corruption and criminal structures involved in gasoline contraband. Furthermore, continual support has been provided to the fiscal audit teams of the SAT regarding a special audit conducted into businessmen involved in the fraud case of La Antigua (Guatemala). In this case, a criminal structure—allegedly led by Mayor Adolfo Vivar Marroquín—was created and businesses belonging to friends and family of Marroquín were used as part of its activities.

Comptroller General's Office (CGC)

The CGC has received skills transfer though the continual support and guidance given to the municipal governments' audit teams: 30 Guatemalan public officials have received training in relation to two audits of La Antigua (Guatemala). The two audits concern fraudulent acts committed against the town, where a criminal structure—allegedly led by Mayor Adolfo Vivar Marroquín—was formed and businesses of friends and family of Marroquín were used.

INSTITUTIONAL STRENGTHENING ACTIVITIES (SEP 2012-SEP 2013)

i. Technical Assistance				
BENEFITTED BODY	SUPPORT PROVIDED			
MP	Evaluate the Special Anti-Impunity Prosecutor's Bureau (FECI)			
	Evaluation of the Unit of Asset Forfeiture (UNED) of the Money Laundering Division of the Public Prosecutor's Office			
	Follow up the implementation of training techniques and security protocols acquired by the Special Protection Group assigned to the Witness Protection Program			
	Proposal on profiles for personnel selection and on the functioning of the Department of Financial Analysis			
	Draft products on information analysis, technical analysis, telephone analysis and technical assistance for the Special Prosecutor's Bureau for Crimes Against Life and Integrity of People, the Anti-Organized Crime Division of the Public Prosecutor's Office, the Human Rights Division of the Public Prosecutor's Office, and the District Prosecutor's Office of Quetzaltenango			
	Continual allocation of a security official to the Security Department to follow up the implementation of recommendations made in the analysis conducted at the end of 2011 as well as drafting technical reports on materials and equipment.			
	Assessment of the security system of three district prosecutor's offices chosen to participate in an MP pilot project on strengthening premises and protection of persons			
MINGOB/PNC	Support of selection procedures for the position of Director General and Inspector of the General Directorate of Criminal Investigation (DIGICRI)			
	Protocols to update the Division of Protection for Public Figures and Security			
TOTAL: 2 institutions and 10 offices benefitted.				
ii. Training				
BENEFITTED BODY	BENEFICIARIES		TRAINING TOPICS	
MP	<i>Prosecutors and assistant prosecutors</i>	16	<i>Familiarization with short arms</i>	8 h
	<i>Candidates to be security officials</i>	71	<i>Basic course for security officials</i>	384 h
	<i>Security officials</i>	14	<i>Pistol training</i>	22 h
	<i>Shooting instructor candidates</i>	06	<i>Training the trainer</i>	40 h
	<i>Shooting instructor candidates</i>	06	<i>Basic shooting course</i>	40 h
Total		113		148 h
PNC	<i>Officers</i>	19	<i>Criminal investigation</i>	45 h
	<i>Officers (recent graduates)</i>	16	<i>Basic course on security and protection</i>	120 h



	Officers (assigned to MP)	13	Protection techniques	20 h
	Officers (assigned to MP)	26	Protection and shooting techniques	30 h
	Officers (assigned to MP)	02	Protection and shooting techniques	10 h
	Shooting instructors (Academy)	03	Teaching techniques	88 h
	Shooting instructors (Academy)	03	Training the trainer	40 h
	Shooting instructors (Academy)	03	Basic shooting course	40 h
Total		85		373 h
OJ	Shooting instructor candidates	04	Training the trainer	40 h
	Shooting instructor candidates	04	Basic shooting course	80 h
Total		08		120 h
PGN	Child Division officials	30	Investigations into the origin of children and adolescents declared to be vulnerable who are under the guardianship of the PGN	15 h
Total		30		15 h

Total: 4 institutions and 236 public officials have benefitted.

iii. Skills Transfer

BENEFITTED BODY	BENEFICIARIES		TYPE OF TRANSFER
MP	Prosecutors (FECI)	21	Drafting of investigation plans
			Support in legal field
	Assistant prosecutors (FECI)		Drafting of a procedural strategy
			Requests for financial data interpretation
	Investigators (DICRI)	15	Technical activities (video analysis, telephone tapping and analysis of telephone records)
			Procedural activities (implementation of interview techniques and witness questioning)
			Operative activities (searches of premises and arrest operations, pursuits and surveillance)
			Drafting of reports
	Analysts (Directorate of Criminal Analysis)	02	Analysis of criminal information
			Use of databases (iBase)
	Analysis of telephone information		



			Analysis of information extracted from IT equipment
			Analysis of images, videos, and digital maps
<i>Total</i>		38	
MINGOB/PNC	Officials (DIGICI)	03	Technical activities (video analysis, telephone tapping and analysis of telephone records)
	Officers (DIGICI)	16	Procedural activities (implementation of interview techniques and witness questioning)
			Operative activities (searches of premises and arrest operations, pursuits and surveillance)
			Drafting of police reports
			Analysis of accounting and financial reports
	Officers (DSSP)	10	Protection of persons and premises security
Officers (DSSP)	16	Protection of persons and premises security	
<i>Total</i>		45	
SAT	Tax auditors	25	Lead audits of different tax payers linked to investigations
<i>Total</i>		25	
Comptroller General's Office (CGC)	Government audits	30	Support and direct audit teams of municipal government
<i>Total</i>		30	
Total: 4 institutions and 138 public officials have benefitted			

C. Recommendations to the State to adopt public policies

Legal and institutional reforms

The mandate of the Agreement to establish CICIG (Article 2(1)(c)) provides for recommendations to be made to the State of Guatemala regarding public policies to be adopted—including the necessary judicial and institutional reforms—to eradicate and prevent the re-emergence of clandestine security structures and illegal security forces. Pursuant to this part of its mandate, CICIG has drafted and presented comprehensive proposals for legislative reforms (2008, 2009 and 2010) and constitutional reforms (2011) to help the State eradicate and prevent the re-emergence of clandestine security organizations and illegal security groups.

The Commission acknowledges the efforts of Congress to approve legal reforms to provide tools that strengthen the justice system as far as investigating and criminally prosecuting organized crime is concerned. Such tools include the justice collaborator, statements via audio-visual equipment, criminal jurisdiction in high-risk proceedings, the



regulation of private security services, the Law on Asset Forfeiture, the Law on the General Directorate of Criminal Investigation (DIGICRI) and the Anti-Corruption Law. However, it is concerning that there are still bills pending approval which are key in ensuring progress in justice administration and the fight against impunity in Guatemala, especially the bills on reforming the *amparo* law, the law on immunities, the organic law of the Public Prosecutor's Office (MP), the Judicial Service Law (including a disciplinary proposal package), the disciplinary regime of the National Civil Police (PNC) and the organic law of the Attorney General of the Nation's Office (PGN), among others.

CICIG has continually reminded the responsible bodies of the urgent need to pass these bills and prioritize constitutional reforms to modify the selection procedure for judges of the Supreme Court of Justice and the Court of Appeals as well as the head of the Public Prosecutor's Office (MP) and, hence, guarantee the independence of the justice system. Other mechanisms to be modified concern tenure, grounds for separation from a position, and internal controls of the Judiciary (OJ) and the Public Prosecutor's Office (MP). It is crucial that during 2013 the plenum of Congress addresses the legislative agenda with speed and vigour to facilitate the approval of these reforms. Furthermore, it must bear in mind that elections will be held in 2014 to select high-ranking State officials, which undoubtedly will influence the progress, or lack thereof, of justice administration in Guatemala over the coming years.

Drafting of thematic reports

The publication by CICIG of the report titled "The Impunity Judges" sought to strike up debate on the legitimacy, or lack thereof, of some rulings passed down by Guatemalan judges. The report attempts to achieve this goal by presenting a series of cases, some of which were supported by CICIG, where illegal judicial decisions were made by judges who have been co-opted by criminal structures involved in drug trafficking and trafficking in humans for adoption. Further crimes committed by judges implicated in the report include creating impunity through decisions that favour political and economic figures with ties to structures that plunder State funds, launder money, and commit corrupt acts, fraud or murder.

CICIG, in exercising its powers and in an unprecedented step for the country, publicly accused 18 judges and simultaneously presented information to the Public Prosecutor's Office (MP) to demonstrate the manner in which each judge had made illegal rulings in the various proceedings under their responsibility. Based on the report's contents, the Public Prosecutor's Office (MP) requested the lifting of immunity of a number of judges,



accusing them of malfeasance of office, and in February 2013, the Supreme Court of Justice ruled unanimously to hear six of the requests filed against judges and four requests filed against senior judges, all of whom were the subject of CICIG complaints. The SCJ also named investigating judges to oversee the cases.

VI. CONCLUSIONS AND CHALLENGES

Conclusions

- The successful investigation and criminal prosecution of criminal structures in Guatemala has been achieved through more strategic and operative actions on a national and international scale. It has been demonstrated that justice knows no bounds and is solely influenced by human beings, regardless of their ethnicity or economic or political standing. Furthermore, the advances made have proven that it is possible to reduce impunity levels within the framework of the rule of law.
- The expertise of different MP offices in information exchange, letters rogatory, judicial assistance, extraditions and direct relations with counterparts in other countries made it possible to demonstrate that criminals have to face up to the criminal actions committed against the State and Guatemalan citizens.
- The State of Guatemala has made important efforts, including increasing the budget of criminal prosecution institutions, creating stronger institutions and passing laws. However, the approval of the Law on Asset Forfeiture, the Anti-Corruption Law and the Law of the General Directorate of Criminal Investigation (DIGICRI) urgently requires the institutions to increase their logistical resources and specialized investigation methods in order to eradicate the walls of impunity created by powerful groups with ties to corrupt structures and to prevent the plundering of State funds, fraud, money laundering, drug trafficking, customs contraband and murders.
- The commitment to interinstitutional work, with a focus on a closer relationship with the Public Prosecutor's Office (MP) and strong police investigations, led to the undertaking of a process to transform the State—the body responsible for fighting impunity and organized crime.
- The Guatemalan institutions' awareness of the need to eradicate impunity, even in the most complicated of circumstances, has made it necessary to address shortcomings in the investigation and criminal prosecution system and progress with criminal and administrative decisions in the justice sector. This is of great importance in order to regain public confidence in the institutions and governance.



- The undertakings in the area of criminal investigation and prosecution are not enough to tackle the impunity phenomenon, because the most radical causes have not been addressed, such as judicial dependence. In addition, there is a tendency for the majority of crimes to be punished based on formal and not substantive aspects, as well as the overuse of *amparo* appeals, which violates due process and the right of accused parties to be tried within a reasonable term.
- The international support for the commitments of the State of Guatemala regarding the peace accords, human rights and the fight against impunity has positively contributed to maximizing transparency and consolidating the success of projected results.
- The support of international cooperation agencies in modernizing the justice sector has created better conditions to stride forward with institutional strengthening projects, greatly influencing the public agenda.

Challenges

- Impunity continues to be one of the main problems in Guatemala. The transformation of the legal system, with the aim of increasing its independence and creating a legal framework that facilitates the modification of the current procedures used to select judges, as well as achieving a more efficient administration of the system, would significantly contribute to reducing impunity levels in Guatemala over the coming years.
- The continual 'shakedown' of corrupt officials shall be determined by a career system in the Judiciary (OJ) that provides for the irremovability of judges, permanent tenures and a disciplinary system. It is a fact that the Guatemalan judiciary is mainly comprised of committed, honest judges; however, it is also true that there is a small group of judges who favour criminal structures with their rulings and judgments.
- The professionalization of officials of the judicial branch, the Public Prosecutor's Office (MP) and State security forces will improve the results of investigation, criminal prosecution and trial work. However, to ensure these efforts are not in vain, it will be necessary to approve judicial frameworks improving the conditions of public officials by providing them with better job stability, higher salaries, the respect and recognition



of their rights and access to a security system for both the official and his or her family.

- In order for the State to be sufficiently coordinated to tackle criminal organizations without CICIG support, a steely commitment and political intent will be necessary on the part of the institutions so as to implement the recommendations made since August 2010 to coordinate the State, in particular through elite prosecutor's offices, international relations offices to exchange information in real time, a witness and victim protection system, scientific criminal investigation police, an information platform, special investigation methods and independent judges.
- The impunity situation in Guatemala requires public officials to be highly trained and extremely professional. The work they undertake should lead to the accomplishment of institutional goals, optimizing good practices knowledge, the acquirement of skills to tackle organized crime and specific knowledge of impunity and related national and international crimes.
- The situation of threats and violence in Guatemala means there is an ongoing need to improve mechanisms that safeguard the comprehensive security of witnesses who are exposed to risks through their direct or indirect involvement in criminal proceedings.
- The implementation and functioning of a new scientific police force, the strengthening of special methods and a comprehensive information platform will make it possible to quickly visualize the dynamics of crime, rationally invert resources into crime prevention and reduce crime response time. Further work must also be conducted in relation to the General Directorate of Criminal Investigation (DIGICRI) and the information platform.
- The State of Guatemala must also take the necessary measures at all levels to end impunity and ensure that the perpetrators of egregious, atrocious crimes are brought to justice.