

STATEMENT OF CASE TO RENEW THE DESIGNATION OF EJERCITO DE LIBERACION NACIONAL (ELN) AS A TERRORIST ENTITY

PURPOSE

1. This paper sets out the case demonstrating Ejército de Liberación Nacional (ELN, also known as National Liberation Army (NLA) and Army of National Liberation) meets the statutory criteria for the renewal of its designation as a terrorist entity within New Zealand pursuant to the Terrorism Suppression Act 2002 (TSA).

STRUCTURE OF THIS PAPER

2. This paper sets out updated information about ELN's continued involvement in terrorist activity and covers any relevant changes or developments to the organisation since its original designation in December 2010¹ and renewal in October 2013, September 2016, and September 2019², including SP's objectives, structure, weapons and tactics and includes recent attacks which meet the definition of a terrorist act under the TSA.
3. This updated information, together with the information contained in the original designation paper and previous renewal papers, provide the basis for the conclusion that ELN meets the legal criteria for renewal of its designation as a terrorist entity under the TSA.

STATUTORY CRITERIA FOR DESIGNATION RENEWAL UNDER THE TSA

4. Section 35(1) of the TSA provides that a designation of a terrorist entity expires three years after the date of designation unless it is earlier renewed by the Prime Minister. The original designation is made pursuant to s 22 of the TSA, which provides that the Prime Minister may designate an entity as a terrorist entity if the Prime Minister believes on reasonable grounds that the entity has knowingly carried out, or has knowingly participated in the carrying out of, one or more terrorist acts. Carrying out a terrorist act is defined in s 5A(1) as including planning, other preparations, or a credible threat to carry out the act, whether or not the act is actually carried out and includes attempts to carry out the act.
5. The Prime Minister may renew that designation for a further three years under s 35(2) if satisfied that there are still reasonable grounds as set out in s 22 for the entity to be designated under that section.
6. Before the expiry of an order made under s 35(2), the Prime Minister may make another order under s 35(3) renewing the designation concerned for a further three years. The Prime Minister may make any number of orders under s 35(3) in respect of the same designation (s 35(5)).

CREDIBILITY OF SOURCES

7. This paper has been prepared using open or unclassified sources which have a reputation for careful and unbiased reporting. These include BBC News, Al Jazeera, Reuters, Jane's Terrorism and Monitoring series and Insight Crime.
8. A range of regional news sources were also referred to including Merco Press, Colombia Peace, Orinoco Tribune and TeleSUR.
9. Other sources utilised include American Enterprise Institute United States Department of Justice, and The Colombian General Command of Military Forces.

EVIDENCE TO SUPPORT DESIGNATION RENEWAL UNDER THE TSA

Continued involvement in terrorist activity

10. On 15 October 2021, an attack was carried out against a pipeline in the city of Barrancabermeja which is used to transport crude to Colombia's most significant refinery. The attack resulted in an oil spill which affected vegetation and soil, a fire had also broken out which was later contained. ELN claimed the attack stating that "Our guerrilla forces carried out an act of sabotage on the La Cira Infantas pipeline used by Ecopetrol today".³
11. On 7 January 2022, an explosive was detonated targeting a vehicle that Colombian police officers were travelling in near Cali. Thirteen officers were injured, with some sustaining serious injuries. ELN claimed the attack.⁴
12. On 27 January 2022, ELN launched attacks on two military bases in northern Colombia. One Colombian soldier was killed, 22 others were injured. ELN used explosive devices, including grenades, to carry out the attack.⁵
13. On 23 February 2022, ELN guerrillas conducted an armed strike across Colombia which included exploding a bridge, setting fire to vehicles, blocking roads and detonating explosives which injured eight people. The group stated that they were holding a three-day strike to protest the government's economic and social policies. The strike restricted movement and trade in rural areas where the ELN operates.⁶

Ideology and objectives

14. ELN purportedly strives for a Marxist revolution to overthrow the Colombian government and replace it with a socialist administration. ELN continues to strongly oppose privatisation and foreign investment, and since 2016 has continued to target infrastructure with the objective of economic sabotage.⁷
15. In March 2020, ELN declared a unilateral ceasefire for a month starting on 1 April and ending 30 April 2020. The group claimed that the ceasefire was a "humanitarian gesture" amid the coronavirus pandemic. ELN also stated that it was open to reviving suspended peace negotiations with government and wants to meet representatives of the government of President Iván Duque to discuss an extension to the ceasefire.⁸ Hostilities resumed following 30 April 2020.

Organisation and structure

16. ELN maintains a horizontal structure for military decisions, with commanders of various fronts given a significant degree of autonomy, however, political decision making is made by its Central Command. This structure allows each front to operate and take actions independently. ELN currently has seven fronts in Colombia; The Eastern War Front, North Eastern War Front, Western War Front, Southwestern War Front, and the Urban War Front.⁹
17. In January 2020, military intelligence estimated membership numbers of ELN to be at 2,500. This has decreased from an estimated 3,000 members in August 2020. Some ELN members maintain military encampments and concentrations of forces in rural and wilderness areas. There are also large numbers of members mixed with the general population who are not readily identified as belonging to the group.¹⁰

Weapons, tactics and capability

18. ELN frequently conduct attacks in the rural areas where it operates, prominently on government infrastructure, as well as carrying out attacks in the capital, Bogota. ELN tend to mainly target security forces, however, there is often civilian collateral damage during attacks. Director of Colombia Risk Analysis explained that ELN has demonstrated the capacity and intent to hit government targets and in some cases civilians. It was also stated that “we should not be taking these threats lightly”.¹¹
19. ELN continues to use small arms, IEDs and VBIEDs, as well as communication devices and systems. For example:
 - 19.1. In August 2019, an operation carried out by the Colombian Navy uncovered an ELN hideout, where explosives, war material and military garments were found. In addition to this, grenade launchers, rifles, and ammunition were also found and seized. Finally, communications equipment, detonating cords, explosive material, syringes and military accessories were uncovered.¹²
 - 19.2. In January 2020, a Florida resident was convicted of selling firearms to ELN. Six pistols along with a large quantity of AK-47 ammunition were shipped to ELN in Barranquilla following discussions with an ELN weapons broker. There were also discussions of further sales in the future.¹³
 - 19.3. On 3 February 2021, 11 semi-automatic rifles and 12 magazines of ammunition were seized following two Colombian police raids. The weapons were destined for ELN. This followed the seizure of six AM-15 rifles and seven magazines during a routine traffic stop in the capital Bogota. These weapons were also enroute to ELN members.¹⁴
 - 19.4. On 19 February 2022, a truck carrying ammunition for AK-47 rifles, electric detonators, IEDs, night vision displays, communication devices and systems for encrypting communications was seized at a checkpoint in Sacama municipality. It is suspected the truck was transporting the weapons to an ELN encampment.¹⁵
20. ELN continues to finance itself through extortion and kidnapping, targeting oil companies operating in areas under its control. ELN has also utilised drug trafficking as a source of revenue, implementing a “tax” on drug cultivators and trafficking groups.¹⁶
 - 20.1. In September 2020, three ELN members and three ELN associates were convicted on charges relating to a twenty-year international drug conspiracy. All six were charged with participating in an international cocaine distribution conspiracy and international cocaine distribution among other charges.¹⁷
 - 20.2. On 15 June 2020, ELN released six hostages including two police officers and four civilians. The hostages were handed over to members of the International Committee of the Red Cross in a rural area near the Venezuelan border. This follows two civilian hostages being released on 13 June 2020. The police officers had been kidnapped on 31 March 2020 while one of the civilians - a woman - had been held for four months. The group was believed to be holding at least a further ten hostages.¹⁸

LAW OF ARMED CONFLICT (LOAC)

21. The activities of ELN do not occur in a situation of armed conflict for the purposes of section 5(4) of the TSA. Further, ELN’s actual or planned activities would not comply with rules of

international law applicable to an armed conflict. This includes the targeting of civilians and civilian objects. Accordingly, the exemption in s 5(4) cannot apply.

CONCLUSION

22. On the evidence set out above, this paper concludes that there are still reasonable grounds as set out in s 22 of the TSA for ELN to be designated under that section.
23. Since its designation in October 2010 and renewals in October 2013, September 2016 and September 2019, ELN has continued to carry out activities which meet the definition of terrorist acts in ss 5 and 5A of the TSA (paragraphs 10-13 above) including planning, threatening and attempting attacks. Accordingly, given there are still reasonable grounds to believe ELN has knowingly carried out terrorist acts as set out in s 22 of the TSA, ELN meets the legal criteria for renewal of its designation as a terrorist entity under s 35.
24. The designation must be renewed by 26 September 2022 to be effective.

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- ¹ The statement of case dated 15 December 2010 can be accessed at: <https://www.police.govt.nz/sites/default/files/publications/statement-of-case-ejercito-de-liberacion-nacional-terrorist-entity-15-dec-2010.pdf>
- ² The statement of cases dated 2 October 2013, 26 September 2016 and 26 September 2019 can be accessed at: <https://www.police.govt.nz/sites/default/files/publications/renew-eln-2-oct-2013.pdf>
<https://www.police.govt.nz/sites/default/files/publications/renew-eln-terrorist-entity-26sept2016.pdf>
<https://www.police.govt.nz/sites/default/files/publications/renew-eln-terrorist-entity-26-september-2019.pdf>
- ³ 16/10/2021 “Colombia ELN guerrillas claim responsibility for attacks on oil infrastructure”, *Reuters*, accessed via <https://www.reuters.com/business/energy/colombias-ecopetrol-reports-attack-oil-pipeline-2021-10-15/> retrieved on 23/03/2022.
- ⁴ 07/01/2022 “Colombia's leftist ELN rebels claim responsibility for bombing”, *Reuters*, accessed via <https://www.reuters.com/world/americas/colombias-leftist-eln-rebels-claim-responsibility-bombing-2022-01-08/> retrieved on 21/03/2022.
- ⁵ 28/01/2022 “One killed, many injured in Colombian guerrilla violence”, *Merco Press*, accessed via c retrieved on 23/03/2022.
- ⁶ 24/02/2022 “ELN rebels blow up bridge, injure eight in attacks across Colombia -government”, *Reuters*, accessed via <https://www.reuters.com/world/americas/eln-rebels-blow-up-bridge-injure-eight-attacks-across-colombia-government-2022-02-23/> retrieved on 21/03/2022.
- ⁷ (18/01/2018) “Ejército de Liberación Nacional (ELN)”, accessed via *Jane's World Insurgency and Terrorism* on 12/07/2019. Available via subscription.
- ⁸ 30/03/2020 “Colombia's ELN rebels call ceasefire over coronavirus”, *BBC News*, accessed via <https://www.bbc.com/news/world-latin-america-52090169> retrieved on 24/03/2020.
- ⁹ 27/10/2020 “ELN”, *InSight Crime*, accessed via <https://insightcrime.org/colombia-organized-crime-news/eln-profile/> retrieved on 24/03/2022.
- ¹⁰ 12/04/2020 “The ELN”, *Colombia Peace*, accessed via <https://colombiapace.org/the-eln/> retrieved on 24/03/2022.
- ¹¹ 1/10/2021 “Colombia's ELN rebels warn of ‘reprisals’ after commander killed”, *Al Jazeera*, accessed via <https://www.aljazeera.com/news/2021/10/1/colombia-eln-rebels-warn-of-reprisals-after-commander-killed> retrieved on 24/03/2022.
- ¹² 19/08/2019 “Authorities achieve finding of weapons and explosives in operation against the ELN.”, *The General Command of the Military Forces*, accessed via <https://www.cgfm.mil.co/en> retrieved on 25/03/2022.
- ¹³ 28/01/2020 “South Florida Resident Sentenced to 20 Years in Prison for Selling Firearms to a Designated Foreign Terrorist Organization”, *United States Department of Justice*, accessed via <https://www.justice.gov/opa/pr/south-florida-resident-sentenced-20-years-prison-selling-firearms-designated-foreign> retrieved on 28/03/2022.
- ¹⁴ 04/02/2021 “Seized guns destined for Colombia rebels in Venezuela: sources”, *Reuters*, accessed via <https://www.reuters.com/article/us-colombia-crime-idUSKBN2A31WK> retrieved on 25/03/2022.
- ¹⁵ 21/02/2022 “Colombia: ELN to Perform 72-Hour Strike Against President Duque”, *teleSUR*, accessed via <https://www.telesurenglish.net/news/Colombia-ELN-to-Perform-72-Hour-Strike-Against-President-Duque-20220221-0006.html> retrieved on 25/03/2022.
- ¹⁶ 07/2019 “The National Liberation Army in Colombia and Venezuela: Illicit Finance Challenges Stemming from Illegal Mining”, *American Enterprise Institute*, accessed via <https://www.aei.org/wp-content/uploads/2019/07/The-National-Liberation-Army-in-Colombia-and-Venezuela.pdf?x91208> retrieved on 25/03/2022.
- ¹⁷ 21/09/2020 “SIX ELN Members and Associates Charged With Narco-Terrorism and International Cocaine Distribution Conspiracy”, *United States Department of Justice*, accessed via <https://www.justice.gov/usao-sdtx/pr/six-eln-members-and-associates-charged-narco-terrorism-and-international-cocaine> retrieved on 28/03/2022.
- ¹⁸ 15/06/2020 “Colombia's ELN rebels free six more hostages amid peace talks Plea”, *BBC News*, accessed via <https://www.bbc.com/news/world-latin-america-53049890> retrieved on 28/02/2022.