

## **FINAL AGREEMENT TO END THE ARMED CONFLICT AND BUILD A STABLE AND LASTING PEACE**

### **PREAMBLE**

*Recalling* that the Havana dialogues between delegates from the National Government, led by President Juan Manuel Santos, and delegates from the Revolutionary Armed Forces of Colombia – People’s Army (FARC-EP), based on their mutual decision to bring the national armed conflict to an end, came about as the result of the exploratory meeting that took place in the capital of the Republic of Cuba between 23 February and 26 August 2012;

*Considering* that said exploratory dialogues resulted in a *General Agreement to End the Armed Conflict and Build a Stable and Lasting Peace*, signed on 26 August 2012 before national witnesses and before delegates from the Republic of Cuba and from the Kingdom of Norway, who also served as witnesses, and, since then, have accompanied the process as guarantor countries;

*Emphasising* the fact that the Bolivarian Republic of Venezuela and the Republic of Chile have been ready at all times to perform their proper duties as observer countries;

*Recalling* that in fulfilment of the agenda approved in the aforesaid Agreement, the Negotiation Table was established on 18 October 2012 in the city of Oslo, capital of the Kingdom of Norway, and activities have continued in the Cuban capital without interruption up to the act of signing the new Final Agreement;

*Considering* that, as a consequence of what was stated on 24 August of this year, the parties signed a *Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace*; that the people were consulted on the said agreement by means of a plebiscite accepted by the parties at the relevant time, on a date established for that purpose (2 October) and, by means of a ruling handed down by the Constitutional Court, which informed the country of the terms and conditions of the chosen path;

*Recognising* that in the ballot boxes NO prevailed over YES, although that does not mean a rejection of the right to peace or of fundamental rights;

*Emphasising* that the ruling itself of the Constitutional Court referred to above set out guidelines to be followed in the event that NO was the majority response in the plebiscite; the said ruling by the Court indicates that the President of the Republic retains the power to maintain public order "even by negotiating with illegal armed groups in order to achieve other peace agreements";

*Asserting* the decision of the parties to continue with the search for peace by first listening to those who expressed their reservations on the contents of the Final Agreement first signed, with

a desire to reach a new agreement with a greater consensus; that what was thereby achieved was an enrichment and amendment of the previous Agreement, taking into account the specific concerns, proposals, clarifications, and definitions put forward by a wide range of social groups and organisations, sectors of opinion and political movements and parties; that, after carefully examining with an open mind all the matters put forward by the interested parties for consideration by the negotiating parties, a large number of substantial changes and amendments were made to the old texts, converting the previous Peace Agreement into a new *Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace*;

*Emphasising* that the new Final Agreement signed on said date is the free manifestation of the wishes of the Colombian government and of the FARC-EP, after having responded to a number of initiatives by sectors of the people of Colombia, acting in good faith and with the full intention of fulfilling the agreement;

*Bearing in mind* that Article 22 of the Political Constitution of the Republic of Colombia establishes peace as a right and as a mandatory duty; that Article 95 states that the exercising of the rights and freedoms enshrined in the Constitution implies responsibilities, which include striving towards the achievement and maintenance of peace;

*Emphasising* that peace has come to be universally described as a superior human right and as a prerequisite for the exercising of all other rights and duties incumbent upon individuals and citizens;

*Bearing in mind* the fact that the new Final Agreement encompasses each and every one of the accords reached in developing the Agenda of the General Agreement signed in Havana in August 2012; and that in order to achieve that, the parties, always and at every stage, have upheld the spirit and scope of the rules of the National Constitution, the principles of international law, international human rights law, international humanitarian law (its conventions and protocols), the stipulations of the Rome Statute (international criminal law), the decisions of the Inter-American Court of Human Rights concerning conflicts and conflict termination, and other resolutions of universally recognised jurisdictions and authoritative pronouncements relating to the subject matters agreed upon;

*Emphasising* that the rights and duties enshrined in the Charter are interpreted in accordance with international treaties on human rights ratified by Colombia and their enjoyment or exercise may not be subject to any limitation;

*Recalling* that Article 94 states that “the declaration of the rights and guarantees enshrined in the Constitution and in current international conventions must not be understood as the negation of others that, intrinsic to the human individual, are not expressly mentioned therein”;

*Considering* that the sum of the accords of which the new Final Agreement is composed, contributes to the fulfilment of fundamental rights, such as political, social, economic and cultural rights; the rights of the victims of conflict to truth, justice and reparations, the rights of boys, girls

and adolescents, the right to freedom of faith and its free exercise; the fundamental right of individual and/or collective legal certainty and physical safety; and the fundamental right of each individual and of society to non-recurrence of the tragedy of the internal armed conflict that this Agreement proposes to finally end;

*Emphasising* that the new Final Agreement places special emphasis on the fundamental rights of women, of vulnerable social groups such as indigenous peoples, girls, boys and adolescents, communities of African descent and other ethnically differentiated groups; the fundamental rights of the small-scale farmers, both male and female, and the essential rights of persons with disabilities and of those displaced by the conflict; and the fundamental rights of the elderly and of the LGBTI community;

*Emphasising* that, further to what is underlined above, the state, pursuant to Article 13 of the Political Constitution of Colombia, must guarantee the various aspects of the right to equality and non-discrimination, which must tend towards bringing about conditions that allow the effective protection of persons who are clearly in a position of weakness and the punishment of abuses committed against them;

*Emphasising* that Colombia has signed International treaties and declarations that enshrine equality, non-discrimination against persons and tolerance as universal conduct, not only as principles, but as values that must be applied and defended as a prerequisite for bringing about peace and economic and social progress for all peoples, and emphasising that tolerance consists of "harmony in difference";

*Noticing that*, in the opinion of the National Government, the transformations that must be achieved when implementing this Agreement must play a part in reversing the effects of the conflict and in changing the conditions that have led to the persistence of violence across the country; and, in the opinion of the FARC-EP, such transformations must contribute to resolving the historical causes of the conflict, such as the unresolved issue of land ownership and, in particular, the concentration thereof, the exclusion of the rural population, and the underdevelopment of rural communities, which especially affects women, girls and boys.

*Appreciating and extolling* the fact that the central pillar of peace is the promotion of the presence and the effective operation of the state throughout the country, especially throughout the many regions that are today afflicted by neglect, by the lack of an effective civil service and by the effects of the internal armed conflict itself; that it is an essential goal of national reconciliation to construct a new territorial-based welfare and development paradigm to the benefit of broad sectors of the population that have hitherto been the victims of exclusion and despair;

*Acknowledging* the right of society to comprehensive human security, with the participation of the civil authorities;

*Extolling* and enshrining the justice that is to come inasmuch as it acknowledges essential fundamental rights for new and future generations, such as the right to protected land, the right to the conservation of the human species, the right to be aware of one's origins and identity, the right to know the truth with regard to events occurring before one's birth, the right to exemption from liability for acts committed by earlier generations, the right to the preservation of freedom of choice, and other rights, notwithstanding the rights of victims of any age or generation to truth, justice and reparations;

*Having regard to the fact* that the new vision of a Colombia at peace enables us to achieve a sustainable society that is united in diversity and that is based not only on consideration for human rights but on mutual tolerance, protection of the environment, respect for nature and its renewable and non-renewable resources and biodiversity;

*Recalling* that on June 23 this year, the delegations from the National Government and from the FARC-EP signed, in the Cuban capital, the agreements on the Bilateral and Definitive Ceasefire and Cessation of Hostilities and Laying down of Arms and Security Guarantees, in the presence of the President of the Councils of State and Ministers of the Republic of Cuba, the Secretary-General of the United Nations, the President of the United Nations General Assembly, the President of the UN Security Council, Norway's Foreign Minister, the heads of state of the observer countries, heads of government of countries in the region, the United States Special Envoy and the European Union Special Representative; that such cessation of hostilities has been repeated from the date of the plebiscite of last 2 October;

*Accepting* that customary international legal standards will continue to govern issues relating to fundamental rights not mentioned in the new Final Agreement, including the imperative whereby "in those cases not provided for by current law, the individual will be safeguarded by humanitarian principles and the demands of the public conscience";

*Admitting* that the new *Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace* must be endorsed in accordance with Item 6 of the Agenda in the General Agreement; that such endorsement takes place by means of systems for participation by citizens such as a plebiscite, legislative initiatives, consultation, open local government councils and others, or by public corporations elected by suffrage, whose members are responsible for exercising representation with a mandate such as the Congress of the Republic, departmental assemblies and municipal councils; that such endorsement is decided by the parties and must take place as indicated in the relevant rules or judgments;

*Acknowledging* all the foregoing and, in particular, the non-delegatable constitutional mandate that states that the President of the Republic, as head of state, head of government and supreme administrative authority, is responsible for agreeing upon and endorsing peace accords;

We, the Government of the Republic of Colombia and the Revolutionary Armed Forces of Colombia - People's Army, have agreed as follows:

Final Agreement  
24.11.2016

To sign this Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace, with the substantial amendments that make it a new Agreement, the implementation of which will put a definitive end to an armed conflict that has lasted over fifty years, and which is recorded in writing below.

This Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace is signed by the National Government and the Revolutionary Armed Forces of Colombia – People’s Army (FARC-EP) as a Special Agreement pursuant to Article 3, common to the 1949 Geneva Conventions, as per its international standing.

The National Government and the Revolutionary Armed Forces of Colombia – People’s Army (FARC-EP) hereby sign seven originals, including the annexes thereto, one for each of the parties, one for each of the guarantor countries and one for each of the observer countries. The seventh original copy will be deposited, immediately after signature, with the Swiss Federal Council in Bern, or with such body as might replace it at a future date as repository of the Geneva Conventions.

## INTRODUCTION

After a conflict lasting more than half a century, we, the National Government and the FARC-EP, have agreed to put a definitive end to the internal armed conflict.

The conclusion of hostilities will first and foremost represent the end of the enormous suffering that the conflict has caused. Millions of Colombians, men and women alike, have been victims of forced displacement, the dead number in their hundreds of thousands, tens of thousands of people of all kinds have disappeared, and vast numbers of communities have been affected in one way or another throughout the length and breadth of the country, including women, boys, girls and adolescents, rural communities, indigenous peoples, the Afro-Colombian, black, *palenquero*, *raizal* and Roma communities, political parties, social and trade-union movements, and economic associations, *inter alia*. There must be no more victims in Colombia.

Secondly, the end of the conflict will herald a new Chapter in our nation's history. It will be an opportunity to initiate a phase of transition that will contribute to greater territorial integration, greater social inclusion – especially of those who have existed on the fringes of development and have suffered from the conflict – and to strengthening our democracy, bringing it to all corners of the country and ensuring that social conflicts can be resolved through institutional channels, with full guarantees for those taking part in politics.

We must build a stable and long-lasting peace, with the involvement of all Colombian citizens. With this as our objective – putting an end, once and for all, to the historical cycles of violence and laying the bases for peace – we hereby approve the items contained in the Agenda of the General Agreement of August 2012, expounded on in this Agreement.

The Agreement is composed of a series of accords that nonetheless constitute an indissoluble whole agreement, in that they are suffused by a consistent rights-based approach whereby the measures agreed here can contribute to the realisation of the constitutional rights of all Colombians. The Final Agreement recognises, without any discrimination whatsoever, the primacy of the inalienable rights of the person as a basis for coexistence in the public and private spheres, and the family as the fundamental nucleus of society and the rights of its members. The implementation of the Agreement must be governed by recognition of the equality and protection of the pluralism of Colombian society, without any discrimination. The conditions in order for equality to be real and effective will be guaranteed in its implementation and affirmative measures will be adopted in favour of groups that are discriminated against or marginalised, taking a territorial-based, equity-based and gender-based approach into consideration.

The territorial-based approach of the Agreement requires recognition and consideration of the economic, cultural and social needs, characteristics and peculiarities of Colombia's territories and

communities, thereby guaranteeing socio-environmental sustainability; furthermore, it involves implementing the various measures comprehensively and in a coordinated way, with the active participation of all citizens. All of Colombia's regions and territories will contribute to the implementation of the Agreement, with the participation of territorial-based authorities and the various sectors of society.

Citizen involvement is the basis of all of the accords constituting the Final Agreement: in general, participation by society in the peacebuilding process and, in particular, its involvement in the planning, execution and monitoring of territorial-based plans and programmes – which is also a guarantee of transparency.

Additionally, the participation of and dialogue between the various sectors of society will contribute to building a climate of trust and promoting a culture of tolerance, respect and peaceful coexistence in general, which is an objective of all the accords. Decades of conflict have led to deep mistrust within society, especially in the territories most affected by the conflict. To break down these barriers, we need to open up spaces for the broadest citizen involvement and spaces to promote the acknowledgement of victims, the acknowledgement and establishment of accountability and, in general, the acknowledgement by society as a whole of all that has happened and of the need to greet this opportunity for peace with open arms.

On the basis of the aforesaid, with a view to further consolidation of the foundations that will underpin peace and national reconciliation, the Colombian government and the FARC-EP will, once the process of public endorsement is carried out, convene a meeting of all parties, political and social movements, and all the driving forces of the country with the aim of reaching an overarching NATIONAL POLITICAL AGREEMENT designed to set out the institutional modifications and reforms that are needed to meet the challenges required by the peace, thereby implementing a new framework for political and social coexistence.

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The Final Agreement contains the following items, with their corresponding accords, that aim to contribute to the changes required to lay the foundations for a stable and long-lasting peace.

Chapter 1 contains the agreement on “Comprehensive Rural Reform” (*Reforma Rural Integral*) that will foment structural change in the countryside, closing up the differential that exists between rural and urban areas and creating conditions of well-being and quality of life for the rural population. The “Comprehensive Rural Reform” (CRR) must incorporate all of the country's regions, contribute to the eradication of poverty, promote equality and ensure full enjoyment of the rights of citizenship.

Chapter 2 contains the agreement on “Political Participation: A democratic opportunity to build peace” (*Participación política: Apertura democrática para construir la paz*). Peacebuilding and -consolidation, within the context of the end of the conflict, require the extension of democracy to incorporate new forces on the political scene, thereby enriching debate and deliberation on the major issues facing the nation and thus consolidating pluralism and, concomitantly, the

representation of society's diverse visions and interests, with due guarantees where political inclusion and participation are concerned.

In particular, implementation of the Final Agreement will contribute to a wider and deeper concept of democracy inasmuch as it will involve the laying-down of arms and the outlawing of violence as a means of political action for each and every Colombian citizen, with a view to achieving the transition to a political climate where democracy takes precedence, with comprehensive guarantees for those taking part in politics, and thus new spaces for participation.

Chapter 3 contains the "Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities and Laying down of Arms" (*Cese al Fuego y de Hostilidades Bilateral y Definitivo y la Dejación de las Armas*), the objective of which is the definitive conclusion of offensive actions between the Colombian State Armed Forces (which include both the Military Forces and the National Police) and the FARC-EP and, in general, an end to hostilities and any action governed by the rules of the Ceasefire, including those affecting civilians, thereby creating the conditions allowing for the implementation of the Final Agreement and the laying down of arms to commence, and preparing the institutional framework and the country as a whole for the reincorporation of the FARC-EP into civilian life.

Chapter 3 also contains the agreement on "Reincorporation of the FARC-EP into civilian life – in economic, social and political matters – in accordance with their interests" (*Reincorporación de las FARC-EP a la vida civil –en lo económico, lo social y lo político- de acuerdo con sus intereses*) agreement. Laying the bases for building a stable and long-lasting peace requires effective reincorporation of the FARC-EP into the social, economic and political life of the country. Reincorporation constitutes ratification of the FARC-EP undertaking to put an end to the Chapter of internal conflict, to become a valid player within the democratic system and to make a resolute contribution to consolidating peaceful coexistence, guarantees of non-recurrence of the conflict and the dismantling of the conditions that have facilitated the persistence of violence in Colombia.

Chapter 3 also includes the agreement on "Security guarantees and the fight against criminal organisations responsible for homicides and massacres or who attack human rights advocates, social movements or political movements, including the criminal organisations that have been labelled as successors of paramilitarism and their support networks, and for the prosecution of criminal conduct that threatens the implementation of the agreements and the construction of peace". To comply with this aim, the agreement includes measures such as the National Political Pact; the National Commission on Security Guarantees; the Special Investigation Unit; the Elite Corps of the National Police; the Comprehensive Security System for the Exercise of Politics; the Comprehensive Security and Protection Programme for Communities and Organisations across the Country's Territories; and Measures for the Prevention of and Fight against Corruption.

Chapter 4 contains the agreement on the "Solution to the Illicit Drugs Problem" (*Solución al Problema de las Drogas Ilícitas*). Peacebuilding requires a definitive solution to the illicit drugs problem, which includes crops made for illicit use and the production and sale of illicit drugs. To



that end, a new approach is promoted to address the phenomenon of the use of drugs, the problem of crops made for illicit use and organised crime associated with drug trafficking, in a distinct and differentiated manner, ensuring a general human rights and public health, equity-based and gender-based approach.

Chapter 5 contains the “Victims” (*Víctimas*) agreement. Since the 2012 Exploratory Meeting, we have agreed that victim compensation should be at the core of any agreement. The agreement creates the “Comprehensive System for Truth, Justice, Reparations and Non-Recurrence” (*Sistema Integral de Verdad, Justicia, Reparación y No Repetición*), which shall contribute to the fight against impunity, using a combination of judicial mechanisms that allow for the investigation and sanctioning of serious violations of human rights and serious infringements of international humanitarian law, with supplementary extra-judicial mechanisms aimed at clarifying the truth of what happened, searching for loved ones who have disappeared and providing reparations for the harm and injury caused to individuals, groups and entire territories.

The Comprehensive System is composed of: the Truth, Coexistence and Non-Recurrence Commission; the Special Unit for the Search for Persons deemed as Missing in the context of and due to the armed conflict; the Special Jurisdiction for Peace; Comprehensive reparation measures for peacebuilding purposes; and Guarantees of Non-Recurrence.

Chapter 6 contains the agreement on “Implementation and verification mechanisms”, which creates a “Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement”, composed of representatives from the National Government and the FARC-EP, with the aim, *inter alia*, of monitoring the components of the Agreement and verifying compliance therewith, and at the same time serving as a forum for the resolution of disputes and the promotion and monitoring of the implementation of laws.

Furthermore, an accompaniment mechanism is created such that the international community can in different ways help to guarantee the implementation of the Final Agreement. In the area of verification, a model is being implemented that has an international component comprising those countries that throughout the process have acted as guarantors and observers, plus two international spokespersons. The technical aspects are being supported by the Project of the Kroc Institute for International Peace Studies at the University of Notre Dame in the United States.

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We, the delegations of the National Government and the FARC-EP, reiterate our profound gratitude to all victims, social and human rights organisations, communities, including ethnic groups, women’s organisations, the small-scale farmers, young people, academia, businesspeople, churches and faith communities, and, in general, all the citizens who played an active part and who, through their proposals, contributed to the Final Agreement. With their participation we will together build a stable and long-lasting peace.

The delegates of the government of the Republic of Colombia (the National Government) and the Revolutionary Armed Forces of Colombia (FARC-EP) state the following with regards to:

## **1. Towards a New Colombian Countryside: Comprehensive Rural Reform**

Whereas:

Within the context of this Agreement to End the Armed Conflict, the Comprehensive Rural Reform (*Reforma Rural Integral*), hereinafter referred to as CRR, lays the foundation for the structural transformation of the countryside, creates conditions for well-being of the rural population – men and women – thereby contributing to the building of a stable and long-lasting peace.

In the opinion of the Government, this transformation must help to reverse the effects of the conflict and to change the conditions that have facilitated the persistence of violence in Colombia's territories. In the opinion of the FARC-EP, this transformation must help to resolve the historical causes of the conflict, such as the unresolved issue of land ownership and, in particular, the concentration thereof, the exclusion of the rural population and the underdevelopment of rural communities, that especially affects women, girls and boys.

The CRR views Colombia's rural areas as a socio-historic setting of social and cultural diversity in which communities – men and women – play a major role in defining the improvements of their living conditions and in defining the development of the country as part of a vision of urban/rural integration.

Comprehensive rural development is a decisive factor in driving forward regional integration and equitable social and economic development of the country. The CRR must successfully achieve an in-depth transformation of the rural situation in Colombia: greater inclusion at a regional level, eradication of poverty, greater equality and guaranteed full enjoyment of citizens' rights and, as a result, guaranteed non-recurrence of the conflict and eradication of violence.

A genuine structural transformation of the countryside requires the adoption of measures to promote appropriate use of the land in accordance with its suitable purposes and to stimulate the titling, restitution and equitable distribution thereof, by guaranteeing progressive access to rural property to those who live in the countryside, and, in particular, to rural women<sup>1</sup> and to the most vulnerable communities, and by legalising and democratising property and promoting broader ownership of land, so that it fulfils its social function.

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<sup>1</sup> Pursuant to Law 731 of 2002 on Regulations for promoting rural women, a rural woman is any woman who, without distinction of any kind and irrespective of where she might live, is involved in a productive activity directly relating to the countryside, even where said activity is not recognised by the state's information and measurement systems, or is not remunerated. This definition includes all women from rural, indigenous and Afro communities who are without land or have insufficient land.

This structural transformation also requires the promotion of equality between men and women through the adoption of specific measures to guarantee that men and women are involved in and benefit from implementation of this Agreement on an equal basis.

Although the aforesaid access to land is a prerequisite for transformation of the countryside, on its own it is insufficient; national plans financed and promoted by the state must be set up with a view to achieving the comprehensive rural development that will provide public services and goods, such as for education, health, recreation, infrastructure, technical assistance, food and nutrition, *inter alia*, which promote well-being and a dignified way of life for the rural population – girls, boys, men and women.

Broadly, the CRR acknowledges the fundamental role of the rural, family-run and community-based economies in the development of the countryside, the eradication of hunger, the generation of employment and income, decent and formalised jobs, food production and, in general, in the development of the nation, all in conjunction with and complementary to other forms of agrarian production. The CRR recognises the productive and reproductive role of women and thus their fundamental contribution to rural development and the rural economy, and it will make every endeavour on their behalf and on that of the most vulnerable in society to guarantee conditions of well-being and dignity and to consolidate organisational and production methods.

In the area of food and nutrition, the CRR aims to ensure that the entire rural and urban population in Colombia has sufficient access to and availability of the foodstuffs they need for proper nutrition, in terms of opportunity, quantity, quality and price, especially in the case of boys and girls, pregnant or breast-feeding women, and the elderly, prioritising the production of food and the generation of income.

The effectiveness, transparency and proper development of the CRR are largely dependent on the promotion of broad participation on the part of communities through the generation of participatory and democratic institutional forums where said communities have the capacity for change and to affect the planning, implementation and monitoring of the various plans and programmes agreed upon. Participation is also a guarantee of the greater inclusion of rural communities – women and men – in the political, economic, social and cultural life of their regions and thus of the nation.

Men and women in the small-scale farmer, indigenous, black, Afro-descendent, *raizal* and *palenquero* communities, and other ethnic communities across Colombia's territories are contributing to the structural transformation of the countryside and in particular to the closing of the agricultural frontier, in favour of a sustainable socio-environmental planning. To that end, it is necessary to recognise and to support the Peasant Enterprise Zones (*Zonas de Reserva Campesina*) and cooperative groups within society.

The CRR applies universally, and its implementation prioritises the territories most affected by the conflict, poverty and neglect, through Development Programmes with a Territorial-Based

Focus, such as reconciliation instruments in which all involved work towards the supreme goal of peace, as a right and a mandatory duty.

The plans and programmes agreed as part of the CRR are to have a territorial-based, ethnic-based and gender-based perspective that will require the recognition and consideration of the economic, cultural and social needs, characteristics and peculiarities of Colombia's territories, of women throughout their life-cycle, of rural communities and groups in vulnerable circumstances and guaranteeing socio-environmental sustainability.

Comprehensive rural development will move forward within the context of globalisation and insertion policies therein on the part of the state, demanding particular attention to national agricultural production and especially rural, family-run and community-based systems of production.

### Principles

The following principles will be taken into account when implementing that which has been agreed under the heading "Toward a New Colombian Countryside: Comprehensive Rule Reform":

- **Structural transformation:** that is to say, the transformation of the rural reality, through fairness, equality and democracy.
- **Comprehensive development of rural areas:** the development of rural areas depends on a proper balance between the various existing forms of production – family farming, agro-industry, tourism, agriculture on a commercial scale-; on competitiveness and the need to promote and encourage investment in rural areas with entrepreneurial vision and for the productive purposes as a condition for their development; and on promotion and encouragement on an equal basis of links between small-scale rural production and other production models, which could be vertical or horizontal and on a different scale. In any case, the rural, family-run and community-based economy will be promoted and protected and measures will be adopted to develop and strengthen it.
- **Equality and a gender-based approach:** acknowledgement of women as independent citizens with rights, who, irrespective of their marital status, or relationship to their family or community, have access, on an equal footing to men, to ownership of land and production projects, funding options, infrastructure, technical services and training, *inter alia*; attention is to be given to the social and institutional conditions that have prevented women from gaining access to the assets of production and to public and social benefits. Such recognition requires the adoption of specific measures in terms of planning, implementation and monitoring of the plans and programmes covered in this agreement so that these can be

implemented whilst taking account of the specific needs and distinct conditions of women, in accordance with their lifecycle, painful experiences and needs.

- **Well-being and quality of life:** the ultimate objective is the eradication of poverty and the total realisation of the needs of citizens in rural areas, such that in the shortest possible time, the small-scale farmers and communities, including those of African descent and indigenous peoples, can fully exercise their rights and there can be a convergence between the quality of urban life and the quality of rural life, whilst at the same time complying with the territorial-based approach, the gender-based approach and having regard to the ethnic and cultural diversity of communities.
- **Prioritisation:** the comprehensive agrarian development policy is universal and its implementation prioritises the most deprived and vulnerable populations and territories, and the communities most affected by poverty, neglect and the conflict; it focuses on small and medium-sized producers, men and women alike. The rights of the victims of the conflict, of boys and girls, women and the elderly, deserve special attention.
- **A comprehensive approach:** this guarantees productivity through programmes for effective access to land, together with innovation, science and technology, technical assistance, credit, irrigation and marketing, and other means of production that add value. It is also a guarantee that there will be opportunities for a better quality of life deriving from access to public services, such as for health, housing, education, infrastructure and connectivity, and ensures that the entire population has access to healthy, adequate and sustainable nutrition.
- **Reinstatement:** the reinstatement of the rights of victims of displacement and dispossession, and the reversal of the effects of the conflict and neglect on communities and territories.
- **Land titling:** that is to say, combating unlawful possession and ownership of land and guaranteeing the rights of men and women who are the legitimate holders and owners, so that violence is never again used as a means of solving land-related disputes. Nothing established in the Agreement affects the constitutional right to private property.
- **The right to nutrition:** the comprehensive agrarian development policy must focus on progressively guaranteeing that all persons have access to healthy and adequate nutrition and that foodstuffs are produced sustainably.
- **Participation:** the planning, implementation and monitoring of plans and programmes will move forward with the active participation of communities – men and women – and this is

furthermore a guarantee of transparency together with accountability, citizen oversight and special supervision on the part of competent bodies.

- **Benefit, impact and measurement:** taking prioritisation into account, the CRR must be of benefit and have a positive impact on the greatest number of citizens, both male and female, to the greatest extent and in the shortest time possible, and the effects thereof on each project and region being measured.
- **Sustainable development:** that is to say, development that is environmentally and socially sustainable, requiring protection and promotion of access to water, as part of an ordered concept of territory.
- **State presence:** in order to build a stable and long-lasting peace, the presence of the state in rural areas will be broad and effective, and will be reflected in the democratic fulfilment of all citizens' rights, men and women alike.
- **Democratisation of appropriate use of and access to land:** mechanisms and guarantees that will enable the greatest possible number of men and women living in the countryside, and who have no land or insufficient land, to gain access to it, and that encourage appropriate use of the land in accordance with the criteria of environmental sustainability, land suitability, territorial planning and community participation. With this in mind and in accordance with the agreement contained in section 1.1.1. Land Fund for the CRR (3 million hectares) and section 1.1.5. Large-Scale Rural Property Titling (7 million hectares), the next 12 years will see an extension under the Comprehensive Rural Reform to 10 million hectares. In any case, the goal of land titling will be achieved within the next 10 years and the land titling within the DPTFs within the next 7 years.

## **1.1. Access and Use. Non-productive land. Land titling. Agricultural frontier and protection of reserve areas.**

### **1.1.1. Comprehensive Rural Reform Land Fund**

With a view to achieving the democratisation of access to land, to the benefit of small-scale farmer communities and especially rural women without land or with insufficient land and the rural communities most affected by poverty, neglect and the conflict, regularising property ownership rights and as a result reversing concentration and promoting fair distribution of land, the National Government is to create a Land Fund for the free distribution of land. The Land Fund (*Fondo de Tierras*), which will be permanent in nature, will have 3 million hectares of land available during its first 12 years of existence, and that land will come from the following sources:

- Land arising from the legal cessation of ownership in favour of the Nation: the National Government will speed up the necessary reforms for making the legal ownership cessation procedure more flexible with a view to reversing the unlawful concentration of land ownership.
- Land recovered in favour of the Nation: that is to say, unoccupied public land (*baldíos*) unduly appropriated or occupied, recovered by means of agrarian processes, notwithstanding the fact that members of the small-scale farmer communities can be beneficiaries of the land titling programme. (This source must be consolidated through the creation and updating of a cadastre, to be promoted within the context of this Agreement).
- Land arising from the updating, delimitation and strengthening of the Forest Reserve Areas (*Reserva Forestal*), for beneficiaries of the Land Fund: the appropriation of land using this mechanism will be conditional upon the drawing up, with participation from the communities, of plans to guarantee social and environmental sustainability.
- Unexploited land: land recovered through the application of the current administrative ownership cessation procedure, due to failure to fulfil the social and ecological functions of the property.
- Land acquired or expropriated for reasons of social interest or public utility, acquired to promote access to rural property, with the corresponding compensation being given.
- Donated land: the National Government will promote the necessary measures to facilitate procedures for donating land to the Land Fund, within the context of ending the conflict and peacebuilding.

The procedures of administrative expropriation for reasons of social interest and public utility and the administrative ownership cessation due to non-exploitation (extinguishment of ownership of uncultivated land) will apply in accordance with the Constitution and pursuant to the criteria set out in laws currently in force.

**1.1.2. Other mechanisms for promoting access to land:** supplementary to the aforesaid mechanisms, the National Government undertakes the following:

- Comprehensive purchase subsidy: the National Government will grant a comprehensive subsidy for the purchase of land by beneficiaries (see 1.1.3.) in priority areas, as an alternative tool which will contribute to solving one-off problems of access, and will include specific measures to facilitate the access of women to the subsidy.
- Special purchase credit: the National Government will arrange for the opening of a new long-term, subsidised, special credit line for the purchase of land by the beneficiary population, with special measures for rural women (see 1.1.3.).
- Without prejudice to the provisions contained in section 1.1.1 of the Land Fund, the Government will pass a law to promote other forms of access to state lands such as the

allocation of rights of use, in particular for small and medium-sized producers as individuals or as cooperatives and associations.

**1.1.3. Beneficiary persons:** the beneficiaries of the plan of land distribution, the comprehensive subsidy and the special credit, will be male and female farm workers without land or with insufficient land, with priority being given to the victimised rural population, including associations of victims, rural women, female heads of households and displaced persons. Further beneficiaries may include associations of male and female agricultural workers without land or with insufficient land and also people and communities taking part in settlement and re-settlement programmes, with the aim, *inter alia*, of protecting the environment, substituting crops used for illicit purposes and strengthening food production.

Those benefitting from the land distribution plan and the comprehensive subsidy will be selected by the competent administrative authority, with the participation of local communities – men and women – in order to guarantee transparency and efficiency, through a procedure expressly defined by the law, which includes objective requirements and criteria and that observes the prioritisation referred to above. The government and communities alike will make every endeavour to prevent land speculation within the context of these programmes.

The competent administrative authority will draw up a single register of potential beneficiaries of the free allocation plan and the comprehensive subsidy which will be used as a basis for the implementation of these schemes.

**1.1.4. Comprehensive access:** when implementing the principles of well-being and quality of life, holistic approach and access to land, the National Government will make available to men and women benefitting from the Land Fund, support programmes in the areas of housing, technical assistance, training, land improvement and soil recovery where necessary, rural productive projects, marketing and access to the means of production that add value, *inter alia*, and will scale up the provision of public goods and services within the context of the Development Programmes with a Territorial-Based Focus (*Planes de Desarrollo con Enfoque Territorial – PDET*, hereinafter referred to as DPTFs).

In addition to the measures mentioned in this point and those mentioned in 1.1.1. with regard to access to land, the National Government will set in motion, within the context of the stimuli for agricultural production detailed in point 1.1.3., measures to support income generation, eradication of poverty and the promotion of cooperatives and solidarity associations in the case of small-scale farmers occupying land classified as a smallholding or micro smallholding.

**1.1.5. Large-scale titling of small and medium-sized rural property:** with a view to legalising and protecting rights pertaining to small and medium-sized rural properties, in other words, guaranteeing the rights of people who are the legitimate owners and holders of the land, so that violence is never again used as a method of resolving land disputes and as a safeguard against dispossession of any type, the National Government will progressively title, subject to



constitutional and legal provisions, all properties occupied or held by the rural population in Colombia. The National Government will thus proceed to title 7 million hectares of small and medium-sized rural properties, giving priority to areas such as those covered by the Development Programmes with a Territorial-based Focus, Peasant Enterprise Zones, and others to be defined by the Government. In implementing this proposal, the Government will:

- Draw up a large-scale titling plan and promote the relevant regulatory and operational reforms, guaranteeing participation by communities and their organisations. The plan must include specific measures for overcoming the obstacles facing rural women when titling property.
- Guarantee that there will be no charge for the titling of small rural properties, providing assistance both in the processes of allocating public land and regularising land titles of existing rural property.
- Within the context of the rural land legal system being set up, the Government will provide a flexible, rapid resource for protecting property rights.
- Where the titled property is smaller than a Family-run Agricultural Unit (*Unidad Agrícola Familiar, UAF*) (FAU)<sup>2</sup>, the registered small property owner may also benefit from the Land Fund access plan and alternative mechanisms, such as purchase credits and subsidies with a view to helping to curb the proliferation of unproductive smallholdings.

The transition to a society that has clear rules for reaching agreements and accessing ownership of land requires proper definition and protection of rights of ownership. Whereas at present various situations exist that affect legal certainty of tenure or ownership of land in Colombia, there is a need to find a solution that conforms to the actual situation in the country, without prejudice to established provisions relating to access to land. The Government will form a group of three experts on the subject of access to land to put forward, within a term not exceeding three months, recommendations for policy reforms and public policy that allow, within a limited period and whenever possible:

- The rights of property owners, occupants and holders in good faith to be regulated, provided that there is no dispossession or bad faith
- The social and ecological function of ownership to be guaranteed
- Access by workers without land or with insufficient land to be facilitated
- Promotion of productive use of the land

The proposals for regulatory amendments to land legislation and public policy must be discussed with the sectors involved in order to seek the broadest possible consensus prior to discussion in the Congress of the Republic.

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<sup>2</sup> Family Agricultural Unit (FAU) is understood to have the meaning provided in Article 38 of Law 160 of 1994.

**1.1.6. Inalienable and non-seizable land:** with a view to guaranteeing the well-being and quality of life of beneficiaries and avoiding the concentration of land distributed by means of free allocation or comprehensive purchase subsidy or registered vacant land, such land will be inalienable and non-seizable for a period of 7 years. The distributed land, and land that is acquired by means of the comprehensive purchase subsidy, that have received comprehensive support but yet, within this period, cease to be worked upon by the beneficiaries (except in cases of force majeure or fortuitous circumstance) or are used unlawfully, will pass to the Land Fund. The social function of rural property and, in particular, family farming methods, will be promoted and protected at all times.

**1.1.7. Land restitution:** the National Government and the FARC-EP both wish to reverse the effects of the conflict, to achieve restitution for the victims of dispossession and forced displacement and the restoration of land rights to communities, and will promote the voluntary return of displaced men and women. To that end, the measures agreed in Chapter 5 “Victims” will be implemented.

**1.1.8. Certain mechanisms to resolve conflicts concerning possession and use of land and the strengthening of food production:** with a view to contributing to land tenure regularisation and the protection of property rights, promoting appropriate use of land, improving land planning and management, preventing and mitigating conflicts concerning use and possession, and, in particular, to resolving conflicts that jeopardise or limit food production, the National Government will:

- Set up flexible, efficient mechanisms for conciliation and conflict resolution concerning land use and possession, aimed at guaranteeing effective protection of rural property rights; resolving conflicts concerning rights of land possession and use; and, in general, promoting the regularisation of rural property, including traditional mechanisms and participative intervention by communities in conflict resolution. Furthermore, the National Government will, to the same end, set in motion a new rural land legal system that will enjoy appropriate coverage and capacity across Colombia, with emphasis on prioritised areas, and with mechanisms that guarantee access to justice that is expedite and timely to the rural poor, with legal advice and special training for women regarding their rights and access to justice, together with specific measures for overcoming barriers that constitute obstacles to the recognition and protection of women’s rights over land. The participation of women and women’s organisations in the various spaces created for conciliation and the resolution of conflicts concerning land use and possession will be promoted.
- Create a high-level body within the framework of the powers of the National Government, which will be responsible for drawing up general guidelines aimed at indicative planning for land use to coordinate, collate and harmonise sector policies, considering the characteristics of its suitability, the common good and territorial-based visions of rural development formulated in participative forums that will provide men and women alike, and the territorial

authorities, with equitative representation. When the guidelines are devised, attention will be given to the following: 1) socio-environmental sustainability and the preservation of water resources and biodiversity; 2) the compatibility between the current use of rural land and its suitability; 3) the importance of food production to national development, allowing its coexistence with other economic activities, and promoting steps towards self-sufficiency; and 4) the particular social, cultural and economic aspects of each one of the country's different territories. The foregoing is without prejudice to the powers of local authorities to plan and guide the development of the territory over which they have jurisdiction and regulate the use, transformation and occupation of space in coordination with the national authorities and within the framework of preparation and approval of plans and schemes for territorial planning.

- Promote efficient use of participative and decision-making spaces in the planning of rural land use and territorial management.
- Set up mechanisms for social dialogue between national, regional and local authorities, small-scale farmer communities and also indigenous, black, afro-descendent, *raizal* and *palenquero* communities, in addition to other communities where different ethnic and cultural groups coexist, and private-sector companies doing business in rural areas, with a view to creating formal spaces for discussion between actors with diverse interests, which allow the promotion of a common development agenda focusing on socio-environmental sustainability, the well-being of rural populations and economic growth with equity.

**1.1.9. Formation and updating of the rural cadastre and of the rural property tax:** with the aim of promoting appropriate, productive and sustainable use of the land, creating an information system that can be used to promote comprehensive rural development, enhancing effective collection of taxes by local authorities and also social investment, stimulating deconcentration of improductive rural property and, in general, transparently regularising land ownership, the National Government will launch:

- A comprehensive and multi-purpose General Cadastral Information System, which, within a maximum of 7 years, leads to the creation and updating of the rural cadastre, including the registration of rural property, and is implemented within the framework of municipal autonomy. In fulfilment of the principles of Prioritisation, Well-being and quality of life, this cadastre must provide early results in the prioritised zones, within the scope of the agreements between the National Government and the FARC-EP. This system will include information disaggregated by sex and ethnicity, which will, *inter alia*, provide information concerning the size and the characteristics of property and forms of title certification. The cadastral valuation will be carried out by the competent authority in accordance with the law.
- Technical, administrative and financial support for local authorities in the formation, updating and conservation of the rural cadastre.

- Guaranteed broad and effective participation by citizens to ensure information transparency. In any event, cadastral matters pertaining to rural communities will require the involvement of its members. At no time will the agreements herein affect the rights acquired by the indigenous and Afro-descendent communities or other rural communities.
- A system wherein municipal authorities can effectively settle, charge and collect the property tax, based on the cadastral updating and within the framework of their autonomy.
- An appropriate regulatory framework to enable municipalities to set property tax tariffs, in fulfilment of the principle of progressivity - he who has more, pays more - based on fairness and social justice.
- Municipal incentives, which will include, where necessary, transfers to municipal funds to enable said authorities to exempt from the property tax those who benefit from land access programmes and also small-scale producers.

The formation and comprehensive updating of the cadastre as well of the registration of rural property will not only lead to a long-lasting improvement of the cadastral information and processes, but will also aim to provide legal and social certainty, especially for small and medium-sized rural property, and to benefit food production and environmental balance.

**1.1.10. Closure of the agricultural frontier and protection of reserve areas:** to assist in defining the agricultural frontier, protecting areas of special environmental interest and generating, for the neighbouring or occupying communities, livelihood alternatives that maintain a balance between that which is good for the environment and that which contributes to well-being and quality of life, under the principles of rural community participation and sustainable development, the National Government will:

- Within two years, implement an environmental zoning plan to delimit the agricultural frontier and to enable updating, and where necessary, expanding the inventory, and to characterise the use of areas requiring proper environmental management, such as: forest reserve areas, areas of high biodiversity, fragile and strategic ecosystems, watersheds, moorland (*páramos*) and wetlands, and other water-related sources and resources, with a view to safeguarding biodiversity and the progressive right to water, and the promotion of its rational use.
- For the purposes of implementation of the Plan, the National Government shall take account of coexistence and development projects and participation by rural organisations and communities— men and women— as a guarantee of the fulfilment of the aims of this Chapter, without prejudice to the community and socio-environmental interests and the common good.
- Provide support to rural communities currently living alongside or within areas requiring the special environmental management detailed previously, working with them to structure plans for their development, including re-settlement programmes or programmes for

community rehabilitation of forests and the environment, which are compatible with and contribute to the objectives of closing the agricultural frontier and preserving the environment, such as: the provision of environmental services, with special acknowledgement and appreciation of intangible cultural and spiritual aspects, and protecting the social interest; sustainable food production and silvopasture systems; reforestation; Peasant Enterprise Zones (*Zonas de Reserva Campesina – ZRC*, hereinafter PEZ); and, in general, other sustainable forms of organisation of the rural population and economy.

- In order to promote appropriate use of land, in addition to the new cadastral structure and property tax progressivity (1.1.9.), the National Government shall adopt such measures and create such incentives as are necessary to prevent and to promote solutions to conflicts between land suitability and actual use, taking into account the environmental zoning plan addressed herein and the principle of well-being and quality of life. Land appropriated from the Forest Reserve Areas mentioned in this Agreement will be prioritised to small-scale farmers without land or with insufficient land, via various forms of organisation or association, including the Peasant Enterprise Zones, which will contribute to the closure of the agricultural frontier, the strengthening of the small-scale farmer economy and family-run agriculture.
- PEZs are agricultural initiatives that are conducive to peacebuilding, to guaranteeing political, economic, social and cultural rights of rural communities, to development based on socio-environmental and food sustainability and to reconciliation between Colombian citizens. The National Government, in dialogue with the various communities and taking into account the principles of well-being and quality of life and participation in the Comprehensive Rural Reform, will promote access to land and the planning of its use in the PEZs, providing support for development plans of the already existing zones and of those to be set up in response to initiatives of rural communities and organisations deemed to be representative, in such a manner as to comply with the aim of fomenting the small-scale farmer economy, contributing to the closure of the agricultural frontier, and boosting food production and the protection of Forest Reserve Areas. Active participation on the part of communities — men and women— living in the PEZs in the implementation of these development plans will be encouraged.
- Within the context of the procedures for setting up the PEZs, which will be carried out by the competent authority in accordance with current provisions, the Government, as a result of dialogue, will, together with the interested communities, define the areas for each one of them, addressing the needs of small-scale farmers that have commenced or wish to commence procedures for setting up these zones. These procedures will be implemented alongside property titling procedures.

## 1.2. Development Programmes with a Territorial-Based Focus (DPTFs)

**1.2.1. Objective:** the objective of the DPTFs is to achieve the structural transformation of the countryside and the rural environment and to promote an equitable relationship between rural and urban areas, with a view to guaranteeing:

- Well-being and quality of life for people living in rural areas — boys and girls, men and women — by enabling them to exercise their political, economic, social and cultural rights and reversing the effects of poverty and conflict;
- The protection of the multi-ethnic and multicultural richness of Colombia in order that it may contribute to knowledge, the organisation of life, to the economy, production and the relationship with nature;
- The development of the small-scale farmer and family-run economy (based on cooperative, mutual, communal, microbusiness and solidarity association systems) and of the particular production methods of the indigenous, black, Afro-descendent, *raizal* and *palenquero* communities, through comprehensive access to land and to productive and social goods and services. The DPTFs will with equal emphasis play a part in inter-ethnic and inter-cultural spaces, with a view to the latter making effective progress towards development and harmonious coexistence;
- The development and integration of regions neglected and afflicted by the conflict, providing progressive public investment agreed with the various communities and aimed at achieving a convergence between the quality of rural life and the quality of urban life, and strengthening links between cities and the countryside;
- The recognition and promotion of community organisations, including organisations of rural women, enabling them to become protagonists in the structural transformation of the countryside;
- Making the Colombian countryside a showcase of reconciliation where all, male and female alike, work around a shared aim, namely the supreme goal of peace, right and duty of mandatory compliance.

**1.2.2. Prioritisation criteria:** the process of the structural transformation of the countryside must cover all the country's rural areas. Priority will be given to the zones most urgently in need under a DPTF which will enable the national plans set up within the context of this Agreement to be implemented more rapidly and with greater resources. The prioritisation criteria for the zones will be:

- Poverty levels, in particular extreme poverty and unsatisfied needs;
- The degree to which the zone has been affected by the conflict;
- The weakness of administrative institutions and of management capacity;

- The presence of crops for illicit use and other unlawful economies.

**1.2.3. Action plans for regional transformation:** in order to fulfil the objectives of the DPTFs, an action plan for regional transformation will have to be prepared for each prioritised zone. This action plan must include all levels of territorial planning, result from a participatory process and reflect dialogue between the local authorities and communities. The plans must address:

- The territorial-based approach to rural communities that takes account of the socio-historic, cultural, environmental and productive characteristics of territories and their inhabitants and also their needs, which will be differentiated on the basis of their membership of groups in vulnerable circumstances as well as land suitability, so that sufficient public investment resources can be deployed in harmony with the nation's tangible and intangible values.
- An objective assessment, drawn up with the participation of the various communities — men and women — which, using the aforesaid territorial-based approach, will take account of the needs in a territory and the steps necessary to coordinate the various aspects, with clear, precise targets that will allow the structural transformation of living and production conditions.

The National Development Plan (*Plan Nacional de Desarrollo*) — will encompass the priorities and goals of the DPTFs.

**1.2.4. Participation mechanisms:** the active participation of the various communities — men and women — in conjunction with the authorities of territorial bodies, is the basis of the DPTFs. To that end, forums will be set up at the various territorial levels to guarantee citizens' participation in the competent authorities' decision-making process to develop what has been agreed in the CRR, attended by representatives of the communities, including rural women and their organisations, and monitored by supervisory bodies (namely the Office of the Inspector General, the Office of the Attorney General, the Office of the Comptroller General and the Office of the Ombudsman), in order:

- To define the priorities for implementation of national plans (roads, irrigation, infrastructure, services, etc.) in the territory, in accordance with the needs of the population;
- To guarantee community involvement in the execution of the works and their upkeep;
- To establish mechanisms of follow-up and oversight of projects.

The systems for participation established for the preparation of Development Programmes with a Territorial-Based Focus seek to strengthen participation by citizens in decisions that affect them within the framework of the Constitution, promote solidarity associations and invigorate local democracy. Under no circumstances do they seek to limit the executive powers of elected officials or the powers of composite bodies (Congress, municipal councils and departmental

assemblies). Within the framework of the DPTFs, the general characteristics and times will be expressly established to guarantee that these systems for participation function correctly.

**1.2.5. Means:** the DPTFs will be the mechanism of implementation in the prioritised zones for the various national plans arising from the Agreement.

The National Government will channel the necessary resources to guarantee the design and implementation of the action plans for structural transformation, in conjunction with territorial bodies.

**1.2.6. Follow-up and evaluation:** the action programmes and plans for regional transformation in each prioritised zone will include local, regional and national follow-up and evaluation mechanisms as part of the general verification and follow-up mechanisms addressed in Chapter 6, in order to guarantee that what is agreed is implemented and delivered.

### **1.3. National plans for Comprehensive Rural Reform**

The central objective of the national plans for Comprehensive Rural Reform is, on the one hand, to overcome poverty and inequality, in order to achieve the well-being of the rural population, and on the other, the integration of and closing of the gap between rural and urban areas. In accordance with this Agreement, the competent authorities must draw up and start up National Plans in the territory.

Poverty is overcome not simply by improving families' income, but by ensuring that boys and girls, men and women have adequate access to public goods and services. This is the basis of a decent life. Thus, overcoming poverty in the countryside depends, first and foremost, on the joint action of the national plans for Comprehensive Rural Reform, which over a fifteen-year transition phase will eradicate extreme poverty, reduce rural poverty in all its dimensions by 50%, reduce inequality and create a trend towards the convergence, at a higher level, of the quality of life in towns and cities and in the countryside. In any case, the framework plan must guarantee that the utmost efforts are made to fulfil the National Plans in the next 5 years. In order to overcome poverty, specific, differentiated measures will be implemented to address the special needs of women in the countryside and achieve effective equality of opportunity between men and women.

#### **1.3.1. Infrastructure and land improvement**

**1.3.1.1. Road infrastructure:** with the aim of achieving regional integration and access to social services and markets, favourably influencing food prices as a guarantee of the right to nutrition, and raising the income level of rural communities, the National Government is to set up and implement a National Tertiary Rural Road Plan (*Plan Nacional de Vías Terciarias*). Implementation of the Plan will take account of the following criteria:



- The active participation of communities — men and women — in the prioritisation, implementation and monitoring of the works.
- Technical assistance and the promotion of the organisational capabilities of communities, to guarantee the upkeep and sustainability of the works.
- The stimulation of the local economy, giving priority to the hiring of local male and female workers and the acquisition of local materials.
- The promotion and application of diverse technological solutions.
- The importance of guaranteeing the sustainability of socio-environmental conditions.

**1.3.1.2. Irrigation infrastructure:** with the aim of supporting small-scale family-run agricultural production and boosting the rural economy in general by guaranteeing democratic and environmentally sustainable access to water, the National Government will set up and implement the National Irrigation and Drainage Plan (*Plan Nacional de Riego y Drenaje*) for the rural, family-run and community-based economies. Implementation of the Plan, will take account of the following criteria:

- The promotion and application of appropriate technological irrigation and drainage solutions for the rural, family-run and community-based economies, in accordance with the particular features of the various zones, the rural productive project and the communities themselves.
- The rehabilitation of the irrigation infrastructure for the rural, family-run and community-based economies.
- Assisting user-associations in the design and drawing up of the irrigation and drainage projects.
- Technical assistance and the promotion of the organisational capabilities of communities to guarantee the upkeep, administration and economic and environmental sustainability of irrigation and drainage projects.
- The promotion of appropriate practices for the use of water in irrigation.
- Preparatory measures to mitigate the risks of climate change.

**1.3.1.3. Electricity infrastructure and connectivity:** with the aim of ensuring the conditions for a decent life and improving connectivity, the National Government will design and implement a National Rural Electrification Plan (*Plan Nacional de Electrificación Rural*) and a National Rural Connectivity Plan (*Plan Nacional de Conectividad Rural*), based on the following criteria:

- The expansion of electrical coverage.
- The promotion and application of appropriate technological electricity generation solutions in accordance with the particular features of the rural environment and the various communities.

- Technical assistance and the promotion of the organisational capabilities of communities to guarantee the upkeep and sustainability of the works.
- Training in appropriate use of energy in order to guarantee its sustainability.
- The installation of the infrastructure needed to guarantee high-speed internet access in municipal capitals.
- The provision of community internet access solutions for population centres.

### **1.3.2. Social development: health, education, housing, poverty eradication**

**1.3.2.1. Health:** with the aim of bringing healthcare services closer to communities, particularly vulnerable groups and persons, strengthening the infrastructure and the quality of the public network in rural zones and improving the suitability and the relevance of service provision, a National Rural Health Plan (*Plan Nacional de Salud Rural*) will be set up and implemented. Implementation of the Plan will take account of the following criteria:

- Infrastructure construction and improvement based on a broad, participative diagnosis making it possible to reach the greatest number of users in each region, to provide equipment, including the adoption of new technologies to provide higher levels of health care (e.g. telemedicine), and the availability and long-term presence of qualified staff.
- The adoption of an equity- and gender-based approach that takes account of the health requirements of women, in accordance with their life cycle, including measures to address sexual and reproductive health, psychosocial care and the special measures for pregnant women and children in the areas of prevention, health promotion and treatment.
- The creation of a special public health model for dispersed rural areas, with the emphasis on prevention, which allows the provision of services in the home or in the workplace.
- An ongoing follow-up and evaluation system to guarantee the quality and suitability of the service.

**1.3.2.2. Rural education:** with the aim of providing a comprehensive service for early childhood, guaranteeing the coverage, quality and relevance of education, eradicating illiteracy in rural areas, helping the younger generation to remain part of the production sector in the countryside, and promoting involvement in rural development on the part of regional academic institutions, the National Government is to set up and implement the Special Rural Education Plan (*Plan Especial de Educación Rural*). Implementation of the Plan will take account of the following criteria:

- Universal coverage with comprehensive service provision for early childhood.
- Flexible pre-school, primary and secondary school education adapted to the needs of communities and of the rural environment, with an equity-based approach.

- The construction, reconstruction, improvement and adaptation of the rural educational infrastructure, to include the provision and ongoing presence of qualified teaching staff and access to information technologies.
- The guarantee of free education at pre-school, primary and secondary school level.
- Improvement of the conditions of access of boys, girls and adolescents to the education system and assistance in enabling them to continue their education, through the provision of free access to materials, textbooks, school meals and transport.
- The provision of recreation, culture and sports programmes and infrastructure.
- The incorporation of technical agricultural training into secondary school education (years ten and eleven).
- The provision of scholarships with non-repayable grants for the poorest rural men and women to gain access to technical, technological and university training services, to include, where relevant, subsistence funds.
- The promotion of vocational training for women in disciplines that are not the traditional preserve of women.
- The implementation of a special programme for eradicating illiteracy in the countryside.
- The strengthening and promotion of research, innovation and scientific and technological development for the agricultural sector, in areas such as agro-ecology, biotechnology, soil science, etc.
- A progressive increase in technical, technological and university quotas in rural zones, with fair access for both men and women, including persons with a disability. Special measures will be implemented to incentivise access on the part of rural women and to encourage them to continue.
- Promoting the expansion of provision and technical, technological and university training in subject areas related to rural development.

**1.3.2.3. Housing and drinking water:** with the aim of guaranteeing decent living conditions to those living in the countryside, the National Government will set up and implement the National Rural Social Housing Construction and Improvement Plan (*Plan nacional de construcción y mejoramiento de la vivienda social rural*). Implementation of the plan will take account of the following criteria:

- The application of appropriate housing solutions, in accordance with the particular features of the rural environment and of various communities, with an equity approach. There will be equal access to these solutions for men and women.
- The promotion and application of appropriate technological solutions (local aqueducts and individual solutions) to guarantee access to drinking water and the management of wastewater.

- The granting of subsidies for construction and improvement of housing, prioritising those in extreme poverty, victims, beneficiaries of the land distribution plan and women who are heads of households. The amounts of the non-reimbursable subsidy, which may cover up to all the housing solution, will be established in accordance with the construction costs and requirements in each region, with a view to guaranteeing decent housing conditions.
- The active participation of communities — men and women — in the definition of housing solutions and project implementation.
- Technical assistance and the promotion of organisational capabilities of communities to ensure the upkeep, operation and sustainability of water access and wastewater management solutions.
- Promoting appropriate practices for using drinking water.

**1.3.3. Stimuli for agricultural production and the solidarity and cooperative economy. Technical assistance. Subsidies. Credit. Income generation. Marketing. Formalisation of the labour market.**

**1.3.3.1. Stimuli for a solidarity and cooperative economy:** with the aim of stimulating different associative forms of work for and between small and medium-sized producers, based on solidarity and cooperation, which promote economic independence and organisational ability, especially in rural women, and which strengthen the ability of small producers in terms of access to goods and services, marketing their goods and, in general, improving their living, working and production conditions, the National Government will set up and implement the National Plan to Foment the Rural Solidarity and Cooperative Economy (*Plan nacional de fomento a la economía solidaria y cooperativa rural*). Implementation of the plan will take account of the following criteria:

- Mentoring, technical and financial support for rural communities — men and women — in the creation and consolidation of cooperatives, solidarity and community associations and organisations, especially those connected with food production and supply and in particular organic and agro-ecological production and women's organisations.
- The strengthening of productive capacities and of conditions of access to rural development instruments (means of production, technical assistance, training, credit and marketing, *inter alia*).
- Stimulating the solidarity and cooperative economy as a means for channelling resources and services to the rural population.
- Using an equity-based approach, supporting community organisations and associations in contributing to infrastructure and equipment project management (roads, housing, health, education, water and basic sanitation, irrigation and drainage).

**1.3.3.2. Technical assistance:** with the aim of strengthening production capacities in the rural, family-run and community-based economies to develop rural productive projects and to stimulate technological innovation processes, the National Government will design and implement a Comprehensive National Technical, Technological and Research-Incentive Assistance Plan (*Plan nacional de asistencia integral técnica, tecnológica y de impulso a la investigación*). Implementation of the plan will take account of the following criteria:

- Guaranteeing the provision of the comprehensive technical and technological assistance service (advances in terms of technico-productive, organisational, social, management, administration, IT, finance, marketing and training) for production in the rural, family-run and community-based economies in a decentralised manner. Comprehensive technical and technological assistance is a free-of-charge public service for men and women who benefit from the Land Fund and for small-scale producers, with priority being given to women who are heads of families, and will include a progressive subsidy for medium-sized producers.
- Regulating and supervising the quality of the technical and technological assistance service, including a system of participative and community-based monitoring and evaluation that will take account of female participation.
- Linking technical and technological assistance with the results of agricultural research and innovation processes, including the use of communication and information technologies.
- Promoting and protecting native seeds and seed banks, without restricting or imposing other types of seeds such as improved seeds, hybrids and others, so that communities — men and women — can access optimum seed material and, in a participative way, contribute to the improvement thereof, by incorporating their own knowledge. Furthermore, strict socio-environmental and health regulation of transgenic materials will promote the common good. The aforesaid will be within the context of the state's unshakeable obligation to take such measures and to use such tools as are necessary to safeguard the country's genetic heritage and biodiversity as sovereign resources of the nation.

**1.3.3.3. Subsidies, income generation and credit:** in addition to the subsidies that the National Government will grant to the rural, family-run and community-based economies through the plans and programmes relating to land distribution, technical assistance, housing, infrastructure and, in general, all social goods and services falling under the heading of comprehensive access, the National Government will design and implement a Plan for Supporting and Consolidating Income Generation in the Rural, Family-run and Community-based Economies and Medium-sized Producers with Lower Income Levels (*Plan para apoyar y consolidar la generación de ingresos de la economía campesina, familiar y comunitaria, y de los medianos productores y productoras con menores ingresos*). In addition, this Plan must enable women to overcome barriers to accessing funding. Implementation of the plan will take account of the following criteria:

- Providing non-reimbursable seed funding that will allow the successful start-up of production projects for the beneficiaries of land distribution.
- Promoting revolving agricultural funds for associations of small and medium-sized producers with lower income levels.
- Adopting a system of guarantees to facilitate access by the rural, family-run and community-based economies to agricultural credit.
- In light of the agreements in section 1.1.6 relating to inalienability and non-seizability, the provision of soft, flexible, appropriate and subsidised credit lines for the rural, family-run and community-based economies and complementary activities, and with progressive subsidies for medium-sized producers with lower income levels, aimed at supporting the right to nutrition, the reconversion of production and the generation of added value. Subsidised credit lines for land purchase will be granted exclusively to small producers.
- Promoting subsidised harvest insurance for the agricultural produce of the rural, family-run and community-based economies in all their forms.
- The encouragement of a culture of management of all types of risks.
- Alongside subsidised credit handbooks, comprehensive information and mentoring will be provided as a priority to small rural producers in the use of portfolio normalisation mechanisms, enabling them to return to production in the rural, family-run and community-based economies on their holdings, with a view to safeguarding their livelihood.

**1.3.3.4. Marketing:** with the aim of guaranteeing suitable conditions for marketing goods arising from the production of the rural, family-run and community-based economies and improving their availability as a guarantee of the right to nutrition, the National Government will set up and implement the National Plan for the Promotion of Marketing the Products of the Rural, Family-run and Community-based Economies (*Plan nacional para la promoción de la comercialización de la producción de la economía campesina, familiar y comunitaria*), which will have affirmative measures to promote the economic empowerment of rural women. Implementation of the plan will take account of the following criteria:

- The promotion of solidarity associations, including associations of rural women, for the purposes of marketing, which will provide information and logistics, administer storage centres and promote the produce of the countryside, with special attention being given to prioritised areas, to progressively minimise intermediation, reduce the final price charged to the consumer, encourage direct relationships between producers and consumers and create conditions for guaranteeing higher incomes for producers.
- Financing or co-financing of storage centres for the food production of the rural, family-run and community-based economies, which address the particular features and needs of a region, and encourage organised communities to administer the storage centres.

- In urban centres, promoting markets for the produce of the rural, family-run and community-based economies.
- Promoting links between small-scale rural production and other production models, which may be vertical or horizontal, and on different scales, improving country/town integration, for the benefit of the various communities — men and women — and to add value to produce.
- The design and progressive implementation of a public procurement mechanism to meet the demand from institutional bodies and programmes which, in decentralised fashion, will promote local production in order to support the sales and market penetration of the produce of the rural, family-run and community-based economies.
- For producers, implementing a system of regional price information supported by information and communications technologies.

**1.3.3.5. Formalisation of the rural labour market and social protection:** the National Government will do its utmost to strengthen the social security and protection system for the rural population, with an equity-based approach and taking into account the particular situation of women. In light of the International Labour Organisation (ILO) regulations, to which Colombia is party, and with a view to safeguarding decent employment and the rights of workers in the countryside, and their social protection (protection in old age, maternity benefits, occupational risks), the National Government will set up and implement the Progressive Plan for Social Protection and Safeguarding of the Rights of Rural Workers (*Plan progresivo de protección social y de garantía de derechos de los trabajadores y trabajadoras rurales*).

The aim of the plan will be to provide decent rural working conditions through the full application, with workplace inspection, of the regulations governing contractual relationships, the corresponding working day, remuneration and contract regulation, taking account of case-law developments favourable to workers, and the applicable international standards of the ILO, relating to labour in general and rural labour in particular, to enable the effective safeguarding, for men and women on an equal basis, of the fundamental right to employment. Implementation of the plan will take account of the following criteria:

- Campaigns to eradicate child labour and immediate measures to eradicate the worst forms of child labour.
- The safeguarding of social protection through a regular economic benefit for workers in the countryside of retirement age, and an occupational risks subsidy proportionate to individual savings and that will include a state subsidy.
- The promotion and stimulus of processes for worker organisation in the countryside through associations based on solidarity and cooperation, such as to facilitate access to state services focusing on worker well-being.
- Promoting the recruitment of persons with a disability.

- Promoting the recruitment of women in non-traditional areas of production.
- Training agricultural workers and businesses in the area of employment rights and obligations, and promoting the culture of formalisation of the labour market.
- The strengthening of the fixed labour inspection system and the creation of a mobile inspection system in rural areas to enable workers to demand their due employment rights and to properly process employment disputes.
- The environmentally and socially sustainable plans and programmes to be carried out in rural areas will benefit from the collaboration of the workforce from communities in the zone — both men and women. Employment conditions under these programmes will be compliant with international and national regulations and will be governed by the principles of dignity and fairness.
- The extension of programmes for effective protection of the economic risk of old age to the elderly rural population in extreme poverty which is not covered by the social security system, taking account of the special needs of female members of the elderly population.
- Promoting schemes for protection during pregnancy, childbirth, breast-feeding and health services for newborns, by progressively extending the coverage and enhancing the quality of family health and subsidy systems, with particular focus on rural working women.

**1.3.3.6. Associations:** the Government will encourage and promote associations, production chains and productive partnerships between small, medium and large producers as well as processors, traders and exporters in order to guarantee large-scale, competitive production that forms part of added value chains that help improve living conditions of the rural inhabitants in general and small producers in particular. For that purpose, it will provide technical, legal and economic assistance (credit or financing) to small producers in order to guarantee family and associative projects that are balanced and economically sustainable.

**1.3.4. System for the progressive realisation of the right to food:** in fulfilment of the obligation to progressively realise the human right to healthy, nutritional and culturally appropriate food, with the aim of eradicating hunger and enhancing the availability of, access to and consumption of sufficient nutritional food, the National Government will set in motion a special system for the progressive realisation of the right to food for the rural population.

Food and nutrition policy in rural zones is based on the progressive increase in food production, income generation and, in general, the creation of conditions of well-being based on national plans for access to land, infrastructure, irrigation, housing and drinking water, technical assistance and training, marketing, credit, the promotion of associations based on solidarity and cooperation, and other plans set out in this agreement. This policy acknowledges the fundamental role played by rural women in their contribution to fulfilling the right to food.



All the national plans must broadly comply with the proposed food and nutrition policy objectives, by means of a system that implements them across the country's territories and will take account of the following criteria:

- The development of departmental and local plans concerning culturally appropriate food and nutrition, with the active participation of communities, society, the National Government and departmental and municipal authorities, with a view to implementing the measures and establishing goals in the field.
- The establishment of departmental and municipal food and nutrition councils, with representatives from the government and broad representation of society and communities — men and women — with the aim of proposing and participating in the definition of guidelines for planning and implementing food and nutrition policies through departmental and local plans, mobilising resources in the region, monitoring risk and following up compliance with targets.
- The establishment of a National Food and Nutrition Council composed of national, departmental and municipal authorities and representatives (male and female) selected from the departmental and municipal councils, which will propose and participate in the definition of the guidelines for food policy, coordinate departmental and local plans, inform about and monitor risk and follow-up goals on a national level.
- The development of programmes to combat hunger and malnutrition, with national coverage, especially for the destitute rural population, pregnant and breast-feeding women, girls and boys and the elderly. These programmes will include emergency plans for the most vulnerable rural population and those in extreme poverty.
- The adoption of support systems to strengthen, develop and promote production and the internal market, and which will include technical/scientific assistance, these systems being designed to enhance the environmentally and socially sustainable skills level of the rural, family-run and community-based economy, thereby contributing to self-sufficiency and self-supply.
- The promotion of local and regional markets that are close to those who produce and consume and that improve conditions of access to and availability of food in rural areas of the country.
- The implementation of campaigns designed to promote the production and consumption of highly nutritious foodstuffs, the proper handling of food and the adoption of good eating habits, which will take territorial characteristics into account and promote the production and consumption of Colombian foods.
- In addition, the provision of conditions and incentives to promote production and marketing, including, where necessary, direct support to strengthen production with the aim that, in the rural, family-run and community-based economy, the negative impacts of economic globalisation and the freeing-up of trade can be avoided or minimised.

## **2. Political participation: A democratic opportunity to build peace**

The National Government and the FARC-EP recognise that:

Within the context of the end of the conflict, building and consolidating peace requires an expansion of democracy to allow new forces to emerge on the political scene in order to enrich debate and deliberation concerning the major problems confronting the nation, thereby strengthening pluralism and thus the representation of different visions and interests in society, with due safeguards for participation and inclusion in politics. It is important to expand and to qualify democracy as a prerequisite for achieving a solid basis for forging the peace.

Peacebuilding must be addressed by society as a whole and requires the involvement of everyone, without distinction, and thus it is necessary to encourage participation and decision-making on the part of society as a whole in Colombia; peacebuilding is a right and also a mandatory duty, forming the basis for setting Colombia on the road to peace with social justice and to reconciliation, heeding its people's clamour for peace. This includes strengthening social movements and organisations and providing more robust spaces for involvement in order that citizens can contribute in a positive and effective way, and in order that democracy can be invigorated and enhanced.

Taking account of the fact that women face greater social and institutional barriers in terms of political participation, as a result of deep-rooted discrimination and inequality, as well as structural conditions of exclusion and subordination, there will be significant challenges in guaranteeing their right to participation, and facing up to and transforming these historical conditions will involve developing affirmative measures that will safeguard women's participation in the various areas of political and social representation. To that end, the situation and condition of women in all contexts and in all special aspects will have to be acknowledged.

The signing and implementation of the Final Agreement will contribute to an extension and consolidation of democracy in as much as it will involve the laying down of arms and the outlawing of violence as a method of political action for each and every one of Colombia's citizens, in order to make the transition to a country where democracy rules, with full guarantees for those taking part in politics and thereby opening up new areas for participation.

In consolidating the peace, it is necessary to guarantee pluralism, facilitating the constitution of new political movements and parties that will contribute to the debate and to the democratic process and will involve sufficient guarantees for the exercising of political opposition and genuine power alternatives. At the end of the conflict, democracy requires a strengthening of the safeguards of political participation.

Peace consolidation also requires the promotion of peaceful coexistence, tolerance and non-stigmatisation, ensuring conditions of respect for democratic values and thereby greater respect for those exercising political opposition.

On the one hand, these guarantees will be based on fairer distribution of public resources designed for political movements and parties and greater transparency in the electoral process. There will have to be a series of immediate measures, especially in the regions where risks and threats persist, and also a comprehensive review of the electoral system and the composition and functions of the electoral authorities. On the other hand, there will have to be greater guarantees for the exercising of political opposition.

The review and modernisation of the electoral organisation and system must make provision for greater participation by citizens in the electoral process. Greater electoral participation additionally requires inclusive measures that will facilitate the exercising of this right, especially in outlying zones or zones affected by the conflict and neglect, taking account of the specific difficulties of women living in these zones in exercising this right.

Peacebuilding further requires citizen mobilisation and participation in areas of public interest and, in particular, in the implementation of this Agreement. This involves, first, the strengthening of guarantees and capabilities, in order that male and female citizens alike, brought together in different social and political movements and organisations, can carry on their activities and thereby contribute to the expression of the interests of a pluralist, multicultural society via different means, including social protest.

In consolidating citizen participation on the part of women, their social agendas have to be appreciated and their contribution to public life as political subjects has to be recognised, especially in the area of the promotion and defence of their rights.

Moreover, a guarantee of citizen participation in the discussion of development plans, public policies and, in general, matters affecting the community should have a direct impact on the decision-making of the relevant public authorities and corporations. Thus, citizen participation will become a genuine complementary force and, at the same time, a mechanism of control of the political representation and public administration system.

The promotion not only of political pluralism but also social movements and organisations, particularly of women, young people and other sectors excluded from the exercise of politics and, in general, the democratic debate, requires new forums for dissemination in order that parties, organisations and communities involved in peacebuilding can gain access to space on national, regional and local channels and broadcasters.

In addition, peacebuilding requires the territories most affected by the conflict and neglect to have, in a transition phase, greater representation in the Congress of the Republic in order to ensure the political inclusion of these territories and their people and also the representation of their interests.

Similarly, it is necessary to create the conditions and to provide the safeguards for the organisations that rose up in arms to be transformed into political movements or parties, and to play an active part in the shaping, exercising and control of political power in order that their proposals and projects might constitute a power alternative.

With a view to complying with all the aforesaid, the necessary institutional adjustments and reviews will take place, leading to full political and citizen participation in all political and social sectors, thereby facing up to the challenges of peacebuilding.

## **2.1. Rights and full guarantees for the exercise of political opposition in general and, in particular, for the new movements emerging in the wake of the signature of the Final Agreement. Access to the media.**

### **2.1.1. Rights and guarantees for the exercise of political opposition in general**

The exercise of politics is not restricted exclusively to participation in the political and electoral system, and for that reason the creation of spaces for democracy and pluralism in Colombia requires acknowledgement not only of the opposition role of political movements and parties but also of the forms of action open to social and popular movements and organisations that might in the future come to act in opposition to the policies of the national government and departmental/municipal authorities.

To that extent, the definition of guarantees concerning opposition requires a distinction to be made between a political opposition role within the political and representative system and the activities of social and popular movements or organisations that might in the future come to act in opposition to the policies of the national government and departmental/municipal authorities.

In the case of political movements and parties that declare themselves to be in opposition, safeguards will be enshrined in a statute, whilst in the case of the aforementioned social and popular movements and organisations it is necessary not only to guarantee the full exercising of rights and freedoms, including that of opposition, but also to promote and to facilitate the forums in which demands can be addressed.

#### **2.1.1.1. Statute of guarantees for the exercise of political opposition**

The exercise of political opposition is a cornerstone of the process of building a broad-based democracy, peace with social justice and national reconciliation, particularly in the wake of the signing of a Final Agreement that will provide the space for new political movements and parties requiring full guarantees for the exercising of politics to arise.

In order to make progress in fulfilling the constitutional obligation (article 112) to fully regulate the rights of political parties and movements that declare themselves to be in opposition to the Government, the political movements and parties with legal status will be called together in the

form of a Commission to define the outline of the statute of guarantees for political movements and parties that declare themselves in opposition. In addition, the following political groups representing the opposition will be called to take part in the Commission: the *Marcha Patriótica* political movement and the *Congreso de los Pueblos* political movement, and also two experts delegated by the FARC-EP. The Commission will provide the forums or mechanisms for receiving input and proposals from other political groups wishing to take part in the discussion. Care will be taken to ensure that the parties, movements and other groups called to the Commission include female representation. The Commission will convene an event to facilitate involvement by spokespersons from the most representative social movements and organisations, experts and academia, *inter alia*. On the basis of these guidelines, the National Government will prepare a bill, with the assistance of delegates from the Commission of political movements and parties, which will be presented for debate within Congress no later than three months after receiving the recommendations by the Commission.

### **2.1.2. Security guarantees for the exercise of politics**

As part of a modern, qualitatively new concept of security that, within the context of the end of the conflict, is based on respect for human dignity, the promotion of and respect for human rights, and the defence of democratic values, particularly the protection of the rights and freedoms of those involved in politics, and especially those who, in the wake of the ending of the armed conflict, become members of the political opposition and thus have to be recognised and treated as such, the National Government will set up a new Comprehensive Security System for the Exercise of Politics (*Sistema Integral de Seguridad para el Ejercicio de la Política*).

In an end-of-conflict scenario, the maximum possible guarantees have to be established for the exercising of politics, thereby using democracy as a channel for the settlement of disputes and conflicts, contributing in a decisive manner to the creation of a climate of coexistence and reconciliation.

The Comprehensive Security System is conceived within the context of guarantees of rights and freedoms and it seeks to ensure the promotion and protection of individuals, and respect for life and freedom of thought and opinion, thereby strengthening and consolidating democracy.

This new Comprehensive Security System for the Exercise of Politics must help to create and to guarantee a culture of peaceful coexistence, tolerance and solidarity that dignifies the exercise of politics and offers guarantees to prevent any form of stigmatisation or persecution of leaders due to their political activities, personal opinion or opposition. Provisions will be adopted to prevent the promotion of security concepts that, on any pretext, conflict with the objectives of the system, these latter being the protection of the life of those exercising politics and their non-stigmatisation for their political activities and ideas. The new System will incorporate special measures for women, and these are to include positive evaluation of their involvement in public life.

The new Comprehensive System will, within the institutions of the state, political movements and parties, social movements and organisations and communities in general, further the promotion of a culture of respect for difference and an interest in the prevention of violence against those exercising politics.

The Comprehensive Security System for the Exercise of Politics will include a robust internal control mechanism that will guarantee the suitability of officials and make it possible to prevent and, if necessary, penalise any conduct in conflict with the rights of the individuals that it is called upon to protect.

The Comprehensive Security System for the Exercise of Politics will be structured in keeping with a concept of security that focuses on the individual, is based on the principles of sovereignty, non-intervention and free determination of the people, and that allows coordination between security measures and measures aimed at the development and well-being of individuals and groups covered in this agreement, and which adopts an equity- and gender-based approach.

Furthermore, the Government will strengthen, concentrate and implement all its institutional capacity to prevent, dismantle and neutralise, adopting a multi-dimensional approach, any possible source of violence against those exercising politics and will take every necessary measure to ensure that there is no resurgence of paramilitary groups (see section 3.4).

#### **2.1.2.1. Comprehensive Security System for the Exercise of Politics**

Under the precepts set forth above, the National Government will set in motion a Comprehensive Security System for the Exercise of Politics, understanding security as a democratic value and adopting a humanistic approach, that must inspire action by the state. The System must serve as effective guarantee of the rights and freedoms of those who are exercising politics within the concept of democratic rules.

The System will include the following elements:

##### **a. Appropriate regulations and institutions:**

- Creation of a high-level unit:
  - o This unit will set in place a Comprehensive Security System for the Exercise of Politics and will guarantee the implementation, functioning and supervision thereof.
  - o This unit will be accountable to the Office of the President of the Republic and will establish mechanisms for ongoing dialogue with political movements and parties, especially those in opposition, and the new movement arising from the transition of the FARC-EP to legal political activity. The mechanisms will include, *inter alia*, a system of planning, information and monitoring, and a follow-up and evaluation commission (see sub-paragraph d). The unit will promote effective dialogue with women.
  - o This unit will oversee the functioning of the system and will serve as the primary link with other state institutions, such as the Office of the Ombudsman (*Defensoría del Pueblo*), the

Office of the Attorney General (*Fiscalía General de la Nación*) and the Office of the Inspector General (*Procuraduría General de la Nación*).

- A review of the regulatory framework for increasing the penalties for crimes against those exercising politics.
- Strengthening of investigative and judicialisation capabilities for prosecuting whoever poses a threat to those exercising politics. A specialisation process will be promoted in the investigation and indictment stage in order to increase institutional capacity for combating impunity.

**b. Prevention:**

- Early Warning System:
  - o The system must have a territorial-, equity- and gender-based approach.
  - o The state will have sufficient funding for proper, comprehensive functioning of this Early Warning System.
- Preventive security deployment:
  - o The concept of comprehensive territorial control that includes linking up male and female citizens in the regions to assist in the protection of those involved in political activity, within the context of the peacebuilding process.
- An inclusive, auditable coordination system.

**c. Protection:**

- A specialised protection programme for members of the new political movement arising from the transition of the FARC-EP to legal political activity, to be agreed between the FARC-EP and the National Government.
- Specialised protection, based on risk evaluation, for the following persons: those elected by the people, those who declare themselves in political opposition, and leaders - male and female - of political movements and parties. For the purposes of involvement in politics, the evaluation will take account of the specific risks facing these persons.
- Risk evaluation will be defined promptly and will be the responsibility of a unit within the System that will provide input in order for the Government to take pertinent measures. The unit will have regional and local capabilities and will include representation from the new political movement arising from the transition of the FARC-EP to legal political activity, decisions and acts being coordinated therewith.
- The Government will have the necessary resources to protect the integrity of leaders, men and women, taking part in political activity, with particular attention to their specific needs.

**d. Evaluation and follow-up:**

- A planning, information and monitoring system, which will be inter-institutional in nature and include representation of political movements and parties, will be set up and will make it possible to evaluate performance and results and at the same time to adapt strategy and procedures in order to guarantee conditions of security in the exercising of politics. This system will include specific information as to risks and threats concerning the participation and the political, social and community representation of women. Said system will be permanently accompanied by international organisations to be agreed on with the new parties or movements arising in the wake of the signature of the Final Agreement and all other political movements and parties wishing to take part.
- Accountability in the form of public reports prepared by the high-level unit.
- A commission will be set up to monitor and evaluate the performance of the comprehensive system for protection and Progress in the dismantling of criminal organisations and of all those that threaten the exercising of politics. The Commission will include representation from political movements and parties.
- A committee will be set up and implemented to provide impetus for investigations into crimes against those exercising politics and especially against those posing a threat to the opposition.

**2.1.2.2. Security guarantees for leaders of social movements and organisations and those defending human rights**

**a. Appropriate regulations and institutions:**

- A review of the regulatory framework for increasing the penalties for crimes against leaders of social movements and organisations and those defending human rights.
- Strengthening of investigative and judicialisation capabilities for prosecuting whoever poses a threat to leaders of social movements and organisations and those defending human rights.
- Guarantees for mobilisation and social protest, including review of the regulatory framework.

**b. Prevention:**

- An early warning system.
- Preventive security deployment.
- A coordination system.
- Raising the profile of the work performed by leaders of social movements and organisations and those defending human rights.



**c. Protection:**

- Strengthening the programme for individual and group protection of leaders of social movements and organisations and those defending human rights and who find themselves in a situation of risk. The individual and group protection programme will adopt an equity- and gender-based approach.

**d. Evaluation and follow-up:**

- An inter-institutional system of information and monitoring that will make it possible to evaluate performance and results, adapting strategy and procedures in order to guarantee conditions of security for leaders of social movements and organisations and those defending human rights. The system must allow for information to be broken down by gender.
- Accountability in the form of public reports, a follow-up commission and a special audit.
- A committee to provide impetus for investigations into crimes against leaders of social movements and organisations and those defending human rights.

**2.2. Democratic mechanisms for citizen participation, including those concerning direct participation, at various levels and in various subject areas**

**2.2.1. Guarantees for social organisations and movements**

Having regard to the right of all people to form social organisations of the most varied types, to form part of such organisations and to disseminate their agendas, to freedom of expression and dissent, to pluralism and tolerance, to social or political action through protest and mobilisation, and taking account of the need for a political culture conducive to peaceful conflict resolution and of the state's obligation to guarantee deliberative and public dialogue, measures are to be adopted to guarantee the recognition, consolidation and empowerment of all social organisations and movements in accordance with their social action agendas.

The National Government will guarantee the political rights of all citizens who, as political players, are organised into social organisations and movements.

Citizen participation in matters of public interest, through the formation and consolidation of different organisations and movements, is a fundamental pillar of the construction and proper functioning of democracy.

A democratic, organised society is a prerequisite for building a stable and long-lasting peace, in particular within the context of the implementation of this Agreement. Thus, it is important to act in such a manner as to strengthen social movements and organisations and especially to offer guarantees for their involvement and dialogue with the authorities. In addition, on the understanding that a society in which women take an active part is a more democratic society, it

is important to strengthen their organisations and to empower them as protagonists within social movements and organisations.

All social movements and organisations, including those arising in the wake of signature of this Agreement, are called up to exercise the rights and to comply with the duties of citizen participation covered herein.

With these aims, the National Government will prepare a bill of guarantees and promotion of citizen participation and other activities that social movements and organisations can enjoy, on the basis of the following guidelines which will be discussed at national level and will include the participation of spokespersons from the most representative social movements and organisations:

- A guarantee of the right to timely, free access to official information within the context of the Constitution and of the law, with such legal adaptations as may be necessary for the implementation of the agreements.
- Regulation of the right to reply and the right to rectification, for the most representative social movements and organisations, against false or offensive statements made by the National Government.
- Together with social movements and organisations, a characterisation of and registration of formal and non-formal social organisations, with updating of information periodically, in order to identify, without detriment to the nature or autonomy thereof, their capacities and needs and the existence of networks and alliances as a basis for the development of public policy or for the modification thereof.
- Through legal and technical assistance, support for the creation and consolidation of social movements and organisations. Notwithstanding the principle of equality, support will be given in the form of extraordinary measures to organisations of women, young people and groups historically discriminated against.
- At the request of social movements and organisations, the promotion of the systematisation and exchange of successful experiences of consolidation thereof and training that enables them to develop their mission statements, with the support of other organisations and movements of a similar kind, as appropriate.
- The strengthening of mechanisms for the funding of initiatives and projects specific to social organisations, through transparent public competition and with citizen oversight.
- Promotion of the creation of networks of social movements and organisations, particularly of persons who have been in a situation of political exclusion, to give a higher profile to leaders and to guarantee their capacity for full dialogue with the public authorities.
- Access to broadcasting mechanisms to highlight the work and the views of social movements and organisations, including airtime on public service channels and broadcasters.

- Citizen participation forums will extend and guarantee, with equal participation between men and women, the representation of social movements and organisations, citizen control and dialogue with local, municipal, departmental and national authorities.
- The design of methodologies that contribute to the effectiveness and impact of participation and dialogue forums, including those established in accordance with their own nature (formal or non-formal) and specific character. Said methodologies will in particular provide mechanisms for follow-up and the rendering of accounts concerning the agreements that arise from the participation forums with social movements and organisations.
- The provision of forums for monitoring and verifying compliance by the authorities with their obligations, undertakings and guarantees in terms of the establishment, functioning and efficacy of citizen participation spaces and, in particular, those concerning dialogue with social movements and organisations.
- The creation of a tool that makes it possible to assess, to give a higher profile to and to encourage management of the public authorities, with respect to the participation of social movements and organisations.
- Guaranteed exchange of successful experiences of citizen participation between social organisations and local and regional authorities, in accordance with the particular features specific to the various territories.
- Promotion of the establishment of agendas for local, municipal, departmental and national work, as appropriate, to allow early attention to be given to the applications and proposals from the various sectors and that are made through social movements and organisations.
- The local authorities must, in a timely manner, attend to such applications and proposals and must forward them to the appropriate destination in order that they can be addressed promptly and efficiently.

The National Government will take into consideration and evaluate the feasibility of additional guarantee proposals arising within the context of this national participation space at a Dialogue Commission with spokespersons from the most representative social movements and organisations chosen through a mechanism defined by the organisers. The mechanism must be participative in nature and guarantee pluralist, balanced representation on the Commission.

We, the National Government and the FARC-EP, have agreed to request that the National Participation Council, with support from *Foro por Colombia, Viva la Ciudadanía* and the *CINEP* organise the national participative space mentioned in section 2.2.1.

After signature of the Final Agreement within the context of the Follow-Up Commission mentioned in Chapter 6, the National Government and the FARC-EP will agree criteria and guidelines for the implementation of this national participative space, with a view to guaranteeing pluralist, balanced representation on the basis of the recommendations made by *Foro por Colombia, Viva la Ciudadanía* and the *CINEP*.

The national space will be convened and will meet within 60 days of the signature of the Final Agreement. Further to that which is stated in section 2.2.1., in the 60 days after the Dialogue Commission has concluded its work the Government, on the basis of the conclusions arising from the national space, will present a bill on safeguarding and promoting citizen participation and other activities that might fall within the remit of social movements and organisations. This undertaking will be included in the accord defining the roadmap or timetable.

### **2.2.2. Guarantees for mobilisation and peaceful protest**

Mobilisation and peaceful protest as forms of political action are legitimate manifestations of the right to freedom of assembly, freedom of movement, freedom of expression, freedom of conscience and opposition within a democracy. In practice, they strengthen political inclusion and constitute a driving force behind a nation of citizens who are critical, and who are prepared to enter into social dialogue and collectively to re-build the nation. Furthermore, in an end-of-conflict scenario, different spaces must be guaranteed for channelling citizens' demands, including full guarantees concerning demonstrations, peaceful protest and peaceful coexistence. Alongside demonstrations and peaceful protests, the rights of those involved and of other citizens must be guaranteed.

The political and social democratisation processes, supported by greater social and popular participation, will contribute to the structural transformation of political culture and promote renewed respect for politics.

With the aim of guaranteeing that such rights can be exercised to their fullest extent, the Government will define the necessary regulatory measures and adaptations, based on the criteria given below, plus any others that are agreed within the context of the special commission, which will have similar functions to that mentioned in 2.2.1. and which will, furthermore, rely on the participation of Dialogue Commission spokespersons and representatives from other interested sectors. Within the context of a special commission, input from the national participative space mentioned in the previous point and also input from other sectors will be discussed:

- Full guarantees concerning mobilisation and peaceful protest as part of the constitutional right to freedom of expression, peaceful assembly and opposition, favouring dialogue and civility when addressing this type of activity, without prejudice to the exercise of the legitimate authority of the state in accordance with international standards regarding the protection of the right to protest.
- Guarantees for the rights of demonstrators and other citizens.
- The necessary guarantees for exercising the right to freedom of information during demonstration and protest.
- A review and, where necessary, an amendment of the regulations applying to mobilisation and social protest.

- Guarantees concerning the application of and respect for human rights in general. Mobilisations and protests, including disturbances, will be dealt with showing full respect for human rights by the legitimate state authorities, guaranteeing at the same time the rights of the remaining citizens in a balanced, proportional manner.
- The strengthening of oversight and control of the actions and means employed by the authorities in dealing with this type of activity.
- Guarantees concerning dialogue as a state response to demonstration and protest, through the establishment of dialogue mechanisms and participative spaces and, where necessary, mechanisms whereby agreements may be sought, with mobilisation and protest being addressed democratically; furthermore, there must be mechanisms whereby compliance with what is agreed can be followed up. Decisions must always be for the common good.
- Monitoring by the Office of the Inspector General, the Office of the Ombudsman and local ombudspersons in the event of demonstrations and protests in their role as guarantors of respect for democratic freedoms, where pertinent, or at the request of those who are protesting or those who see themselves as having been affected.

Within the context of public policy concerning the strengthening, promotion and guarantee of participation on the part of social movements and organisations, the Government will consolidate and expand citizens' participative forums for dialogue and for the preparation of local, municipal, departmental and national agendas, as appropriate, which will enable the petitions and proposals originating from the various social organisations and sectors to be addressed at the earliest opportunity.

### **2.2.3. Citizen participation through community, institutional and regional media**

The community, institutional and regional media must contribute to citizen participation and especially promote civic values, the acknowledgement of different ethnic and cultural identities, equality of opportunity between men and women, political<sup>3</sup> and social inclusion, national integration and, in general, the consolidation of democracy. Citizen participation in community media will further contribute to the building of a democratic culture based on the principles of freedom, dignity and affiliation, and to strengthening communities with links based on good neighbourliness or mutual collaboration.

In addition, in an end-of-conflict scenario, the community, institutional and regional media will play a part in the development and promotion of a culture of participation, equality and non-discrimination, peaceful coexistence, peace with social justice, and reconciliation, its content incorporating non-discriminatory values and respect for the rights of women to a life free from violence.

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<sup>3</sup> "Political inclusion" is understood to mean the greatest possible involvement on the part of all citizens in public affairs within the context of the consolidation of democracy, not political proselytism or propaganda.

To further the success of these aims, the National Government undertakes:

- To launch new competitions to tender for the award of community radio stations, subject to the objective criteria established in law, with an emphasis on the zones most affected by the conflict, thereby promoting the democratisation of information and of the use of the available electromagnetic spectrum, guaranteeing pluralism in their assignment. Participation by community organisations, including victims' organisations, in these competitions will be promoted.
- To promote the technical training of workers, both male and female, in the community and also the training and qualification of community communicators and media operators through processes that seek to advance freedom of expression and opinion.
- To provide space via institutional and regional broadcasters and channels with the intention of publicising the work done by social movements and organisations, including those involving women, and by communities in general, and also the dissemination of content relating to the rights of vulnerable populations, peace with social justice, and reconciliation, thereby implementing the plans and programmes agreed within the context of this Agreement.
- To fund the production and dissemination of content designed to encourage a culture of peace with social justice and reconciliation on the part of the public service and community media. The allocation will be made by means of transparent, open competition involving citizen oversight.

#### **2.2.4. Guarantees for reconciliation, coexistence, tolerance and non-stigmatisation, especially by reason of political and social action within the context of mutual respect**

All citizens, including the parties to this Agreement, must, in the end-of-conflict scenario, contribute to promoting the establishment of a culture of reconciliation, coexistence, tolerance and non-stigmatisation, using respectful, dignified language and behaviour in the exercising of politics and social mobilisation, and to generate the conditions conducive to consolidating recognition and defence of the rights enshrined in the Constitution.

With this aim, the Government will set up a National Council for Reconciliation and Coexistence (*Consejo Nacional para la Reconciliación y la Convivencia*), which will be composed of representatives from government, the Office of the Inspector General, the Office of the Ombudsman, representatives appointed by political movements and parties, including such movement as may arise from the transition of the FARC-EP to legal political activity, social movements and organisations, particularly those involving women, the rural population, trade associations, ethnic minorities, churches, religious faiths, organisations based on faith and organisations in the religious sector, the education sector, *inter alia*. The Council will have the function of advising and monitoring the Government in implementing mechanisms and actions, which are to include:

- The design and implementation of a programme of reconciliation, coexistence and anti-stigmatisation, with the involvement of territorial-based bodies.
- The promotion of respect for difference, criticism and political opposition.
- The promotion of respect for labour in furtherance of peacebuilding and reconciliation, and different political and social movements and organisations.
- The promotion of respect for the work of social and human rights organisations, particularly those monitoring government management and those opposing governmental policy.
- The promotion of non-stigmatisation of groups in vulnerable circumstances or discriminated against, such as women, ethnic peoples and communities, the LGBTI population, young people, boys and girls and the elderly, disabled persons, political minorities and religious minorities.
- The training of public officials and leaders, male and female alike, from social movements and organisations with a view to safeguarding non-stigmatisation.
- The provision of teaching and education services concerning the Final Agreement: the promotion of training and communication programmes aimed at educating citizens on this Agreement, especially concerning agreed designs for political and social participation. A special dissemination programme will be set up that will be implemented through the public and private education system at all its levels. Publicising of the Agreement will be ensured at all levels of state.
- The design and implementation of mass awareness-raising campaigns to build a culture of peace, reconciliation, pluralism and free debate of ideas, with a view to consolidating democracy.
- The promotion of reconciliation, coexistence and tolerance, especially in those populations most affected by the conflict, taking account of the disproportionate impact of the conflict on women.
- The provision of training to social movements and organisations and also to male and female public officials in management posts at national, departmental and municipal levels, to help them address and resolve conflicts.
- The creation of a university subject matter in the area of reconciliation and peace policy.

Councils for Reconciliation and Coexistence will be set up at territorial level with the aim of advising and monitoring local authorities in implementing the Agreement in such a manner as to take account of territorial peculiarities.

### **2.2.5. Citizen control and oversight**

Participation by and control on the part of citizens - men and women - are essential for ensuring transparency of public management and the appropriate use of resources, and for furthering

measures aimed at combating corruption and the penetration of criminal structures into public institutions.

Citizen control is all the more necessary in an end-of-conflict and peacebuilding scenario where it will be necessary to make huge investments to accomplish the objectives of this Agreement throughout Colombia and especially in the prioritised zones. With the aim of promoting and consolidating citizen control and democratisation with greater transparency on the part of the authorities, the National Government will:

- Establish a plan to support the creation and promotion of citizen oversight and transparency watchdog organisations, with special emphasis on citizen control of the implementation of this Agreement. The plan will be launched in collaboration with specialist organisations and higher education institutions, *inter alia*, which will provide monitoring and technical assistance services.
- Guarantee support for the national plan to train citizen monitors selected by communities.
- Create easy-access information mechanisms at local, regional and national level, with the aim of guaranteeing the publicising and transparency of implementation of this Agreement, as part of a system of rendering of accounts under the Agreement.
- In the context of a special programme for eliminating and preventing corruption in the implementation of this Agreement, create a special mechanism for addressing, processing and following up reports and warnings lodged by citizens and movements and organisations concerning possible incidents of corruption in general, with emphasis on matters relating to the implementation of this Agreement.
- Promote a comprehensive institutional campaign of publicising citizens' rights and the obligations and duties of the authorities in the area of participation and control of the public authorities by citizens, and also the administrative and judicial mechanisms aimed at ensuring effective compliance therewith.
- Similarly, this campaign will include dissemination of all citizen control and participation mechanisms, the way in which citizens can be involved in them and their significance in terms of a genuine democratic life.
- Strengthen the mechanisms for accountability of all popularly elected public servants at national, departmental and municipal level, and other public entities and companies providing domiciliary public services. In particular, forums for dialogue within the context of the relevant participative spaces will be promoted.
- Through professional practices and community intervention projects link up public universities and awareness-raising campaigns to promote citizen participation and control by citizens, both male and female.
- The citizen control and oversight mechanisms envisaged will include effective participation by women.



### **2.2.6. Policy for strengthening democratic, participatory planning**

The promotion of good participatory planning practices is key to consolidating democracy in Colombia, especially within the context of implementing this Agreement in the regions, which will require active, effective citizen mobilisation and involvement. With the aim of strengthening participation in the preparation, discussion, implementation monitoring, and evaluation of the planning and budgeting processes and promoting the impact thereof on administration decisions, the National Government undertakes to carry out the following actions:

- a. A review of the functions and composition of Territorial Planning Councils (*Consejos Territoriales de Planeación*), in order:
  - To expand citizen participation in the formulation of development plans and monitoring of the implementation and evaluation thereof. To adopt measures aimed at encouraging the composition of the Territorial Planning Councils to guarantee broad, pluralist representation based, *inter alia*, on existing economic, social, cultural, environmental, educational and community organisations, alliances and networks. It will be these bodies that will appoint their representatives in said units.
  - To guarantee the involvement of the Councils in the preparation, discussion, implementation monitoring, and evaluation of the Plans. Mechanisms are to be set up for dialogue between them and the approval units.
  - To strengthen involvement on the part of Local Administrative Boards (*Juntas Administradoras Locales*) in the preparation of development plans.
  - To promote connections between the various formal and non-formal participatory planning units.
  - To make such regulatory adjustments as are necessary for the concepts, pronouncements and monitoring reports emanating from the participatory planning units to be addressed by the public authorities in dialogue and exchange forums.
  - To ensure that the concepts of the Territorial Planning Councils are addressed by the public authorities as a matter of priority.
  - To consolidate spaces for exchange and the rendering of accounts between the participatory planning units and the organisations or sectors they represent in order, *inter alia*, to guarantee that citizen initiatives in planning matters are addressed.
  - To strengthen the technical capacities of the participatory planning forums.
  - To promote female participation in the Territorial Councils.
- b. The provision of technical assistance to the municipal and departmental authorities that so require, for the purposes of the participatory formulation of various planning tools.

- c. A comprehensive, participatory review of the participation system in planning processes and, in particular, concerning:
- Connections between territorial and national planning units.
  - The composition and functioning of the National Planning Council, with a view to guaranteeing broad, pluralist representation.
  - The effectiveness of the system.

The National Government will make the necessary adjustments as these emerge from the review process at all levels of the participatory system in planning processes.

- d. Consolidation of institutional designs and methodology with the aim of facilitating citizen participation and ensuring the effectiveness thereof in terms of the formulation of public social policies such as in the areas of health, education, combating poverty and inequality, the environment and culture. To that end, the National Government, in collaboration with the relevant sectors, will review the sector-based participatory processes and forums and will issue instructions to the respective institutions for the latter to adapt their regulations, organisation and method of operation. The National Government will adopt measures to facilitate the effective participation of women in this scenario, including measures to make it possible to overcome obstacles concerning women's carer and reproductive roles.
- e. Consolidation and promotion of the preparation of participatory budgets that take account of gender and women's rights at local level, with the following aims:
- To promote involvement on the part of men and women in prioritising a portion of the investment budget in such a manner as to reflect the conclusions arising from the participatory planning exercises.
  - To provide incentives for the formulation and implementation of participatory budgets.
  - To promote mechanisms for monitoring and accountability in connection with the participatory budget exercises.

**2.3. Effective measures to promote greater participation in national, regional and local politics in all sectors, including the most vulnerable population, under conditions of equality and with guarantees of security.**

**2.3.1. Promotion of political pluralism**

With the aim of promoting political pluralism and the representative nature of the party system by extending the exercising of the right of association for political purposes and guarantees for ensuring conditions of equal involvement by political movements and parties and thereby expanding and consolidating democracy, the Government will roll out:

### **2.3.1.1. Measures to promote access to the political system**

Within the context of the end of the conflict and with the aim of consolidating the peace, obstacles will be removed and institutional changes implemented in order that political movements and parties can acquire and retain legal status and, in particular, in order to facilitate the transition of social movements and organisations with a political role towards their establishment as political movements or parties. To that end, the following measures will be promoted:

- Freeing the gaining and retention of legal status (*personería jurídica*) for political movements and parties from the requirement of achieving a minimum threshold in Congress elections and, as a result, redefining the requirements for the constitution of political movements and parties. In order to avoid the indiscriminate proliferation of political parties and movements, a minimum number of affiliates will be required in order for their legal status to be recognised.
- Designing a system for the gradual acquisition of rights by political movements and parties, in accordance with their electoral performance at municipal, departmental and national level. The new system will retain the requirements with regard to votes in elections of the Senate and/or House of Representatives in the ordinary constituencies currently in existence, for the acquisition of all rights to financing, access to resources and to register candidates for elected offices and corporations.
- The system will incorporate an eight-year transition arrangement, including funding and dissemination of programmes, to promote and to stimulate the new political movements and parties of national standing that break through onto the political scene for the first time, as well as others that have had representation in Congress and have lost that representation.

### **2.3.1.2. Measures for promoting equal conditions in the political contest**

To establish a fairer distribution of resources, measures will be taken:

- To increase the percentage distributed equally between the political movements or parties represented in Congress and to increase the level of funding of political movements and parties.
- To extend spaces for publicising the political programme of political movements or parties represented in Congress.

### **2.3.2. Promotion of electoral participation**

With a view to promoting greater electoral participation, the National Government, together with the competent authorities, will promote the following measures:

- Promotion of information, training, teaching and dissemination campaigns to stimulate electoral participation at national and regional level, with special emphasis on the promotion of greater involvement on the part of women, vulnerable populations and territories especially affected by the conflict and neglect.
- Implementation of a nationwide mass ID-issuance campaign, prioritising marginalised and rural zones, particularly those most affected by the conflict and neglect, and providing measures to facilitate access to this campaign by rural women.
- Support for the management arrangements offered by the electoral organisation to stimulate and to facilitate electoral participation on the part of the most vulnerable and most isolated populations (rural, marginalised, displaced persons and victims), and in particular:
  - o Promoting a broadly participatory diagnostic exercise with a gender-based approach concerning the obstacles that face such populations in exercising the right to vote, and adopting the corresponding measures.
  - o Adopting mechanisms to facilitate access to voting stations on the part of communities living in isolated and outlying zones.

### **2.3.3. Promotion of transparency**

#### **2.3.3.1. Measures to promote transparency in electoral processes**

With a view to promoting greater electoral transparency, the National Government, together with the competent authorities, will guarantee the implementation of the following measures:

- Promoting campaigns to prevent behaviour that reduces transparency in electoral processes.
- Providing mechanisms for facilitating citizen reporting and setting up a system for following up on them.
- Carrying out a technical audit of the electoral census, which will benefit from the effective monitoring and involvement of citizens, men and women alike, and of representatives from political movements and parties.
- Setting up a national electoral guarantee tribunal and special section tribunals in electoral districts where there is the greatest risk of electoral fraud. The electoral districts will be defined in accordance with reporting and warnings received by the electoral organisation from the authorities, citizens, non-governmental organisations specialising in the overseeing of electoral processes, and political movements and parties, *inter alia*.
- Strengthening the capacity for investigating and punishing crimes, electoral deficiencies and criminal infiltration into political activity.
- Supporting the adoption of measures to guarantee greater transparency in the funding of election campaigns.

- Supporting the implementation of electronic methods in electoral processes, with guarantees of transparency.
- Promoting the involvement of social organisations and movements, or any other citizens' organisation, in the monitoring and control of electoral processes.
- Promoting political communication, education and training processes in public matters.

#### **2.3.3.2. Transparency measures for allocation of government expenditure on public advertising**

With a view to ensuring transparency in the allocation of government expenditure on public advertising, so that it is not used for electoral or party purposes or for personal promotion or the promotion of political projects, especially at election time, the National Government will promote the necessary regulatory adjustments in order that said expenditure, at national, departmental and municipal levels, is allocated in accordance with transparent, objective and fair criteria, likewise taking account of local and community media and communication spaces.

In addition, the regulatory framework must ensure that such expenditure is public knowledge, making this known through the publication of detailed reports.

#### **2.3.4. Reform of the electoral regime and organisation**

To ensure greater autonomy and independence of the organisation of elections, including the National Electoral Council (*Consejo Nacional Electoral*), or such institution as might act in its stead, and to modernise the electoral system and make it more transparent in order thus to provide greater guarantees for political participation under equal conditions and to improve the quality of democracy, a special electoral mission will be set up after signature of the Final Agreement. The mission will be composed of seven high-level experts, the majority of whom shall be Colombian citizens, as follows: one representative from the MOE (Electoral Observation Mission - *Misión de Observación Electoral*) and six experts to be selected from organisations, which will include the Carter Center, the Department of Political Science of the National University of Colombia, the Department of Political Science of the University of Los Andes, and the Netherlands Institute for Multiparty Democracy (NIMD). The Mission will start its work immediately after the signature of the Final Agreement.

Within a period of six months, the Mission will submit its recommendations based, *inter alia*, on good national and international practices, the input received from political movements and parties and from the electoral authorities, and taking account of the specific problems faced by women vis-à-vis the electoral system. The Mission will advance a broad-based, effective process of participation with all political parties, movements and groupings in order to obtain the broadest possible consensus in the production of the Final Report. The National Government will use these recommendations to make such regulatory and institutional changes as are necessary.

### **2.3.5. Promotion of a democratic and participatory political culture**

The strengthening of political and social participation goes hand in hand with a necessary change in political culture in Colombia. To expand democracy and make it more robust, thereby consolidating the peace, a participatory political culture founded on respect for democratic values and principles, the acceptance of contradictions and conflicts inherent in a pluralist democracy and acknowledgement and respect for one's political opponent must be promoted.

A democratic, participatory political culture must enhance equality between citizens, a humanistic approach, solidarity and social cooperation, and provide transparent management of public affairs, outlawing cronyism and corruption. In addition, it should foment the handling of disputes using political mechanisms, and outlaw violence as a method of political action.

Advancing towards a democratic, participatory political culture implies the promotion and safeguarding of the value and the significance of politics as a means whereby political, economic, social, environmental and cultural rights can be fulfilled. A democratic, participatory political culture should contribute to the greater integration of the most vulnerable sectors of society.

To promote a democratic, participatory culture, the National Government will implement the following measures:

- Promotion of democratic values, political participation and the mechanisms thereof, to guarantee and enhance knowledge of them and their effective use, thereby consolidating the exercising of the rights enshrined in the Constitution, doing so by means of media campaigns and training workshops. Special emphasis will be placed on the most vulnerable populations such as rural communities, women, religious minorities, ethnic peoples and communities and LGBTI groups. The content of these campaigns will incorporate values to challenge multiple forms of discrimination.
- Stepping-up of education programmes on democracy at different levels of education.
- The promotion of political and social leadership programmes for members of social organisations and parties.
- A programme to promote political participation and leadership by women.

### **2.3.6. Promotion of the political representation of populations and zones particularly affected by the conflict and neglect**

Within the context of the end of the conflict and with the aim of guaranteeing better integration of zones particularly affected by the conflict, neglect and institutional weakness and ensuring enhanced political representation and inclusion of these populations and their political, economic, social, cultural and environmental rights, as a further reparation measure in the peacebuilding process, the National Government undertakes to set up in such zones a total of 16

Special Transitory Peace Electoral Districts (*Circunscripciones Transitorias Especiales de Paz, STPED*) for the selection of a total of 16 representatives to the House of Representatives, on a temporary basis and for two electoral periods.

The Electoral Districts will be covered by special rules concerning the registration and election of candidates. Likewise, the campaigns will benefit from special funding and access to regional media. Special monitoring mechanisms will be set up to ensure the transparency of the electoral process and the electorate's freedom to vote.

In any event, candidates must be people who regularly live in said territories or have been displaced from them and are in the process of returning. Candidates may be registered by significant groups of citizens or organisations in an electoral district, such as rural organisations, organisations of victims (including displaced people), and organisations of women and social sectors working to build the peace and to improve social conditions in a region, *inter alia*. The National Government will launch processes to strengthen social organisations in these territories, in particular victims' organisations with a view to promoting their participation in the electoral district.

Candidates will be elected by citizens from the same territories, notwithstanding their right to take part in the election of candidates to the House of Representatives in the ordinary elections held in their departments. Parties represented in the Congress of the Republic or with legal status, including the political party or movement that arises from the transition of the FARC-EP to legal political activity, may not register candidates for these electoral districts.

The electoral organisation will pay particular attention to monitoring the electoral census, the registration of candidates and the financing of campaigns, guaranteeing compliance with the established rules. Additional control and supervision systems will be promoted by specialist organisations such as the Electoral Observation Mission (MOE) and the political parties and movements.

### **2.3.7. Promotion of women's political and citizen participation within the context of this Agreement**

The National Government and the FARC-EP acknowledge the important role played by women in the prevention and resolution of conflicts and in the consolidation of peace, and also the need to promote and to strengthen women's political and citizen participation even more within the context of the end of the conflict. Their leadership and participation on an equal footing are necessary and essential in terms of public decision-making processes and the formulation, implementation, evaluation and monitoring of government policies aimed at achieving a stable and long-lasting peace.

The National Government and the FARC-EP reject any form of discrimination against women and reaffirm that their contribution as political subjects in public life is vital for strengthening democracy and for maintaining and fomenting the peace. In implementing all that which is

agreed in Chapter 2 of this Agreement, the gender-based approach will be guaranteed and the necessary affirmative measures will be designed and adopted to strengthen women's participation and leadership and, in general, to promote fulfilment of the aforesaid proposals.

The strengthening of women's political and citizen participation on an equal footing includes the adoption of measures that will guarantee balanced representation of men and women in shaping all the forums referred to herein. Likewise, balanced participation and leadership by women within social movements and organisations and political parties must be promoted. With the aim of raising awareness of women's rights and promoting new leadership roles for them, training programmes are to be implemented concerning their political rights and forms of political and citizen participation.

The aforesaid has no bearing on the duty to step up compliance with international undertakings and regulations and also national regulations in this area.

### **2.3.8. Creation of a new space for providing media access to political movements and parties**

To supplement that which is agreed within the context of sections 2.2 and 2.3 concerning media access for social movements and organisations and political movements and parties, respectively, the Government undertakes to provide a closed institutional TV channel designed for political movements and parties with legal status for the purposes of the dissemination of their political platforms within the context of respect for ideas and difference. This channel will also be a way in which to provide information on the work of victims' organisations, social movements and organisations, to promote a democratic culture of peace and reconciliation and of non-discriminatory values with respect for the right of women to a life free of violence, and also to publicise progress made in terms of implementing the plans and programmes agreed with the context of this Agreement.

A commission will set up with representatives from the most representative political movements and parties and social movements and organisations to advise on scheduling for the channel.



### **3. End of the Conflict**

#### **3.1. Agreement between the National Government and the FARC-EP on the Bilateral and Definitive Ceasefire and Cessation of Hostilities and the Laying down of Arms**

In implementing sub-items 1, "Bilateral and Definitive Ceasefire and Cessation of Hostilities" and 2, "Laying down of Arms" of Chapter 3, "End of the Conflict" of the "General Agreement to End the Armed Conflict and Build a Stable and Lasting Peace" signed in Havana, Cuba, on 26 August 2012, the Government of the Republic of Colombia (National Government) and the Revolutionary Armed Forces of Colombia - People's Army (FARC-EP) hereby enter into the following agreements:

In fulfilment of and under terms of that which is agreed in Chapter 2, "Political participation: a democratic opportunity to build peace", the National Government reaffirms its commitment to the implementation of measures conducive to full political and citizen participation in all political and social sectors, including measures to guarantee citizen participation and mobilisation in matters of public interest and also measures to facilitate the formation of new political movements and parties, with due guarantees for participation under conditions of security.

Furthermore, the National Government reaffirms its commitment to that which was agreed in sections 3.4. and 3.6. of Chapter 3, "End of the Conflict", which include the creation of a new Comprehensive security system for the exercise of politics, in the terms agreed in Chapter 2, "Political participation", as part of a modern, qualitatively new concept of security that, within the context of the end of the conflict, is based on respect for human dignity, the promotion of and respect for human rights and the defence of democratic values, in particular the protection of the rights and freedoms of those involved in politics, especially of those who, after the end of the armed confrontation, make the transition into a political movement and must therefore be acknowledged and treated as such.

In addition, the National Government and the FARC-EP confirm their commitment to contributing to the emergence of a new culture that outlaws the use of arms in the exercise of politics and to working together to achieve a national consensus involving all political, economical and social sectors, make a commitment to the exercise of politics where the values of democracy, freedom of ideas and civilized debate are paramount and where intolerance and political persecution are outlawed. This commitment forms part of the guarantees concerning non-recurrence of acts that contributed to the armed confrontation between Colombians for political reasons.

Lastly, the National Government and the FARC-EP commit to compliance with that which is agreed herein concerning the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and Laying down of arms (LA), to which end a roadmap will be prepared that will contain the mutual undertakings whereby within 180 days of the signature of the Final Agreement the process of the laying down of arms will have been completed.

### **3.1.1. Introduction**

#### **3.1.1.1. Definitions**

##### **Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH):**

The definitive end of the offensive actions between the Colombian State Armed Forces (which include both the Military Forces and the National Police) and the FARC-EP, hostilities and any behaviour prohibited under the annex to the rules governing the BDCCH. The Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) will commence on day D at hour H.

##### **Laying down of arms (LA):**

This is a technical, traceable and verifiable procedure whereby the United Nations (UN) receives all FARC-EP weaponry, which will be used to construct monuments.

#### **3.1.1.2. Objective**

The objective of this Agreement concerning the BDCCH and LA is the definitive cessation of offensive actions between the Colombian State Armed Forces (which include both the Military Forces and the National Police) and the FARC-EP and, in general, the hostilities and any action mentioned under the rules governing the BDCCH, including any conduct having an adverse effect on the general population, thereby creating the conditions for the commencement of implementation of the Final Agreement and the Laying down of arms and preparing the institutional framework and the country for the reincorporation of the FARC-EP into civilian life.

#### **3.1.1.3. Provision of information**

The National Government and the FARC-EP shall provide information gradually at the points in time agreed, in such level of detail as is appropriate, in order to facilitate the planning and implementation of: 1. The work of the Monitoring and Verification Mechanism (MVM); 2. Budget and logistics; 3. Security and presence in the field; 4. Fulfilment of tasks inherent to the BDCCH process; 5. The Laying down of arms; and 6. The Reincorporation of the FARC-EP into civilian life.

#### **3.1.1.4. Announcement and commencement of the BDCCH and LA**

The National Government and the FARC-EP will make public, nationally and internationally, that which has been agreed: "The definitive end of the offensive actions between the Colombian State Armed Forces and the FARC-EP, hostilities and any behaviour prohibited under the protocol on the rules governing the BDCCH and the LA in this agreement. The Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and the LA process commence on day D at hour H".

Once the aforesaid announcement has been made, a reasonable timescale will be established for implementation of the MVM and for the appropriate presence in the field of the Colombian State Armed Forces and the FARC-EP.

#### **3.1.1.5. Dissemination and communication**

Upon signature of the BDCCH and LA Agreement, precise instructions will be given to the Colombian State Armed Forces and FARC-EP structures for them to implement the necessary acts for the commencement of the BDCCH and LA.

#### **3.1.1.6. Timeline**

The National Government and the FARC-EP have agreed to establish a logical order for implementation of BDCCH and LA activities. To that end, they will implement that which is established in the annexed timeline, which takes as reference events or dates prior to or after day D and hour H.

The procedures for and the terms of implementation of this Agreement are described in the following annexes and protocols:

##### **a. BDCCH and LA introduction**

- The provision of information
- Dissemination and communication
- Timeline

##### **b. Rules governing the BDCCH and LA**

##### **c. Monitoring and Verification**

- Deployment of the MVM
- Flow of information from the MVM
- Management of strategic communications
- Observation and recording of the MVM
- Coordination of the MVM
- Code of conduct for members of the MVM
- Resolution of controversies
- Mandate of the MVM
- Supervision of weaponry, munitions and explosives

##### **d. Presence in the field**

- Presence in the Field and Zones

- Movement routes, coordination of movements in the field
- e. Security**
- Security for members of the MMV
  - Security for delegates and public officials regarding the BDCCH and LA
  - Security for members of FARC-EP
  - Security for civilian population during the BDCCH and LA in the TLZNs and TLPNs
  - Security for movements of FARC-EP toward the TLZNs and TLPNs
  - Security for the TLZNs and TLPNs during the BDCCH and LA
  - Security for the handling, storage, transport and control of weaponry during the BDCCH and LA
- f. Logistics.**
- Logistics
- g. Laying down of arms.**
- Identification
  - Recordal
  - Collection
  - Storage
  - Final disposal of arms

This list of protocols may be changed as agreed between the National Government and the FARC-EP.

### **3.1.2. Rules governing the BDCCH and LA**

The rules governing the BDCCH and LA are all those arising from this Agreement that seek to prevent the BDCCH and LA from being violated, either by the civilian population or by the opponents in the conflict.

The rules governing the BDCCH and LA aim to identify acts which lead to a violation of the ceasefire, and the monitoring of such acts is at the very core of the MVM's mandate.

The relevant annex, which forms an integral part of this Agreement, clearly identifies the acts that the Colombian State Armed Forces and the FARC-EP undertake not to commit.

### **3.1.3. Monitoring and verification**

For the purposes of implementing this Agreement, a Monitoring and Verification Mechanism (MVM) responsible for verifying compliance therewith and the administration of various factors

that may jeopardise the BDCCH and LA, and in particular verifying compliance with the rules governing the BDCCH and LA will be set up. The functions, procedures and scope thereof are established in the MVM mandate.

This is a flexible, efficient and rapid mechanism that will enhance the transparency and credibility of and confidence in the BDCCH implementation process.

The international component of the MVM (IC-MVM) will verify the LA under the terms of and with the due guarantees established in the protocols to the Agreement.

It has a structure composed of three units, one at national level; eight (08) regional verification structures; and local monitoring structures established in specific areas.

The MVM will be a tripartite technical mechanism composed of representatives from the National Government (Colombian State Armed Forces, which include both the Military Forces and the National Police), the FARC-EP, and an international component comprising a political mission with unarmed UN observers made up principally of observers from the member states of the Community of Latin American and Caribbean States (CELAC).

In all units, the international component leads the MVM and is responsible for settling disputes, submitting recommendations and generating reports, in accordance with the guidelines given to it in order to guarantee and support the impartiality and transparency of the BDCCH and LA.

The number of monitoring teams will depend on the following criteria: areas, number of people and weaponry to be monitored, and topography and risk factors in each zone specified for said purpose.

The MVM will establish links with social and political organisations and with communities, and also with state institutions at local, regional and national level and these may contribute to its work by providing information, by assisting in the dissemination of its reports to the public at large and by submitting proposals and suggestions.

#### **3.1.3.1. Resolution of disputes for the BDCCH and LA**

Regional units and the National Verification unit are responsible for confirming and verifying incidents involving or violations of this BDCCH and LA Agreement in accordance with information documented by monitoring teams and also submitting recommendations to the National Government and the FARC-EP, with a view to preventing or correcting acts or facts detrimental to the BDCCH and LA.

#### **3.1.4. Deployment of units in the field and Zones**

For the purposes of compliance with the BDCCH and LA Agreement and also to further preparations for the process of economic, political and social reincorporation of the FARC-EP into

civilian life in accordance with its interests, as stated in sub-item 2 of Item 3 of the General Agreement to End the Armed Conflict and Build a Stable and Lasting Peace, the National Government and the FARC-EP agree to set up 20 Transitional Local Zones for Normalisation (*Zonas Veredales Transitorias de Normalización - TLZNs*), and seven Transitional Local Points for Normalisation (*Puntos Veredales Transitorios de Normalización - TLPNs*).

From day D+1, the Colombian State Armed Forces will reorganise the arrangements of troops in order to facilitate the movement of the FARC-EP structures to said zones and to comply with the BDCCH and LA Agreement.

Meanwhile, from day D+5, the various missions, commissions and Tactical Combat Units (TCUs) on the FARC-EP fronts will move towards said previously agreed TLZNs and TLPNs following the itineraries established by mutual agreement between the National Government and the FARC-EP.

All the aforesaid will be monitored and verified by the MVM in accordance with the mandate for said mechanism, the text of this Agreement and the protocols agreed by the National Government and the FARC-EP.

#### **3.1.4.1. Transitional Local Zones for Normalisation (TLZNs)**

These aim to guarantee the BDCCH and LA and to initiate the preparatory process for the economic, political and social reincorporation of the FARC-EP structures into civilian life in accordance with their interests, as established in Item 3, sub-item 2, of the General Agreement, and the transition to legal status.

These Zones are transitional, temporary and territorial-based, and are defined, delimited and pre-agreed by the National Government and the FARC-EP, with monitoring and verification by the MVM which will have local monitoring teams for each of said TLZNs.

The TLZNs are in locations selected by mutual agreement and are accessible via road or river; their boundaries correspond to those of the rural settlement (*vereda*) where they are located, and they may be extended or reduced by mutual agreement, depending on the size of the settlement where they are located. They are of a reasonable size to allow monitoring and verification by the MVM and compliance with the objectives of the TLZNs, geographical features or characteristics of the terrain serving as references.

In implementation of the BDCCH and LA agreement, the Colombian State Armed Forces and the FARC-EP alike must comply with the rules governing the BDCCH and LA and also other chapters of and protocols to the BDCCH and LA Agreement. The MVM has unlimited access to the TLZNs stipulated in Annex X to this agreement and to units of the Colombian State Armed Forces seconded for the arrangements stipulated in Annex Y to this Agreement.

To guarantee compliance with this Agreement, ongoing communication shall be set up between the MVM and the delegates appointed by the National Government and the FARC-EP.

Whilst the TLZNs are in operation, the FARC-EP will be answerable for their combatants inside those Zones. FARC-EP combatants shall leave the camps unarmed and in civilian clothing.

Once FARC-EP members are in the TLZNs, the National Government will suspend orders to capture all members of the FARC-EP found inside said the said Zones, after delivery from the FARC-EP of a list of their members present in each TLZN.

Members of the FARC-EP who, under the Amnesty Law, have benefited from release from prison will, if they so desire, be integrated in said Zones in order to continue the process of reincorporation into civilian life. To this end, accommodation outside of the camps shall be organised inside the TLZNs.

During the term of the BDCCH and LV agreement, the FARC-EP will appoint a group of 60 of their members (men and women) who can, at national level, be mobilised to fulfil tasks in connection with the Peace Accord. Likewise, for each TLZN, the FARC-EP will appoint a group of 10 of their members who, at municipal and departmental level, can be mobilised to fulfil tasks in connection with the Peace Accord. For the purposes of these movements, FARC-EP members will benefit from the security measures granted by the National Government, for which purpose there will be two protection teams per Zone to cover such movements. Departures from the Zones will be the joint responsibility of FARC-EP commanders.

The FARC-EP members appointed for the tasks mentioned in the above paragraph must previously have stored their weapons in containers subject to IC-MVM verification. Any FARC-EP member wishing to leave a TLZN to receive emergency medical attention or specialist medical treatment not available within a TLZN must also store any weapons in containers.

The National Government and the FARC-EP are committed to this Agreement being implemented without limiting in any way the normal functioning of the non-armed civilian authorities, of economic, political and social activity in the regions, of life in communities, in the exercising of their rights and also in those of such communal, social and political organisations as are present across the country's territories.

Full effectiveness of the rule of law within the TLZNs is guaranteed and for that purpose the functioning of the civilian authorities will be maintained without restriction. The (non-armed) civilian authorities present in the Zones will remain and will continue to carry on their functions therein, notwithstanding that which is agreed in the BDCCH. The TLZNs may not be used for political demonstrations.

The non-armed civilian authorities may enter the TLZNs without restriction on a permanent basis, except the area of the camps where the FARC-EP structures are located. Each TLZN has a reception area for attending to any persons who might arrive.

No members of the civilian population may be present in said camps or enter said camps at any time.

For the duration of the TLZNs, permission for the civilian population within them to carry and possess weapons is suspended.

The MVM is tasked with monitoring and verifying compliance with the protocols agreed by the National Government and the FARC-EP for the TLZNs and units of the Colombian State Armed Forces seconded for the arrangements stipulated in Annex Y to this Agreement.

Should any act be committed or circumstance arise within a TLZN that requires the presence of the National Police, or any other armed authority of the state, the MVM will be informed in order that it might coordinate entry in accordance with the protocols agreed by the National Government and the FARC-EP.

The number of camps within each TLZN agreed by the National Government and the FARC-EP is determined by the conditions of the terrain and the number of combatants within it. In any event, camps will be located such that the MVM is able to fulfil its function of monitoring and verifying the BDCCH and LA agreement.

In implementing the preparatory process for the reincorporation of its combatants into civilian life, the FARC-EP may, in coordination with the National Government, provide FARC-EP members within the TLZNs with any type of training in productive tasks and with instruction to raise their basic primary, secondary or technical level of education, in accordance with their own interests.

Meanwhile, within the TLZNs, the National Government, in agreement with the FARC-EP, will implement measures and activities in preparation for reincorporation and also other activities that are necessary to facilitate the transition of the FARC-EP to legal status and to guarantee well-being in the TLZNs, which may include, *inter alia*, health services, ID-issuance days, and other activities in preparation for reincorporation.

The MVM will set up a local headquarters for each TLZN in a location that enables it to fulfil its functions efficiently and effectively.

#### **3.1.4.2. Security Zone**

A Security Zone will be established around each TLZN where there may be no units of the Colombian State Armed Forces (which include both the Military Forces and the National Police) or FARC-EP operatives, with the exception of monitoring and verification teams accompanied by police security when circumstances so require. Each police intervention, other than in connection with the MVM, required in a Security Zone must be coordinated in advance with the MVM and in accordance with the protocols agreed between the National Government and the FARC-EP. The width of the Security Zone around each TLZN is one kilometre.



### **3.1.4.3. The establishment of Camp Zones and movement routes**

The TLZNs are listed in Annex X1 to this Agreement.

Units of the Colombian State Armed Forces subject to monitoring and verification by the MVM are listed in Annex Y to this Agreement.

### **3.1.4.4. Commencement of movement**

On day D+1, a delegate from the National Government and a delegate from the FARC-EP will deliver the coordinates of the location of units of the Colombian State Armed Forces and of the FARC-EP to the IC-MVM in order for the necessary measures to be adopted to allow movement of the FARC-EP structures to the TLZNs in a safe and secure manner under MVM monitoring and verification.

Such movements may be accompanied by the MVM if the National Government and the FARC-EP so wish.

### **3.1.4.5. Airspace**

From day D, the use of airspace will be as follows:

Over the TLZNs and Security Zones military flights will be restricted to an altitude of 5,000 feet. In the event of any accident, public catastrophe or medical emergency, civilian aircraft may fly in these areas subject to MVM coordination with the National Government and the FARC-EP.

### **3.1.5. Security**

That security is an overarching obligation of the BDCCH and LA is a given founded on the principles of respect for life and human dignity, and the National Government and the FARC-EP have together defined security protocols that comprehensively minimise potential threats that might affect or harm persons and assets under the BDCCH and LA.

The security conditions implemented from commencement of the BDCCH and LA guarantee protection for members of the monitoring and verification team, members of the FARC-EP, delegates from National Government, the Colombian State Armed Forces (which include both the Military Forces and the National Police) and other parties involved in the process. Also covered is the coordination of movements and arrangements in the field.

Security in the case of FARC-EP weaponry, munitions and explosives during the BDCCH and LA forms part of the implementation of security protocols covering transportation, handling, storage and control thereof.

The BDCCH and LA security measures require of the state the necessary capacity to guarantee security and effective implementation of the activities involved in this process and to prevent, break down and eliminate any circumstance that might jeopardise it.

The BDCCH and LA security measures likewise require of the FARC-EP the fulfilment of aspects concerning them.

Likewise, through the Colombian State Armed Forces, the National Government will continue to safeguard conditions promoting the coexistence and security of the civilian population during this process.

The security protocols agreed are based on a concept of security in which people and communities are its central focus and rely on comprehensive, appropriate prevention of threats whereby any risks that might affect BDCCH and LA undertakings might be mitigated.

To assist in implementation of security measures in the BDCCH and LA, the following protocols have been jointly drawn up to create a climate of security and trust amongst those involved in this process:

- Security for members of the MMV
- Security for delegates and public officials regarding the BDCCH and LA
- Security for members of FARC-EP
- Security for civilian population during the BDCCH and LA in the TLZNs and TLPNs
- Security for movements of FARC-EP toward the TLZNs and TLPNs
- Security for the TLZNs and TLPNs during the BDCCH and LA
- Security for the handling, storage, transport and control of weaponry during the BDCCH and LA

### **3.1.6. Logistics**

This covers all elements designed to meet the specific needs identified between the National Government and the FARC-EP in terms of fulfilment of all aspects relating to the BDCCH and LA Agreement.

Locally, the MVM has a logistics section coordinated by a member of the international component. This tripartite section of the local unit is responsible for defining aspects concerning the logistics necessary for the functioning of the TLZNs; in addition, it is responsible for guaranteeing appropriate and timely arrival of supplies to such zones.

Protocols under this heading specify in detail the criteria identified and commitments made concerning each step in the logistical supply process.

### 3.1.7. Laying down of arms (LA):

This is a technical, traceable and verifiable procedure whereby the UN receives all FARC-EP weaponry and channels it to the construction of three monuments, approved by the National Government and the FARC-EP.

The LA by the FARC-EP is an organised, traceable and verifiable process taking place in two stages, called Control of Weaponry and Laying down of Arms, which involve the following technical procedures: recordal, identification, monitoring and verification of the possession, collection, storage, removal and final disposal.

- **Recordal:** this is the technical procedure of recording the amount and type of weapons received from the FARC-EP by the IC-MVM.
- **Identification:** this is the technical procedure allowing classification of the FARC-EP's arms by the IC-MVM. This procedure involves only the individual arms carried by FARC-EP members inside the camps.
- **Monitoring and verification of possession:** each FARC-EP member remaining in the Zones carries an individual arm within the camp. The IC-MVM monitors and verifies possession of this weaponry on the basis of recordal and identification by the IC-MVM. There are IC-MVM representatives inside the camps on a permanent basis.
- **Collection:** this is understood as the technical procedure whereby the IC-MVM receives all the FARC-EP arms in accordance with the procedures detailed herein.
- **Storage of weaponry:** in each Zone, inside one of the camps, there is a point for storing the weaponry received by the IC-MVM in dedicated containers. This location may be accessed only by the IC-MVM, which carries out ongoing monitoring and verification.
- **Removal of weaponry:** this technical procedure, under the responsibility of the UN, consists in the physical removal of weaponry from the Zones. The location of this weaponry will be determined between the National Government and the FARC-EP, in conjunction with the UN, and will be channelled to the construction of three monuments.
- **Final disposal of weaponry:** this is understood as the technical procedure whereby FARC-EP arms are used to construct three monuments, namely: one at United Nations headquarters, another in the Republic of Cuba, and another in Colombia at a location to be determined by the political organisation that emerges from the transformation of the FARC-EP, in agreement with the National Government.

#### 3.1.7.1. Procedure

Signature of the Final Agreement will initiate the process of the Laying down of Arms by the FARC-EP, as follows:

For the purposes of planning and preparing the logistical aspects of the LA, from day D+5 the FARC-EP will provide the IC-MVM with such information as the latter deems to be necessary for the transport, recordal, identification, monitoring and verification of possession, collection, storage, removal and final disposal.

The FARC-EP will contribute in various ways, including the supply of information, with the clearing and decontamination of areas where there are anti-personnel mines (APMs), improvised explosive devices (IEDs), and unexploded ordnance (UXO) or explosive remnants of war (ERW) in general, taking into account that agreed in Chapters 4 and 5 and the item relating to Reincorporation into civilian life in connection with FARC-EP involvement in mine clearance.

Day D+5 sees the start of movement of FARC-EP units to the TLZNs and the transport of individual weaponry. The MVM will monitor and verify this procedure.

Day D+7 to day D+30 will be the period for transporting individual weapons, militia weaponry, grenades and munitions by FARC-EP members towards the TLZNs, in accordance with the security protocol for the transport of weaponry. The MVM will monitor and verify this procedure.

On arrival of FARC-EP members at the Zones the IC-MVM will commence the procedure for: recordal and storage in dedicated containers of individual weapons from the FARC-EP members who are leaving to fulfil peace-process tasks and the FARC-EP members seconded to the MVM.

Likewise, the IC-MVM will begin monitoring and control of possession of individual weapons by the FARC-EP members remaining inside the camps, on the basis of recordal and identification of such weapons.

Individual weapons, grenades and munitions entering the camps, including militia weapons, will remain in temporary weapon stores under the responsibility of the FARC-EP until day D+60 when they will be stored in dedicated containers. This procedure will be monitored and verified by the IC-MVM.

To ensure effective control of weaponry in each Zone, there will be a single storage point within one of the camps where the containers under ongoing monitoring and verification by the IC-MVM are located, in accordance with the protocols between the National Government and the FARC-EP.

The period from day D+10 to day D+60 will see the destruction of unstable weaponry kept in dumps (caches) previously located by geo-referencing, in fulfilment of the security protocols defined for this purpose. The IC-MVM will confirm the implementation of this procedure.

The collection of individual weaponry still in the possession of members of the FARC-EP inside the camps in the Zones and its storage in containers will take place sequentially and in three phases, as follows: Phase 1 - D+90, 30%; Phase 2 - D+120, 30%; and Phase 3 - D+150, the remaining 40%. This will be in accordance with the roadmap (timeline of events) agreed by the

National Government and the FARC-EP that will guide the process of Ending the Conflict after signature of the Final Agreement.

When the weaponry has been deposited (day D+150), the United Nations will complete the process of removing the weapons no later than day D+180, in accordance with the agreed procedures, and will certify fulfilment of this process by means of an announcement to the National Government and to the general public.

Day D+180 will mark the end of the period of operation of these Zones and the Bilateral and Definitive Ceasefire and Cessation of Hostilities.

The MVM will confirm and notify each one of the phases of the above procedure for the laying-down of arms.

### **3.2. Reincorporation of the FARC-EP into civilian life – in economic, social and political matters – in accordance with its interests**

The delegates of the Government of the Republic of Colombia (the National Government) and the Revolutionary Armed Forces of Colombia – People’s Army consider that:

Laying the foundations for building a stable and long-lasting peace requires the effective reincorporation of the FARC-EP into the social, economic and political life of the country. The process of reincorporation confirms the commitment of the FARC-EP to contribute to the end of the armed conflict, become a legal political entity and decisively contribute to the consolidation of the national reconciliation, peaceful co-existence and guarantees of non-recurrence, and to transform the conditions that allowed violence across the country’s territories to arise and persist. For the FARC-EP, this is an indication of trust in Colombian society and in particular in the state, insofar as it is expected that all the agreements reached in the set of agreements that form the Final Agreement shall be effectively implemented under the terms agreed.

The reincorporation into civilian life shall be a comprehensive, sustainable process of an exceptional and transitory nature which takes into account the interests of the community of the FARC-EP, its members and their families, aimed at strengthening the social fabric across the country’s territories as well as coexistence and reconciliation among the inhabitants; furthermore, it is aimed at developing and deploying socially productive activities and local democracy. The reincorporation of the FARC-EP is based on the recognition of individual freedoms and free exercise of the individual rights of all those who are currently members of the FARC-EP and in the process of reincorporation. The reincorporation provided for in this agreement shall be complementary to the agreements already made. Every component of the reincorporation process shall have an equity-based approach, with a particular emphasis on women’s rights.

In accordance with what has been established in the Agreement on the Special Jurisdiction for Peace (*Jurisdicción Especial para la Paz, SJP*), with respect to those persons who belong to rebel

organisations that have signed a peace agreement with the Government, for the purposes of reincorporation, the sentences resulting from crimes that are the jurisdiction of the Tribunal for Peace (*Tribunal para la Paz*) imposed by ordinary or disciplinary courts shall remain with suspensive effect, until these sentences have been processed by the Special Jurisdiction for Peace as regards its jurisdiction.

### **3.2.1. Political reincorporation**

The transition of the FARC-EP from an armed organisation to a new legal political movement or party, which benefits from rights and complies with the obligations and duties inherent to constitutional order, is an essential condition for ending the armed conflict, building a stable and long-lasting peace and, in general, for strengthening democracy in Colombia. To that end, the necessary guarantees and conditions shall be adopted to facilitate the creation and functioning of the new party or political movement that emerges from the transition of the FARC-EP to legal political activity, after the signing of the Final Agreement and the laying down of arms.

In view of all the foregoing and as a development of the political component of the reincorporation of the FARC-EP into civilian life, in accordance with its interests, as covered in the General Agreement, the following special rules are agreed:

#### **3.2.1.1. Guarantees for the new political movement or party**

- **Legal status**

Upon signing the Final Agreement, the National Electoral Council (*Consejo Nacional Electoral*) will process the registration application submitted by the political group of citizens in full exercise of their rights, which has the aim of promoting the creation of the future political movement or party that emerges from the transition of the FARC-EP to legal political life.

When the process for the laying down of arms has been finalized, the plenipotentiaries of the FARC-EP at the Negotiation Table (*Mesa de Conversaciones*) shall formally declare and register at the National Electoral Council the decision to transform into a political movement or party, the act of constitution, its regulations, the ethics code, the ideological platform and the appointment of its officers. By virtue of this formal act, the political movement or party, with the name that it adopts, shall be recognised for all purposes and under equal conditions, as a political movement or party with legal status (*personería jurídica*), and the National Government shall process in advance any legislative reforms that may be required.

The political movement or party thus recognised must comply with the requirements for preservation of legal status and shall be subject to the grounds for loss thereof as provided for other political movements and parties in accordance with the Constitution and the law, except for accreditation of a certain number of members, presentation at political contests and the obtaining of a minimum voting threshold, during the period of time between its date of registration and 19 July 2026.

- **Funding and technical assistance**

- **Operation**

As a measure to facilitate the transition of the FARC-EP to legal political activity, the political movement or party that it forms shall receive an annual allowance, between its date of registration and 19 July 2026, equivalent to the average received by the political parties or movements with legal status for their operation in the elections prior to the signing of the Final Agreement. These resources will be used in accordance with the rules applying to all political parties and movements.

Moreover, in order to contribute to the financing of the Centre for political thought and education (3.2.2.2) and the disclosure and dissemination of its ideological and programmatic platform, it shall be assigned a sum equivalent to 7% of the annual budget allocation for the operation of political movements and parties between its date of registration and 19 July 2022.

The above sums shall not affect the amount to be distributed by the Fund to the other political movements and parties with legal status.

The Government shall promote that international cooperation is used to support, with the required guarantees of transparency, the development of the infrastructure necessary for the constitution and initial functioning of the new political movement or party that emerges from the transition of the FARC-EP to legal political activity and for the training of its leaders. Resources from international cooperation may not be used for electoral campaigns.

- **Election campaigns**

The campaigns of the candidates for the Presidency and the Senate of the Republic registered by the political movement or party that emerges from the transition of the FARC-EP to legal political activity, to participate in the elections in 2018 and 2022, shall be funded predominantly by the state in accordance with the following rules: i) In the case of presidential campaigns, the appropriate state funding shall be granted to candidates that meet the requirements of the law, in accordance with the provisions applicable to said campaigns; ii) In the case of Senate campaigns, candidates shall receive anticipated state funding equivalent to 10% of the expenses limit fixed by the electoral authority; iii) the above state funding shall not be subject to reimbursement, provided that the funds allocated have been used for the purposes established by law.

- **Access to media**

The political movement or party that emerges from the transition of the FARC-EP to legal political activity shall have access to space on media under the same conditions as other political movements and parties with legal status, in accordance with the application of the regulations in force.

- **Security**

The new political movement and its leaders and members shall have special security guarantees within the framework of the Comprehensive Security System for the Exercise of Politics (*Sistema Integral de Seguridad para el Ejercicio de la Política*) agreed under section 2.1.2.1., as well as the guarantees agreed under section 3.4.

### **3.2.1.2. Political representation**

#### **a. Congress of the Republic**

After the signing of the Final Agreement and the laying down of arms by the FARC-EP, and in order to facilitate its transition to legal political activity and to ensure a situation to promote its ideological platform, the National Government shall put in place the constitutional and legal reforms necessary to ensure, on a temporary basis, the political representation in the Congress of the Republic of the new political movement or party, during two constitutional periods as from 20 July 2018:

- It may register single lists of its own candidates or in coalition with other political movements and/or parties with legal status, for the ordinary electoral district for the Senate of the Republic and for each of the ordinary territorial-based electoral districts in which the House of Representatives is elected.
- These lists shall compete under equal conditions in accordance with the ordinary rules for all of the seats elected in each electoral district. In the Senate, a minimum of 5 seats shall be guaranteed, including those obtained in accordance with the ordinary rules. In the House of Representatives, a minimum of 5 seats shall be guaranteed, including those obtained in accordance with the ordinary rules. For this purpose, in the House of Representatives, a seat shall be assigned to each of the 5 lists that obtain the most votes and have not obtained a seat.

From the entry into force of the Final Agreement, the political group formed with the object of promoting the creation of the future political movement or party that emerges from the transition of the FARC-EP to legal political life shall appoint 3 spokespeople in each of the chambers (Senate and House of Representatives), who must be citizens in full exercise of their rights, exclusively so that they can participate in debates on the legal or constitutional reform bills dealt with by means of the Special Legislative Process for Peace that is the subject of Legislative Act 01 of 2016. These spokespeople must be called to all sessions in which the corresponding draft legislative acts or laws are discussed and may intervene with the same powers as the Congressmen and -women during the legislative procedure, apart from the vote. The requirements for carrying out their work shall be defined in conjunction with the Ministry of the Interior.



## **b. Participation in the National Electoral Council**

The political movement or party that emerges from the transition of the FARC-EP to legal political activity may appoint, on a temporary basis, a delegate before the National Electoral Council, who will have a voice but not a vote and may participate in the deliberations of that body.

## **c. Reforms for the democratic opportunity to build peace**

The implementation of the reforms decided in the Agreement on “Political participation: A democratic opportunity to build peace” constitutes an essential condition for ensuring a sustainable process of reincorporation of the FARC-EP into civilian life in political matters. Within the process established in Legislative Act 01 of 2016, priority shall be given to the presentation and approval of the Statute of Opposition and the reform of the electoral system.

### **3.2.2. Economic and social reincorporation**

#### **3.2.2.1. Organisation for economic and social collective reincorporation**

In order to promote a process of economic collective reincorporation, the FARC-EP shall set up a joint social and economic solidary organisation called Social Economies of the Common (*Economías Sociales del Común*, ECOMÚN). This entity, which will be subject to the rules currently in force for organisations of this type, shall cover the entire country and may have territorial-based sections. The current members of the FARC-EP may join this entity on a voluntary basis. The Government shall facilitate the legal formalisation of ECOMÚN by providing funding for legal and technical advice and defining an expedited and extraordinary procedure for its constitution. Within the framework of the National Reincorporation Council, guidelines will be established to guarantee the coordination of the work of ECOMÚN with the various competent authorities.

#### **3.2.2.2. Centre for political thought and education**

The political group of citizens in full exercise of their rights, which has the aim of promoting the creation of the future political movement or party that emerges from the transition of the FARC-EP to legal political activity shall establish a centre for political thought and education, as a not-for-profit institution, for the purpose of advancing social studies and research and designing and advancing political education programs. To that end, agreements may be made with public and private entities and international cooperation.

#### **3.2.2.3. Institutional organisation - National Reincorporation Council (*Consejo Nacional de Reincorporación*, NRC)**

The National Reincorporation Council (NRC) shall be created, comprising two (2) members of the Government and two (2) members of the FARC-EP, in order to define the activities, establish the timeline and monitor the reincorporation process, in accordance with the terms agreed with the Government. There will likewise be peer Territorial Reincorporation Councils under the terms

and conditions and with the functions defined by the NRC. These Councils shall be set up when the Final Agreement is signed. The NRC may call upon institutions, social organisations or international bodies in carrying out its functions.

#### **3.2.2.4. Accreditation and transition to legal status**

After the Transitional Local Zones for Normalisation (*Zonas Veredales Transitorias de Normalización*, TLZNs) and the Transitional Local Points for Normalisation (*Puntos Transitorios de Normalización*, TLPNs) have been set up, the FARC-EP, via a delegate expressly appointed for that purpose, shall submit to the National Government a list of all of the members of the FARC-EP. This list shall be received and accepted by the National Government in good faith, in accordance with the principle of legitimate expectations, notwithstanding the corresponding verifications. In drawing up this list, the FARC-EP shall be responsible for the veracity and accuracy of the information contained therein. The Government shall provide the necessary conditions for drawing up the lists in prisons and shall provide the information at its disposal at the various institutions of the state.

For the purposes of accreditation, once the FARC-EP has submitted the list of all members which make up its organisation, including the militias, the National Government shall begin the process of reviewing and corroborating the information contained therein. It shall present its observations to the FARC-EP and if they are not taken into account a joint discrepancy resolution mechanism shall be established for reviewing these cases, within the framework of the Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement (CMPVI). The foregoing is without prejudice to the acceptance of other people included on the list in relation to whom observations were not presented.

An expedite procedure will be established for accreditation and transition to legality for non-armed members of the FARC-EP. The persons accredited will have their judicial status defined by being granted a pardon through the legal instruments in force if the Amnesty Law is not yet in force. They will be released, albeit at the disposal of the SJP, if they are accused of crimes that may not be subject to amnesty under the Amnesty Law agreed to in the Final Agreement. All the provisions established in the "Agreement of 20 August 2016" that are favourable to them will be applied to them to facilitate the implementation of the timetable for the process of laying down of arms under the Agreement of 23 June 2016.

As a result of the commitment by the FARC-EP to end the conflict, lay down arms, not return to using arms, comply with the agreements and make the transition to civilian life, once the members of the FARC-EP have laid down arms and confirmed the commitment of the organisation, they shall receive their respective accreditation from the National Government on the basis of the list submitted by the FARC-EP.

Accreditation shall be granted on the basis of the roadmap agreed by the Government and the FARC-EP for the transition of the members of the FARC-EP to legal status.

The National Government shall receive and accept the definitive list, by means of a formal administrative act, no later than day D+180, notwithstanding the previous accreditations to be made in compliance with the roadmap agreed for that purpose, for subsequent accreditations in accordance with that which is agreed within the framework of the SJP. Under exceptional circumstances and with prior justification, the FARC-EP shall include persons on the list or exclude them from it. The names included shall be subject to verification by the National Government.

The final list shall include all of the members of the FARC-EP whether or not they are deprived of their liberty.

This accreditation shall be necessary in order to access the measures agreed for the FARC-EP in the Final Agreement, notwithstanding that which was established in the agreement creating the Special Jurisdiction for Peace. In any case, access to reincorporation measures demands a commitment to responsibility with regard to the Agreements and their goals. Rights and duties within the framework of the process of reincorporation will be set out in detail by the National Reincorporation Council.

### **3.2.2.5. Reincorporation for minors who have left the FARC-EP camps**

Minors who have left the camps of the FARC-EP since the beginning of the peace talks as well as those who leave during the process of the laying down of arms shall be the subject of special care and protection measures which will be discussed in the National Reincorporation Council within the framework of the Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement (CMPVI) and which will include the guiding principles that will apply to minors and the guidelines for drawing up the Special Programme in accordance with what is established in Joint Communiqué No. 70 of 15 May 2016 to ensure restitution of their rights with an equity-based approach, prioritising their access to healthcare and education. These minors will be accorded all the rights, benefits and allowances established for the victims of the conflict as well as those deriving from their process of reincorporation in the terms contemplated in this Final Agreement and priority will be given to family reunification wherever possible, and to final placement in homes in their original communities or others of a similar nature, whilst at all times taking into account the best interests of the child. Follow-up of these programs shall be conducted by the National Reincorporation Council to coordinate with the competent state bodies, with the support of social or specialist organisations charged with carrying out oversight in the terms of Joint Communiqué No. 70. The Special Reincorporation Programme for minors must be prepared by the National Reincorporation Council within a maximum of 15 days from when the Final Agreement is signed, based on the proposal submitted by the technical committee created by means of Joint Communiqué No. 70. When the programme has been approved, the National Government will process the amendments to the rules necessary to guarantee their implementation, always taking into account the best interests of the child and International Humanitarian Law.

The programme must guarantee the full reincorporation of the minor and his or her psycho-social accompaniment, with the oversight of social or specialist organisations in the terms set out in

Joint Communiqué No. 70, as well as the location of minors at temporary reception sites in municipalities near the TLZNs, guaranteeing the right to information for all participants, particularly children and adolescents.

### **3.2.2.6. Identification of needs for the process of economic and social reincorporation**

#### **a. Socioeconomic census:**

Within sixty (60) days following the start of the TLZN, a socioeconomic census shall be conducted for the purpose of providing the information required to facilitate the process of comprehensive reincorporation of the FARC-EP into civilian life as a community and as individuals. The NRC shall define the content of the census, the way in which it is conducted and the safekeeping and proper use of the information. The National University of Colombia (*Universidad Nacional de Colombia*) shall be responsible for conducting the census.

#### **b. Identification of sustainable socially productive projects and programs**

On the basis of the results obtained from the census, potential socially productive projects and programs will be identified so as to bring together the greatest number possible of men and women who are currently members of the FARC-EP. Participation in programs and projects for environmental protection and humanitarian de-mining shall merit particular attention.

#### **c. Development and implementation of sustainable socially productive projects and programs**

Every member of the FARC-EP in the process of reincorporation will have the right to one-time economic support to start an individual or collective socially productive project, in the sum of 8 million Colombian pesos.

- **Programs and projects with ECOMÚN**

As a one-off, a Fund shall be set up via ECOMÚN for the implementation of production and service projects for the economic and social reincorporation process, the viability of which shall be previously checked by the NRC. The funds corresponding to people who decide to participate in collective projects (see paragraph c. of section 3.2.2.6) through ECOMÚN, that have been identified and had their viability checked shall be transferred by the National Government to ECOMÚN, no later than thirty (30) days after each project has been deemed viable. The value of the fund shall depend on the total number of allowances for the current members of the FARC-EP that have selected this option. In any case, ECOMÚN will submit to the NRC regular performance reports on resources coming from the state.

- **Individual projects**

The members of the FARC-EP in the process of reincorporation who wish to start socially productive or housing projects on an individual basis, the viability of which has been checked by the NRC, shall be allocated the one-off sum indicated above by the National Government.

### **3.2.2.7. Guarantees for a sustainable social and economic reincorporation**

- **Basic income**

Every man or woman who is currently a member of the FARC-EP, from the end of the TLZNs and for twenty-four (24) months, shall receive a monthly basic income equivalent to 90% of the Minimum Monthly Legal Wage (*Salario Mínimo Mensual Legal Vigente*, MMLW), provided that they do not have a contractual relationship that generates income for them.

After this date, a monthly allowance shall be granted in accordance with the regulations issued for this effect and which is not less than that which has been in force, provided that the beneficiary confirms that he/she has continued his/her education in line with the reincorporation aims. For the foregoing, the Government shall set up a trust fund. For its part, ECOMÚN shall provide its members with advice and assistance in the process of selecting educational institutions.

- **One-off normalisation allowance**

Every man or woman who is currently a member of the FARC-EP shall receive, at the end of the TLZN, a one-off normalisation allowance equivalent to 2 million Colombian pesos.

- **Social security**

The sums corresponding to the social security payments in terms of healthcare and pensions in accordance with the regulations in force for people who are not engaged in remunerated activities shall be guaranteed by the National Government, who will set up a trust fund for performance of the payments for 24 months. ECOMÚN, for its part, shall advise its members on the selection of social security institutions that provide these services. In exceptional circumstances, in cases of serious, high-cost illnesses and the rehabilitation of injuries deriving from the conflict, the Government will establish a special system with national and international cooperation, within the framework of the NRC, to attend to them for 36 months.

- **Social programmes or plans**

In accordance with the results of the socioeconomic census, the plans or programmes necessary to safeguard the fundamental and basic rights of the population that is the subject of the present agreement shall be identified, such as rights to: formal education (primary and secondary, technical and technological, university) and education for work and human development, as well as validation and standardisation of knowledge and skills; housing; culture, recreation and sport; environmental protection and regeneration; psychosocial support; reunification of family units and extended families and elderly persons, including measures for the protection and care of children of members of the FARC-EP in the process of reincorporation.

The acts and measures that can initiate implementation of each of these programs shall be defined at the start of the process of the laying down of arms in the TLZN.

Programmes of this nature shall be safeguarded by the National Government under the terms and for the duration defined by the NRC. The above is without prejudice to state programmes intended for the full reparation of victims of the conflict. To ensure their effective implementation and deployment in the country's territories, the start-up of the said programmes will be based on the institutional resources available to the National Government and the Colombian State agencies competent for this purpose, without prejudice to access to other legal resources.

The identification of projects and mechanisms enabling access to housing, including self-build projects, shall merit priority treatment and shall benefit from special attention and support by the Government.

- **Education for peace**

The FARC-EP shall appoint three spokespersons for each TLZN and TLPN from the ten members of the FARC-EP who are authorised to mobilise at municipal level, in order to promote peace education work in the councils of the municipality in question. In the case of the departmental assemblies, that work shall be promoted after prior discussion between the NRC and the respective assemblies and governors.

#### **3.2.2.8. Other resources for economic reincorporation projects**

The economic resources provided by international aid, the private sector, foundations and multilateral bodies for projects for the economic reincorporation of the current members of the FARC-EP into civilian life, as well as the resources for technical cooperation for such projects, shall not diminish the amounts to which the preceding points refer, i.e. they shall increase the economic resources made available by the National Government for the implementation of the reincorporation agreement.

#### **3.3. Obligations of the ex-guerrilla commanders who are members of the governing bodies of the new political force that emerges from the transition by the FARC-EP to legality to ensure the proper implementation and stability of the Final Peace Agreement**

The ex-guerrilla commanders who are members of the governing bodies of the new political force that emerges from the transition by the FARC-EP to legality will be required to actively contribute to ensuring the success of the process of full reincorporation of the FARC-EP to civilian life. For that purpose, among other obligations deriving from the Final Agreement, they will carry out tasks of explaining the said Agreement and resolving any conflicts that may arise with regard to the fulfilment of the Final Agreement in any municipality in the country among the former members of the FARC-EP or among members of the new political movement.

**3.4. “Agreement on guarantees of security and the fight against criminal organisations and criminal acts that are responsible for or that bring about homicides and massacres that attack human rights advocates, social movements or political movements or that threaten or attack persons taking part in the implementation of the accords and peacebuilding, including criminal organisations that have been labelled as successors of paramilitarism and their support networks”**

The content of this agreement also includes Item 3.6 “Guarantees of Security” of the General Agreement to End the Armed Conflict. This agreement discusses measures for clarification of the phenomenon of paramilitarism established in Item 3.7 of the General Agreement to End the Armed Conflict, in addition to what has already been agreed in Chapter 5 on Victims, in particular with the Truth, Coexistence and Non-Recurrence Commission, with it being necessary to adopt the measures discussed in the present Agreement in order to comprehensively achieve this aim.

Starting from what is established in the Agreement in Chapter 2 in relation to Political Participation, which defines security as: “a modern, qualitatively new concept of security which, in an end-of-conflict scenario, is based on respect for human dignity, the promotion and respect of human rights and the defence of democratic values, in particular the protection of the rights and freedoms of those engaged in politics, especially those who, after the end of the armed conflict, become political opponents and therefore have to be recognised and treated as such, and the National Government shall establish a new Comprehensive Security System for the Exercise of Politics (*Sistema Integral de Seguridad para el Ejercicio de la Política*).”

Chapter 2 of the Agreement also establishes that “The Comprehensive Security System for the Exercise of Politics shall be structured in line with a person-centred security concept, based on the principles of sovereignty, non-intervention and self-determination of peoples, and which makes it possible to coordinate the security measures with the measures for collective and individual welfare and development discussed in the present agreement”, and establishes that an equity-based and gender-based approach will be taken.

Lastly, Chapter 2 of the Agreement establishes that the security guarantees are a necessary condition for consolidating the construction of peace and coexistence, and in particular for ensuring the implementation of the plans and programmes agreed herein, ensuring the protection of communities and community leaders, of human rights advocates, of political and social movements and parties, and especially of the new political party or movement that emerges from the transition of the FARC-EP to legal political activity, as well as the members thereof in the process of reincorporation into civilian life.

In order to meet these aims, the National Government and the FARC-EP undertake the following:

- The National Government shall ensure the implementation of the measures necessary to effectively and comprehensively intensify the action taken against criminal organisations and criminal acts that are responsible for or that bring about homicides and massacres that attack

human rights advocates, social movements or political movements or that threaten or attack persons taking part in the implementation of the accords and peacebuilding, including criminal organisations that have been labelled as successors of paramilitarism and their support networks, and the prosecution of criminal conduct that threatens the implementation of the accords and the construction of peace. In addition, it will safeguard the protection of communities across the country's territories, breaking any type of link between politics and the use of weapons and respecting the principles that govern any democratic society.

- The Colombian state shall apply the rules for criminal prosecution against the criminal organisations and conduct that are the subject of this agreement, with respect for human rights in all of its acts.
- It shall observe the rules of international human rights law (IHRL) in order to protect the population.
- The state holds the monopoly on the legitimate use of arms with the aim of ensuring that all Colombians have full exercise of all their human rights.
- Moreover, the FARC-EP makes the commitment to contribute in an effective manner to the building and consolidation of peace, within the scope of its capacities, to promote the content of the agreements and to respect fundamental rights.

### 3.4.1. Guiding principles

The Government and the FARC-EP agree the following guiding principles:

- **Respect, guarantee, protection and promotion of human rights:** the state is the guarantor of the free and full exercise of the rights and freedoms of the people and communities across the country's territories.
- **To safeguard the legitimate monopoly of force and of the use of arms by the state across the country's territories:** in a scenario of ending the conflict and building a stable and long-lasting peace, the measures adopted must safeguard the legitimate monopoly of force and of the use of arms by the state, in order to ensure respect and fundamental rights for all citizens. Legitimacy derives from compliance with the obligation to ensure that all Colombians have full exercise of their fundamental rights, under the principles of legality, necessity and proportionality.
- **Strengthening the administration of justice:** in a scenario of ending the conflict and building a stable and long-lasting peace, the measures adopted must contribute to ensuring citizens' access to independent, timely, effective and transparent justice, in conditions of equality,



whilst respecting and promoting alternative mechanisms for resolving conflicts across the country's territories, such that fundamental rights and impartiality are ensured, preventing any form of private justice and confronting the conduct and organisations that are the subject of this agreement. These measures also have to contribute to ensuring the administration of effective justice in cases of gender-based violence, free from stereotypes regarding LGBTI persons, with sanctions proportional to the seriousness of the act.

- **Ensuring the monopoly of taxes by the Tax Authorities:** forms of illegal economy and criminal income linked to organised crime, including people trafficking, drugs trafficking, illegal coercion or extortion, contraband, money laundering, tax charges other than those levied by the monopoly of the state and illegal mining, shall be tackled. Traditional artisanal mining is not considered to be illegal.
- **Territorial-based and equity-based approach:** within the framework of ending conflict and building a stable and long-lasting peace, the security measures adopted must have a territorial-based and equity-based approach that takes into account the different threats and the characteristics and experiences of the diverse people, of the communities and of the territories, in order to implement the plans and programmes for peacebuilding and provide guarantees to the population, including the new political movement that emerges from the transition of the FARC-EP to legal political activity and its members in the process of reincorporation into civilian life, in order thus to contribute to greater governability, legitimacy and effective exercise of the rights and freedoms of the citizens.
- **Gender-based approach:** special emphasis will be placed on the protection of women, children and adolescents, who have been affected by the criminal organisations that are the subject of this agreement. This approach will take account of the specific risks faced by women against their life, freedom, integrity and safety and will be appropriate for those risks.
- **Institutional joint responsibility and coordination:** in a scenario of ending the conflict and building a stable and long-lasting peace, the coordination and joint responsibility between all the institutions of the state is necessary to ensure the effectiveness of the measures adopted in relation to security, in respect of which it will be necessary to ensure that national, departmental and municipal institutions work together.
- **Citizen participation:** the measures shall involve the active participation of civil society, including the new political movement that emerges from the transition of the FARC-EP to legal political activity and its members in the process of reincorporation into civilian life.

- **Accountability:** all of the measures adopted must include a permanent system of accountability by the institutions that shows the achievements and progress made as a result of the action taken, including action taken in response to information provided by the communities.
- **Guarantees of Non-Recurrence:** the state shall adopt measures for clarifying the paramilitary phenomenon, preventing the repetition thereof and guaranteeing the dismantling of criminal organisations and behaviours responsible for homicides and massacres and systematic violence, particularly against women, or which attack human rights advocates, social movements or political movements or which threaten or attack persons participating in the implementation of the accords and the construction of peace.

In consideration of the foregoing, the National Government and the FARC-EP agree:

### **3.4.2. National Political Pact:**

The country's desire to achieve a stable and long-lasting peace is based on the recognition of the need to overcome the armed conflict. The National Government and the new political movement that emerges from the transition of the FARC-EP to legal political activity undertake to promote a National Political Pact from the regions, with the aid of political movements and parties, trade associations, the driving forces of the country, organised society and communities across the country's territories, trade unions, the National Trade Council (*Consejo Nacional Gremial*) and various economic associations, owners and directors of media enterprises, churches, religious faiths, faith-based organisations and organisations in the religious sector, academia and educational institutions, women's organisations and LGBTI organisations, disabled people, young people, ethnic communities, organisations for victims and human rights advocates and other social organisations.

This National Political Pact to be promoted from the regions and in particular in those regions most affected by the situation has to seek to make a reality of the commitment of all Colombians that arms will never again be used in politics and never again will violent organisations such as paramilitarism be promoted, which disrupt the life of Colombians by violating their human rights, harming coexistence and impairing the security conditions required by society. In this respect, the National Government undertakes to implement the legislative process necessary to incorporate, in the Constitution, the prohibition on the promotion, organisation, funding or official and/or private use of paramilitary structures or practices, and to develop the regulations required for the application thereof, which shall include a criminal prosecution policy, administrative sanctions and disciplinary action. In addition, measures for bringing perpetrators to justice shall be discussed. This pact shall seek to achieve national reconciliation and peaceful coexistence between Colombians.

**3.4.3. National Commission on Security Guarantees for the dismantling of criminal organisations and criminal acts that are responsible for or that bring about homicides and massacres that attack human rights advocates, social movements or political movements or that threaten or attack persons taking part in the implementation of the accords and peacebuilding, including criminal organisations that have been labelled as successors of paramilitarism and their support networks (hereafter the National Commission on Security Guarantees)**

In compliance with what has been agreed under section 2.1.2.1. in relation to the Comprehensive Security System for the Exercise of Politics, sub-paragraph d, which relates to the implementation of the Commission for Monitoring and Evaluation of the Performance of the Comprehensive System for Protection and Progress in the Dismantling of criminal organisations and all those that threaten the exercise of politics, the National Government and the FARC-EP agree that the Government shall create and start up the National Commission on Security Guarantees, which will have the aim of planning and monitoring of public and criminal policies in terms of dismantling any organisation or conduct covered by this agreement that threatens the implementation of the accords and the construction of peace. The Commission will also harmonise those policies in order to ensure the implementation thereof. The monitoring and evaluation of the performance of the comprehensive system for protection shall be carried out by the High-Level Unit included in section 3.4.7.1.1. of this agreement.

The National Commission on Security Guarantees shall be chaired by the President of the Republic and shall be formed of the Minister for the Interior, the Minister for Defence, the Minister for Justice, the Attorney General (*Fiscal General de la Nación*), the Ombudsman (*Defensor del Pueblo*), the Director of the Special Investigation Unit - Item 74 of the Special Jurisdiction for Peace –, the Commander General of the Military Forces, the General Director of the National Police, three recognised experts in the matter chosen by the Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement (CMPVI) and two delegates from human rights platforms. The Commission must also hold meetings every month. The Commission may invite representatives of political parties and movements, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other specialist national and international bodies with a presence across the country's territories and may consult experts in the subject as it deems appropriate. The Commission shall be formed before the entry into force of the Final Agreement. In forming the Commission, the effective participation of women shall be promoted.

The work of the Commission shall focus on the following:

- a. The National Commission on Security Guarantees shall be the unit for planning, monitoring, cross-sector coordination and promotion of coordination at departmental and municipal level with regard to compliance with the action plan driven forward by the National Government to tackle and dismantle the organisations and to prosecute punishable conduct that are the subject of this agreement;

- b. It shall draw up and assess the permanent action plan for tackling and dismantling the organisations and conduct that are the subject of this agreement;
- c. It shall evaluate the institutional response and the impact of dismantling the organisations and conduct that are the subject of this agreement;
- d. It shall coordinate, with the departmental and municipal authorities, the creation of technical committees for monitoring criminal activities that are the subject of this Commission, including the receipt of reports and complaints, complementing the state effort;
- e. It shall recommend reforms that contribute to eliminating any possibility that the state, its institutions or its agents may establish, support or maintain relationships with the organisations that are the subject of this agreement;
- f. It shall ask the authorities to submit reports on any subject relating to the organisations and conduct that are the subject of this agreement and shall monitor the content of said reports;
- g. It shall plan and draw up strategies, within its jurisdiction, to identify the funding sources and patterns of criminal activity of the organisations and conduct that are the subject of this agreement; among those patterns shall be taken into account those that particularly affect women, children, adolescents and the LGBTI community;
- h. It shall make recommendations for the derogation or modification of regulations in order to identify those provisions which, directly or indirectly, facilitate and/or promote the creation of the organisations and conduct that are the subject of this agreement;
- i. It shall propose mechanisms in order to make the background check of public servants in all the institutions of the state in order to check for any involvement that they may have had with paramilitary groups and/or activities or human rights violations;
- j. It shall periodically report to the branches of public power, public opinion and international bodies in relation to the progress and obstacles in the fight against the organisations and conducts subject of this agreement;
- k. It shall ensure the provision of information by the entities or institutions that participate in the National Commission of Security Guarantees, to the Truth, Coexistence and Non-Recurrence Commission and to the Unit for Investigation and Dismantling of criminal organisations and successors of paramilitarism -Item 74 of the Special Jurisdiction for Peace;
- l. It shall make recommendations to the branches of public power to amend and prioritise acts and strategies relating to intelligence policy and legislation of the state in the fight against the organisations and conducts subject of this agreement;
- m. It shall monitor the system for controls on the security services and private security services

and shall make proposals aimed at updating the regulations governing the security services and private security services, with the aim of ensuring that their services are in line with the purpose for which they were created and under no circumstances directly or indirectly facilitate the action of the criminal organisations and conduct that are the subject of this agreement.

- n. It shall draw up prosecutorial policies including plea agreements with criminal organisations and their support networks that are the subject of this agreement, defining specific procedures for the members of said organisations and networks, incentivising and promoting a rapid and definitive dismantling of said organisations and networks. Such measures shall never mean political recognition.
- o. It shall ensure the application of territorial-based, equity-based and gender-based approaches in the planning, implementation and monitoring of the policies and strategies that are the subject of this Commission.

**3.4.4. Special Investigation Unit for the dismantling of criminal organisations and criminal acts that are responsible for or that bring about homicides and massacres that attack human rights advocates, social movements or political movements or that threaten or attack persons taking part in the implementation of the accords and peacebuilding, including criminal organisations that have been labelled as successors of paramilitarism and their support networks.**

In an end-of-conflict scenario and with the aim of ensuring the effectiveness of the fight against criminal organisations and their support networks, including those which have been labelled as successors of paramilitarism, which represent the greatest threat to the implementation of the accords and the construction of peace, the National Government shall drive forward the measures necessary for the creation and start-up, within the framework of the ordinary jurisdiction, of a Special Investigation Unit for the dismantling of criminal organisations and their support networks, including the criminal organisations that have been labelled as successors of paramilitarism, in accordance with what has been established in number 74 of section 5.1.2 of the Agreement on the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence. The Unit will be maintained for the period of time necessary for it to conclude its mandate.

Its mandate shall involve the investigation, prosecution and indictment of the criminal organisations and behaviours responsible for homicides, massacres or systematic violence, particularly against women, or that threaten or act against persons who participate in the implementation of the accords and peacebuilding, including the criminal organisations that have been labelled as successors of paramilitary groups and their support networks.

The Special Unit, through the performance of its functions within the ordinary jurisdiction, shall contribute to the achievement of the objectives of the Justice and Peace Law (*Ley de Justicia y Paz*) and the Special Jurisdiction for Peace. Insofar as it will help to strengthen justice and contribute to dismantling the organisations that have been labelled as successors of

paramilitarism, it shall in turn guarantee non-recurrence of the paramilitary phenomenon, prevent the perpetration of new human rights violations and thereby help to build a stable and long-lasting peace.

This Special Investigation Unit shall have the following features:

- It shall be created outside of the Special Jurisdiction for Peace. It shall be part of the ordinary jurisdiction and the country's Office of the Attorney General (*Fiscalía General de la Nación*). The Unit shall decide what is necessary for it to function and shall decide the formation of its working and investigation groups, and in these areas shall promote the effective participation of women. It shall also have the autonomy to decide its lines of investigation, carry these out and undertake action before the respective jurisdiction.
- The Director of the Unit shall be responsible for taking decisions with respect to any function or jurisdiction of the Unit, with it being possible for the Director to delegate said responsibilities, in full or in part, to other public servants attached to the Unit.
- The Unit shall investigate, accumulate cases where this is within its jurisdiction and if appropriate shall file charges and indictments before the ordinary jurisdiction or before the jurisdiction for Justice and Peace, provided that the statutory time limit for applications has not expired. The Unit may request before the competent body the accumulation, at the court of higher instance, of the judicial jurisdictions for all the offences committed by the criminal organisation, within the respective jurisdiction.
- The Unit shall perform its duties without replacing the ordinary duties of the country's Office of the Attorney General (*Fiscalía General de la Nación*) before the jurisdiction for Justice and Peace (*Justicia y Paz*) or before the ordinary jurisdiction and will work in close coordination and collaboration with the other units of the Office of the Attorney General and with the Attorney General (*Fiscal General de la Nación*), always retaining its powers.
- The Unit's Director must be a lawyer, meet transparency and technical suitability criteria and have experience in the field of criminal investigations and must have demonstrated results in the fight against organised crime. He/she shall be appointed for a period of 4 years. The Director of the Unit shall be subject to the incapacity and incompatibility rules for civil servants of the country's Office of the Attorney General (*Fiscalía General de la Nación*). Under no circumstances may the Director of the Unit be removed from office due to deficiencies that are not deemed serious in accordance with the current disciplinary rules. Any disciplinary procedures which are brought against the Director of the Unit shall be heard at sole instance by the National Disciplinary Commission.

- This Unit shall deploy its investigation capacity with a territorial-based, equity-based and gender-based approach, in order to tackle the threat, with an emphasis on areas where there is a convergence of variables that endanger the communities and the construction of peace, prioritising the investigation of structures of organised crime which are within its jurisdiction.
- It shall have a special unit of the Judicial Police composed of specialist officers from the Office of the Attorney General (*Fiscalía General de la Nación*) and the Judicial Police of the National Police, experts in a range of subjects, who must have knowledge of the development and establishment of organised crime organisations, including knowledge of the paramilitary phenomenon and the criminal organisations that have been labelled as successors of paramilitarism. Said officers should have knowledge of gender-based violence and justice. The Director shall have the operational command over the officers of the Technical Investigation Unit assigned to his/her Unit and the operational command over the other officers of the Judicial Police assigned thereto.
- The public servants forming the Unit shall be selected by the Director, applying the special mechanisms for selection, incorporation and monitoring of the performance of the officers, prioritising high standards of transparency, effectiveness in civil service.
- As an operating basis, this Unit shall take a multidimensional investigative approach which deals with the entire criminal chain of the organisations and conduct that are the subject of its mandate, including criminal conduct affecting women, children and adolescents.
- In order to ensure it performs its duties with high standards of efficiency, the Unit shall have at its disposal sufficient resources and budget for its operations. The funding for the operation of the Unit shall come from the National General Budget and international aid. The allocation provided by the National Government for this purpose shall be included on a mandatory basis in the annual budget of the Office of the Attorney General (*Fiscalía General de la Nación*) which will be subject to the approval of Congress and specifically intended for the Unit. The resources will be used according to the plan drawn up by the Director, without prejudice to the legally established controls. The Unit may request extraordinary funds from the state or international aid and in the latter case may negotiate and receive international funds for its operations. The Unit may conclude international cooperation agreements in order to strengthen the achievement of its mandate.
- The Investigation Unit shall periodically submit reports to the National Commission on Security Guarantees in relation to its progress and results.

- Upon request by the Unit, the country's Office of the Attorney General (*Fiscalía General de la Nación*), in coordination with the National Government, may apply to the European Union for the sending of a temporary support mission to strengthen the Unit's capabilities in the fight against organised crime and ensure the adoption of international best practice, without prejudice to the additional international aid that the Unit may request via the country's Office of the Attorney General.
- It shall have access to all the judicial information available that it requires for its investigations, including the information that resides in or has been transferred to other units of the Office of the Attorney General (*Fiscalía General de la Nación*), especially the Unit for Justice and Peace. It may make use of the mechanisms for access to documents and sources of information provided for the Special Jurisdiction for Peace (Item 69 of the Agreement on the Special Jurisdiction for Peace).
- The Unit shall ensure legal discretion in the performance of its functions and shall take the measures necessary to protect witnesses and victims in need of such protection.
- The Director of the Unit will be elected by the Attorney General (*Fiscal General de la Nación*) from a list of three candidates proposed by the selection and appointment mechanism of judges and other judicial officers of the Special Jurisdiction for Peace enshrined in Item 68 of the Special Jurisdiction for Peace and developed in section 5.3 of the Final Agreement to End the Conflict called the Supplementary agreement on the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence. Upon completion of the mandate of the first Director of the "Special Investigation Unit for the dismantling of criminal organisations responsible for homicides and others (...)", referred to in Item 74 of the Agreement for creation of the Special Jurisdiction for Peace and developed in section 3.4.4 of the Final Peace Agreement, the successive directors of this unit will be chosen by the Attorney General from a list of three proposed by the judges in the Tribunal for Peace of the Special Jurisdiction for Peace.

### **Jurisdiction**

#### The Special Unit:

- Shall judicially prosecute the conduct and organisations that are the subject of its mandate in accordance with the existing crimes. It shall investigate the individual criminal responsibilities of the members of these organisations and submit the information obtained relating to perpetrators, instigators, organisers and financiers of these structures to the competent authority for the purpose of starting a trial or investigation by another competent body.



- Shall undertake investigations in cases where certified reports have been made in the ordinary jurisdiction or in the jurisdiction for Justice and Peace in order to investigate the criminal liability of those people who were members of support networks for criminal organisations included in this agreement, including criminal organisations that have been labelled as successors of paramilitarism.
- Shall implement specialised investigation methodological plans in relation to the most serious acts of victimisation undertaken against women, children, adolescents and the LGBTI community by the organisations and conduct that are the subject of this agreement.
- Shall undertake investigations in relation to the relationships between criminal organisations included within its mandate, including criminal organisations that have been labelled as successors of paramilitarism, and state officials.
- Upon finding evidence of the responsibility of public officials, it shall continue by conducting the criminal investigation and, in addition, shall transfer the case to the country's Office of the Attorney General (*Fiscalía General de la Nación*) or to the Office of the Comptroller General (*Contraloría General de la Nación*), in order to initiate the corresponding disciplinary and prosecutorial investigations.
- Upon finding evidence of the responsibility of public officials, the Unit shall seek the imposition of additional sanctions before the competent judicial authorities, such as the incapacity to hold public office, *inter alia*.
- It shall check that there are no regulations which, directly or indirectly, permit or promote the existence of paramilitary structures or their successors and shall inform the National Commission on Security Guarantees of any such regulations so that the relevant measures can be taken.
- It may periodically provide information to the national and international public on the progress and obstacles in the performance of its mission.
- It shall coordinate the exchange of information in relation to matters within its jurisdiction with the Truth, Coexistence and Non-Recurrence Commission and the Special Jurisdiction for Peace.

### **3.4.5. Integration of the Elite Corps**

As a guarantee of immediate state action against the organisations and conduct that are the subject of this agreement and the dismantling thereof, an Elite Corps shall be integrated in the National Police with a multidimensional approach. The members of the Elite Corps shall be selected on the basis of a special model that attests to their high standards of suitability, transparency and effectiveness.

### **3.4.6. Basic guarantees for the performance of office by prosecutors, judges and other public servants**

Public servants with responsibilities in activities relating to investigation, analysis and prosecution, *inter alia*, targeted at tackling the organisations and conduct that are the subject of this agreement shall be guaranteed the conditions necessary for carrying out their activities so as to avoid any disruption or threat to their role, and providing the corresponding security guarantees.

### **3.4.7. Comprehensive Security System for the Exercise of Politics**

The Comprehensive System shall develop a new model of guarantees for citizens' rights and protection for political parties and movements, including the movement that emerges from the transition of the FARC-EP to legal political activity, rural communities and social organisations, women's organisations and human rights advocates in compliance with what has been agreed in the Agreement on Political Participation.

#### **3.4.7.1. Individual and collective security and protection measures**

The National Government and the FARC-EP, in consideration of the fact that "A Comprehensive Security System for the Exercise of Politics" was agreed in the Agreement on Political Participation, the content of which system must be supplemented and defined in respect of the guarantees in terms of security and protection of the people targeted by this system, and with the aim of providing security guarantees for the new political movement that emerges from the transition of the FARC-EP to legal political activity, for its members – men and women – in the process of reincorporation into civilian life, as well as the application of the model for prevention, security and protection across the country's territories and the measures for intangible protection defined in the context of the "Agreement on Political Participation: A democratic opportunity to build peace", agree the following:

##### **3.4.7.1.1. High-Level Unit of the Comprehensive Security System for the Exercise of Politics (*Instancia de Alto nivel del Sistema Integral de Seguridad para el Ejercicio de la Política*)**

In compliance with what has been established in section 2.1.2.1, sub-paragraph a, of the agreement on Political Participation, the High-Level Unit shall have the aim of implementing the Security System for the Exercise of Politics, ensuring the functioning, coordination and

supervision thereof. Likewise, the Unit shall be the space for discussion and monitoring relating to the security and protection of the members of social and political movements and parties, in particular those forming the opposition, and the new movement that emerges from the transition of the FARC-EP to legal political activity and its members in the process of reincorporation into civilian life.

The High-Level Unit of the Comprehensive Security System for the Exercise of Politics (Agreement on Political Participation: section 2.1.2.1) shall develop and implement the following components of the Security System:

- Specialised protection on the basis of an assessment of the level of risk and in coordination with the corresponding state entities for the following people: people elected by popular vote, people who have declared themselves part of the political opposition and leaders of political movements and parties, with an equity-based approach and a national and regional presence, as well as a unit for assessing the risk at regional and local level, as referred to in section 2.1.2.1. sub-paragraph c. of the Agreement on Political Participation: A democratic opportunity to build peace. Both the risk level studies and the specialised protection measures shall apply protocols which meet each person's particular conditions.
- Interinstitutional planning, monitoring and evaluation system, as set out in section 2.1.2.1. sub-paragraph d. of the Agreement on Political Participation: A democratic opportunity to build peace.
- Committee to promote investigations into crimes committed against people in the exercise of politics, taking into account women and the LGBTI community, as set out in section 2.1.2.1. sub-paragraph d. of the Agreement on Political Participation: A democratic opportunity to build peace.

The Unit shall be composed of:

- The President of the Republic.
- The Minister for the Interior.
- The Minister for Defence.
- The Human Rights Advisor to the Presidency of the Republic.
- The Commander of the Military Forces.
- The Director of the National Police.
- The Director of the National Protection Unit (*Unidad Nacional de Protección*, NPU).
- The High-Level Unit shall ensure the permanent participation of the new political movement that emerges from the transition of the FARC-EP to legal political activity.

The National Government shall ensure the participation in the High-Level Unit of political movements and parties, in particular of those whose security has been affected, victims' organisations, human rights organisations and social movements, including women's organisations. Delegates from international human rights organisations with a presence in Colombia and other delegates from state entities and supervisory bodies (the Office of the Attorney General, the Office of the Inspector General, the Office of the Comptroller General and the Office of the Ombudsman) may be invited to join the High-Level Unit if this is deemed relevant.

### **3.4.7.3. Presidential Delegate:**

The President of the Republic shall appoint a delegate attached to the Administrative Department of the Presidency who shall be in charge of the Technical Secretariat of the High-Level Unit and shall be responsible for the planning, information and monitoring system (section 2.1.2., indent a) and for coordinating and monitoring the protection and security measures adopted in this respect. He/she shall hold ongoing discussions with members of the social and political movements and human rights advocates, and also the political party that emerges from the transition of the FARC-EP to legal political activity and the members of the FARC-EP in the process of reincorporation into civilian life.

### **3.4.7.4. Comprehensive protection programme for the members of the new political party or movement that emerges from the transition of the FARC-EP to legal activity, and its activities and offices, as well as the former members of the FARC-EP who are being reincorporated into civilian life and the families of all the aforesaid, in accordance with the level of risk.**

The National Government undertakes the commitment to implement a comprehensive protection programme in accordance with what is set out in the agreement "Political participation: A democratic opportunity to build peace", section 2.1.2.1, indent c, which shall have the aim of protecting the members of the new political movement or party that emerges from the transition of the FARC-EP to legal activity, and its offices and activities, as well as the former members of the FARC-EP who are being reincorporated into civilian life and the families of all the aforesaid, in accordance with the level of risk.

This Programme, which shall be assigned to the Administrative Department of the Presidency of the Republic, under the supervision of the Presidential Delegate in the High-Level Unit of the Comprehensive Security System for the Exercise of Politics, shall have administrative and financial autonomy and shall coordinate with the relevant state institutions on a permanent and operational basis.

The measures established in this item shall apply to the representatives of the FARC-EP who are in the process of reincorporation into civilian life and are assigned with the performance of tasks in the peace process, who are appointed by the Peace Delegation of the FARC-EP, in accordance with what is established in the Final Agreement and as from the signing thereof.

#### **3.4.7.4.1. Specialised Sub-directorate on Security and Protection at the National Protection Unit (*Subdirección especializada de seguridad y protección en la UNP*)**

The National Government shall create a sub-directorate within the National Protection Unit (NPU), specialising in security and protection, for the members of the new political movement or party that emerges from the transition of the FARC-EP to legal activity, and its activities and offices, as well as the former members of the FARC-EP who are being reincorporated into civilian life and the families of all the aforesaid, in accordance with the level of risk.

The Specialised Sub-directorate on Security and Protection shall involve the active and permanent participation of no less than two representatives of the new political movement or party that emerges from the transition of the FARC-EP to legal political activity, and its structure and function shall be defined by the National Government and the FARC-EP. This Specialised Sub-directorate on Security and Protection shall ensure the administration, functioning and operation of the Technical Committee on Security and Protection (*Mesa Técnica de Seguridad y Protección*) and the Security and Protection Corps (*Cuerpo de Seguridad y Protección*) created in the present agreement:

#### **3.4.7.4.2. Technical Committee on Security and Protection:**

The National Government shall set up a Technical Committee on Security and Protection, hereafter the Technical Committee, with the participation of the National Government and the FARC-EP, which will begin its operations immediately upon signing of this Agreement, in order to develop, coordinate, monitor and make suggestions for the implementation of a Strategic Plan on Security and Protection (*Plan Estratégico de Seguridad y Protección*), which will include tangible and intangible measures (intangible measures are considered to mean prevention measures against stigmatisation) for the members of the new political movement or party that emerges from the transition of the FARC-EP to legal activity, and its offices and activities, as well as the former members of the FARC-EP who are being reincorporated into civilian life and the families of all the aforesaid, in accordance with the level of risk.

The Technical Committee shall have the following functions:

- To develop the structure of the Specialised Sub-directorate on Security and Protection at the NPU, in accordance with the agreements reached by the National Government and the FARC-EP.
- To identify the requirements in terms of human resources, physical resources and budgetary resources for implementation of the Strategic Plan on Security and Protection, so as to safeguard the rights to life and personal safety, liberty, mobility and security of the members of the new political movement or party that emerges from the transition of the FARC-EP to legal political activity and the members of the FARC-EP in the process of reincorporation into

civilian life, in view of their situation of risk resulting from the exercise of their political, public, social or humanitarian duties or activities, and the rights of their families, in accordance with the level of risk.

The Technical Committee shall be permanent and shall carry out periodic monitoring and assessments in coordination with the state institutions that are competent in this respect. The planning and monitoring of protection acts shall take place on both an individual and collective basis for the members of the new political party or movement that emerges from the transition of the FARC-EP to legal activity, and its offices and activities, as well as the former members of the FARC-EP who are being reincorporated into civilian life and the families of all the aforesaid, in accordance with the level of risk.

At the initiative of the Technical Committee and in coordination with the Presidential Delegate, the Government shall implement the legislative amendments and reforms – decrees and developments – governing all aspects relating to the protection and security of members of the new political party or movement that emerges from the transition of the FARC-EP to legal political activity and of their families, in accordance with the level of risk. Such regulations and procedures shall be prepared by the Technical Committee and presented to the National Government for approval before the signing of the Final Agreement.

The Technical Committee shall be composed of the delegates from the National Government, headed by the Presidential Delegate, the Director of the NPU and the Sub-director of the new specialised sub-directorate, created in the present agreement, who will act as secretary, and other entities deemed relevant, including as a permanent invited member the representative from the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Colombia. Before signing of the Final Agreement, the representatives that the FARC-EP deems relevant shall be involved. Once the agreement has been signed, the delegates appointed by the FARC-EP shall continue to form part of the Technical Committee. When the political movement has been created, the representatives that it appoints shall be incorporated into the Technical Committee.

- **Guidelines and Criteria for the Strategic Plan on Security and Protection for the new political movement or party that emerges from the transition of the FARC-EP to legal activity, on the basis of its risk situation.**

The Strategic Plan on Security and Protection shall consist of all the comprehensive measures contained in this agreement, including intangible, collective or political measures aimed at prevention and creation of an atmosphere of trust, and tangible measures which shall be defined in the security and protection protocols, as well as all those measures that the Technical Committee deploys for the implementation of the plan.

The security and protection protocol shall consist of the following components: Prevention, security and protection schemes and programmes; Personnel from the Security and Protection Corps - Selection and Training; Logistics and recruitment for the Security and Protection Corps –

funding and financial resources, together with risk analysis programmes and programmes for coordination among the elements of the Security System.

The measures applied to the population that is the subject of this agreement shall be implemented in accordance with the content of section 3.4.7.3 of this agreement and the development protocols, which must be executed in a timely and efficient manner.

The protection protocol shall discuss the means of transport that may be required in accordance with the transport needs of the protected persons.

In accordance with the decisions taken by the Technical Committee, support shall be provided for temporary relocation, media, psychosocial care and any other support necessary to ensure the effective protection of the population that is the subject of this agreement.

Bearing in mind the definitions of the Technical Committee, the state shall ensure that all the necessary protection measures are taken with regard to the comprehensive security of the offices and facilities of the new political movement or party that the FARC-EP becomes and of the homes of the persons subject to protection as covered by this agreement, in accordance with the level of risk.

The prevention, security and protection schemes, with regard to recruitment, logistics, administration, mobility, staff employment rights and other requirements for the optimal functioning and sustainability thereof, shall be defined by the Technical Committee, bearing in mind criteria of reliability and compliance that are provided by the operators to the new political party or movement that the FARC-EP becomes.

The Security and Protection Protocol shall be drawn up by the Technical Committee and approved by the Negotiation Table prior to signing of the Final Peace Agreement.

#### **3.4.7.4.3. Security and Protection Corps**

The National Government shall create a Security and Protection Corps, in accordance with what is established in this agreement, with a mixed composition, consisting of trusted personnel from the new political movement or party that emerges from the transition of the FARC-EP to legal activity, which shall coordinate and have a direct contact with the National Police, which shall in turn appoint contacts for each security and protection scheme, at national, departmental and municipal level according to the operating scheme established.

The trusted personnel of the new political party or movement arising from the transition of the FARC-EP to legal activity that make up the Security and Protection Corps must be properly trained and must meet the requirements for psychological fitness required of the other members of protection bodies. The specialised sub-directorate on security and protection at the NPU will be responsible for verifying compliance with these requirements.

The schemes shall have all the logistics needed for their operations, team and administration as required for the protection of the protected persons. The National Government shall ensure that the protection schemes are provided with the most appropriate and relevant weapons to ensure the safety of the population that is the subject of this agreement, based on the levels of risk established by the Technical Committee.

The security and protection shall relate to the members of the new political party or movement that emerges from the transition of the FARC-EP to legal activities and its offices and activities, as well as the former members of the FARC-EP who are being reincorporated into civilian life and the families of all the aforesaid, in accordance with the level of risk.

In order to work towards the construction of a professional and technical model for the Security and Protection Corps, the Technical Committee shall make proposals to the National Government, and the Presidential Delegate shall push forward the monitoring and management of these proposals, including an education and training system, employment relationship system and social security system. The system shall include training programmes in aspects relating to the protection of women and the specific risks that they face.

The security and protection protocol shall determine the operating system and composition of the protection schemes — which will have a gender-based approach — including the contacts from the new political party or movement that emerges from the transition of the FARC-EP to legal activity and the contacts from the National Police. It shall contain the criteria and guidelines of the strategic plan on security and protection.

The National Government shall make the necessary budget allocations for the comprehensive implementation of the system, and these shall be guaranteed for a minimum period of five years in the initial stage thereof.

In the case of members of the National Police that are part of the Security and Protection Corps, a rigorous model for checking criminal and disciplinary records shall be applied and security checks shall be carried out, including credibility and reliability tests, *inter alia*.

The members of the Security and Protection Corps shall report to the Specialised Sub-directorate on Security and Protection. The arrangements regarding employment may be by means of a direct employment contract as public servants or temporary contracts for the provision of services or incorporation of personnel via duly authorised security operators, which provide greater guarantees of reliability for the protected persons. The National Government shall make the modifications required to expand the number of staff of the NPU, where necessary.

The Security and Protection Corps shall have duly accredited security training programmes for the training and specialisation of all its members. Consultancy and training agreements may be established with national or international institutions or bodies that are experts in this area.



The Technical Committee shall establish the criteria relating to the content of the training. The members of the Security and Protection Corps shall be selected, trained and qualified at national or international institutions or academies, for which purpose the National Government shall grant all the necessary guarantees and conditions.

**Constitutional and legal presumption of the risk:** The members of the new political movement that emerges from the transition of the FARC-EP to legal political activity shall be presumed to be at extraordinary risk on the basis of reasonable criteria presented by its representatives to the Technical Committee. The new political movement shall be presumed to be at extraordinary risk. The National Government shall drive forward the regulatory measures required in order for that presumption to become enshrined in law.

**Psychosocial care measures:** All measures shall be taken to provide resources in relation to psychosocial care, of either individual or collective nature and with a gender-based approach, to those recipients of the protection programme who have been affected as a result of any attack on their life and physical safety.

#### **3.4.7.4.4. Implementation of the Programme on reconciliation, coexistence and prevention of stigmatisation (*Programa de reconciliación, convivencia y prevención de la estigmatización*)**

In accordance with what has been established in the Agreement on Political Participation (2.2.4), upon signing of the Final Agreement, the National Council for Reconciliation and Coexistence shall be set up, which shall be responsible for planning and implementing the Programme on reconciliation, coexistence and prevention of stigmatisation, with the involvement of territorial-based entities. The foregoing is without prejudice to the immediate measures to be taken.

#### **3.4.7.4.5. Measures in relation to self-protection (*Medidas en materia de autoprotección*)**

A process of training in relation to self-protection shall be established for the security of the members of the FARC-EP in the process of reincorporation into civilian life and of the new political movement that emerges from the transition of the FARC-EP to legal political activity, for which purpose the National Government shall provide the new political movement with sufficient tools and resources for achieving this aim effectively.

#### **3.4.8. Comprehensive Security and Protection Programme for the Communities and Organisations across the Country's Territories (*Programa Integral de Seguridad y Protección para las Comunidades y Organizaciones en los Territorios*)**

- A comprehensive security and protection programme shall be created for the communities and organisations across the country's territories, at the request of the Ministry of the Interior, which shall have the aim of defining and adopting measures for the comprehensive protection of organisations, groups and communities across the country's territories, such that it contributes to ensuring, under an effective model, the implementation of the measures for prevention and protection of the communities and their territories. The preparation and application of this programme shall involve the active and effective

participation of social organisations, including women's organisations, and the communities across the country's territories. Among others, the following measures shall be promoted:

- **Implementation of comprehensive security and protection measures:** as a development of what has been established in section 2.2.4 of the Agreement on Political Participation, in the preparation of the Prevention and Protection Plan the Comprehensive Security and Protection Programme shall take into account measures against stigmatisation, mechanisms for widespread dissemination, campaigns for legitimisation and recognition of human rights advocates, in both rural and urban areas, and the creation and dissemination of community and public interest media for promoting human rights and coexistence.
- **Community Promoters of Peace and Coexistence:** this shall be a programme led by the Ministry of the Interior in coordination with the Ministry of Justice. The community promoters of peace and coexistence shall be unarmed volunteers. The programme shall encourage alternative mechanisms for resolving conflicts across the country's territories and promote the defence of human rights, stimulating coexistence within communities in the areas previously defined for that purpose. The programme shall be allocated the resources necessary for this programme to be implemented and ensured.
- **Protocol for Protection of Rural Territories:** the Ministry of the Interior shall create a special protocol for the protection of rural communities that were affected by the conflict, which shall be concluded with the agreement of the communities and organisations in each territory, including women's organisations, and in line with the Comprehensive Security and Protection System. Within this protocol, rural communities and their organisations shall draw up their own context for the assessment and definition of risks that takes into account the particular conditions of women.
- **Support for reporting activity in human rights organisations across the country's territories:** the Ministry of the Interior shall draw up a programme for strengthening the reporting capability of human rights organisations across rural territories, which will stimulate the prevention measures with an emphasis on written and audio-visual communication, together with instruments used to document possible human rights violations. Within this programme, human rights organisations shall be provided with offices and facilities, and with outfitting and equipment thereof, in support of the activity of human rights advocates and their organisations across the country's territories, with the object of stimulating and promoting the achievement of their aims. These offices and facilities must be subject to collective management by the human rights organisations.

### **3.4.9. Instrument for prevention and monitoring of the criminal organisations that are the subject of this agreement**

In accordance with what has been defined in the “Agreement on Political Participation” in section 2.1.2.1, sub-paragraph b, a new prevention and warning system for rapid response to the presence, operations and/or activities of the criminal organisations and conduct that are the subject of this agreement shall be set up in the Office of the Ombudsman, in coordination with the National Government and the Special Investigation Unit, and the National Committee on Security Guarantees shall be involved in the planning thereof. The System must combine permanent monitoring and early warning activities for the deployment of a rapid response on the ground. It shall act in coordination with human rights organisations and communities. This system shall issue early warnings autonomously without having to consult with or submit its decisions to any other institution.

This Early Warning System will have a territorial-based, equity-based and gender-based approach, and will involve a preventive security deployment, without detriment to national deployment and response capability. The Colombian state shall guarantee appropriate funding in accordance with the requirements of the system and the comprehensive functioning thereof. Threat monitoring activities shall be combined with early warning capability and recommendations for rapid response and deployment on the ground. This system shall incorporate governmental capacities and at the same time shall be able to deal with and respond to situations on the ground. The system shall have the following functions:

- Monitoring and mapping the threat represented by the presence and/or activities of criminal organisations and conduct that are the subject of this agreement, including the organisations that have been labelled as successors of paramilitarism, in particular in regions and territories where the FARC-EP is promoting its process of reincorporation into civilian life.
- The governmental institutions, the Colombian State Armed Forces (which include both the Military Forces and the Police), communities, social groups and specialist organisations on the ground shall contribute on a permanent and continuous basis to maintain the system, such that mechanisms are established for verification and response with regard to complaints and reports submitted across the country’s territories and at a central level.
- To identify at an early stage the presence, movement, incursions and activities across the country of the criminal organisations that are the subject of this agreement, as well as the potential risks to the civilian population.
- The National Government shall ensure the organisation and coordination of the preventive measures and rapid response measures in relation to these incursions and acts of the criminal organisations that are the subject of this agreement, in order to ensure the protection of the

civilian population.

- Initially priority shall be given to areas of critical intervention based on the accumulated compilation of public reports and complaints.
- To activate communication channels with municipal ombudspersons (*personeros municipales*) for the purpose of collecting and processing information that permits the identification of potential risk situations that could lead to acts of violence affecting civilians including human rights organisations, former members of the FARC-EP and members of the political party or movement arising from the transition of the FARC-EP to legal political activity.

In the prioritised territories, integrated mechanisms for interinstitutional coordination shall be implemented which shall be responsible for coordinating efforts with regard to security warnings in relation to the threats across the country's territories, in order thereby to ensure a rapid response.

The prevention and warning system for rapid response shall include Territorial Warning Committees for Immediate Response across the territories and regions defined, which coordinate their functions at local level with the competent authorities.

The preventive measures in relation to the action of the criminal organisations that are the subject of this agreement must focus on the areas most affected by these organisations.

**3.4.10. Implementation of a national mechanism for territorial supervision and inspection of private security and surveillance services (*Mecanismo nacional de supervisión e inspección territorial a los servicios de vigilancia y seguridad privada*)**

The National Government shall strengthen the national mechanism for territorial supervision and inspection of private security and surveillance services at the request of the Superintendence for Private Security and Surveillance, in order to ensure that the use thereof corresponds to the purposes for which they were created, placing an emphasis on the prohibition of the privatisation of military, police or intelligence functions; likewise, priority shall be given to developing the revision of legislation relating to private security and surveillance; it shall ensure that they do not perform state military, police or security functions; and shall update the regulations relating to private security and surveillance services. The regulations on permitted arms shall be reviewed, which are for the exclusive use of the Military Forces in order to perform the function of private security and surveillance.

The following measures shall be adopted:

- Monitoring that the public register ensures that adequate information is kept on the owners of this kind of business, their employees, the available weapons and the service provision agreements in force.
- The Superintendence for Private Security and Surveillance shall be empowered to cancel or refuse to grant operating licences to security companies involved with criminal organisations that are the subject of this agreement or which violate the regulations that they are obliged to comply with.
- The necessary legislative initiatives shall be promoted and the relevant administrative measures shall be adopted to regulate private security services, with the aim of ensuring that employees, shareholders, owners or directors in this type of service are not involved with the criminal organisations that are the subject of this agreement.

### **3.4.11. Measures for the prevention of and fight against corruption (*Medidas de prevención y lucha contra la corrupción*)**

In order to develop Item 3.4 of the General Agreement in relation to the intensification of measures to fight against conduct that, by action or omission, lead to instances of corruption, the National Government shall promote the action of the state to foster a culture of transparency across the country's territories, as an element looking towards guaranteeing the future, effective compliance with the accords, guarantees of security across the country's territories and democratic participation.

#### **3.4.11.1. Instruments of institutional oversight and verification**

On the basis of the legal framework in force in relation to the fight against corruption, the National Government shall put in place the following measures to certify the transparency and effectiveness of the action for dismantling the organisations and conduct that are the subject of this agreement. The National Government shall promote the following measures, among others:

- Checks on the suitability of public servants so as to ensure that they have the competences for the upright exercise of public office.
- Certification of the integrity and performance of public servants, so as to guarantee transparency and commitment to the application of the law by means of evaluation and verification of their résumés and criminal and disciplinary records.
- Guarantees to maintain oversight and monitoring of the financial assets of public servants and checks of their income so as to ensure that this tallies with their legal activities and salary. Evaluation and monitoring of their performance in the fight against the organisations that are the subject of this agreement and as a function of the creation of trust with the communities.

### **3.4.11.2. Measures for action to contain the penetration of the criminal conduct and organisations that are the subject of this agreement into the exercise of politics**

A multidimensional approach applied to the fight against the organisations and conduct that are the subject of this agreement, enabling progress to be made in the creation and maintenance of security guarantees, requires the adoption of a series of measures to tackle the penetration of criminal organisations, including the organisations that have been labelled as successors of paramilitarism and their support networks, into politics.

The penetration of the criminal conduct and organisations that are the subject of this agreement into politics – which have given rise to expressions such as parapolitics (*parapolítica*) – in a democratic system, affects the transformation of the political fabric, insofar as it affects local democratic leaders, undermines participation processes, increases the risk of penetration of mafias into institutions, affects public tendering, constrains democratic deliberation and leads to the diversion of resources to fund violence.

It is necessary to develop measures that relate not only to people involved in this conduct – who must be subject to criminal, disciplinary and financial sanctions – but also to the parties and communities whose leaders or elected officials engage in such practice.

Consequently, from what has been agreed in section 2.3.4 of the Agreement on Political Participation: A democratic opportunity to build peace, the National Government shall ensure that the Special Electoral Mission which is created discusses the points proposed by the new political movement that emerges from the transition of the FARC-EP to legal political activity in order to tackle this problem.

The National Government shall drive forward the legislative reforms necessary to ensure the existence of sanctions for political movements or parties whose candidates or persons elected to public corporations or single-member constituencies, have been convicted of links to criminal organisations, including organisations that have been labelled as successors of paramilitarism and their support networks, for acts occurring during their term of office. These sanctions may be imposed even when the persons convicted have been convicted subsequent to the exercise of the offices for which they were endorsed or elected.

Similarly, and in the same cases as above, the National Government shall drive forward the legislative reforms necessary to make it possible to impose sanctions on the persons who endorsed the criminally sanctioned candidates or elected persons.

The legislative amendments shall involve a disciplinary and fiscal oversight of contracting and the administration of public funds in departmental and municipal administrations, in particular in the areas where there are criminal organisations that are the subject of this agreement.

#### **3.4.12. Other provisions for the purposes of Guarantees**

The National Government shall prioritise the actions and strategies necessary in terms of intelligence within the plans and programmes developed by the state for the purpose of dismantling and prosecuting the conduct and organisations described in the present agreement.

The National Government shall drive forward the measures necessary for removing from the databases of security and intelligence agencies, the names and information relating to the members of human rights organisations, members of the opposition and the members of the new political movement that emerges from the transition of the FARC-EP to legal political activity and their families, where included, for the sole reason of being such.

#### **3.4.13. Plea agreements with the aforesaid organisations**

Within the framework of the ordinary jurisdiction and in order to contribute to the fight against the criminal organisations with which this point is concerned, to strengthen the guarantees of security across the country's territories and facilitate the creation of favourable conditions for peacebuilding, the National Government, coordinating with the judiciary, will present a draft law to promote plea agreements with the aforesaid organisations by means of the special legislative process for peace.

#### 4. Solution to the Illicit Drugs Problem

The internal conflict in Colombia has a long history spanning a number of decades, which predates and has causes other than the appearance of crops used for illicit purposes on a large scale and the production and sale of illicit drug across the country's territories.

The persistence of the crops is in part linked to the existence of conditions of poverty, marginalisation, weak presence of institutions, as well as the existence of criminal organisations dedicated to drug trafficking.

In order to contribute to the aim of laying the foundations for the construction of a stable and long-lasting peace it is necessary, *inter alia*, to find a definitive solution to the problem of illicit drugs, including crops used for illicit purposes and the production and sale of illicit drugs.

We aspire to be a country at peace and without the problem of illicit drugs, and we are aware that the achievement of this aim also depends on agreements and definitions with a global scope by all of the states, in particular by those which have been directly or indirectly affected by this transnational problem.

On the basis of the foregoing, the National Government and the FARC-EP consider:

That many regions and communities across the country, especially those in conditions of poverty and neglect, have been directly affected by the cultivation, production and sale of illicit drugs, leading to a deepening of their marginalisation, inequality, gender-based violence and a lack of development.

That the production and sale of illicit drugs and criminal economies have had serious effects on the Colombian people, in both rural and urban areas, impairing their enjoyment and exercise of their rights and liberties, and that women and young people have been particularly affected by these criminal economies.

That these phenomena have a severe influence on specific forms of violence that particularly affect women, victims of human trafficking, sexual exploitation and violence resulting from the use of illicit drugs, among others, which requires the training of women in the planning and monitoring of action to combat this kind of violence.

That the cultivation, production and sale of illicit drugs have penetrated, fuelled and financed the internal conflict.

That institutions at both national and local level have been affected, in their integrity and performance, by the corruption associated with drug trafficking.



That various sectors of society have been directly or indirectly engaged in the production and sale of illicit drugs.

That all the foregoing has contributed to undermining values and peaceful coexistence and has constituted a factor that harms the possibility of progressing towards social inclusion, equality of opportunity between men and women and the expansion of democracy.

That in view of this situation the end of the conflict has to represent an opportunity to construct a collective and comprehensive solution to the illicit drugs problem.

That as a result of all the foregoing it is necessary to plan a new vision that deals with the causes and consequences of this phenomenon, especially by presenting alternatives that lead to improving the well-being and quality of life of communities — men and women — across the country's territories that have been affected by crops used for illicit purposes; that tackles drug use with a public health focus and that intensifies the fight against criminal organisations dedicated to drug trafficking, including activities related to illicit finances, money laundering, trafficking of chemical precursors and the fight against corruption, dismantling the entire value chain of drug trafficking.

That this new vision involves seeking evidence-based alternatives and providing a different and differentiated treatment to the issue of drug use, the problem of crops used for illicit purposes and organised crime associated with drug trafficking, which unduly exploits young people. In that respect, new policies are required that reflect this new vision and differentiated treatment, always within the framework of a comprehensive and balanced approach to counteract the global problem of illicit drugs.

That these policies must be governed by the exercise of the principles of sovereign equality and non-intervention in the internal affairs of other states and must ensure coordinated action within the framework of international cooperation, insofar as the solution to the problem of illicit drugs is the collective responsibility of all states.

That these new policies will have a general focus on human rights and public health, with an equity-based and gender-based approach, and must be adjusted over time on the basis of evidence, lessons of best practice and the recommendations of national and international specialist organisations and experts.

That the elements of the public policies tackling the drugs problem must have the flexibility to allow the incorporation of new knowledge that renders them more effective and must identify undesirable costs and harm.

That these policies will give special treatment to the weakest links in the drug trafficking chain, namely the people that cultivate and use illicit drugs, and will intensify the efforts at dismantling criminal organisations.

That, in order to construct sustainable solutions, safeguard the rights of citizens and ensure the non-recurrence of the problem, the policy must have a territorial-based approach based on citizen participation and the presence and strengthening, in terms of effectiveness, efficiency and transparency, in particular of the institutions responsible for social care and those responsible for the security and protection of communities.

That the policy must maintain the recognition of the ancestral and traditional uses of the coca leaf, as part of the cultural identity of the indigenous community and the possibility of use of crops used for illicit purposes for medical or scientific purposes and other legitimate uses that are established.

That one aspect of the solution to the illicit drugs problem is the definitive solution to the problem of crops used for illicit purposes, for which purpose it is necessary to establish a new programme that, as a part of the structural transformation of the countryside targeted by the Comprehensive Rural Reform (*Reforma Rural Integral*, CRR), contributes to improving the well-being and quality of life of the populations affected by these crops.

That it is necessary to seek new options focussed on processes of substitution of crops used for illicit purposes and the implementation of Comprehensive Plans for the Substitution of Crops and Alternative Agrarian Development (*Planes Integrales de Sustitución y Desarrollo Alternativo*, CPSAD) which will form part of a new National Comprehensive Programme for the Substitution of Crops Used for Illicit Purposes (*Programa Nacional Integral de Sustitución de Cultivos de Uso Ilícito*, NCPS) which will have a new institutional structure.

That the definitive solution is possible if it constructed collectively by the communities —men and women — and the authorities by means of processes for participative planning, on the basis of the Government's commitment to effectively implement the Comprehensive Rural Reform and the Comprehensive Plans for the Substitution of Crops and Alternative Agrarian Development and the commitment of the communities to making progress in the processes of voluntary substitution. This commitment to voluntary substitution on the part of the communities is a fundamental factor in achieving the objectives.

That the solution to the problem of crops used for illicit purposes by means of the structural transformation across the country's territories and the creation of well-being conditions involves the application and respect of the principles and regulations of the rule of law on the part of institutions and citizens.

That the solution to the illicit drugs problem also requires the tackling of the subject of drug use on the basis of the commitment and joint work between the authorities, communities and families around a policy for promoting health, prevention, harm reduction, comprehensive care and social inclusion of users, which must have an equity-based and gender-based approach.

That the definitive solution to the illicit drugs problem requires an intensification of the fight against the criminal organisations dedicated to drug trafficking and money laundering, which will also contribute to the creation of the conditions necessary for the implementation of the Agreement across the country's territories and the construction of a stable and long-lasting peace.

That without prejudice to the limitations of the country to provide a definitive solution to a transnational problem, every effort will be made to transform the conditions of the communities across the country's territories and to ensure that Colombia is a country without crops used for illicit purposes and without drug trafficking.

That in any case the definitive solution to the illicit drugs problem is a dynamic process that has to respond to the consensus of society and the international community, for which purpose it is necessary to open spaces for reflection and discussion that capture the feelings of the people affected, including the communities.

That all the foregoing is only possible with the genuine commitment of the Government and the contribution of the communities and society as a whole including the commitment of the FARC-EP to contribute in different ways to the definitive solution of the illicit drugs problem, which is an aim for all of Colombian society.

That all of the foregoing is only possible with the genuine commitment of everyone:

- The commitment of the National Government to put in place policies and programmes in this respect, to intensify and tackle in a decisive manner the fight against corruption in institutions caused by the illicit drugs problem, and to lead an efficient national process to definitely break any kind of relationship between this scourge and the various spheres of public life.
- The commitment of the FARC-EP to contribute in an effective manner, with the greatest determination and in different forms and by means of practical actions, to the definitive solution to the illicit drugs problem, and in an end-of-conflict scenario, terminating any relationship which may have arisen with this phenomenon as a result of the rebellion.
- All the persons who have been involved in conducts associated with any link in the chain of crops used for illicit purposes and their derivatives within the context of the conflict and who appear before the Special Jurisdiction for Peace, must commit to furnishing the Judicial Panel for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct of the Special Jurisdiction for Peace, in a thorough, detailed manner, with whatever necessary facts they know concerning the acts committed and the circumstances in which they were committed, as well as necessary and sufficient information that they hold in order to attribute liability. The foregoing must help guarantee the rights of victims to reparations and guarantees of non-recurrence.
- The National Government and the FARC-EP declare their firm commitment to the definitive

solution to the illicit drugs problem.

- The commitment of all of society as a whole, including all its different forms of political or social organisations, to reject any relationship with the illicit drugs problem and the money originating therefrom.
- Lastly, the construction of a stable and long-lasting peace involves the disposition on the part of everyone to contribute to the clarification of the relationship between the conflict and the cultivation, production and sale of illicit drugs and the laundering of money resulting from this problem, so that drug trafficking never again threatens the future of the country.

**4.1. Programmes for substitution of crops used for illicit purposes. Comprehensive development plans with the participation of communities — men and women — in the planning, implementation and evaluation of the programmes for crop substitution and environmental regeneration of the areas affected by such crops.**

Within the context of the end of the conflict and the building of peace, and with the aim of creating both material and intangible welfare and well-being conditions for the populations affected by crops used for illicit purposes, in particular for small-scale farmers in a situation of poverty that currently depend on these crops for their subsistence, and to thereby also find a sustainable and definitive solution to the problem of crops used for illicit purposes and to all the problems associated therewith across the country's territories, the National Government will create and implement a new National Comprehensive Programme for the Substitution of Crops Used for Illicit Purposes (*Programa Nacional Integral de Sustitución de Cultivos de Uso Ilícito*, NCPS).

The new National Comprehensive Programme for the Substitution of Crops Used for Illicit Purposes will be the competent national authority, headed by the Presidency of the Republic, in coordination with the departmental and municipal authorities and will be civilian in nature without prejudice to its coordination with the state authorities required to ensure its full development, including those responsible for the security and protection of the communities in accordance with the concept of security set out in the Final Agreement.

The NCPS will initiate a process of participative planning to ensure the active and effective participation of communities — men and women — in the decision-making process and in the collective construction of solutions. After signing the Final Agreement and under the terms agreed in Chapters 3 and 6 of the Agenda of the General Agreement the FARC-EP will participate in the Programme and contribute to solving the problems of crops used for illicit purposes.

The Programme will contribute to the structural transformations of rural society resulting from the implementation of the Comprehensive Rural Reform (CRR), of which it forms part, and to the establishment of the citizen participation mechanisms agreed upon.

The agreements reached herein will be implemented without prejudice to the commitments made by the Government and the authorities with communities and their organisations within the context of spaces for direct dialogue, in which the proper achievement thereof has been agreed.

#### 4.1.1. Principles

Insofar as the National Comprehensive Programme for the Substitution of Crops Used for Illicit Purposes (NCPS) forms part of the Comprehensive Rural Reform (CRR), it will be governed by the following principles, in addition to the principles agreed within the framework of said Reform:

- **Integration in the Comprehensive Rural Reform (CRR):** the NCPS is a component of the Comprehensive Rural Reform. It deals with populations and territories with specific characteristics that consequently require additional special measures with respect to other rural communities. The territories affected by crops used for illicit purposes may overlap with prioritised areas wherein the Development Programmes with a Territorial-Based Focus (*Programas de Desarrollo con Enfoque Territorial*, DPTFs) are implemented, in which case the acts and implementation of the Programme must be promoted within the context of the Action Plan for Regional Transformation of the territory in question. In cases where the territories do not overlap with the DPTFs, comprehensive development plans will be implemented in agreement with communities, within the agricultural frontier, or the plans and programmes dealt with under the third sub-heading of section 1.1.10 will be implemented, with the aim of contributing to closing the agricultural frontier.

Integration also involves the inter-relation, engagement and linking of local, territorial and national matters. In that respect, the NCPS will be integrated into the development plans at the different levels of territorial planning.

- **Concerted and participative collective construction:** the transformation of the territories and the alternatives for communities that inhabit the areas affected by crops used for illicit purposes, whether or not they are directly involved in these crops, will work on the basis of participative and collective construction between such communities and the national, departmental and municipal authorities in solving the problem of crops used for illicit purposes and overcoming conditions of poverty. The collective construction will proceed from the decision of the communities — men and women — to abandon these crops and make the transition to other economic activities by means of crop substitution. Consultation with the communities is an essential priority for planning and establishing guidelines for implementation and monitoring of the Programme in the territory.
- **Equity-based approach according to the conditions in each territory:** the NCPS implemented must have a territorial-based and gender-based approach under the terms defined in the CRR (Chapter 1), i.e. it must recognise and take account of the economic, cultural and social issues, characteristics and needs of the territories and rural communities, in particular of indigenous communities and communities of African descent, and of women in these communities and

territories, and ensure socio-environmental sustainability. The participative nature of the NCPS will make it possible to draw up plans in accordance with the specific features and socioeconomic nature of the problem as it presents itself in the various regions across the country's territories.

- **Respect and application of the principles and regulations of the rule of law and coexistence of citizens:** the achievement of the structural transformations of the territories guaranteeing the well-being and quality of life of the communities affected by the presence of crops used for illicit purposes and the transition towards legal economies involves the application and respect, by institutions and citizens, of the principles and regulations of the rule of law, the strengthening of democratic values, coexistence of citizens and the observance of human rights.
- **Voluntary substitution:** On the basis of the decision and commitment of cultivators to abandon crops used for illicit purposes, voluntary substitution is a fundamental principle of the Programme, in order to build trust among communities and create conditions that can contribute to solving the problem of crops used for illicit purposes, without detriment to the economic, social and environmental sustainability of the communities and the territories in question. This involves action for promoting voluntary substitution and defining, together with the communities, crop substitution alternatives that are sustainable from an economic and socio-environmental perspective and sufficient to strengthen family-run economies, ensuring decent living conditions. The aforesaid is on the understanding that the process of substitution and the sustainability thereof requires the support of the Government under the terms agreed with the communities. (See item relating to "Agreement with the communities" and "Participative construction and development of comprehensive community-based and municipal plans for substitution of illicit crops and alternative agrarian development (CPSAD).

#### 4.1.2. Aims

The National Comprehensive Programme for the Substitution of Crops Used for Illicit Purposes will be implemented within the framework and as a part of the Comprehensive Rural Reform (CRR) and must achieve the following aims:

- Overcoming the conditions of poverty in rural communities, and in particular the family cores that form such communities, which have been affected by crops used for illicit purposes, by creating conditions of well-being and quality of life across the country's territories; and contributing to the structural transformations of rural society resulting from the implementation of the Comprehensive Rural Reform (CRR) and from the initiation of the components of Chapter 2 "Political Participation".
- Promoting the voluntary substitution of crops used for illicit purposes by driving forward the comprehensive community-based and municipal plans for substitution of crops used for illicit purposes and alternative agrarian development, drawn up in dialogue with and with the direct participation of the communities involved.

- Creating policies and productive opportunities for growers —men and women— by promoting associative practices and solidarity-based economies; and creating employment opportunities and policies for harvesters and and share-croppers<sup>4</sup> associated with crops used for illicit purposes, within the framework of the CRR and with the possibility of choosing to be beneficiaries under the terms of section 1.1.3 thereof.
- Contributing to the closure of the agricultural frontier, regeneration of ecosystems and sustainable development, under the terms agreed in section 1.1.10 of the CRR. With this aim, the NCPS will support the development plans of the Peasant Enterprise Zones (*Zonas de Reserva Campesina*, PEZ) established and which may be established, as well as other forms of organisation or association, in cases where these overlap with areas affected by crops used for illicit purposes. As established in Item 1, the Peasant Enterprise Zones are agrarian initiatives that contribute to the construction of peace, the safeguarding of the political, economic, social and cultural rights of small-scale farmers, to development with socio-environmental and food sustainability and to the reconciliation of Colombian citizens. As a consequence, it will be considered a priority to deal with the measures laid out in section 1.1.10 of the CRR and in particular those relating to PEZs.
- Strengthening the participation and capabilities of small-scale farmer's organisations, including rural women's organisations, to provide support (technical, financial, human support, *inter alia*) for their projects.
- Involving women as active subjects in the agreement processes in relation to voluntary substitution, recognising their active role in the processes of rural development.
- Strengthening the relationships of trust, solidarity and coexistence, and reconciliation within communities.
- Contributing to the aims of the System for the progressive realisation of the right to food (*Sistema para la garantía progresiva del derecho a la alimentación*), according to the terms established in section 1.3.4 of the CRR.
- Ensuring that the national territory is free from crops used for illicit purposes, whilst respecting human rights, the environment and well-being.
- Strengthening the presence of state institutions in the territories affected by crops used for illicit purposes, promoting the comprehensive development and satisfaction of the rights of all citizens; ensuring the security, coexistence and observance and protection of human rights; and ensuring the provision of infrastructure, public services, education, access to media, *inter alia*, such that respect and application of the principles and regulations of the rule of law are ensured. Security across the territories affected by crops used for illicit purposes will be ensured in consideration of the foundations and guarantees laid down in the Final Agreement and in compliance with the principles and obligations that inspire a rule of law.
- Strengthening the management capabilities of communities and their organisations by means of the direct participation thereof in the preparation, implementation, monitoring, evaluation and citizen control and oversight of the NCPS, as a development of the principle of collective, participative and concerted construction between the communities — men and women — and the authorities.

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<sup>4</sup> Share-cropper (*amediero*): a rural inhabitant or tenant farmer who gives a part of each crop as rent.

- Ensuring the sustainability of the NCPS across the country's territories as a guarantee of the definitive solution to the problem of crops used for illicit purposes by means of continuous and persistent intervention by the state, which must be demonstrated in conditions of well-being and quality of life for the communities; and by means of the participation and commitment of all parties including the FARC-EP after signing of the Final Agreement within the framework of their social and economic reincorporation.
- Promoting and strengthening projects for investigation, reflection and analysis of the reality for women in relation to crops used for illicit purposes, in order to tackle the issue from an equity-based point of view.

#### **4.1.3. Description and elements of the National Comprehensive Programme for the Substitution of Crops Used for Illicit Purposes**

The National Comprehensive Programme for the Substitution of Crops Used for Illicit Purposes will be a special section of the Comprehensive Rural Reform (CRR) laid out in the present Agreement and will respond to the particular needs of the territories affected by crops used for illicit purposes.

In this context and in accordance with the principles and aims of the CRR, the NCPS will contribute to the creation of conditions enabling the communities that inhabit the areas affected by crops used for illicit purposes to enjoy conditions of well-being and quality of life and to allow persons directly linked to crops used for illicit purposes to have the opportunity to disengage fully from this activity.

To that end, the NCPS complements and is integrated with the plans and programmes agreed within the framework of the Comprehensive Rural Reform (CRR) of Chapter 1 with regard to access and land access and titling, land improvement, housing, technical assistance, stimuli for solidarity-based and cooperative economies, subsidies, generation of income and credit, marketing and sales, public procurement programmes as well as the provision of public services and assets.

The NCPS will promote the voluntary substitution of crops used for illicit purposes by driving forward the comprehensive community-based and municipal plans for substitution of crops used for illicit purposes and alternative agrarian development within the framework of the Comprehensive Rural Reform (CRR), planned in consultation with and with the direct participation of the communities involved — men and women.

It will be ensured that women are involved in the planning, implementation, monitoring and evaluation of the comprehensive plans for the substitution of crops used for illicit purposes and alternative agrarian development, and that women receive training to prevent gender-based violence associated with drugs.

In order to strengthen the capabilities of the NCPS and contribute to the effectiveness thereof in achieving the aim of creating conditions of well-being and quality of life for the population



affected by crops used for illicit purposes and ensuring a definitive solution to the problem of crops used for illicit purposes, the NCPS may link up community leaders.

The forms of participation and contribution by the FARC-EP will be defined in the discussion of Chapters 3 and 6 of the Agenda of the General Agreement.

The National Comprehensive Programme for the Substitution of Crops Used for Illicit Purposes will include the following elements:

**4.1.3.1. Security conditions for the communities and territories affected by crops used for illicit purposes:**

In addition to the creation of conditions for fulfilling the economic and social rights of the population and for comprehensive development, the sustainability of the NCPS and compliance with its aims at the same time require the provision of security conditions and guarantees for the communities and territories affected by crops used for illicit purposes, by strengthening the presence of state institutions and their capabilities to protect communities, in particular with regard to any kind of coercion or threat, and their interdiction and prosecution capabilities of territorial-based drug trafficking networks in accordance with the security concept laid out in the Final Agreement.

The protection of communities, the safeguarding of the right to life and the well-being of the rural population also require ensuring the performance of demining, for which purpose the National Government, after the signing of the Final Agreement and within the context of the implementation thereof, will establish a programme for demining and clearing the areas of the national territory that have been affected by the laying of anti-personnel mines and unexploded ordnance.

This is a joint aim to which the Government and the FARC-EP will contribute in different ways and as corresponds to each party, including the provision of information, under the terms set forth in the Final Agreement and as part of the mutual commitment with the aim of ending the conflict and building a stable and long-lasting peace.

The foregoing is without prejudice to the agreements reached with regard to fulfilling the rights of victims.

This commitment in particular involves the territories where the NCPS is being driven forward.

**4.1.3.2. Agreements with communities:**

An indisputable foundation of the definitive solution to the problem of crops used for illicit purposes is that it is voluntary and carried out by mutual agreement and therefore that it is the manifest will of the communities — men and women — to pursue alternative paths to crops used for illicit purposes, as well as the commitment of the Government to create and ensure decent

living and working conditions for well-being and quality of life. In order to formalise that commitment and the decision to substitute crops used for illicit purposes, agreements will be concluded between communities, the National Government and territorial-based entities, prior to the implementation of the Programme in a territory.

The agreement includes the formalisation of both the commitment of communities to the voluntary substitution agreed upon, to refrain from replanting, the full commitment not to cultivate or be involved in work associated with the cultivation of crops used for illicit purposes and not to participate in the illegal sale of raw materials derived from them, and the commitment of the Government to the implementation of the Immediate Attention Plan (*Plan de atención inmediata*) and the establishment of the process of participative and concerted joint construction of the comprehensive community-based and municipal plans for substitution of crops used for illicit purposes and alternative agrarian development.

The agreements with the communities will define the timeframes for fulfilling the commitments made by the Government and the communities within the framework of the process of substitution. It is a question of reaching agreements to keep territories free from crops used for illicit purposes. Coexistence between being a beneficiary of a substitution programme and being linked to economies related to crops used for illicit purposes is not acceptable.

In cases where, in the context of concluding agreements with communities within the framework of the NCPS, there are some growers who do not declare their decision to substitute crops used for illicit purposes or fail to comply with the commitments made without the existence of unforeseeable circumstances or *force majeure* despite the best efforts of the Programme and the communities to persuade them, the Government will proceed to remove the crops manually, prior to a process of socialisation and information with the communities.

In cases where there is no agreement with the communities, the Government will proceed to remove the crops used for illicit purposes, prioritising manual removal where possible, bearing in mind respect for human rights, the environment, health and well-being. If substitution is not possible, the Government does not waive the instruments that it believes to be most effective, including aerial spraying to ensure the eradication of crops used for illicit purposes. The FARC-EP consider that in any case of removal this must be effected manually.

#### **4.1.3.3. Prioritisation of territories:**

The NCPS will have national coverage but the implementation thereof will be initially launched in the territories prioritised according to the following criteria:

- Areas prioritised within the framework of the DPTFs, bearing in mind the principle of integration in the Comprehensive Rural Reform;
- Density of crops used for illicit purposes and population density;
- National Natural Parks (*Parques Nacionales Naturales, NNP*);

- Cases where communities that are not situated within the territories identified in the preceding criteria have received special judicial treatment. In those cases, special assistance measures will be set up in coordination with the regional and local authorities, which include access to the Government's social support programmes without prejudice to the possibilities for access to the national plans agreed within the framework of the CRR and being beneficiaries under the terms established in section 1.1.5 of the CRR.

In places where the substitution plans do not overlap with the DPTFs, the communities will benefit from the national plans of the CRR and special programmes on the part of the departmental and municipal authorities in coordination with the NCPS.

#### **4.1.3.4. Special judicial treatment:**

Within the context of ending the conflict and as a result of its contribution to the construction of peace and the most effective use of judicial resources against criminal organisations linked to drug trafficking and on the basis of a comprehensive vision for the definitive solution of the problem of crops used for illicit purposes, which has multiple causes as its origin, including social order causes and in order to facilitate the start-up of the NCPS, the Government undertakes to process the legislative amendments required to allow the waiver on a transitional basis of the exercise of penal action or proceed to the termination of the penal sanction against small-scale farmers who are or have been linked to the cultivation of crops used for illicit purposes when, within a time limit of 1 year, starting from the entry into force of the new regulation, they formally declare before the competent authorities their decision to renounce the cultivation or maintenance of crops used for illicit purposes. The Government will guarantee the deployment of the NCPS in all areas with crops used for illicit purposes this year so that agreements can be entered into with communities and so that their effective implementation can begin. The regulatory amendment must establish the criteria for identifying small farmers of crops used for illicit purposes.

The voluntary declaration to renounce the cultivation of crops used for illicit purposes and from the continuation of said activity may be given on an individual basis or within the context of substitution agreements with the communities.

This treatment may be revoked due to any repetition of conduct associated with any link in the chain of crops used for illicit purposes and their derivatives. Priority in the implementation will be given to programmes for the substitution of crops used for illicit purposes.

#### **4.1.3.5. Participative construction and development of the comprehensive community-based and municipal plans for the substitution of illicit crops and alternative agrarian development (*Planes integrales comunitarios y municipales de sustitución y desarrollo alternativo, CPSAD*):**

In consideration of the political, economic, social, environmental and cultural nature of the problem to be tackled and the effects resulting from the lack of development in rural areas, illegal economies and the violence associated with crops used for illicit purposes, the broadest possible

participation from communities — men and women — is required, including those communities directly involved with cultivation, in order to formulate, implement and monitor the CPSADs, thereby achieving the aims of the NCPS. For these purposes and in order to strengthen local democracy, the municipality and the authorities thereof have to play a central role together with the communities.

This process of participative planning by communities jointly with the National Government and the local authorities must be the result of the formulation and implementation of the comprehensive substitution plans so as to achieve a structural transformation of the territory and thus the definitive solution to the problem of crops used for illicit purposes.

- **Community assemblies:**

In order to establish the bottom-up participative planning process, community assemblies will be supported and strengthened, where there will be effective participation of men and women in the community, and monitoring units will be set up at municipal level and by the community assemblies.

The community assemblies form the basis of the participative planning scheme. This begins with the drafting of a proposal containing a comprehensive vision for the territory and identifying the needs, opportunities and priorities, within the framework of the NCPS and in accordance with the content thereof. The community assemblies will incorporate all the communities in the area affected, including the producers of crops used for illicit purposes, and will ensure the effective participation of women in these spaces. The necessary assemblies will be formed, together with the communities, in each municipality, in accordance with the characteristics of the territory and the population, specifying the territorial-based scope of such assemblies.

The participative construction of a comprehensive vision for the territory firstly requires the preparation of a proposal on the basis of a collective diagnosis enabling the establishment of the social, economic and environmental characterisation of the territory, the funding needed for physical, social and institutional infrastructure, the prioritisation of projects that meet these needs, the opportunities for productive activities and the identification of areas with crops used for illicit purposes and their distribution across the territory.

The NCPS, as the competent national authority, will define and implement a participative planning methodology, guided by the methodology for the construction of the DPTFs and reflecting the contributions made by the assemblies. The NCPS will provide technical assistance to communities in the process of constructing the comprehensive vision and the proposal, identifying the projects and priorities, in coordination with the municipalities.

- **Comprehensive community-based and municipal plans for substitution of illicit crops and alternative agrarian development**

The various proposals of the community assemblies will form the basis for the construction of the comprehensive municipal plan for substitution of crops used for illicit purposes and alternative agrarian development for the areas affected by crops used for illicit purposes, which will be prepared and implemented with the active participation of the communities, including the social territorial-based organisations thereof. Within the framework of the municipal plan and bearing in mind the proposals of the respective assemblies, the community-based plans will be prepared, which will form an integral part of the municipal plan. Both the municipal plans and the community-based plans will be constructed between the communities, the national, departmental and municipal authorities and the NCPS, as the competent national authority.

In order to ensure that the various proposals of the assemblies are incorporated, prioritised, validated and coordinated in a municipal plan for substitution of crops used for illicit purposes and alternative agrarian development, the NCPS must set up municipal committees for participative planning with the municipal, departmental and national authorities involved in the implementation of the NCPS and with the delegates elected by the assemblies.

The municipal plan incorporating the proposals of the communities and formed of the community-based plans will form the basis for implementation of the NCPS.

The main units for participative planning at local level are the community assemblies and the municipal participative planning committees, of which the delegates of the assemblies form a structural component. The structure and content of the plans are constructed on a bottom-up basis, from the level of the community assemblies, with the methodology of the NCPS and the technical assistance necessary taking into account the local technicians and those suggested by the communities. In the construction of the municipal plan, the methodology must ensure the greatest possible participation and inclusion and the greatest possible faithfulness to the proposals of the assemblies, the maximum consensus possible and the optimisation and greatest degree of fairness in the use of the resources. The NCPS will have direct contact with the communities in the definition and implementation of its guidelines.

The municipal plan that results from the exercise of participative planning within the framework of the municipal committees will be disclosed in an appropriate manner at the community assemblies in order to ensure understanding and social ownership thereof.

The community assemblies will elect their delegates and if they deem it necessary may form them as boards, committees, councils or any form of organisation that make decisions by means of a vote, in order to participate in the municipal committees for participative planning and in the councils for evaluation and monitoring of the plans for substitution of crops used for illicit purposes and alternative agrarian development, and to facilitate coordination between the assemblies and the authorities of the NCPS. The delegates will be accountable for their management and activities to the community assemblies that they represent.

For the implementation of the substitution plans, preference shall be given to contracting community organisations and the creation of jobs in the areas related to the NCPS shall be promoted, for which purpose social and community organisations and cooperatives, also including rural women's organisations, shall be strengthened and solidarity-based associative practices and technical training shall be promoted.

The crop substitution plans shall be incorporated in the municipal, departmental and national development plans.

- **Integration with the DPTFs**

In cases where the NCPS overlaps with the areas prioritised by the Development Programmes with a Territorial-Based Focus DPTFs, (see Chapter 1), the integration necessary for the substitution plans and the action plan for regional transformation shall be effected bearing in mind the participative methodology established within the framework of what has been agreed in Chapter 1 for the construction of the action plans for regional transformation. The methodology shall ensure the effective participation of the delegates from the community assemblies, and the consensus shall be the foundation for the decision-making process.

- **Monitoring and evaluation**

The monitoring and evaluation of the implementation and achievement of the community-based plans shall be carried out together with the authorities, within the framework of the community assemblies, and shall serve as the basis for the monitoring and evaluation at municipal level with the participation of the delegates from the community assemblies.

The monitoring and evaluation of the implementation and achievement of the municipal plans shall be carried out periodically within the framework of the municipal councils for evaluation and monitoring of the plans for substitution of crops used for illicit purposes and alternative agrarian development, which shall be composed of the delegates from the community assemblies and the national, departmental and municipal authorities involved in the development of the NCPS. The Council may invite the participation of other social and economic sectors of the municipality such as rural organisations, businesspeople, churches, educational institutions and non-governmental organisations.

The councils and community assemblies shall be spaces for accountability on the part of the NCPS, the authorities and the communities carrying out projects.

#### **4.1.3.6. Components of the comprehensive plans for the substitution of crops:**

Given the specific conditions of the communities that are particularly affected by crops used for illicit purposes, in addition to projects for the implementation of the National Plans agreed under

Chapter 1 (adaptation of land, road and communications infrastructure, social development, technical assistance, credit and financing, marketing, government purchases, etc.), where appropriate, the comprehensive plans for the substitution of crops in these communities will include the following components:

**a. Immediate attention plan and development of rural productive projects**

Once a commitment has been made to substitution and to refrain from replanting crops used for illicit purposes, and with a view to helping growers, harvesters and share-croppers —men and women— to switch to a legal activity, through immediate support measures to ensure their livelihood and food security for their households; and to ensure, for growers, harvesters and share-croppers and for communities in general, income and conditions of well-being and quality of life, by putting in place sustainable, long-term rural productive projects, the following measures will be implemented:

- For the households of growers involved with crops used for illicit purposes:
  - o Immediate food assistance consisting of direct delivery of groceries, or the equivalent in vouchers or any other system established according to the particular requirements of the territory in question, for up to one year, depending on the size of each household and the particular characteristics and needs of each population and region, and the development of income-generating projects. Priority will be given to local suppliers for the provision of the groceries and solidarity associations will be fostered so that they can contract with the Government the procurement of foodstuffs.
  - o Establishment of vegetable gardens and delivery of smaller species of animals with the necessary technical support, provision of supplies and animal feed, in accordance with the preference of each household.
  - o Projects for generating rapid income, such as short-cycle crops, fish farming, poultry farming, *inter alia*, with the necessary technical support, targeted to meet the immediate needs of households and replace, expediently and to a sufficient degree, the income previously obtained from crops used for illicit purposes, in accordance with the preference of each household and the conditions and potential of the area.

At the same time, as part of the Comprehensive Rural Reform (CRR), long-term rural productive projects will be structured together with growers and small-scale producers in the territory—men and women— to provide families with better income and decent living conditions. Priority will be given to food production and the creation of added value and production chains so as to meet in the first instance the demand of the communities themselves, but also to respond to niches in the domestic or international market. In addition to agricultural and livestock activities, craft, industrial and service businesses will be promoted, especially those that generate added value with respect to what is produced by communities, and others of community interest in line with the potential of each region, so as to ensure a guaranteed income and decent employment for those in rural communities – the men and women – who are especially affected by crops used for illicit purposes. There will be special measures to promote a cooperative system and solidarity economy. These initiatives must be guided by the principles underlying the CRR, in particular

environmental sustainability and well-being and quality of life, and, where appropriate, help closing the agricultural frontier and promote regeneration of the environment. In the case of share-croppers who are settled and opt to remain in the region, the same package of immediate assistance will be provided.

- For those men and women who work on the harvest, the initiatives will include:
  - o Food Assistance for harvesters living in the territories where the NCPS is implemented: this will consist of direct delivery of groceries, or the equivalent in vouchers or any other system established according to the particular requirements of the territory in question, for up to one year, per household<sup>5</sup>, according to the particular characteristics of each population and region.
  - o Temporary employment opportunities for harvesters, both those who have settled in the region and those who have not: the identification of community projects and other sources of employment arising as a result of the Comprehensive Rural Reform (CRR), in which priority will be given to members of the households of harvesters' families. This does not exclude the possibility of opting to be a beneficiary under the terms of section 1.1.3. of the CRR.

These initiatives will be geared towards harvesters, both those who have settled in the region and those who have not, and settled share-croppers – men and women – living in the region that are identified in the census of the community assemblies and the NCPS carried out in a participative way.

- For the community in general:
  - o Early childhood: in order to facilitate access to employment opportunities for women who are heads of households and to contribute to food security in early childhood, a programme of rural nurseries will be developed in the villages affected by crops used for illicit purposes.
  - o School population: in order to improve the food security of children of school age and maximise the numbers staying in education, a programme to build and fit out school canteens and supply food will be developed to ensure that every child attending school in the territories affected by crops used for illicit purposes receives breakfast, without prejudice to the agreed in section 1 of the Special Plan for Rural Education, in particular the emergency plans referred to in section 1.3.4 of the Comprehensive Rural Reform, System for the progressive realisation of the right to food.
  - o Job opportunities: mechanisms will be put in place to provide information to facilitate access to job opportunities arising as a result of the CRR and in particular the comprehensive plans for the substitution of crops and alternative agrarian development, which will enable communities living in territories affected by crops used for illicit purposes to identify and access the available job market, with the inclusion of special measures for rural women.

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<sup>5</sup> Only one member per harvester household may receive direct food assistance for their family. A household may consist of just one person.



- o The elderly: implementation of programmes to eradicate hunger among the elderly as per section 1.3.4 of the Comprehensive Rural Reform, System for the progressive realisation of the right to food.
- o Poverty alleviation and income generation programmes will be implemented.
- o Teams to provide basic health care will be set up, without prejudice to the provisions of section 1.3.2.1. National Rural Health Plan.
- o To ensure the viability and sustainability of rural productive projects for the substitution of crops used for illicit purposes, the Government must implement the plans referred to in section 1.3.3 of the CRR regarding stimulating the cooperative and solidarity economy, technical assistance, subsidies, generation of income and credit, and marketing.

Support measures under the NCPS will be conditional on compliance with the schedule of commitments made by growers in the agreements on substitution and refrainment from replanting. This is on the understanding that the process of substitution and the sustainability thereof require the support of the Government under the terms agreed with the communities. The decision to voluntarily stop growing crops used for illicit purposes and to renounce being involved in this activity, may be expressed individually or through voluntary substitution pacts or agreements with communities. In any case, there must be a full commitment to abstain from growing or being involved in work associated with growing, or participating in the illegal trade of raw materials derived from crops used for illicit purposes.

#### **b. Fast-track social infrastructure works**

In order to respond rapidly to the needs of communities, fast-track social infrastructure works will be identified within the plans and will be prioritised by the communities; these will include rural roads, improvements to schools, health centres and communal buildings, without prejudice to the implementation of other infrastructure plans and programmes under the CRR.

#### **c. Component relating to sustainability and environmental regeneration**

To help closing of the agricultural frontier and promote environmental recovery, especially in the municipalities bordering areas of special environmental interest, the plans will include a component relating to sustainability and environmental protection, which shall include:

- Actions aimed at recovery and soil adaptation for the establishment of legal crops.
- Actions to mitigate environmental damage in areas of special environmental interest, fragile ecosystems and vulnerable hydrography and to promote the recovery of forests.
- Environmentally sustainable rural productive projects and environmental protection projects in areas of special environmental interest, such as silvopasture projects and other programmes referred to in section 1.1.10.

#### **d. Land titling plan**

In order to promote access to land for men and women and to encourage the process of substitution of crops used for illicit purposes in areas where the commitments made by growers under the NCPS are fulfilled, land titling processes will be sped up under the terms set out in the Large-Scale Titling Plan discussed in section 1.1.5 of the CRR. The Government will adapt the regulations to allow titling land to such beneficiaries, subject to the prior fulfilment of the commitments that guarantee that the property is free from crops used for illicit purposes and that no crops of that type will be re-sown.

#### **e. Plans for remote areas and areas with low population density**

In areas with low population density and areas which are difficult to access owing to location and distance, making it difficult to supply goods and services to ensure the well-being and quality of life for the people and the territorial-based integration thereof, special measures will be developed for the substitution of crops used for illicit purposes, recovery of ecosystems, creation of new employment opportunities related to river transport, environmental regeneration programmes, protection of forests and wildlife, etc., without prejudice to alternatives for relocation of communities settled there, where possible and necessary, in consultation with communities, to improve their living conditions.

#### **f. Timescales, targets and indicators**

The comprehensive plans for the substitution of crops and alternative agrarian development, like the Agreements, must include timescales for implementation with targets and indicators, including the commitments made by the community, so as to be able to measure the impact of projects on the conditions of well-being of communities – children and adults – and monitor the plan.

#### **4.1.4. Implementation of the National Comprehensive Programme for the Substitution of Crops Used for Illicit Purposes in National Natural Parks (NNP)**

To solve the problem posed by the presence of crops used for illicit purposes in NNP, and to ensure the well-being and quality of life of communities and the preservation and conservation of NNP, mechanisms for direct dialogue with communities will be established to construct agreements for the eradication of these crops that will ensure the control, restoration and effective protection of these areas.

For these purposes, the agreement set out under section 1.1.10 of the CRR, in particular the third subheading thereof, shall be used as a basis.

#### **4.1.5. Communication strategy**

A communication campaign will be launched to promote the substitution agreements and motivate communities and build confidence regarding participation in the processes of joint construction of municipal and community comprehensive plans for the substitution of crops, which should help improve living conditions and quality of life and constitute a definitive solution to the problem of crops used for illicit purposes; and to highlight the commitment of the Government and the FARC-EP to contributing and supporting this goal. Information on the NCPS and mechanisms for community participation in the various phases will be communicated directly through community meetings and indirectly through the media, particularly local and community media.

#### **4.1.6. Financing**

NCPS resources will be allocated in accordance with the provisions of the immediate attention plans and municipal and community comprehensive plans for the substitution of crops and alternative agrarian development and every effort will be made to ensure efficiency, effectiveness and timeliness in its implementation.

### **4.2. Public Health and Drug Use Prevention Programmes**

Illicit drug use is a multi-causal phenomenon associated with the specific economic, social, family and cultural conditions of the society or environment of each person, and must be treated as a public health issue. The solution requires commitment and collaboration between the authorities, the community and the family, based around a policy of health promotion, prevention, comprehensive care<sup>6</sup> and social inclusion, with particular emphasis on children and adolescents.

Initiatives implemented in this regard must be underpinned by democratic and participatory principles with the involvement of society in general and, in particular, social workers specialising in this field.

The policy to tackle illicit drug use must be a priority and a state policy that requires, *inter alia*, the strengthening of capacities, both national and territorial-based, as part of the system of social protection, and the corresponding provision of resources.

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<sup>6</sup>Comprehensive care includes treatment, rehabilitation and harm reduction.

#### **4.2.1. National Programme for Comprehensive Intervention into Illicit Drug Use (*Programa Nacional de Intervención Integral frente al Consumo de Drogas Ilícitas*):**

The Government will set up the National Programme for Comprehensive Intervention into Illicit Drug Use as a high-level body to coordinate the institutions with authority in this area and oversee a participatory process for the review, adjustment and implementation of the policy to tackle drug use.

##### **4.2.1.1. Principles:**

The national policy to tackle illicit drug use will be guided by the following principles:

- **Human rights-based approach:** actions aimed at preventing and tackling drug use, as well as reducing risks and harm, must be set against a background of respect for and effective enjoyment of the rights of the persons involved, including non-stigmatisation and non-discrimination against the user and decisions not to prosecute owing to drug use.
- **Public health-based approach:** actions to tackle illicit drug use must be comprehensive, effective and sustainable over time, and include the promotion of a healthy lifestyle and living conditions, prevention of drug use, treatment and rehabilitation, based on the identification of the needs of the population from the health perspective.
- **Equity-based and gender-based approach:** against a background of respect for human rights, to ensure the actions to tackle drug use implemented actually meet the needs of users and are effective and sustainable, it is necessary to identify vulnerability factors associated with age, gender, disability status, socioeconomic status and geographical location or membership of the LGBTI population, etc. Such actions should pay particular attention to the needs of adolescents in rural and urban areas.

This approach should take into account the relationship between illicit drug use and violence against women, especially domestic violence and sexual violence. Measures will be provided for women, and adolescent and young girls.

In any case, the actions implemented must respect the ancestral use of the coca leaf by indigenous communities.

- **Community participation and coexistence:** to increase the effectiveness of actions to tackle illicit drug use, the community must be involved in the construction and implementation of solutions to create strong links between people and their community.

- **Evidence-based:** the actions implemented to tackle illicit drug use must be based on evidence, and founded on validated and evaluated knowledge.

#### **4.2.1.2. National Attention System for Illicit Drug Users (*Sistema Nacional de Atención al Consumidor de Drogas Ilícitas*):**

With the aim of improving the care received by drug users who require progressive treatment and rehabilitation, the National Government will draw up and implement a National Attention System for Illicit Drug Users that includes additional actions for rehabilitation and social integration with a gender-based approach.

#### **4.2.1.3. Participatory review and adjustment of the public policy to combat illicit drug use:**

The Programme will coordinate the participatory revision of the policy to tackle drug use with a focus on the promotion of health, the prevention and tackling of drug use and the reduction of risks and harm, based on the evaluation and review of the actions implemented so far and taking into account the specificities and needs targeted by age group, sex, socioeconomic status and geographic location.

To ensure participatory review and adjustment of the policy to tackle drug use based on the abovementioned principles, the Government will set up a national body with representatives of the relevant authorities, scientific institutions, specialised centres, educational institutions, parents' associations, religious communities and drug users.

To fulfil its function, this body shall take into account:

- The review and evaluation of policies and strategies that have been developed at national and local level in the area of prevention and tackling of drug use and the reduction of risks and harm, with the participation of communities and experts in the field.
- Territorial-based analyses of drug use, in collaboration with departmental and municipal authorities, to identify and place in context the problems, risks, vulnerabilities, trends, consequences and new dynamics of illicit drug use.
- Experience gained both internationally and nationally and recommendations issued by international organisations.

#### **4.2.1.4. Participatory action plans with territorial-based and population-focused approach:**

Based on the policy and the territorial-based analyses of illicit drug use, the Programme will foster the development of capacities within local authorities and support them in the participatory design and implementation of departmental and municipal action plans to tackle drug use, according to the specific characteristics of territories and different population groups.

These plans shall contain at least:

- Evidence-based actions aimed at the promotion of health and prevention of drug use, that respond to the specific characteristics and levels of risk of each territory and help strengthen safeguards (psychosocial support, self-esteem, conflict resolution, management of free time, strengthening of the family unit, promoting a commitment to education, healthy lifestyles, development of cultural and sporting skills and recreational activities) against the risks identified. Special attention will be given to prevention in children and adolescents.
- Actions to strengthen and empower communities – men and women – in order to contribute to the promotion of health and the prevention of drug use.
- Actions to support and strengthen youth leadership processes so as to make a positive difference in various situations (schools, clubs, neighbourhoods, etc.).
- Special prevention programmes in educational institutions at different levels, to be extended to urban centres and rural areas, by involving headteachers, teachers, parents, and students, through comprehensive training initiatives.
- Evidence-based actions to reduce harm, aimed at minimising the negative impact of drug use on the user him/herself, on the family and on the community, giving priority to more vulnerable groups such as the homeless, women, and the prison population. In the case of female users, actions should take into account the relationship between illicit drug use and violence against women, especially domestic violence and sexual violence. For the female prison population, special measures will be taken in terms of health, protection and prevention, including measures to prevent HIV/AIDS.
- Actions to raise awareness and guide the community and institutions to prevent stigmatisation of drug users, taking into account in particular the difference in impact on women and the LGBTI population.
- Actions to expand and improve access to and the range of care and assistance provided by qualified persons to drug users, including treatment and rehabilitation, and that promote, *inter alia*, affirmative action for women and the LGBTI population. This offer will take into account various specialist initiatives of civil society with qualified experience in the processes of rehabilitation and social integration of consumers, including bodies and organisations from the religious sector and the organisations of the various communities.
- Actions by the Government, families, communities and the education community to protect children and adolescents from consumption of illicit drugs.

#### **4.2.1.5. Evaluation and monitoring of the actions implemented to tackle drug use:**

For the purposes of ongoing monitoring of the actions undertaken to tackle drug use and to assess their impact and identify new requirements, the Programme will devise and implement a monitoring and evaluation system.

This system will involve participatory bodies for monitoring and evaluation at municipal and departmental level, including the authorities, scientific institutions, specialised centres, educational institutions, parents' associations, religious communities, social organisations, experts and drug users themselves, etc.

#### **4.2.1.6. Creation of a pool of knowledge on illicit drug use:**

To ensure the availability of sufficient, up-to-date information on health promotion, prevention and comprehensive care in the area of illicit drug use, to contribute to decision-making and serve as input for the design, implementation, monitoring, evaluation and adjustment of the evidence-based policy, the following measures will be implemented:

- Specialised research and studies on the subject of illicit drug use, including an equity-based, age-based and gender-based approach.
- Monitor indicators of consumption and impact of actions carried out.
- In collaboration with departmental and municipal authorities, regular territorial-based analyses of the use of illicit drugs, both synthetic and natural, so as to identify and place in context the problems, risks, vulnerabilities, trends, consequences and new dynamics in drug use.
- Creation of mechanisms for disseminating information on drug use, taking account of the various different target audiences.

#### **4.3. Tackling the production and selling of narcotics:**

The problem of illicit drugs is a transnational problem whose solution involves simultaneous action both within the country and in coordination with and with the commitment of the international community.

With the end of the conflict in sight, both to facilitate the implementation of the agreements and in general to overcome the challenge of organised crime associated with drug trafficking and money laundering, it is necessary to implement policies and programmes to disable the factors and mechanisms that give rise to and maintain the problem of production and selling of illicit drugs and profiting therefrom. The primary aim is to disrupt the criminal organisations that perpetuate this scourge, including networks dedicated to money laundering.

We dream of a country free from drug trafficking, something which should be a common goal of all people and requires changes at political and institutional level, and in society in general, in order to consolidate a culture based on values against drug trafficking and money laundering that will allow us to eradicate and overcome the impact of this phenomenon, including the stereotypes associated with drug trafficking that lead to violence against women.

Lastly, building a stable and long-lasting peace will require clarification of the relationship between production and selling of illicit drugs and conflict, including the relationship between paramilitaries and drug trafficking, and the willingness of everyone to contribute to this clarification.

#### **4.3.1. Effective prosecution:**

As part of the commitment to stepping up the fight against organised crime and their support networks (item 3.4 of the General Agreement), in an end-of-conflict scenario, and in order to safeguard both communities and the proper development of the NPCS and the implementation of the agreements in the territories from the threat of organised crime, and generally to disrupt the networks of these organisations, the National Government will launch a criminal policy strategy. Parallel with the implementation of a comprehensive strategy to fight corruption, this criminal policy strategy will strengthen and qualify the presence and effectiveness of institutions and concentrate their capabilities in the investigation, prosecution and punishment of crimes associated with any organisation or criminal group involved in the production and selling of illicit drugs, always mindful of the different treatment that should be given to the small-scale farmers and rural inhabitants caught up in the exploitation of crops used for illegal purposes.

Moreover, so as to ensure effective prosecution of members of organised crime, especially those at the top, the National Government will promote the improvement and strengthening of judicial capacities, by devising and implementing a national strategy that includes regional strategies for strengthening and coordinating agencies and mechanisms for investigating and prosecuting criminal networks linked to drug trafficking, including the following measures:

- Creation of interagency groups to carry out structural investigations with mechanisms to recognise and understand local, regional, national and transnational dynamics of crime in all its dimensions and prevent the emergence of new groups dedicated to organised crime, in close coordination with other state agencies and incorporating contributions from specialised centres, academia and the general public, and the different organisational forms thereof, as part of a comprehensive strategy.
- Reinforcement and extension of regional and international cooperation to identify networks, selling systems and routes used by criminal organisations involved in drug trafficking.

#### **4.3.2. Strategy to deal with the assets involved in drug trafficking and money laundering**

In order to fully eradicate the production and selling of illicit drugs and eliminate the factors that stimulate illegal economies, facilitate the financing of organised crime networks, yield illegal profits, induce corruption and disrupt citizen coexistence, and also in order to contribute to the building of peace, the National Government will implement a strategy to resolutely pursue the property and assets involved in drug trafficking and prevent and control money laundering. This strategy will include the following measures:



- **Identification of the drug trafficking value chain:** the National Government will carry out a process of mapping crime, at all levels including regional, to identify systems for financing organised crime, how those resources are used, the people who manage this money, national and international money laundering strategies, types and channels, property acquired with these funds and networks of front organisations for criminal structures, and the level of penetration thereof in the state and its institutions. To this end, a group of national and international experts, including delegates from international and regional organisations specialising in this field, will be established to make recommendations and draw up a public report on illicit financing networks, how they operate and their impact on life in Colombia.
- **Regulatory amendments and the improvement and strengthening of institutional capacities for the detection, monitoring and reporting of illegal financial transactions:** the National Government will set up a committee of experts, including academics and researchers, both national and international, as well as working tables across the country's territories, with the aim of developing a new Statute for the prevention and combatting of illegal financing, so as to, *inter alia*, adjust where necessary, or define and coordinate the regulations on this subject, with an emphasis on going after the strong links in the drug trafficking chain, such as the organisations engaged in production, selling and money laundering. The regulations will be extended to all sectors that are at risk of being used for money laundering. The committee will take into consideration the results of the crime mapping exercise.
- **Investigation bodies:** the National Government will also promote the improvement and strengthening, and where necessary, the redesign or creation of bodies tasked with investigating and monitoring finances and money laundering so as to identify the financial systems of organised crime networks involved in drug trafficking, the dynamics thereof according to the value chain at national and local level, and links on an international scale. The people who head up these investigation bodies shall produce regular public reports for the purposes of accountability in their management.
- **Anti-money laundering culture:** the National Government will launch a new national campaign to promote values, raise awareness of new forms of money laundering and foster citizen participation and capability, in line with Chapter 2 of the Final Agreement, to exercise control and audit measures to tackle the corruption associated with money laundering and irregular or suspicious transactions, in order to prevent people and institutions from being used for money laundering.

- **Strategy for the effective implementation of the administrative expropriation of illicitly acquired assets:** the National Government will put a new strategy in place to ensure effective implementation of the administrative expropriation of illicitly acquired assets, including the resources and regulatory and institutional modifications needed to improve and strengthen the capacities of state agencies responsible for identification of assets, investigation and prosecution, which will be accompanied by the implementation of a comprehensive strategy to combat corruption.

In addition, by making the necessary regulatory and institutional modifications, the National Government shall ensure transparent and efficient management of property in the process of recovery and shall do all it can to ensure the assets and funds recovered are channelled into the plans and programmes covered by the Final Agreement.

#### **4.3.3. Control of inputs:**

The National Government will review and establish strict state controls on the production, import and selling of chemicals precursor and inputs required for the production of illicit drugs, as well as increasing monitoring and control by the state. It shall put in place rules and mechanisms to engage companies who produce, import and sell the above to adopt measures of transparency and controls on the end purpose of inputs. So as not to affect legal production activities, special protocols will be drawn up to identify the uses, frequencies and locations where there is demand for inputs.

#### **4.3.4. Strategy to combat corruption**

As part of the comprehensive strategy to combat corruption (Item 3.4 of the Agenda of the General Agreement), a specific strategy will be drawn up to combat corruption associated with drug trafficking, taking into account the results and recommendations of the group of experts called upon to perform the mapping of the drug trafficking value chain.

In parallel with the fight against corruption, institutional capacities will be improved and strengthened.

The strategy must include the establishment of specialised inter-agency groups in order to tackle the various expressions of corruption and those responsible and help improve institutional performance.

#### **4.3.5. International Conference and forums for regional dialogue**

In an end-of-the conflict scenario and to help eliminate, once and for all, the problem of illicit drugs, the National Government will promote an international conference under the auspices of the United Nations to discuss and perform an objective assessment of the policy to counter drugs

and make progress in reaching agreement on the changes that must be made, taking into account the discussion and new international developments on this subject as well as the perspective of countries where drugs are used and produced, particularly the experiences and lessons learned in Colombia, and identifying good practices based on evidence.

The National Government will promote in this forum a discussion on commitments and responsibilities and, in general, the shared responsibility between producer and user countries when addressing the problem.

The participation of academic and research institutions, producers of coca leaf, poppy and marijuana, and organised users at this conference will be promoted.

In parallel, the Government will promote opportunities for dialogue within the framework of regional organisations, OAS, USAN and CELAC, so as to make progress in reaching agreement on the policy to counter drugs.

For the purposes of promotion, preparation and holding of the international conference and regional venues, the National Government shall convene forums for dialogue and discussion at national and local level.

**4.3.6.** Under section 5.1.1.1.2 "Mandate" of the Truth, Coexistence and Non-Recurrence Commission, the Commission's mandate will be to clarify and promote recognition of the relationship between production and selling of illicit drugs and conflict, including the relationship between paramilitaries and drug trafficking (aspect of Item 3.7. of the Agenda of the General Agreement).

## 5. Agreement regarding the Victims of the Conflict:

### **“Comprehensive System for Truth, Justice, Reparations and Non-Recurrence”, including the Special Jurisdiction for Peace; and Commitment on Human Rights**

Redress for victims is at the core of the Agreement between the National Government and the FARC-EP. In this regard, at the Negotiation Table in Havana we discussed and reached agreement on Item 5 of the Agenda, “Victims”, including Sub-Items 1. Victims’ human rights and 2. Truth, with the aim of drafting a content that will satisfy the claims of those who have been affected by the long conflict. Now, in the pursuit of a political solution, through these new accords and important de-escalation measures and agreements, we have taken a major step forward towards building a stable and long-lasting peace and bringing an end to a war that has torn the country apart for more than half a century.

We, the National Government and the FARC-EP, given that comprehensiveness must necessarily be ensured when developing the points included under the Chapter on “Victims”, shall begin our analysis of this section by taking on board the “Declaration of Principles” of 7 June 2014. These principles formed the backbone of all the work that went into drafting this Chapter 5 – Victims, and must also underpin its implementation:

- **Recognition of the victims:** All the victims of the conflict must be recognised, not only in their condition as victims, but also and primarily in their capacity as citizens with rights.
- **Acknowledgement of responsibility:** Any discussion of this item must be based on acknowledgement of responsibility vis-à-vis the victims of the conflict. We will not exchange impunity measures.
- **Realisation of victims’ rights:** The rights of the victims of the conflict are non-negotiable; the issue is to agree on how they should be addressed in the best possible manner within the context of the end of the conflict.
- **Victim participation:** The discussion on the realisation of the rights of the victims of serious human rights violations and breaches of international humanitarian law during the conflict necessarily involves the participation of the victims, through different means and at different times.
- **Historical clarification of the truth:** Uncovering the truth about what happened throughout the conflict, including the multiple causes, origins and effects thereof, is fundamental to the

realisation of the rights of victims and of society in general. Trust can only be regained through full elucidation and recognition of the truth.

- **Reparations for the victims:** Victims have the right to be compensated for the injury and loss suffered because of the conflict. Restoring victims' rights and changing their lives for the better, in an end-of-conflict scenario, is a fundamental aspect of building a stable and long-lasting peace.
- **Guarantees of protection and security:** Protecting the lives and the personal integrity of the victims is the first step towards realisation of their other rights.
- **Guarantees of non-recurrence:** The end of the conflict and the implementation of the reforms ensuing from the Final Agreement are the main guarantee of non-recurrence and the way to ensure that there will be no further generations of victims. The measures adopted both in Chapter 5 and in the other items of the Agenda should be aimed at guaranteeing non-recurrence in order to ensure that no Colombian will ever become a victim or face the risk of becoming one again.
- **Principle of reconciliation:** One of the goals of realising victims' rights is the reconciliation of all Colombian citizens to enable them to move towards a future of civility and peaceful coexistence.
- **Rights-based approach:** All the agreements we reach on the items of the Agenda, and in particular on Item 5 - "Victims", should contribute to protecting and guaranteeing the effective enjoyment of rights by all. Human rights are equally inherent to all human beings, meaning that the latter are entitled to these rights by virtue of their status as humans, and consequently the recognition of human rights is not a concession; they are universal, indivisible and interdependent and they must be considered globally and in a fair and equitable manner. Consequently, the state has the duty to promote and protect all rights and fundamental liberties, and all citizens have the duty to restrain from violating the human rights of their fellow citizens. Acknowledging the principles of universality, equality and progressivity, and for the purposes of redress, account will be taken of infringements of economic, social and cultural rights as a result of the conflict.

On the basis of these principles we have reached core agreements regarding: 1. Comprehensive System for Truth, Justice, Reparations and Non-Recurrence and 2. Commitment to the promotion, respect and guarantee of human rights.

These commitments include transcendental agreements such as the creation of the *Truth, Coexistence and Non-Recurrence Commission*; the *Special Unit for the Search for Persons deemed as Missing in the context of and due to the conflict*; the *Special Jurisdiction for Peace* and the specific reparation measures. All these components have been combined within a *Comprehensive System for Truth, Justice, Reparations and Non-Recurrence*, which also includes non-recurrence measures; with regard to the latter, it is worth noting that, besides the coordinated implementation of all of the above measures and mechanisms, as well as of all the items of the Final Agreement in general, additional measures will be implemented, which will be agreed under Item 3 – “End of the Conflict” of the Agenda of the General Agreement.

During the course of the discussions on Chapter 5 “Victims”, the Historical Commission of the Conflict and its Victims (*Comisión Histórica del Conflicto y sus Víctimas*) was set in motion, which came up with important conclusions covering many different aspects as regards the origins and multiple causes of the conflict, the main factors and conditions that facilitated or contributed to the longevity of the conflict, and the most notorious effects and impacts of the conflict on the population, all of which have been considered as essential input for the work of the Truth, Coexistence and Non-Recurrence Commission.

Other primary measures taken within the framework of the discussions on Chapter 5 “Victims” were: the signature of measures and protocols to implement programmes for the decontamination and removal from the country’s territories of anti-personnel mines (APMs), improvised explosive devices (IEDs), unexploded ordnance (UXO) or explosive remnants of war (ERWs); immediate humanitarian measures for the search, location, identification and dignified delivery of the remains of persons deemed as missing in the context of and due to the conflict.

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The armed conflict, which has multiple causes, has inflicted suffering and loss on the people to a degree unparalleled in our history. Millions of Colombians have been victims of forced displacement, the dead number in their hundreds of thousands, tens of thousands of people of all kinds have disappeared, and vast numbers of families, groups and communities have been affected throughout the length and breadth of the country, including rural communities, indigenous peoples, the Afro-Colombian, black, *palenquero*, *raizal* and Roma communities, persons due to their religious beliefs, political parties, social and trade-union movements, the LGBTI population and economic associations, *inter alia*. There have also been other, less visible but no less painful forms of victimisation, such as sexual violence, psychological damage or simply living in fear.

In recognition of this national tragedy, starting from the Exploratory Meeting of 2012, we agreed that compensating the victims had to be at the core of any agreement; and that the agenda for ending the conflict should include an item on the victims, as set forth in the General Agreement dated 26 August 2012.

For that same reason, before addressing this item of the Agenda we agreed on the abovementioned “Declaration of Principles”, which reflects this commitment to the victims and which has served as the compass for discussions in order to ensure that the comprehensive realisation of their rights to the truth, justice, reparations and non-recurrence remains at the core of the agreement.

At the same time, we broadened the mechanisms for participation. More than 3,000 victims took part in four forums held in Colombia, organised by the United Nations and the National University, and sixty victims travelled to Havana to deliver their testimonies directly to the Negotiation Table and offer their recommendations, with the support of the Episcopal Conference, the United Nations and the National University of Colombia. In addition, more than 17,000 proposals were submitted by the victims and other citizens, by various means, to the Negotiation Table. All the proposals that we received from the victims were fundamental for achieving the agreements.

Lastly, we want to thank the victims for their resolute participation, their noble testimonies and their proposals, without which it would not have been possible to construct this Agreement, and we encourage them to actively participate in its implementation and in peacebuilding.

We hope that with the implementation of this and all of the Agreements, the dignity of victims will be restored, justice will be done, and the foundations will be laid to bring an end, once and for all, to the violence of the conflict in the country, and to ensure that nobody in Colombia ever becomes a victim again.

### **5.1. Comprehensive System for Truth, Justice, Reparations and Non-Recurrence**

In compliance with our commitment to place the victims at the core of the Agreement, and in response to victims’ testimonies, proposals and expectations, which we heard directly from them, the National Government and the FARC–EP have agreed to establish the *Comprehensive System for Truth, Justice, Reparations and Non-Recurrence (Sistema Integral de Verdad, Justicia, Reparación y No Repetición)*, and for this very reason we have adopted the measures described above.

The underlying principles on which the Comprehensive System is founded are the recognition of the victims as citizens with rights; the acknowledgement that the full truth about what has happened must be uncovered; the acknowledgment of responsibility by all those who took part, directly or indirectly, in the conflict and were involved in one way or another in serious human rights violations and serious infringements of international humanitarian law; the realisation of victims’ rights to the truth, justice, reparations and non-recurrence, based on the premise of non-negotiation on impunity, additionally taking into account the basic principles of the Special Jurisdiction for Peace, one of which is that “damage caused shall be repaired and made good whenever possible”.

The end of the conflict must contribute to ensuring the end of violations and infringements, while also being an opportunity to guarantee the realisation of victims' rights. The definitive end of hostilities leads to a situation in which victims can express themselves without fear and receive the recognition they are entitled to; an opportunity for all of those who bear responsibility for human rights violations or infringements of international humanitarian law to acknowledge that responsibility accordingly; and consequently, an opportunity for more effective implementation of measures aimed at ensuring truth, justice, reparations and non-recurrence.

International experience shows that the effectiveness of such measures is greater if they are applied in a coordinated, complementary manner. To this end, the System is intended to be comprehensive, in order for the measures to achieve the maximum justice and accountability for the human rights violations and the IHL infringements that have occurred throughout the conflict. The comprehensive nature of the System also contributes to the elucidation of the truth about the conflict and to construction of the historical memory.

We understand that a broad, genuine response to the rights of victims – alongside the implementation of all the other agreements, which also guarantee rights – forms the basis for justice.

In order to fulfil this purpose and move forward in the fight against impunity, the Comprehensive System combines judicial mechanisms for the investigation and punishment of serious human rights violations and serious infringements of international humanitarian law, under the terms set forth by the Special Jurisdiction for Peace, with complementary extrajudicial mechanisms that may contribute to the elucidation of the truth about what happened, the search for missing loved ones, and the reparation of the damage caused to people, communities and entire territories.

Furthermore, judicial mechanisms will be created outside of the Special Jurisdiction for Peace, such as a unit for investigating and dismantling criminal organisations, including criminal organisations deemed to be the successors to paramilitaries, and their support networks, referred to in Item 3.4 of the Agenda of the General Agreement.

The Comprehensive System has an equity-based and gender-based approach, which adapts and responds to the particular characteristics of the victimisation in each territory and each population, and in particular to the needs of women and children.

The Comprehensive System places special emphasis on restorative and reparative measures, and seeks to achieve justice not only through retributive sanctions.

The System must also concurrently guarantee the legal certainty of all of those who have recourse to justice measures, as an essential element of the transition to peace.

The success of the Comprehensive System is also dependent on achieving the broadest acceptance across society.



Lastly, the comprehensive nature of the System contributes to laying the foundations for regaining trust, for coexistence in a peacebuilding scenario, and for a real reconciliation among all the Colombian people.

**a. Goals:**

In summary, the various measures and mechanisms of the Comprehensive System shall contribute to the achievement of the following goals:

- **Realisation of victims' rights**, through the combination of judicial and extrajudicial mechanisms.
- **Accountability**, through the establishment of responsibilities, everyone involved in the conflict, directly or indirectly, as combatants or non-combatants, shall assume their share of responsibility for the serious violations and infringements committed in the context of and due to the armed conflict.
- **Guarantees of non-recurrence**, through the application of all the measures of the System – as well others to be agreed on Item 3 of the Agenda – to prevent re-victimisation and recurrence, to encourage society's rejection of war and its effects, to secure the termination of the conflict, and to prevent the emergence of new forms of violence.
- **Territorial-based, equity-based and gender-based approach**, through the differentiated treatment of territories and populations, in particular of women and children victims, and of the most deprived and most vulnerable populations and communities, and therefore those most affected by the conflict.
- **Legal certainty**, through the fulfilment of the conditions of the Comprehensive System, and in particular the Special Jurisdiction for Peace, with the necessary due process guarantees.
- **Coexistence and reconciliation**, by building mutual trust starting from the positive changes instigated within society by the peace agreements, in particular through the recognition of the victims, the acknowledgement and the establishment of responsibilities and, in general, the acknowledgement by society as a whole of the need to take advantage of this opportunity to build a future based on social justice, respect and tolerance.
- **Legitimacy**, responding to the expectations of the victims, and society in general, and to the national and international obligations of the Colombian state, including compliance with the covenants set forth in the Final Agreement.

**b. Components:**

The Comprehensive System will comprise the following five mechanisms and measures:

- **Truth, Coexistence and Non-Recurrence Commission:** This will be a temporary, extrajudicial body seeking to uncover the Truth about what happened and contribute to the elucidation of violations and infringements, and to offer a broad explanation to society as a whole about the complexity of the conflict; to promote the recognition of the victims and of the responsibilities of those who directly and indirectly took part in the armed conflict; and to promote coexistence across the country's territories in order to guarantee non-recurrence.
- **Special Unit for the Search for Persons deemed as Missing in the context of and due to the conflict:** This will be a high-level special unit of a humanitarian and extrajudicial nature, whose goal is to direct, coordinate and contribute to the implementation of humanitarian actions for searching for and identifying all the people deemed as missing due to the conflict who are still alive, and in the cases of those deceased, whenever possible, for the location and dignified delivery of their remains. The Unit's activities may not substitute or prevent judicial investigations to be carried out in fulfilment of the state's obligations.
- **Special Jurisdiction for Peace:** A number of judicial panels for justice, including a Judicial Panel for Amnesty and Pardon and a Tribunal for Peace, to administer justice and investigate, clarify, prosecute and punish serious human rights violations and serious infringements of international humanitarian law. The Special Jurisdiction for Peace forms part of the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence and, since it deals exclusively and temporarily with conduct relating directly and indirectly to the armed conflict, does not mean substitution of ordinary jurisdiction.
- **Comprehensive reparation measures for peacebuilding:** These measures seek to ensure the comprehensive reparation of the victims, including the rights to restitution, indemnification, rehabilitation, realisation and non-recurrence; and the collective reparation of the territories, the populations and the communities most affected by the conflict and most vulnerable, alongside the implementation of the other agreements. For this purpose, the existing mechanisms will be strengthened, new measures will be adopted, with the promotion of everybody's commitment to the reparation of the damage caused.
- **Guarantees of Non-Recurrence:** The guarantees of non-recurrence are the result, on the one hand, of the coordinated implementation of all of the abovementioned measures and mechanisms, as well as, in general, all the chapters of the Final Agreement; and on the other

hand, of the implementation of non-recurrence measures agreed within the framework of Chapter 3 – “End of the Conflict”.

The various mechanisms and measures for truth, justice, reparations and non-recurrence, inasmuch as they are part of a system that seeks a comprehensive answer for the victims, cannot be interpreted in isolation. They will be interconnected through relationships of conditionality and incentives to gain access to and maintain any special justice treatment, always based on the acknowledgment of the truth and responsibilities. Compliance with these conditional provisions will be verified by the Special Jurisdiction for Peace.

No one mechanism of the System shall prevail over another. Each mechanism shall fulfil its main function in the most expeditious manner possible, and without duplicating the functions of other mechanisms; for this purpose, the necessary collaboration protocols will be established.

#### **5.1.1. Truth: Truth, Coexistence and Non-Recurrence Commission and Special Unit for the Search for Persons deemed as Missing in the context of and due to the conflict**

##### **5.1.1.1. Truth, Coexistence and Non-Recurrence Commission (*Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición*)**

The end of the conflict is a unique opportunity to satisfy one of the greatest desires of Colombian society and of the victims in particular: to uncover and learn the truth about what happened during the conflict. Colombia needs to know what happened and what must never happen again so as to be able to forge a future in which the well-being and dignified quality of life of everyone is guaranteed, thus helping to break, once and for all, the cycles of violence that have scarred Colombian history.

By starting over again we can contribute to the construction and preservation of historical memory and gain a broad understanding of the multiple facets of the truth about the conflict, including the historical dimension, so as not only to realise the right to the truth but also to contribute to laying the foundations for coexistence, reconciliation and non-recurrence.

With this aim in mind, we, the National Government and the FARC-EP, have reached an agreement to set in motion, once the Final Agreement has been signed, the Truth, Coexistence and Non-Recurrence Commission (hereinafter the Commission), which will be an independent, impartial mechanism of an extrajudicial nature.

The Commission will form part of the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence which has been agreed to realise victims’ rights, put an end to the conflict and achieve peace. Therefore, the Commission can only be considered as one part of the Comprehensive System which includes judicial and extrajudicial mechanisms to guarantee victims’ right to the truth, justice and reparations, as well as to help ensure that the Colombian people never have to experience such a conflict again. This Commission will respond to the

ethical, political and historical need to contribute, along with other initiatives, to creating the conditions, commitments and guarantees of non-recurrence.

The Commission shall fulfil three fundamental purposes, which together contribute to guarantees of non-recurrence.

First, the Commission shall help uncover the truth about what has happened, in accordance with the aspects of the mandate described below, and offer an extensive explanation of the complexity of the conflict, so as to promote a shared understanding among society, in particular as regards the least known aspects of the conflict, such as the impact of the conflict on children and adolescents and gender-based violence, *inter alia*.

Second, the Commission shall promote and contribute to recognition. This means the recognition of victims as citizens whose rights were infringed and as political subjects who are vital for the transformation of the country; the voluntary acknowledgment of individual and collective responsibilities by all those who directly or indirectly took part in the conflict, as a contribution towards truth, justice, reparations and non-recurrence; and, in general, the recognition by society as a whole of this legacy of violations and infringements as something that must be rejected by all and that can never and must never be repeated.

And third, the Commission shall promote coexistence across the country's territories, on the understanding that coexistence does not mean simply sharing the same social and political space but the creation of an opportunity for change to facilitate peaceful resolution of conflicts and the establishment of the deepest culture of respect and tolerance in democracy. To this end, it will foster an environment of dialogue and will establish forums for restoring the dignity of the victims, for individual and collective acknowledgment of responsibility, and, in general, for strengthening people's respect for and trust in each other, cooperation and solidarity, social justice, equality of opportunity between men and women, and a culture of democracy that fosters tolerance, promotes well-being, and rids us of indifference to the problems of others. The Commission must lay the foundations for peace based on truth and the revelation and recognition of a blood-stained past that must be acknowledged before it can be put behind us.

Throughout its work the Commission will take an appropriate approach to learn about the different ways in which the conflict affected women, children, adolescents, youths and the elderly, persons with disabilities, indigenous peoples, rural communities, persons on the basis of their religion, their opinions or their beliefs, the Afro-Colombian, black, *palenquero* and *raizal* communities, the Roma community, the LGBTI community, displaced and exiled persons, human rights advocates, trade unionists, journalists, farmers, ranchers, traders and businessmen and -women, *inter alia*. This should also help to raise awareness in Colombian society of the specific ways in which the conflict reproduced historical mechanisms of discrimination, as a fundamental first step towards a more just and inclusive society.

All of this should help to create structural conditions for coexistence among Colombians and lay the foundations for non-recurrence, reconciliation and building a stable and long-lasting peace.

For these reasons it is necessary to understand the construction of truth also as an essential part of peacebuilding.

Lastly, the success of the Commission will depend on the recognition of responsibilities by those who directly or indirectly took part in the conflict and on the commitment of all sectors of society to the process of construction of truth as an expression, *inter alia*, of their rejection of indolence.

Therefore, the National Government and the FARC-EP, as part of their moral and political commitment to contributing to the realisation of victims' rights, undertake to make a real contribution to the process of clarifying the truth and to acknowledge their respective responsibilities to the Commission, inviting all sectors of society to participate in this effort.

#### **5.1.1.1.1. Guiding criteria:**

- **Focus on victims:** The Commission's efforts shall be focused on guaranteeing the participation of the victims of the conflict, ensuring the restoration of their dignity and contributing to the realisation of their right to the truth in particular, and in general of their rights to justice, comprehensive reparations and guarantees of non-recurrence, always taking pluralism and equity into consideration. All of the foregoing should also help change their living conditions for the better.
- **Impartiality and independence:** The Commission shall be an impartial and independent mechanism with full autonomy to carry out its mandate and fulfil its functions.
- **Temporary nature:** The Commission shall be a special body that will operate for a limited period of time in order to enable its conclusions and recommendations to effectively contribute towards building a stable and long-lasting peace.
- **Participation:** The Commission will set in motion a broad, pluralist and balanced participatory process where different voices and views will be heard; in the first place, those of the victims of the conflict, who are considered as victims due to their relationship with any kind of circumstance of the conflict, both individual and collective, and also those of persons who directly and indirectly took part in the conflict, as well other relevant stakeholders.
- **Territorial-based approach:** The Commission shall be a national body but shall take a territorial-based approach in order to achieve a better understanding of the regional dynamics of the conflict and the diversity and particularities of the territories affected, aimed at promoting the truth-building process and contributing to the guarantees of non-recurrence in the various territories. The territorial-based approach will also take into

consideration the people and populations that were forcefully displaced from their territories.

- **Equity-based and gender-based approach:** In carrying out its mandate and functions, the Commission will take into account the different experiences, different impacts and individual conditions of people, populations and sectors being discriminated against or that are vulnerable or particularly affected by the conflict, *inter alia*. Special attention will be afforded to victimisation suffered by women.
- **Coordination with other peacebuilding measures:** The Commission will work in coordination with the mechanisms adopted for the implementation of the Final Agreement. In particular, where pertinent, it will work in coordination with the peacebuilding plans and programmes set in motion across the country's territories as a result of the implementation of the Final Agreement.
- **Guarantees for the commissioners:** With regard to their work for the Commission, commissioners will not be compelled to make statements in judicial processes, they will be exempt from the duty to report offences, and their opinions and conclusions may not be judicially challenged.
- **Safety conditions:** The Commission will assess the safety conditions necessary for the performance of its work and will coordinate, with state authorities, the adoption of the safety measures necessary both for commissioners and for those who take part in the Commission's work.
- **Coexistence and reconciliation:** In order to contribute to the goal of non-recurrence and reconciliation, the Commission's work in the performance of its mandate will have the aim of promoting coexistence among the Colombian people, particularly in the territories most affected by the conflict and violence. For that purpose, the Commission will seek to ensure that the forums or hearings it holds help to strengthen respect and tolerance and citizens' trust in one another and in the regulations that ensure the enforcement of and the respect for human rights. In this manner, the Commission will also help to lay solid foundations for peacebuilding.
- **Procedural rules:** The Commission will first establish procedures aimed at ensuring the proper guarantees and fair, honourable and non-discriminatory treatment for those who take part in it.

- **Methodology:** The Commission will take all necessary measures to ensure the utmost possible objectivity and impartiality in carrying out its work, for which purpose it will adopt procedures to compare and verify the quality of the information it collects, including the reliability thereof, and to identify false information that may be provided to the Commission in bad faith. The Commission will publicly disclose its methodology.
- **Extrajudicial mechanism:** The Commission will be an extrajudicial mechanism. In this regard, its work will not be of a judicial nature and may not lead to criminal charges against those who appear before it. The information received or produced by the Commission may not be handed over by it to the judicial authorities for the purposes of attributing liability in judicial processes and it shall be of no probative value; likewise, the judicial authorities may not demand that it do so.

The Commission may request the information required for the fulfilment of its mandate before magistrates, judges and investigative bodies, in accordance with the protocols established for that purpose, always with respect for the guarantees of due process.

Documents received by the Commission which may constitute documentary evidence and are not verbal or written versions or testimonies that a person gives to the Commission, shall not lose their probative value and the use thereof by the Commission shall not interfere with the judicial proceedings underway.

#### **5.1.1.1.2. Mandate:**

The Commission's mandate will be to elucidate and promote the recognition of:

- Practices and deeds constituting serious human rights violations and serious infringements of international humanitarian law (IHL), in particular those reflecting patterns or on a mass scale, which took place in the course of the conflict, as well as the complexity of the territorial contexts and dynamics where these happened.
- The collective responsibilities – of the state, including those of the Government and the other public authorities, of the FARC-EP, of the paramilitaries, as well as those of any other group, organisation or institution, domestic or international, that took part in the conflict in any way – for the practices and deeds referred to in the preceding paragraph.
- The human and social impact of the conflict on society, including its impact on economic, social, cultural and environmental rights, and the different ways in which the conflict affected women, children, adolescents, youths and the elderly, persons on the basis of their religion, opinions or beliefs, persons with disabilities, indigenous peoples, rural communities, the Afro-

Colombian, black, *palenquero* and *raizal* communities, the Roma community, the LGBTI community, displaced and exiled persons, human rights advocates, trade unionists, journalists, farmers, ranchers, traders and businessmen and -women, *inter alia*.

- The impact of the conflict on the exercise of politics and the operation of democracy as a whole, including the impact on political and social parties and movements, particularly those in opposition.
- The impact of the conflict on those who directly took part in it as combatants, and on their families and surroundings.
- The historical context, the origins and multiple causes of the conflict, taking into account as input, *inter alia*, the reports of the Historical Commission of the Conflict and its Victims.
- The factors and conditions that facilitated or contributed to the longevity of the conflict, taking into account as input, *inter alia*, the reports of the Historical Commission of the Conflict and its Victims.
- The development of the conflict, particularly the acts of the state, guerrillas, paramilitary groups, and the involvement of different sectors of society.
- The phenomenon of paramilitarism, including its causes, origins and forms of expression; the organisation thereof and the various forms of cooperation with paramilitaries, including funding; and the impact of paramilitary acts on the conflict.
- Displacement and dispossession of land during the conflict and the consequences thereof.
- The relationship between conflict and crops used for illicit purposes, the production and selling of illicit drugs and money laundering associated with drug trafficking.
- Processes for strengthening the social fabric in communities and individual or collective experiences of resilience.
- Positive changes in organisations and institutions over the course of the conflict.

#### **5.1.1.1.3. Time period studied by the Commission:**

In order to address the various aspects of its mandate, the time period studied by the Commission will be the duration of the conflict. Since this is a lengthy period of time, it will be necessary for the Commission to establish investigative priorities within this period. However, in order to fulfil



the purpose of fully elucidating the origins and multiple causes of the conflict, the Commission may explore historical events prior thereto, taking into account as basic input, *inter alia*, the reports of the Historical Commission of the Conflict and its Victims.

#### **5.1.1.1.4. Duties:**

In order to fulfil its mandate, the Commission shall have the following main duties:

- Investigate all aspects of the mandate using the methodologies and forms of information-gathering and -analysis necessary for that purpose, including those generally accepted by the social sciences, and taking into account previous efforts to establish the truth, including as basic input, *inter alia*, the reports of the Historical Commission of the Conflict and its Victims.
- Hold public forums at national, regional and territorial level, particularly thematic, territorial-based and institutional hearings, hearings relating to organisations and landmark situations and cases, *inter alia*, in order to listen to the different voices, primarily those of the victims, both individual and collective, and to promote the participation of the various sectors of society in contributing to a joint discussion of the events and the causes and effects of the serious violence experienced by Colombia.
- These forums may include venues for public discussion and reflection or cultural ceremonies, enabling those who directly or indirectly took part in the conflict to engage in acts of acknowledgement of responsibility and ask for forgiveness, in its various dimensions, both for the damage and suffering caused to the people, and for the political and social impact of their actions; and consequently, to offer explanations for the acts carried out, contribute to reparations, and commit to guarantees of non-recurrence and peacebuilding, *inter alia*. This shall help uncover the truth and promote peaceful coexistence across the country's territories.
- Prepare a final report that takes account of the different contexts, reflects on the investigations carried out into all the aspects of the mandate, and contains the conclusions and recommendations resulting from its work. The Commission's report shall be officially submitted by public act to the public authorities and to Colombian society as a whole.
- Offer guidance to the victims and victimised communities who take part in the Commission regarding the help available to them from institutions, etc. for the realisation of their rights and the mechanisms to achieve this.

- Relationships between the Commission and the victims and their organisations: Devise and set in motion a strategy for active liaison with the victims and their organisations.
- Implement a strategy for dissemination, information and active liaison with the media to report, during its work, progress and developments in the fulfilment of all the Commission's duties, and to ensure the maximum possible participation. The Government will adopt all necessary measures for the Commission to have broad access to public media. The final report, in particular, shall be published in the most wide-ranging and most accessible manner, including through cultural and educational initiatives, such as the promotion of exhibitions, with recommendation of its inclusion in the academic curriculum. In any case, the Commission's conclusions shall be taken on board by the National Memory Museum.
- Adopt measures to archive the information collected in the course of its work and, on termination of its mandate, take the necessary measures to ensure its preservation. The Commission shall decide who shall take possession and act as custodian of these archives. The Commission shall set out guidelines for the latter to adopt the relevant mechanisms to allow victims and society in general to access the archives of information collected.
- Ensure that the gender-based approach runs through each and every aspect of the Commission, by creating a gender-based task force in charge of specific technical tasks, investigation and holding of hearings, *inter alia*. This task force will not be the only one addressing this topic, but it shall bear the responsibility for reviewing methodologies in order to ensure that all the Commission's instruments include this approach, and for liaising with women's and LGBTI organisations. This shall be achieved without prejudice to the necessary autonomy of the Commission in determining its structure and working methodology.
- Publish regular reports, at least biannually, on the activities and operations carried out in the fulfilment of all its duties.
- Establish its own work rules and programme.

#### **5.1.1.1.5. Selection process:**

The Commission will have 11 commissioners. Their selection will be based on a nomination and selection procedure ensuring guarantees of legitimacy, impartiality and independence for Colombian society as a whole, and victims in particular. The candidate nomination process will be wide-ranging and pluralistic, ensuring that all sectors of society, including victims' organisations, *inter alia*, may nominate candidates.

The “Mechanism for the selection of the magistrates of the Special Jurisdiction for Peace” agreed by the parties on 12 August 2016 for selecting the magistrates, prosecutors and other members of the Special Jurisdiction for Peace, shall be tasked with selecting and appointing the 11 commissioners of the Truth, Coexistence and Non-Recurrence Commission, including the Chair.

All members of the selection committee shall inspire trust among the people.

The selection will be based solely on nominations and the election will take into account individual selection criteria such as ethical suitability, impartiality, independence, commitment to human rights and justice, absence of conflicts of interest, and knowledge about the armed conflict, international humanitarian law and human rights, and a recognised background in any of these fields. The selection of the commissioners shall also take collective criteria into account, such as equal participation between men and women, pluralism, interdisciplinary nature and regional representation.

The selection committee may select foreign commissioners, but in no case more than 3.

The selection committee shall have up to 3 months for the selection of the commissioners, starting as of the closing of the nomination phase.

The selection of the commissioners must be adopted by a majority of 2/3 of the members of the selection committee.

#### **5.1.1.1.6. Chair of the Commission:**

The Chair of the Commission shall be Colombian, and shall be elected by mutual agreement between the National Government and the FARC-EP by means of an agreed mechanism. The Chair of the Commission shall be its primary public spokesperson, who will coordinate the work of the commissioners, facilitate its proper internal operation, and direct its tasks, preferably seeking consensus in the internal decision-making process. The role of the Chair of the Commission is important because he/she will be both a national and international figurehead.

#### **5.1.1.1.7. Term:**

The Commission shall have a 3-year term, including the preparation of the final report. The Commission shall have 6 months to prepare everything necessary for its operation. The final report will be published within one month following the conclusion of the Commission’s work.

#### **5.1.1.1.8. Commitment to contribute towards historical clarification**

The National Government, as executive power, and the FARC-EP, undertake to make a genuine contribution to the process of clarifying the truth and to acknowledge their respective responsibilities before the Commission.

The Government will adopt all necessary measures to guarantee the contribution of other state entities and will foster third party participation in the Commission, so as to contribute towards elucidation and the acknowledgement of responsibilities, as part of the necessary guarantees of non-recurrence.

Pursuant to the applicable laws, the Government undertakes to facilitate consultation of the information required by the Commission for the fulfilment of its duties, and the Commission, in turn, will afford such information the corresponding legal treatment.

#### **5.1.1.1.9. Financing:**

The National Government undertakes to guarantee the timely financing of all of the Commission's operations such that it is able to fully accomplish its mandate and tasks in an autonomous and uninterrupted manner, including the publication and widespread dissemination of the Final Report. The Commission will need to take the necessary measures to ensure the transparent use of its resources, guaranteeing austerity in its expenditure. Citizen oversight of resource implementation will be encouraged, with the necessary guarantees being provided for this.

#### **5.1.1.1.10. Committee to Monitor and Follow up the Implementation of the Commission's Recommendations:**

Following the publication of the Final Report, a committee will be created to monitor and follow up on the implementation of the Commission's recommendations. In order to fulfil its mission, discussions will be encouraged with different victims' and human rights bodies and organisations, among others. This committee will comprise representatives of different sectors of society, including victims' and human rights organisations. The Commission will establish the period of time for which the committee will operate. The committee will submit regular recommendation-monitoring reports. These reports will need to take a territorial-, equity- and gender-based approach. The committee will take the necessary steps to disseminate its reports widely via the national and regional media. The National Government will guarantee financing of the committee such that it is able to fulfil its tasks.

#### **5.1.1.2. Special Unit for the Search for Persons deemed as Missing in the context of and due to the armed conflict (*Unidad para la Búsqueda de Personas dadas por Desaparecidas en el contexto y en razón del conflicto*)**

The National Government and the FARC-EP agree that with the aim of determining the fate of people deemed as missing as a result of acts of state agents, members of the FARC-EP or any other organisation involved in the conflict, and thus contributing to realising the victims' rights to truth and reparations, the National Government will establish, in the context of the end of the conflict and following the signing of the Final Agreement, a transitory and high-level special unit, with the strong participation of the victims, to search for persons deemed as missing in the context of and due to the armed conflict (hereinafter the SUSPM). This Unit will be humanitarian

by nature and will form part of the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence. It will enjoy the necessary independence and financial and administrative autonomy to ensure continuity of its work over time.

The SUSPM will direct, coordinate and contribute to the implementation of humanitarian actions in the context of the CS, aimed at searching for and finding persons deemed as missing in the context of and due to the armed conflict and who may still be alive or, in the case of those who are deceased, wherever possible identifying them and providing for the dignified return of their remains.

The SUSPM will, in all cases, provide relatives with an official report containing the information that was obtained on the fate of the person or persons deemed as missing.

The SUSPM and the processes and procedures it implements will be of a humanitarian and extrajudicial nature. Victims' and human rights organisations will be involved in its design, implementation and operations, and it will enjoy the support of specialist institutions aimed at incorporating international best practice and the experiences of the National Search Commission for the Disappeared (*Comisión de búsqueda de personas desaparecidas*).

The SUSPM will have the following functions:

- To gather all information necessary to establish the universe of people deemed as missing in the context of and due to the armed conflict.
- To strengthen and speed up the processes for identifying remains, in coordination with the National Institute of Legal Medicine and Forensic Science (*Instituto Nacional de Medicina Legal y Ciencias Forenses*).
- To coordinate and conduct processes to search for, identify, locate and provide for the dignified return of remains, for which it will need to:
  - o Actively search for, compare and analyse all information available from different sources, including confidential and voluntary interviews with those who, having participated directly or indirectly in the hostilities, may have information on the fate of people deemed as missing due to the conflict, as well as information on the location of graves, cemeteries and sites where the remains of people deemed as missing may be found.
  - o Design and put in place a national plan to establish priorities for the implementation of its work, along with the corresponding regional plans, for which it will be provided with the necessary staff and equipment and will coordinate and work with the relevant bodies. The involvement of victims' and human rights organisations will be guaranteed in the design and launch of the plans.

- The SUSPM will have the necessary powers and capacity to fulfil these functions, in coordination with the state institutions, the Truth, Coexistence and Non-Recurrence Commission, and with the active involvement of victims' and human rights organisations.
- The SUSPM will have access to official databases and will be able to sign agreements with victims' and human rights organisations in order to obtain access to the information they hold. In accordance with the laws current at the time the Agreement is implemented, the National Government undertakes to facilitate the SUSPM's consultation of the information it requires to fulfil its functions, and the SUSPM, for its part, will afford this information the corresponding legal treatment.
- To promote interinstitutional coordination for the guidance and psychosocial care of the relatives of those deemed as missing in the context of and due to the armed conflict.
- To promote alliances with specialist national and international organisations in order to facilitate the fulfilment of its functions.
- Whenever possible, to provide for the dignified return to their relatives of the remains of people deemed as missing in the context of and due to the armed conflict, always ensuring this is in accordance with their different ethnic and cultural traditions.
- To guarantee the participation of the relatives of people deemed as missing in the context of and due to the armed conflict in processes to search for, identify, locate and provide for the dignified return of remains.
- To provide families with an official report containing the information that has been obtained on the fate of the person deemed as missing, on completion of the corresponding search plan. Remains that are unidentified or unclaimed by their relatives will be preserved and will be made available to the competent authorities in order to realise the victims' rights.
- To submit a copy of the report described in the above paragraph to the Truth, Coexistence and Non-Recurrence Commission.
- To regularly and publicly report, at least every six months, on the implementation of activities for the search, identification, location and dignified return of remains, always respecting the victims' right to privacy.

- To plan, coordinate and direct the implementation, together with the corresponding bodies and with the participation of the victims' and human rights organisations, of a national plan and regional plans for tracking, searching and identification.
- To produce and implement a national registry of graves, illegal cemeteries and burial grounds.
- In order to fulfil its functions, the SUSPM will adopt procedures to compare and verify the quality of the information gathered, including its reliability, and to identify false information.

The SUSPM's humanitarian work of searching for, locating, identifying and providing for the dignified return of remains will be implemented within the context of the CS, as a complement to its work and without taking on the tasks of its other components. The SUSPM's activities will, in particular, neither replace nor hinder investigations of a judicial nature that may take place in fulfilment of the state's obligations.

The SUSPM's search for remains will not prevent the Special Jurisdiction for Peace (*Jurisdicción Especial para la Paz*) or other competent bodies from undertaking the investigations they consider necessary in order to clarify the circumstances and responsibilities with regards to the victimisation in the case taken up by the SUSPM.

In all cases, both the technical forensic reports and the material elements associated with the body that may be found at the place of the exhumations may be required by the Special Jurisdiction for Peace and other competent bodies. In order to ensure the effectiveness of the SUSPM's humanitarian work and realise the victims' maximum possible rights to truth and reparations and, above all, to alleviate their suffering, information received or produced by the SUSPM may not be used for the purposes of attributing responsibilities in judicial processes or for its evidentiary value, with the exception of technical forensic reports and material elements associated with the body.

Information provided to the SUSPM may be taken into consideration in order to receive special treatment with regard to justice.

The SUSPM's officials will not be obliged to testify in court cases and will be exempt from the duty to report on the work being undertaken by the Unit. If required to do so by the Special Jurisdiction for Peace, other competent authorities or the Truth, Coexistence and Non-Recurrence Commission, those producing the technical reports will need to ratify and explain with regard to these reports and the material elements associated with the body.

During the Truth, Coexistence and Non-Recurrence Commission's period of operations, the SUSPM will be attentive to the Commission's requirements and guidance. The SUSPM and the Commission will establish a protocol for cooperation and exchange of information that will contribute to achieving the objectives of both bodies. It will coordinate its actions with the Truth,

Coexistence and Non-Recurrence Commission, which it will inform of its actions and outcomes, and which it will provide with any information it requires.

In the context of the end of the conflict, the National Government and the FARC-EP undertake to provide the SUSPM with all information at their disposal in order to establish the fate of persons deemed as missing in the context of and due to the conflict.

In order to design and launch this Special Unit, the recommendations of the National Search Commission for the Disappeared will be taken into consideration, as a result of the work done to develop the agreement on “Measures that contribute to the search, location, identification and dignified return of those deemed as missing in the context of and due to the conflict”.

- **Formation:**

The SUSPM will form part of, and will implement its tasks within the context of, the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence.

The SUSPM will have a director who will need to be Colombian and who will be chosen by the “Mechanism for selecting Justices of the Special Jurisdiction for Peace” agreed by the parties on 12 August 2016 for the selection of justices, prosecutors and other members of the Special Jurisdiction for Peace, on the basis of criteria of suitability and excellence drawn up bearing in mind the suggestions of the International Committee of the Red Cross and the International Commission on Missing Persons.

In terms of how the SUSPM is structured, the director will receive recommendations and suggestions from the National Search Commission for the Disappeared, victims’ organisations, the International Committee of the Red Cross and the International Commission on Missing Persons.

In carrying out immediate measures to build confidence in the search, location, identification and dignified handing over of remains of persons deemed as missing in the context of and due to the armed conflict and therefore, as part of the operations of the Unit for the Search for Persons deemed as Missing, we have agreed to start up a special process of contribution and collection of strictly humanitarian information between the National Government, the FARC-EP, the victims' organisations, including the Committee on Enforced Disappearances of the Colombia - Europe - United States Coordination, FEVCOL, PAIS LIBRE, ASFADDES, ECIAF, the Visible Victims Foundation, MOVICE, the Nydia Erika Bautista Foundation and with permanent coordination by the ICRC in order to continue and speed up the search and collection of information on persons deemed as missing in the context of and due to the conflict on whom no information is held as to their whereabouts. For these purposes, immediate measures will be adopted to allow the National Institute of Legal Medicine to contribute to the development of the procedures. The National Government and the FARC-EP repeat their commitment to continuing to provide the



ICRC with information that they hold and to facilitate the implementation of these humanitarian measures.

### **5.1.2. Justice:**

With regard to justice, it has been agreed to establish a Special Jurisdiction for Peace (*Jurisdicción Especial para la Paz*).

## **SPECIAL JURISDICTION FOR PEACE**

### **I. BASIC PRINCIPLES OF THE JUDICIAL COMPONENT OF THE COMPREHENSIVE SYSTEM FOR TRUTH, JUSTICE, REPARATIONS AND NON-RECURRENCE (CS)**

1.- "States have a legal obligation to address the rights of the victims and, with the same intensity, the obligation to prevent further acts of violence and to achieve peace in an armed conflict by the means at its disposal. Peace as a product of a negotiation is offered as a morally and politically superior alternative to peace as a result of the annihilation of the opponent. Therefore, international human rights law should consider that peace is a right and that the state must achieve it."<sup>7</sup>.

2.- The judicial component of the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence (hereinafter referred to as the CS) is named the Special Jurisdiction for Peace. The objectives of the judicial component of the Comprehensive System are to realise the victims' right to justice, offer truth to the Colombian society, protect victims' rights, contribute to achieving a stable and lasting peace, and take decisions that offer full legal certainty to those who participated directly or indirectly in the internal armed conflict with regard to acts committed in the context of and during said conflict and which represent serious breaches of international humanitarian law and serious violations of human rights.

3.- A guiding paradigm of the judicial component of the CS is the idea that the political community is not simply a union of contemporary peers but also a link between generations over time. Justice is forward-looking insofar as it considers that one period in time inevitably influences subsequent ones. This is a forward-looking justice that is respectful of the values of the present and, at the same time, concerned to put an end to conflicts that must not be perpetuated, with the aim of defending the rights of future generations.

4.- The state has the autonomy to establish special jurisdictions or legal systems, deriving from the provisions of the UN Charter on the sovereignty and self-determination of nations, and from principles of international law, including international humanitarian law, international law on human rights and international criminal law.

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<sup>7</sup> Concurring Opinion, Inter-American Court of Human Rights, Case of the Massacres of El Mozote and nearby places v. El Salvador (Judgment of 25 October 2012)

5.- In exercising this autonomy, accepted and recognised by international human rights law, the state is able to assess and evaluate the complexity, duration and severity of the internal armed conflict with the aim of designing and adopting justice mechanisms to achieve peace, respecting the parameters established by international law, in particular the guarantee of human rights.

6.- Redressing victims' rights is at the center of the *General Agreement to End the Armed Conflict and Build a Stable and Lasting Peace* signed in Havana on 26 August 2012. The rights of the victims and the severity of suffering inflicted by serious breaches of international humanitarian law and serious violations of human rights occurring during the conflict will be taken into account as central themes of all acts undertaken by the judicial component of the CS. Such violations cause serious and long-term harm to the victims' life projects. Harm caused will need to be repaired and restored wherever possible.

Therefore, one of the guiding paradigms of the Justice component of the CS will be the application of restorative justice that preferably seeks the restoration of the damage caused and reparations for the victims affected by the conflict, particularly to end the situation of social exclusion generated by their victimisation. Restorative justice is primarily concerned with the needs and the dignity of the victims and is applied using a holistic approach that guarantees justice, truth and guarantees of non-recurrence of what has occurred.

7.- In addition, the consequences of such violations are most serious when they are committed against women or when victims belong to the most vulnerable groups, subjects of special protection, who deserve reparations and special protection, including indigenous peoples, Afro-Colombian communities and other ethnically distinct groups, religious communities, rural communities, the poorest, the disabled, the displaced and refugees, children, and adolescents, the LGBTI population and the elderly.

8.- The judicial component will function in a way that emphasises the needs of women and child victims, who suffer the disproportionate and differentiated effects of serious breaches and violations committed because of and during the conflict. Reparations must be in line with the United Nations' call for all peace agreements to adopt a gender focus, recognising reparative and restorative measures, the special suffering of women, and the importance of their active and fair participation in the judicial component of the CS.

9.- The Special Jurisdiction for Peace (SJP) is a special jurisdiction that exercises autonomous and preferential judicial functions over issues within its jurisdiction, particularly with regard to acts considered serious breaches of international humanitarian law or serious violations of human rights. It will enter into force in the terms established in the Final Agreement. It will apply only to acts committed prior to its entry into force.

In the event of any conflict of jurisdiction between any jurisdiction and the Special Jurisdiction for Peace, it will be resolved by an Incidental Judicial Panel composed of 3 judges of the Supreme Council of the Judiciary, elected by that Council, and 3 judges of the Chambers or Sections of the

Special Jurisdiction for Peace not affected by the said conflict of jurisdiction, elected by the plenary of the Special Jurisdiction for Peace. Decisions in the Incidental Judicial Panel will be adopted by a simple majority and, if no majority is achieved, in view of the preferential nature of the Special Jurisdiction for Peace, it will be resolved by the President of that Jurisdiction.

Crimes committed because of, at the time of or directly or indirectly relating to the armed conflict consist of punishable conduct where the existence of the armed conflict was the reason why they were committed or has played a substantial role in the ability of the perpetrator to commit the punishable act, in his or her decision to commit it, in the way in which it was committed or in the purpose for which it was committed.

The deadline for the conclusion of the functions of the Special Jurisdiction for Peace consisting of the presentation of accusations by the Investigation and Prosecution Unit, officially or as a result of the reports dealing with sub-paragraphs b) and (c) of Item 48, will be 10 years from the effective entry into operation of all Judicial Panels and Chambers of the Special Jurisdiction for Peace, with a subsequent period of a further 5 years in which to complete its judicial activity. This latter term may be extended to complete its activities if necessary. The Stability and Efficacy Chamber provided for in the last paragraph of Item 52 may be constituted whenever necessary without any limitation whatsoever in terms of time.

With regard to members of organisations that sign peace agreements with the Government, the special treatment of justice will also apply with regard to conduct that is closely related to the process of laying down arms taking place from the entry into force of the Final Agreement up to the completion of the process of laying down arms.

10.- On termination of the hostilities, the amnesty for rebels will be conditional solely upon the end of the rebellion of their respective armed organisations and fulfilment of the provisions of the Final Agreement, without prejudice to the provisions of Items 23 and 27. The end to the rebellion, for the purposes of obtaining an amnesty or pardon, will be set out in the Final Agreement.

11.- In other cases not eligible for an amnesty or pardon, in order to establish the indictment or to receive and implement the sanctions established in the CS, it will be necessary to fulfil the conditions on truth, reparations and non-recurrence established therein, once all components of the CS have been put into operation.

12.- The responsibility of those at whom the CS is aimed does not relieve the state of its duty to respect and ensure full enjoyment of human rights or its obligations, in accordance with international humanitarian law and international human rights law.

13.- In order to access the special treatment set out in the judicial component of the CS, it will be necessary to provide the full truth, reparations for the victims and guarantees of non-recurrence. Providing the full truth means, where it is available, giving an exhaustive and detailed account of acts and the circumstances in which they were committed, as well as necessary and sufficient

information to be able to attribute responsibilities, and thus ensure that the victims' rights to reparations and guarantees of non-recurrence are realised. The duty to provide the truth does not imply the obligation to accept responsibility. Special treatment is understood as meaning the special and alternative sanctions set out in Item 60.

14.- In accordance with the rules applicable to the Special Jurisdiction for Peace, all acts within the judicial component will respect fundamental rights of due process, defence, legal assistance, presumption of innocence, and the independence and impartiality of the Justices sitting on the judicial panels and in the chambers, as well as the members of the Investigation and Prosecution Unit. The Special Jurisdiction for Peace will apply the principle of applying the most favourable law in all its actions, particularly with regard to the treatment to be received by any person subject to this jurisdiction. All judicial decisions on the responsibilities and sanctioning of people will be duly substantiated and based on reliable evidence that is admissible in court. When a witness testifies against any person for conduct that falls within the jurisdiction of the Special Jurisdiction for Peace in exchange for procedural or punitive benefits of any kind, the evidential value of his or her testimony will be conditional on the contents of that testimony being corroborated by other evidence. The judgments and rulings of the judicial panels and chambers may be subject to administrative or general appeal at the request of their recipients.

15.- The functioning of the judicial component of the CS is indivisible and will be applied simultaneously and comprehensively to all those who participated directly or indirectly in the armed conflict; its decisions will offer guarantees of legal certainty to all of the above. Its scope of application is set out in Items 9 and 32.

Should laws or rules be approved following the signing of the agreement on the Special Jurisdiction for Peace that grant differentiated treatment to state agents or others for acts directly or indirectly related to the armed conflict, whether they be combatants or non-combatants, that will result in the above being removed from the jurisdiction of the Special Jurisdiction for Peace, or in the non-application of this jurisdiction or the non-application of the conditions referring to sanctions as set out in this text regarding these people, the Special Tribunal for Peace will exercise its preferential jurisdiction in the areas within its jurisdiction in line with the provisions of this document.

16.- The state will guarantee the administrative autonomy and competence and budgetary autonomy of the CS and particularly the judicial component. An Executive Secretariat will be established to be responsible for the administration, management and use of the resources of the Special Jurisdiction for Peace, under the guidance of its Presidency. The Secretariat will begin functioning sufficiently in advance to ensure that the infrastructure of the Special Jurisdiction for Peace is available from its commencement. The state will establish economic and financial mechanisms for the timely and effective use of resources, which may come from different national and international sources. The Executive Secretariat will be appointed by a mechanism as determined by the parties to the peace talks, calling upon individuals with wide experience of administration and of high moral standing.

## **II. CONTENT, SCOPE AND LIMITS OF THE AMNESTIES AND PARDONS TO BE GRANTED, ALONG WITH OTHER SPECIAL TREATMENT**

17.- The Comprehensive System for Truth, Justice, Reparations and Non-Recurrence will have the overriding aims of consolidating peace and realising the rights of victims.

18.- The final outcome of the application of the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence must be to guarantee legal certainty in order to promote a stable and lasting peace.

19.- For the purposes of the CS, the reference legal frameworks are primarily international human rights law (IHRL) and international humanitarian law (IHL). When adopting their judgments or rulings, the chambers of the Tribunal for Peace, the panels and the Investigation and Prosecution Unit will present their own indictment. This assessment will be based on the Colombian Penal Code and/or the rules of International Law in the field of Human Rights (IHRL), International Humanitarian Law (IHL) or International Criminal Law (ICL), always applying the principle of applying the most favourable law.

The resulting assessment may differ from the previous assessment carried out by the judicial, disciplinary or administrative authorities to assess such acts since International Law is considered to be applicable as a reference legal framework.

20.- Victims shall enjoy rights to the truth, justice, reparations and guarantees of non-recurrence. In order to guarantee these rights, they will participate in the CS in accordance with the implementing regulations of the judicial component and, among other things, must be consulted regarding the conditions for prioritising and selecting cases. The regulations will need to respect the victims' right to prompt, full and efficient justice.

21.- The Colombian state also has a duty to ensure, by any reasonable means within its power, truth, justice, reparations and guarantees of non-recurrence with respect to serious breaches of IHL or serious human rights violations.

22.- With regard to justice, in accordance with IHRL, the Colombian state has a duty to investigate, clarify, prosecute and sanction serious violations of IHRL or serious breaches of IHL.

23.- On termination of the hostilities, in accordance with IHL, the Colombian state will be able to grant "the broadest possible" amnesty. The broadest possible amnesty will be granted to rebels belonging to organisations that have signed a final peace agreement, as established in Item 10, along with those accused or convicted of politically motivated crimes by means of decisions passed by the justice system, in line with the provisions established in this document in this regard, in accordance with Item 38.

24.- The Constitution allows amnesties or pardons to be granted for the crime of rebellion and other politically motivated crimes.

25.- Some crimes will be ineligible for an amnesty or a pardon, in accordance with Item 40 and 41 of this document. Neither crimes against humanity nor other crimes set out in the Rome Statute are eligible for an amnesty.

26.- For the purposes of legal certainty, it will be necessary to clearly determine which crimes are eligible for an amnesty or pardon and which are not. To this end, the amnesty rules to be adopted will follow the principles set out in this document creating the SJP. When determining whether an action is eligible for an amnesty or pardon, the most favourable law will apply for the recipient of the amnesty or pardon, providing there is no prohibition governing the amnesty or pardon in international law in relation to the conduct of which the rebels, or other persons accused of being rebels, are accused of having undertaken. The application of the most favourable law shall be given to all of those for whom the SJP is applicable.

27.- The granting of amnesties or pardons or access to any special treatment does not relieve people of the duty to contribute, individually or collectively, to clarification of the truth as established in this document.

28.- The treatment to be received in the judicial component will be proportionate to the degree of voluntary or collective contribution of each person to the truth.

29.- The scope of every crime that is or is not eligible for an amnesty will be clearly determined for the purposes of legal certainty.

30.- Crimes that are ineligible for an amnesty or pardon must be subject to the judicial component of the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence (CS) agreed by the parties.

31.- Sanctions will be established in the judicial component for those with responsibility in cases that are ruled as ineligible for an amnesty or pardon.

32.- The judicial component of the CS will apply to all those who participated directly or indirectly in the armed conflict. It will apply to those investigated or convicted of the crime of rebellion or other crimes related to the conflict, whether they belong to the armed organisations in rebellion or not.

With regard to combatants in illegal armed groups, the judicial component of the System will only apply to those signing a final peace agreement with the National Government.

The Special Jurisdiction for Peace will also have jurisdiction over acts of financing or collaborating with paramilitary groups, or with any protagonist in the conflict, when they were not the result of coercion. This relates to people who had an active or significant involvement in committing crimes falling within this area, as established in Item 40, unless previously convicted by the justice system for these same acts. The judicial chambers and panels of the SJP will decide the

appropriate procedure, according to the case. In accordance with Items 48 (t) and 58 (e), people who may have had a significant involvement in one of the acts listed in Item 40 and who have not previously appeared before the Judicial Panel for Acknowledgment of Truth will be summoned by the Review Chamber of the Tribunal to appear before the Special Jurisdiction for Peace.

The judicial component will also apply to state agents who may have committed crimes related to or during the armed conflict; this application will be in a differentiated manner, providing fair, balanced, simultaneous and symmetrical treatment. This treatment will need to take into account the state's role as guarantor of rights.

In the case of state agents, the application of the Special Jurisdiction for Peace is based on recognition that the essential purpose of the state is to protect and guarantee the rights of all citizens and it has an obligation to contribute to the strengthening of institutions. Therefore, its agents, in particular the members of the Colombian State Armed Forces (which include both the Military Forces and the National Police), have the power to legitimately use force and their actions are presumed to be legal.

"State agent" is considered to mean, for the purposes of the Special Jurisdiction for Peace, any person who, at the moment when the alleged criminal act was committed, was serving as a member of a public corporation, as an employee or worker of the state or of its decentralised bodies, in terms of territory and services, who was involved in the design or implementation of criminal acts relating directly or indirectly with the armed conflict. In order for it to be considered that such acts may be heard by the Special Jurisdiction for Peace, they must have been carried out by means of acts or omissions committed within the context and at the time of the internal armed conflict and must not have been carried out for the purpose of personal enrichment or, if any such purpose existed, it must not have been the determining factor for the criminal act.

The creation and functioning of the Special Jurisdiction for Peace will have no effect on the current rules applicable to those who have held the office of President of the Republic, in accordance with the provisions of Article 174 of the Political Constitution of Colombia at the time of approving this document. Should the SJP be apprised of information that compromises a person having held the office of President of the Republic, this information will be referred to the House of Representatives of Congress for issues within their jurisdiction, said referral will take place whenever considered appropriate by the SJP, once it has undertaken the relevant verifications.

33.- In accordance with the provisions of the Final Agreement, the judicial component of the CS will take precedence over criminal, disciplinary or administrative proceedings for conduct committed during, because of, or directly or indirectly related to, the armed conflict given that it will have exclusive jurisdiction over such conduct.

With regard to disciplinary or administrative sanctions or investigations, including financial sanctions imposed on private individuals in any jurisdiction, the jurisdiction of the Special

Jurisdiction for Peace will be limited either to annulling or extinction of criminal liability or of any disciplinary or administrative sanctions imposed for conduct related directly or indirectly to the armed conflict, or to reviewing said sanction, all at the request of the person sanctioned or investigated. In no case may the request result in the reopening of a criminal investigation for said acts. Should a review of the sanction imposed be requested or the extinction of the sanction or responsibility, the Review Chamber of the Tribunal for Peace will be competent. With regard to the people investigated, the Judicial Panel for Determination of Legal Situations will be competent.

34.- The judicial component for members of the FARC-EP, for agents of the state and for other actors that have participated in the conflict, either as combatants or as non-combatants, when they have committed crimes, may be different but balanced and fair.

35.- Peaceful protest, defence of human rights and leadership of civil society groups cannot in themselves be classified as criminal offences and sanctioned. If there have been cases of such sanctioning, special treatment mechanisms will be granted that may extend as far as the extinction of criminal liability. The Judicial Panel for Amnesty and Pardon, the Judicial Panel for Determination of Legal Situations and the Review Chamber of the Tribunal for Peace will be competent to decide whether the sanctions, investigations or sentences imposed in the previous situations should be extinguished, revised or annulled.

36.- The imposition of any sanction in the CS will not legally hinder a person from political participation or limit the exercise of any right, active or passive, to political participation, the parties will agree the relevant constitutional reforms in this regard.

37.- Article 6.5 of Protocol II Additional to the Geneva Conventions, to which Colombia is a State Party, will apply. It states the following: "At the end of hostilities, the authorities in power shall endeavour to grant the broadest possible amnesty to persons who have participated in the armed conflict, or those deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained."

38.- In accordance with the above, politically motivated crimes committed in the development of the rebellion by persons forming part of the rebel groups with which a peace agreement has been signed will be granted amnesties and pardons. In line with the provisions of the Final Agreement and this document, the amnesty rules will clearly and precisely determine the crimes eligible for amnesties and pardons and the criteria for determining related acts. The membership to said group will be determined by the provision of a list by each rebel group, the parties will determine how verification should proceed. Politically motivated crimes will, for example, include rebellion, sedition and violent rioting, as well as the illegal carrying of firearms, killings in combat when compatible with international humanitarian law, criminal conspiracy for the purposes of rebellion and other politically motivated crimes. To decide regarding the connection between political crime and crimes related to crops used for illicit purposes, the criteria established by Colombian domestic case law shall be taken into account, applying the most favourable law. The same amnesty or pardon criteria will apply to persons investigated or



sanctioned for crimes of rebellion or similar, without them being obliged to recognise themselves as rebels.

Before the entry into force of the Final Agreement, it will be necessary to establish how the laying down of arms and reincorporation of the FARC-EP into civil life, the entry into force of the judicial component of the CS and effective access to the amnesty will be coordinated.

In the case of the FARC-EP, participation in the CS will be subject to the laying down of arms agreed in point 3.2 of the *General Agreement to End the Armed Conflict and Build a Stable and Lasting Peace* of 26 August 2012.

39.- There will be two criteria for determining acts related to a political crime, one inclusive and the other restrictive by nature. The first criterion will consist of including as politically motivated crimes: 1.- those crimes specifically linked to the development of the crime of rebellion committed due to the armed conflict, such as for example apprehending combatants during military operations; 2.- crimes in which the passive subject of the action is the state and its current constitutional system; and 3.- conduct aimed at facilitating, supporting, financing or concealing the development of the rebellion, for which the content of each of the previous types of action will need to be defined. Any crimes which have not resulted in the personal enrichment of the rebels and are not deemed to be crimes against humanity, serious war crimes or genocide shall be regarded as conduct intended to finance the rebellion.

The Judicial Panel for Amnesty and Pardon shall determine the connection with political crime on a case-by-case basis.

The second criterion, of a restrictive nature, will exclude international crimes, in accordance with the provisions of Items 40 and 41, as established in international law in accordance with the Rome Statute. With regard to applying the criteria for determining related acts to anything that has not been defined precisely in the Amnesty Law, the doctrine adopted when the Judicial Panel for Amnesty and Pardon and the Review Chamber of the Tribunal for Peace interpret this Law will be borne in mind.

40.- Crimes against humanity, genocide, serious war crimes – that is, any violation of international humanitarian law committed as part of a systematic attack – hostage taking or other serious deprivations of freedom, torture, extrajudicial executions, forced disappearances, rape and other forms of sexual violence, child abduction, forced displacement and the recruitment of minors will all be ineligible for an amnesty or pardon, in every case as established in the Rome Statute.

The Amnesty Law will determine the acts classified in national legislation as ineligible for an amnesty, provided they correspond to the above list.

The rules will specify the scope and reach of these acts in accordance with the provisions of the Rome Statute, international human rights law and international humanitarian law.

41.- Common crimes unrelated to the rebellion shall also be ineligible for an amnesty or pardon through the CS, in accordance with the Amnesty Law.

42.- Investigations underway and disciplinary and/or administrative sanctions will also be extinguished when they have been imposed for conduct or acts related to the armed conflict or rebellion. In application of this, consideration will be given to acts that could be eligible for an amnesty or pardon, according to the Amnesty Law.

43.- The granting of amnesties or pardons does not extinguish the victims' right to receive reparations.

44.- In accordance with the above, a special, simultaneous, balanced and fair treatment will be established for state agents, based on international humanitarian law. This differentiated treatment will take into account the provisions of operational law governing the Colombian State Armed Forces (which include both the Military Forces and the Police) in relation to IHL. In no case may command responsibility be based exclusively on rank, hierarchy or scope of jurisdiction. The responsibility of members of the Colombian State Armed Forces for the actions of their subordinates will need to be based on effective control of the respective action, knowledge based on information available to them before, during and after the action was committed, as well as the means within their power to prevent it and, if having taken place, to promote the appropriate investigations.

### **III. PROCEDURE, BODIES AND SANCTIONS OF THE JUDICIAL COMPONENT OF THE CS**

45.- Two procedures will be applied in the judicial component:

1. Procedure in the case of acknowledgement of the truth and responsibility.
2. Procedure in the case of a lack of acknowledgement of the truth and responsibility.

46.- In order to realise the victims' right to justice, the judicial component will comprise the following bodies:

- a. Judicial Panel for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct,
- b. Tribunal for Peace,
- c. Judicial Panel for Amnesty and Pardon,
- d. Judicial Panel for Determination of Legal Situations, for cases other than those above or in other unforeseen situations and,

- e. Investigation and Prosecution Unit, which must realise the victims' right to justice when there is no collective or individual acknowledgement of responsibility.

Judgments and rulings will need to be duly substantiated and based on law. They may be brief in the part corresponding to verification of the requirements of the CS.

Everybody has the right to exercise their right of defence through any of the bodies of the judicial component of the CS, as they prefer, whether individually or collectively, for example as former members of an organisation, or through the organisation to which they belonged. Any lawyer accredited as such by the corresponding bodies of his or her country of residence may act as defence lawyer before the CS. The state will offer an autonomous system of advice and defence - free of charge if the applicant lacks resources - and this will comprise duly qualified defence lawyers selected via a mechanism to be agreed by the parties before the judicial component of the CS enters into operation. If the interested party so wishes, they may use the judicial defence systems already existing in Colombia.

The Justices of the Panels and Chambers of the Special Jurisdiction for Peace shall, in exercise of their autonomy, adopt the operating and organisational regulations of the Special Jurisdiction for Peace, in line with principles of impartiality, independence and guarantees of due process, avoiding any revictimisation and providing due support to victims in accordance with the provisions of the relevant international standards. These regulations will also establish the grounds and procedures for challenging and legally hindering Justices. These individuals will have the flexibility to be allocated to different chambers and panels depending on the workload of each one, and in accordance with the criteria set out in the regulations.

The Justices of the panels and chambers of the Special Jurisdiction for Peace shall draw up the procedural rules governing the proceedings, which must, at a minimum, provide for the following principles: the System must be adversarial and respect due process and the principle of impartiality, it must provide for due publicity and guarantee the principle that both sides must be heard in assessing evidence and the defence, as well as the right to a second hearing, and it must comply with the principles provided for in Item 14. The above procedural rules must be incorporated into Colombian domestic law.

The Tribunal for Peace will be the final body of the Special Jurisdiction for Peace created within the CS.

47.- Acknowledgement of truth and responsibility for acts may be individual or collective, oral or by means of a letter sent to the SJP's Judicial Panel for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct, once the Reports referred to in Item 48 have been received and the Panel has been established. The time limit for receiving the Reports referred to in Item 48 shall be 2 years and may be extended, in a public and adequately reasoned manner, for successive periods of three months, up to a maximum of 3 years from when all of the Panels and Chambers of the Special Jurisdiction for Peace have been established, except in exceptional and duly reasoned circumstances, in which the time limit may be extended moderately by the

Judicial Panel for Acknowledgement of Truth and Responsibility. In the case of collective acknowledgement, subsequent individual attribution of responsibility will be for the members of the organisation that issued the acknowledgement. Persons who are attributed individual responsibility will be able to accept this responsibility or state their disagreement with this individual attribution. If they do not accept or deny the individual attribution of responsibility, the content of the statement in which they are mentioned will need to be communicated to the person concerned, for the sake of respect for due process. If a person who has remained silent, accepts responsibility once they are located, then they will be subject to the sanctions already imposed, provided they meet the System's conditions. If they do not accept responsibility or remain silent, they will be referred to the Investigation and Prosecution Unit.

The Judicial Panel may agree that acknowledgement of the truth and responsibility should take place in a Public Hearing, in the presence of invited victims' organisations, on the date indicated, without prejudice to the fact that this recognition may be in writing.

48.- The Judicial Panel for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct will have the following functions:

- a. To decide whether the events and conduct attributed to different people fall within the system's jurisdiction, that is, were committed directly or indirectly in relation to or during the internal armed conflict.
- b. To receive reports submitted to it by the Office of the Attorney General (*Fiscalía General de la Nación*), the relevant bodies of the military criminal justice system, the Accusations Commission of the House of Representatives or any body replacing it, the Office of the Inspector General (*Procuraduría General de la Nación*), the Office of the Comptroller General (*Contraloría General de la Nación*) or any other jurisdiction operating in Colombia with regard to all investigations underway in relation to conduct committed during or because of the armed conflict, including any which may have already been brought to trial or concluded by the Inspector General or Comptroller General or by any other jurisdiction. The reports will classify the actions according to the alleged perpetrators and group together similar conduct into a single category, without indictment. A report on the relevant rulings handed down by the justice system will also be sent to the Judicial Panel, by the Administrative Body of the Judicial Branch or by those convicted. The competent bodies of the military criminal justice system will also send the decisions handed down. Any administrative body that has passed sanctions for conduct related to the conflict will also send the resolutions in which these are noted. In all the above cases, reports of the rulings or resolutions will be attached.

Along with the reports submitted by the Office of the Attorney General, this institution will include the certifications of reports that have been referred by the Justice and Peace (*Justicia y Paz*) jurisdiction created by Law 975 of 2005, so that the SJP can determine whether the related acts fall within its jurisdiction or not, in accordance with the provisions of the third paragraph of Item 32.

- c. To receive reports from Colombian victims' and human rights organisations with regard to acts committed during or because of the armed conflict, as well as from judicial or administrative sources. The procedure provided for in paragraph h) of this Item shall apply to those reports.
- d. The reports will group together the acts by perpetrators or alleged perpetrators and will group together similar conduct into a single category, without indictment. The reports will need to be rigorous. The Judicial Panel may order the reports to be organised by the most representative crimes.
- e. When a person has been compromised in a report or a statement of acknowledgement, the Panel will notify them so that they have the opportunity to voluntarily provide their version of the events. The person will be able, at this time, to acknowledge truth and responsibility or to deny the conduct or submit that it was unrelated to the conflict. Any person convicted in a judgment of the ordinary courts, for conduct falling within the jurisdiction of the Comprehensive System, may appear voluntarily to acknowledge the complete, detailed and exhaustive truth in cases which do not have to be referred to the Judicial Panel for Amnesty and Pardon or the Judicial Panel for Determination of Legal Situations.
- f. To set the dates and deadlines for receiving reports and for making these available to the persons or organisations noted in them, taking into account the time limits established in Item 47.
- g. Once the reports have been received, a reasonable and sufficient timescale will be established for the statements, oral or written, acknowledging truth and responsibility.
- h. Once all reports established in paragraphs b) and c) describing the conduct have been received they will be compared and, once the version noted in sub-paragraph e) has been taken into account, should there be sufficient grounds to believe that the events took place, that the person mentioned participated in them and that the action corresponds to criminal offences ineligible for an amnesty or pardon, they will need to be made available to those allegedly responsible so that they can decide whether or not to come forward to acknowledge truth and responsibility or whether to come forward to defend themselves from the charges made.

The Judicial Panel may refer the reports established in paragraphs b) and c) of this Item, where there are indications that they may contain accusations, references to conduct or complaints which are apparently false and fraudulently made, or where it thinks they were submitted with the intention of causing malicious prosecution. The reports will be referred to the courts of the ordinary Colombian justice system, which must act according to their jurisdiction, applying the provisions of domestic criminal law and regarding the reports as complaints made in the ordinary criminal justice system. Every six months, the competent courts must inform the Judicial Panel for Acknowledgement of Truth, Responsibility and

Determination of Facts and Conduct regarding the status of the proceedings relating to each report referred.

- i. To receive the statements of acknowledgement of truth and responsibility, both individual and collective. For the imposition of sanctions, the highest-ranking officials, through command responsibility, will need to be individually identified.
- j. The Office of the Attorney General (*Fiscalía General de la Nación*) or the investigating body of any other jurisdiction operating in Colombia will continue the investigations until the Panel publicly announces that it has concluded the previously established steps - with the exception of the receipt of acknowledgements of truth and responsibility, which will always need to be subsequent to the Panel's receipt of all the investigations carried out with regard to the conduct in question - and will present its resolution of conclusions to the Tribunal for Peace in three months' time. At this point, the Office of the Attorney General or the investigating body in question will need to send the Panel all the investigations it has on said events and conduct, at which point the authority of the Office of the Attorney General or the relevant investigating body to continue investigating events or conduct falling within the jurisdiction of the Special Jurisdiction for Peace shall cease.

If the Office of the Attorney General or the relevant investigating body identifies a case that should have been subject to the report noted in paragraph b) of this Item, it will need to send it to the Judicial Panel for Acknowledgement immediately. Nonetheless, the Office of the Attorney General or the relevant investigating body will continue to investigate conduct or acts that do not fall within the jurisdiction of the judicial component of the CS and will provide support to its bodies when they request it.

- k. Once the report from the Office of the Attorney General (*Fiscalía General de la Nación*), from victims' and human rights organisations, or from the relevant investigating body has been received, the Panel may ask them or other competent state bodies to report on acts for which there is insufficient information.
- l. As promptly as possible and at any moment considered appropriate, to send the Judicial Panel for Amnesty and Pardon a list of the people benefiting from these measures, based on the list drawn up by the FARC-EP, crosschecked by the Judicial Panel for Acknowledgment of Truth and Responsibility.
- m. To present resolutions of conclusions to the Tribunal in accordance with the list of sanctions and in line with the respective acknowledged conduct. Also to present in a single resolution and, as soon as possible, any conclusions regarding the same person which are in the possession of the Panel on account of any conduct which is known about.
- n. As promptly as possible and at any moment considered appropriate, to decide whether conduct that has not been acknowledged will be referred to the Investigation and Prosecution Unit so that, if appropriate and there is value in doing so, court proceedings can

be opened before the Tribunal. It may also decide to refer conduct to the Judicial Panel for Determination of Legal Situations.

- o. For the purposes of issuing its resolutions, it will need to focus initially on the most serious cases and the most representative conduct or practices.
- p. To refer two kinds of person to the Judicial Panel for Determination of Legal Situations: the first consisting of those persons or acts that are ineligible for amnesty or pardon and not included in the resolution of conclusions, and a second consisting of those who will not need to be held to account before the Tribunal, for whatever reason.
- q. When the acknowledgement of truth and responsibility is considered incomplete, to summon the declarants so that they can complete it, indicating the conduct which, should full truth not be provided, would be referred to the Investigation and Prosecution Unit to decide if there is value in it being referred to the Trial Chamber. The summons sent to declarants will need to indicate the concrete aspects that need completing.
- r. Should a person individually attributed responsibility in a collective statement make known their disagreement with this, to send the case to the Investigation and Prosecution Unit to decide if there is value in it being referred to the First Instance Chamber of the Tribunal as a case of absence of acknowledgment of truth and responsibility.
- s. In order to ensure the efficient, effective and prompt functioning of the judicial component, this Judicial Panel will have the widest powers to organise its tasks, form working committees, set priorities, combine similar cases and establish the sequence in which these will be addressed, as well as to adopt selection and decongestion criteria. When exercising these powers, it will take into account the need to avoid impunity for the most serious and representative crimes while also preventing the Tribunal from becoming overloaded.
- t. If, three months prior to submitting the resolution of conclusions, the Panel considers that a person for whom there is clear and sufficient grounds to presume that their decisive involvement in one of the acts listed in Item 40 should be included in the resolution of conclusions or referred to the Investigation and Prosecution Unit but said person has refused to come forward, the Panel will need to ask the Review Chamber of the Tribunal to require said person to appear before the Special Jurisdiction for Peace.

49.- The Judicial Panel for Amnesty and Pardon will apply this special legal treatment to crimes eligible for amnesty or pardon, bearing in mind the recommendations of the Judicial Panel for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct. Notwithstanding the above, the Judicial Panel will first grant an amnesty or pardon to persons convicted of or investigated for crimes eligible for amnesty or pardon, automatically or upon request, and always in accordance with the provisions of the Amnesty Law. Should the request for pardon or amnesty relate to acts that are ineligible for pardon or amnesty, the Judicial Panel

for Amnesty and Pardon will refer the case to the Judicial Panel for Acknowledgement of Truth and Responsibility.

For the purposes of granting an amnesty, it will assess the extent to which the action is linked to the rebellion and other political crimes.

50.- The Judicial Panel for Determination of Legal Situations will have the following functions:

- a. To define the judicial status of all those accessing the judicial component of the CS, in relation to two scenarios: persons who will be ineligible for amnesty or pardon and who will not be included in the resolution of conclusions, and persons who do not need to be held to account before the Tribunal, on account of being eligible for amnesty or pardon, in which case the matter will be referred to the Judicial Panel for Amnesty and Pardon.
- b. To define the treatment to be given to rulings imposed previously by the justice system with regard to persons covered by the judicial component, in accordance with the requirements of the CS - Item 3.3 of the General Agreement - including the extinction of responsibilities where the sanction has been completed. Any person convicted in a judgment of the ordinary courts may appear voluntarily to acknowledge the complete, detailed and exhaustive truth in cases which do not have to be referred to the Judicial Panel for Amnesty and Pardon or remain with the Judicial Panel for Acknowledgement of Truth and Responsibility.
- c. With the aim of administering prompt and full justice, to determine the possible procedural mechanisms for selecting and prioritising those cases where an acknowledgement of the truth and responsibility is absent. When adopting its determinations, this Judicial Panel will assess the decisions taken by the Judicial Panel for Acknowledgement with regard to focusing its work on the most representative cases, as established in paragraphs l) and p) of Item 48 of this document.
- d. In the exercise of its functions, to assess the extent to which the conduct is related to the armed conflict.
- e. To adopt other resolutions necessary to define the judicial status of those not granted an amnesty or pardon, and who have not been included in the resolution of conclusions.
- f. At the request of the person under investigation, to define the judicial status of those who, without belonging to a rebel organisation, may be under investigation for conduct that falls within the jurisdiction of the Special Jurisdiction for Peace. The Panel will decide whether it is appropriate to refer this to the Judicial Panel for Amnesty and Pardon or to the Judicial Panel for Acknowledgement and Responsibility or, in order to define the judicial status, whether it is appropriate to waive exercise of criminal or disciplinary action, in this last case also in respect of non-combatant civilians, or apply any other legal mechanism according to the case. It will also define the judicial status of any third parties who submit themselves voluntarily to the jurisdiction in the 3 years after it comes into operation and who are being



tried for or have been convicted of crimes falling within the jurisdiction of the SJP, where those parties have not played a decisive role in the most serious or representative crimes. Once the judicial status has been established, it will adopt the necessary resolutions, *inter alia* abandoning criminal proceedings or in some other way terminating the proceedings early, provided that they make an effective contribution to the measures of the CS, in particular to clarifying the truth in the context of the System. The resolution defining the judicial status will become *res judicata*.

- g. In order to ensure the efficient, effective and prompt functioning of the judicial component, the Judicial Panel will have the widest powers to organise its tasks, form working committees, set priorities, combine similar cases and establish the sequence in which they will be addressed, as well as to adopt selection and decongestion criteria. When exercising these powers, it will take into account the need to avoid impunity for the most serious and representative crimes while also preventing the Tribunal from becoming overloaded.

51.- The Investigation and Prosecution Unit will be responsible for realising the victims' right to justice when there is no collective or individual acknowledgement of responsibility. It will have the following functions:

- a. To investigate and, if necessary, prosecute through the Tribunal for Peace those persons whose cases have been referred by the Judicial Panel for Acknowledgement and Responsibility, the Judicial Panel for Determination of Legal Situations or the Review Chamber of the Tribunal for Peace.
- b. To decide on the protection measures applicable to victims, witnesses and other involved parties.
- c. In cases of an absence of acknowledgement of truth and responsibility, to request that the First Instance Chamber of the Tribunal for Peace adopt remand and precautionary measures to guarantee the good outcome of the process.
- d. To organise its tasks, form working committees, set priorities, gather together similar cases and establish the sequence in which they will be handled, as well as to set criteria for selection and decongestion. When exercising these powers, it will take into account the need to avoid impunity for the most serious and representative crimes while also preventing the Tribunal from becoming overloaded.
- e. When, by virtue of the decisions it has adopted, it considers that it is not necessary to investigate or prosecute a case, it may refer it to the Judicial Panel for Determination of Legal Situations or the Judicial Panel for Amnesty and Pardon.

The Unit will have an investigative support team chosen by the Unit Director; this team will work independently and with integrity, under the direction of the Director.

52.- The Tribunal for Peace will have different chambers. More specifically, it will have a First Instance Chamber in Cases of Acknowledgement of Truth and Responsibility, which will hand down rulings. It will have another First Instance Chamber in Cases of Absence of Acknowledgement of Truth and Responsibility, where cases will be heard and rulings handed down, either acquitting or convicting the person. In this case, the corresponding ordinary or alternative sanctions will be imposed.

It will have a Review Chamber, with the task of reviewing rulings handed down by the justice system, in accordance with the provisions of Item 58. At the request of the person being sanctioned, it will receive cases already heard by jurisdictional bodies or sanctioned by the Office of the Inspector General (*Procuraduría General de la Nación*) or the Office of the Comptroller General (*Contraloría General de la Nación*), provided they are not going to form the object of an amnesty or pardon. It will exercise any other function expressly established in this document.

It will also have an Appeals Chamber to decide on objections to rulings passed by either of the First Instance Chambers. It will not be possible to increase the sentence at the second instance when the sole appellant is the person sanctioned.

The resolutions of the panels and chambers of the judicial component may be internally appealed before the Panel that passed them or appealed before the Appeals Chamber of the Tribunal, solely at the request of the person on whom the resolution or ruling was handed down.

Should the sentences of the chambers be in violation of the fundamental rights of a victim with a direct and legitimate interest, this latter may submit a request protection to the Appeals Chamber, which will need to be resolved within 10 days.

Once the Tribunal for Peace has concluded its tasks, the regulations governing the jurisdiction will establish a mechanism to incorporate one of its chambers, the main task of which will then be to ensure the stability and efficacy of the resolutions and rulings passed by the judicial component of the CS, as well as their fulfilment.

Once the Tribunal for Peace has concluded its work, should judicial, administrative or disciplinary resolutions or rulings be passed that involve accusations of conduct falling within the jurisdiction of this Special Jurisdiction for Peace, the mechanism anticipated in the above paragraph will be re-established (should it have ceased to exist) and, once the relevance and merit of the stated accusations have been assessed by this body, the Unit for Investigation and Prosecution and/or the chambers or panels which in its opinion may be required to process the alleged case in accordance with the provisions of the governing regulations of the Special Jurisdiction for Peace will, if necessary, be re-established. Once it has been assessed, if it considers it unnecessary to re-establish the Investigation and Prosecution Unit and/or the chambers and panels, it will pass a resolution defining the judicial status in question. If they have not attempted to evade its jurisdiction, the Chamber noted in the previous paragraph will assess whether the accused meets the requirements established in the system for accessing the anticipated special treatment. If

they have, then they will not have the option to acknowledge truth and responsibility before the Panel.

**Paragraph:** Action to enforce constitutional rights (*acción de tutela*) may be taken against the actions or omissions of any bodies of the Special Jurisdiction for Peace which have violated, violate or threaten fundamental rights.

Actions to enforce constitutional rights against court decisions issued by the SJP shall only be appropriate on account of a manifestly unlawful act or where the affect on the fundamental right is a direct consequence of the decision, on account of being inferred from its operative part, and, all avenues of appeal within the Special Jurisdiction for Peace having been exhausted, there is no suitable mechanism for defending the right which is violated or threatened. In the case of violations affecting due process, the action to enforce constitutional rights must be brought after the appropriate avenue of appeal before the bodies of the SJP has been exhausted.

The petition for actions to enforce constitutional rights must be filed in the Tribunal for Peace, which is the only court competent to hear it. It will be decided in the first instance by the Review Chamber and, in the second instance, by the Appeals Chamber. The judgment relating to the petition may be reviewed by the Constitutional Court in accordance with the following rules:

The decision regarding the selection of the judgment to be reviewed in relation to enforcement of constitutional rights shall be made by a panel comprising two justices of the Constitutional Court, chosen by drawing lots, and two justices of the Special Jurisdiction for Peace. The judgment will be selected if all four justices vote in favour of its selection.

Review judgments shall be handed down in a plenary session of the Constitutional Court. If the Court finds that the invoked right has been violated, it will declare that fact and specify the nature of the violation, without overturning, invalidating or setting aside the decision of the body of the Special Jurisdiction for Peace, or excluding the facts and conduct examined in the action to enforce constitutional rights from the jurisdiction of the Special Jurisdiction for Peace. The judgment shall be referred to the Tribunal for Peace for it to issue the appropriate decision regarding the protected right. The decision, ruling or order issued by the SJP body in compliance with the judgment of the Constitutional Court may not be the subject of further action to enforce constitutional rights.

53.- The First Instance Chamber of the Tribunal for Peace in Cases of Acknowledgement of Truth and Responsibility will have the following functions:

- a. To evaluate the links between the acknowledged conduct, those responsible for it and the sanctions on the basis of the resolution passed by the Judicial Panel for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct. It will verify whether the resolution corresponds to the legal descriptions of acknowledged acts that are ineligible for amnesty or pardon. Should it decide that there is no such correspondence, it will communicate this decision to those who made the acknowledgement so that they can be

heard, once the Judicial Panel for Acknowledgement of Truth and Responsibility has been heard. Once the above have been heard, its ruling will be handed down.

- b. If it is decided that there is such a correspondence, to impose the respective sanction from the list of sanctions, bearing in mind the proposed sanction included in the resolution of the Judicial Panel for Acknowledgement of Truth and Responsibility.
- c. To set the conditions and methods for implementing the sanction as established in the list of sanctions, bearing in mind the proposed sanction included in the resolution of the Judicial Panel for Acknowledgment of Truth and Responsibility.
- d. To supervise and certify effective fulfilment of its ruling, with the support of the monitoring and verification bodies and mechanisms of the comprehensive system designed for this purpose, which will need to submit regular compliance reports.

54.- The First Instance Chamber of the Tribunal for Peace in Cases of Absence of Acknowledgement of Truth and Responsibility will have the following functions:

- a. To prosecute persons and, where appropriate, convict or acquit them. The Chamber may order the trial to take place in a public hearing and in the presence of victims' organisations.
- b. To impose ordinary sanctions on those who do not acknowledge truth and responsibility, if they are convicted.
- c. If a trial commences without acknowledgement of truth and responsibility, and during that trial, before sentence is passed, the defendant acknowledges truth and responsibility, the alternative sanctions given in the list of sanctions will be imposed. These will be harsher than those imposed on persons who acknowledged truth and responsibility in front of the Judicial Panel of Acknowledgement.
- d. When adopting decisions, the Tribunal will endeavour to place the conduct in the context of the armed conflict. Without prejudice to the authority of the Council of State in matters of monetary redress, it may impose symbolic reparatory obligations on the State or organisations, respecting due process and provided the organisation or State did not take effective steps to prevent the punishable conduct. It may also establish guarantees of non-recurrence, as has been the case in both national and international law, and always in accordance with the provisions of the Final Agreement.
- e. To hear the accusations submitted by the Investigation and Prosecution Unit.
- f. At the request of the Investigation and Prosecution Unit, to adopt remand and protective measures to ensure the good outcome of the process.

- g. When adopting decisions, the Tribunal may state that the conduct analysed meets the requirements for an amnesty or pardon, in which case it will refer the case to the Judicial Panel for Amnesty and Pardon; or consider that the definition of the judicial status should be something other than an acquittal or conviction, in which case it will refer it to the Judicial Panel for Determination of Legal Situations.

55.- The final rulings passed by the Tribunal for Peace will be immediately passed to the Truth, Coexistence and Non-Recurrence Commission.

56.- All rulings of the Tribunal for Peace, as well as the resolutions of the panels of the judicial component that define judicial status and grant amnesties or pardons will become *res judicata* when they are final and their immutability will be ensured. These rulings may only be invalidated or struck down by the Tribunal itself on restrictive grounds expressly set out in the regulations.

57.- Any decision adopted by a jurisdictional body or other authority that is aimed at striking down the amnesty, pardon or other measure adopted in the system will need to be submitted to the Tribunal for Peace so that this body can verify whether or not the decision is in violation of the principles of the CS.

58.- The Review Chamber of the Tribunal for Peace will have the following functions:

- a. At the request of the Judicial Panel for Determination of Legal Situations, the convictions imposed by the justice system will be referred to the Review Chamber of the Tribunal for Peace so that, if the conditions are met, this latter can decide on the corresponding sanction, in accordance with the list of sanctions, and establish whether this has already been effectively fulfilled, without prejudice to the realisation of the rights of victims to reparations and non-recurrence. This ruling may never increase the sanction previously imposed by the justice system.
- b. At the request of the convicted person, to review rulings passed by the justice system: on account of a change in legal classification under the provisions of Item 19; on account of the appearance of new facts which could not be taken into account beforehand; or where new evidence or evidence which was not known about at the time of the conviction arises. All of the foregoing relates to acts committed during or because of the conflict, or the social protest, provided that the Comprehensive System's conditions are met.

In no event shall the review by the Special Jurisdiction for Peace of decisions issued by the justice system result in the judges who issued those decisions being held accountable in any way as a result of their content.

The Supreme Court of Justice shall be competent to review decisions that it has issued. Review of the above decisions before the Review Chamber of the SJP may only be requested for those convicted taking into account the definition of combatants according to international humanitarian law.

- c. With regard to conduct and acts that are covered by the judicial component's procedures and regulations, at the request of any Chamber or Panel and when there are doubts, to determine whether conduct related to financing was a politically motivated crime or not, in accordance with the criteria established in the Amnesty Law.
- d. Exceptionally, to review resolutions or rulings imposed by the judicial component when there is value in doing so due to the reasons established in the implementing regulations of the judicial component of the CS, provided that such a review does not worsen the situation of the sanctioned individual.
- e. To rule on requests made by the Judicial Panel for Acknowledgement of the Truth and Responsibility asking that a person be ordered to appear before the Special Jurisdiction for Peace, and deciding the particular body before which they will need to appear.
- f. To resolve conflicts of jurisdiction between Judicial Panels, and between Panels and the Investigation and Prosecution Unit, or any other conflict or clash arising in the Special Jurisdiction for Peace. This Chamber may only resolve said conflict or clash once the Presidents of the Panels or the Director of the Unit in question have met to seek an agreed solution to the conflict or clash arising and have not managed to reach one.
- g. To examine and decide on any decision adopted by a jurisdictional body or other authority aimed at striking down an amnesty, pardon or other measure adopted in the system, verifying amongst other things whether or not the decision is in violation of the principles of the CS.

59.- When considering the responsibility of members of the FARC-EP, the legal reference points to be used will be international humanitarian law, international human rights law and international criminal law. The judicial component of the CS will, where relevant, bear in mind the relevance of decisions taken by said organisation when analysing responsibilities. The responsibility of FARC-EP officers for the actions of their subordinates will need to be based on effective control of the respective conduct, knowledge of it based on information available to them in advance of, during and after the action was committed, as well as the means within their power to prevent it and, it having taken place, to take the corresponding decisions. Command responsibility cannot be based exclusively on rank or hierarchy.

Effective control of the conduct in question shall be understood to mean the real possibility which the superior had of exercising appropriate control over his or her subordinates, in relation to the criminal behaviour occurring, as laid down in international law.

60.- The sanctions will have the overall aim of realising the rights of victims and consolidating peace. They will need to have the greatest restorative and reparative function in relation to the harm caused, and will always correspond to the degree of acknowledgement of truth and responsibility demonstrated in front of the judicial component of the CS through individual or collective statements.

With regard to certain very serious offences, the SJP's sanctions to be imposed on those who acknowledge truth and responsibility before the Judicial Panel for Acknowledgement will be of a minimum duration of five years and a maximum of eight, in accordance with the reparatory and restorative functions of the sanction. The maximum term of sanctions imposed by the SJP, taking into account all sanctions imposed, including sentencing for multiple offences, shall be eight years. They will include the necessary effective restrictions on freedoms and rights for their implementation, such as freedom of residency and movement, and they will also need to give guarantees of non-recurrence.

Effective restriction requires suitable monitoring and supervision mechanisms in order to ensure good faith compliance with the restrictions ordered by the Tribunal, so that this latter is in a position to provide timely supervision of compliance, and to certify that compliance. The SJP will establish the conditions for any effective restriction of freedom that may be necessary to ensure fulfilment of the sanction, conditions which in no case shall be understood as jail or prison, nor the adoption of equivalent forms of detention.

The justices must apply the following criteria:

- a) They must specifically establish the territorial areas where the sanctioned individuals are to be located during the time periods in which sanctions imposed by the System are being implemented and complied with, which shall have a maximum size equivalent to the Transitional Local Zones for Normalisation.
- b) They must establish the timetables for compliance with restorative sanctions.
- c) During the time periods in which the sanction is being implemented, any travel by the sanctioned individual to deal with matters other than complying with the sanction must be authorised by the First Instance Chamber of the Tribunal for Peace.
- d) The judgment shall determine the place of residence of the individual who is to be subject to the sanction, for as long as the sanction is to be implemented.
- e) If, during the term of the sanction, the sanctioned individual is ordered to carry out any activity, the Tribunal shall determine the different places of residence of the sanctioned individual on a case-by-case basis.
- f) Compliance with these sanctions must be compatible with the sanctioned individuals carrying out other tasks or complying with other obligations arising from the Final Peace Agreement.
- g) They must inform the body which verifies compliance with the sanctions regarding how often it must report on the implementation of the sanction.

In cases of acknowledgement of truth and responsibility before the Judicial Panel, the restrictions on the above rights and freedoms will be less than in cases of acknowledgement of truth and responsibility before the Tribunal or cases where there is an absence of acknowledgement.

The alternative sanctions for very serious offences to be imposed on those who acknowledge truth and responsibility before the First Instance Chamber, prior to the ruling, will be of an essentially retributive nature involving deprivation of liberty for between five and eight years.

The maximum term of alternative sanctions, taking into account all sanctions imposed, including sentencing for multiple offences, shall be eight years.

In the above situations, the implementing regulations will determine the precise sentencing and the cases in which sanctions of less than five years will apply to those who did not play a decisive role in the most serious and representative conduct, despite being involved in it. In this case, the minimum sanction will be two years and the maximum five, taking into account all sanctions imposed, including sentencing for multiple offences.

The ordinary sanctions to be imposed when there is no acknowledgement of truth and responsibility will perform the functions provided for in criminal legislation, without prejudice to the fact that reductions in the deprivation of liberty may be obtained, provided the person convicted undertakes to contribute to their social rehabilitation through work, training or study during the time they are deprived of their liberty. In any case, the actual deprivation of liberty will be no less than 15 years and no more than 20. The maximum term of ordinary sanctions, taking into account all sanctions imposed, including sentencing for multiple offences, shall be 20 years.

The so-called alternative and ordinary sanctions will include effective deprivation of liberty such as jail or prison and/or any other form of detention.

In terms of implementing the sanctions, in the case of agents of the state, the relevant prison jurisdiction shall apply according to whether they are civilians or members of the Colombian State Armed Forces (which include both the Military Forces and the National Police), subject to monitoring by the system itself. Sanctions imposed by the System and applicable to state agents shall be decided by the state, respecting everything already established in the SJP with regard to its own, alternative and ordinary sanctions.

As regards the members of an organisation signing a peace agreement with the Government, the period of time for which they remain in Transitional Local Zones for Normalisation (TLZNs) shall be regarded, where applicable, as time spent complying with the sanction, provided that during that time period they have carried out tasks, work or activities with a reparative content. At the end of the period for which they remain in the TLZNs, the tasks, work or activities with reparative content carried out by individuals at the disposal of the Special Jurisdiction for Peace shall also be regarded as time spent complying with any sanction which may be imposed on them, provided that those tasks, work or activities are carried out in a perfectly defined and verifiable territorial location. Verification of everything set out in this paragraph shall be carried out by the Executive Secretary of the SJP, who may request the assistance of the Office of the United Nations High Commissioner for Human Rights in Colombia, and, once the Special Jurisdiction for Peace has been established, by the Tribunal for Peace.

61.- The resolutions and rulings imposed in accordance with the special regulations of the judicial component of the CS will clearly state the content of the sanction, the place of implementation of the sanction, and the conditions and effects of sanctions for crimes ineligible for an amnesty.



62.- The international mechanism supporting the Tribunal for Peace in verifying compliance with the sanctions provided for in Item 53 d) shall be a specific component of the United Nations political mission for verification, which will come into operation once the work of the United Nations mission tasked with verifying the bilateral and definitive ceasefire has concluded. To fulfill this task, it will work in coordination with the Office of the United Nations High Commissioner for Human Rights in Colombia.

The places in which the sanctions will be implemented shall also be subject to the System's own monitoring, as well as a system of security and vigilance that will guarantee the life and physical integrity of those sanctioned.

Movements in order to undertake activities that are in compliance with the sanction will be monitored by the above mechanism, which shall also grant the relevant authorisations for movements which are not related to compliance with the sanction, whenever those movements are not expressly authorised in the judgment, without prejudice to the authority of the First Instance Chamber of the Tribunal for Peace.

63.- Persons who, without forming part of the organisations or armed groups, have contributed directly or indirectly to crimes committed in the context of the conflict will be able to use the mechanisms of the justice system, without prejudice to the provisions of Items 32, 48 t) and 58 e) of this document, and to receive whatever special treatment the regulations may determine, provided they meet the conditions established on contributing to truth, reparations and non-recurrence.

64.- The Judicial Panel for Determination of Legal Situations will be able to apply mechanisms to terminate proceedings, with a view to extinguishing criminal liability, when this relates to contexts linked to exercising the right of protest or internal disturbance. The state authorities, social organisations, unions, human rights organisations and processes that form part of the Rural, Ethnic and Popular Summit (*Cumbre Agraria, Étnica y Popular*) will present information to the Panel when it relates to the following crimes: conspiracy, obstruction of the public highway, release of hazardous substances, violence against public servants, disruption of the public transport system, damage to third-party property, personal injury and other crimes committed in the context of the Public Safety Law.

65.- The Tribunal for Peace shall be made up of Colombian Justices in chambers with 5 members. Exceptionally, at the request of the individuals subject to its jurisdiction or *ex officio*, the chamber which is going to hear the case may request the participation, as *amici curiae*, of up to 2 foreign jurists of recognised standing. Twenty sitting Colombian Justices as well as four foreign jurists must be chosen. The role of the latter shall be solely to provide an opinion or *amicus curiae* regarding the subject matter of the case under consideration, in order to obtain aspects of opinion or information relevant to the case. When the participation of foreign jurists is required, they shall participate in the debates of the chamber in which their participation is required, under the same conditions as the Justices, but without having the right to vote.

All these individuals will need to be highly qualified and they must include experts in different areas of law, with a focus on knowledge of international humanitarian law, human rights or conflict resolution. The Tribunal will need to be formed according to criteria of equal participation by men and women and respect for ethnic and cultural diversity, and members will be elected through a selection process that reassures Colombian society and its different sectors.

To be elected as a Justice of the Tribunal for Peace, a person will need to meet the same requirements as a Justice of the Constitutional Court, the Supreme Court of Justice or the State Council of Colombia. Under no circumstances shall a career structure be applied.

There may also be an additional number of up to 3 reserve Justices per chamber, available to the Tribunal should their participation be required in order to act as substitutes for the sitting Justices or to support the operation of those chambers, in the opinion of the governing bodies of the Special Jurisdiction for Peace.

The grounds for legal hindrance laid down in article 56 of Law 906 of 2004, or any such legislation as replaces it in the future, shall apply to Justices of the Special Jurisdiction for Peace.

66.- Each Judicial Panel will comprise a minimum of six highly qualified Colombian Justices and will need to include experts from different areas of law, with a focus on knowledge of international humanitarian law, human rights or conflict resolution. They will need to be formed according to criteria of equal participation by men and women and respect for ethnic and cultural diversity, and members will be elected through a selection process that reassures Colombian society and its different sectors.

Exceptionally, at the request of the individuals subject to its jurisdiction or *ex officio*, the Judicial Panel which is going to hear the case may request the participation, as *amici curiae*, of up to 2 foreign jurists of recognised standing, to provide an opinion or *amicus curiae* regarding the subject matter of the case under consideration, in order to obtain aspects of opinion or information relevant to the case. When the participation of foreign jurists is required, they shall participate in the debates of the Panel in which their participation is required, under the same conditions as the Justices, but without having the right to vote.

There may also be an additional number of up to 3 reserve Justices available to each Judicial Panel, should their participation be required in order to act as substitutes for the sitting Justices or to support the operation of those Panels, in the opinion of the governing bodies of the Special Jurisdiction for Peace.

To be elected a Justice on a Judicial Panel, individuals will need to meet the same requirements as Justices of the higher district courts (*Tribunal Superior*). Under no circumstances shall a career structure be applied.

Panel Justices and Justices making up the Tribunal for Peace shall be subject to the same disciplinary rules as those established by Colombian law for the judiciary. Decisions relating to disciplinary measures, as well as their application and verification, shall be the responsibility of a committee made up of a Justice from each Panel and a Justice from each chamber of the Tribunal for Peace, chosen according to the regulations on the functioning and organisation of the Jurisdiction, in any event without the participation of the Justice affected by the request for the application of the disciplinary rules.

Panel Justices and Justices making up the Tribunal for Peace shall be subject to the special criminal rules established by Colombian law for Justices of the Supreme Court of Justice, except as regards the content of their decisions.

67.- The Investigation and Prosecution Unit will be formed of a sufficient number of legal professionals who are highly qualified in investigation and prosecution, and will need to include experts from different areas of law, with a focus on knowledge of international humanitarian law or human rights. It will need to have a technical forensic investigation team that will be able to draw on international support, particularly in the area of exhumations and identifying the remains of missing persons. It will be formed according to criteria of equal participation by men and women and respect for ethnic and cultural diversity, and members will be elected through a selection process that reassures Colombian society and its different sectors.

The Unit will have a special investigation team for cases of sexual violence. Special provisions on handling evidence will be established for acts of sexual violence, as given in the Rome Statute.

The Unit may call on other competent state bodies or human rights and victims' organisations to provide information with regard to events for which it has insufficient information. In the context of its functions and powers, it may request such assistance as it deems necessary from the Office of the Attorney General (*Fiscalía General de la Nación*) and also enter into cooperation agreements with that body.

68.- The parties will establish, by mutual agreement and prior to the signing of the Final Agreement, the criteria and mechanisms for selecting and appointing the Justices of the Panels and Chambers, the foreign jurists to act as *amici curiae*, the members of the Investigation and Prosecution Unit and the Executive Secretariat; the above may not be elected by the parties to the Negotiation Table. The selection mechanism established will appoint an initial President of the Special Jurisdiction for Peace, a Director of the Investigation and Prosecution Unit and an Executive Secretary, bearing in mind the regulations of this jurisdiction, the terms for the above posts and the procedure for electing successive Presidents, Directors and Secretaries.

69.- The Justices of the Judicial Panels and of the Tribunal for Peace and the prosecutors of the Investigation and Prosecution Unit will be able to access documents and investigative sources as established in the Colombian laws which, at all times, regulate access to documents and investigative sources for justices, judges and prosecutors of the Republic. The Executive Secretary of the Special Jurisdiction for Peace may take early interim measures before the Panels and

Chambers of this Jurisdiction come into operation, in order to preserve documents related to the conflict held in public or private archives, in accordance with the provisions of Colombian law.

70.- The state will need to establish the judicial component of the CS as soon as possible after signing the Final Agreement. The Panels and the Investigation and Prosecution Unit will need to begin functioning no later than three months after the entry into force of the Final Agreement, unless this latter establishes an earlier date. No more than one month may pass between the commencement of the judicial panels and the commencement of the chambers.

71.- The CS will envisage the necessary guarantees for non-recurrence. The state must, in all cases, guarantee the non-recurrence of crimes committed with regard to the Patriotic Union (*Unión Patriótica*) political party.

72.- Extradition may not be granted nor detention measures taken with the aim of extradition with regard to events or conduct covered by this system, caused by or occurring during the internal armed conflict or because of it up until its termination, whether it relates to crimes that are eligible or ineligible for amnesty, and particularly not for political crimes, the crime of rebellion or politically motivated crimes, whether committed inside or outside Colombia.

This non-extradition guarantee covers all members of the FARC-EP and persons accused of forming part of this organisation, in relation to any conduct taking place before the signing of the Final Agreement, for those people presenting themselves before the CS.

When it is alleged, with regard to a member of the FARC-EP or a person accused of being a member of that organisation, that the conduct stated in the request for extradition occurred after the signing of the Final Agreement, then the Review Chamber of the Tribunal for Peace will evaluate the conduct stated in order to determine the precise date on which it took place and decide the appropriate procedure. In the event that the conduct occurred prior to the signing of the Final Agreement, it will be referred to the Judicial Panel for Acknowledgement as regards its jurisdiction, in this case always excluding extradition. If it occurred after the signing of the Final Agreement, it will be referred to the competent judicial authority for investigation and prosecution in Colombia, without excluding the possibility of extradition.

For conduct committed prior to the signing of the Final Agreement only, when there is an extradition request involving relatives, up to the second degree of consanguinity or first degree by marriage, of members of the FARC-EP or a person accused of or noted in an extradition request of being a member of that organisation, this situation may be submitted to the Review Chamber of the Tribunal for Peace to decide whether the request involves events or conduct related to said membership, or alleged membership, of the FARC-EP on the part of the relative of the person whose extradition is being called for. Should this be the case, because it relates to an accusation or indictment of conduct that has never before been the object of an extradition request and does not meet the conditions for this, the Chamber will be able to refuse the extradition and, in this case, decide whether the action or conduct is the jurisdiction of the CS or whether it needs to be investigated or prosecuted through Colombia's ordinary criminal jurisdiction. The above

situation will need to be submitted to the Review Chamber for any of the former members of the FARC-EP that have signed the Final Peace Agreement.

The SJP will need to resolve issues raised with regard to extradition within a period of no more than 120 days, except in justified cases that depend on the cooperation of other institutions.

The Final Peace Agreement will establish additional measures to guarantee and provide for the above, as well as to prevent others who are offering truth to the CS from being extradited before they have finished doing so.

73.- The state will need to consult with the indigenous peoples regarding the form and opportunity in which the decisions adopted or to be adopted by their respective jurisdictions regarding conduct covered by this judicial component can be transferred to this latter's jurisdiction. This will be unless there is prior and express acceptance of the jurisdiction of the judicial component of the CS.

74.- The CS will need to emphasise an end to impunity through its work. Outside the Special Jurisdiction for Peace, judicial mechanisms will be created as determined by the parties, including for example a unit to investigate and dismantle criminal organisations, including criminal organisations considered successors to paramilitarism, and their support networks referred to in Item 3.4 of the General Agreement of 26 August 2012. These will be created as promptly as possible and, in all cases, prior to the signing of the Final Agreement.

In addition, the Government will initiate effective strategies and instruments to contribute to clarifying the phenomenon of paramilitarism, as follows: in the context of the agreement on the Truth, Coexistence and Non-Recurrence Commission, it will promote measures to guarantee the participation of former members of paramilitary groups in the Commission, as a contribution to clarifying the phenomenon of paramilitarism; in turn, the National Government will take measures to improve clarification of the phenomenon in the Justice and Peace (*Justicia y Paz*) processes and Law 1424 of 2010. The National Government will also put in place other instruments with the aim of clarifying this phenomenon.

In all cases, the Special Jurisdiction for Peace will be able to autonomously establish cooperation mechanisms and protocols for accessing information that exists in the justice administration bodies of the Justice and Peace processes and Law 1424 of 2010.

75.- All operators in the judicial component of the CS will need to interpret the relevant rules and take their decisions in line with the guiding principle that peace, as a right that is the basis of all other rights, is a necessary condition for the exercise and enjoyment of all other rights.

## **LIST OF SANCTIONS.**

This list sets out the sanctions the Tribunal for Peace may impose.

In accordance with the document on the Special Jurisdiction for Peace, particularly numbers 60 to 63 thereof, this list of sanctions has been drawn up in light of the following:

1. the degree of truth expressed by the person concerned;
2. the gravity of the sanctioned act;
3. the level of participation and responsibility; the circumstances for greater or lesser criminal liability, and
4. undertakings as to reparations to victims and guarantees of non-recurrence.

Activities or work carried out from the moment of adoption of the agreement on "Unexploded ordnance, explosive remnants of war and anti-personnel mine clearance and decontamination" on a personal and direct basis by any individual falling within the jurisdiction of the Special Jurisdiction for Peace shall, at the request of the interested party, be considered by the Judicial Panel for Acknowledgement of Truth and Responsibility and the Tribunal for Peace when sanctions are imposed upon the applicant, provided the following requirements are met:

1. The activity carried out has provided reparations or redress to victims or has had a restorative impact;
2. Its implementation has been recognised by the verification mechanisms agreed by the parties for each activity or work or by the verification mechanisms agreed by the parties in Item 6.1 of the General Agreement of 26 August 2012 regarding compliance with the conditions of the CS;
3. It is compatible with the list of sanctions.

There are three types of sanction:

### **I.- Sanctions applicable to persons who acknowledge exhaustive, complete and detailed truth before the Judicial Panel for Acknowledgement of Truth and Responsibility:**

The special sanctions of the system, as set out in Item 60, shall focus on redress and reparations, as well as restrictions on freedoms and rights, such as freedom of residence and movement, which are required for its implementation. The persons penalised shall provide guarantees of non-recurrence.

This list sets out the special sanctions concerning compliance with the agreements reached, *inter alia*, in Chapters 1. Comprehensive Rural Reform, 2. Political Participation and 4. Solution to the Illicit Drugs Problem of the Agenda of Talks. Sanctions relating to harm or injury caused to minors,

women and other affected parties are also included, bearing in mind the need for the fullest possible reparations and redress to victims of the armed conflict.

Sanctions may be applied during a pre-established period or while awaiting results, such as completion of the construction of particular infrastructure, without prejudice to the duration of the sanction imposed by the Tribunal where applicable.

Persons appearing before the Judicial Panel for Acknowledgement of Truth and Responsibility may submit a detailed individual or collective project for work or activities providing reparations and redress. Such projects will set out the obligations, objectives, phases, timetables, places of implementation and the persons who are to carry them out and their place of residence. Sanctions imposed by the Tribunal will pre-establish where the persons who will carry the projects out are to live. Such places will have dignified and appropriate living conditions.

Projects must establish a mechanism for discussion with representatives of victims who live in the area of implementation in order to hear their opinion and to ensure that they are not opposed to the project. The discussion mechanism must be approved by the Judicial Panel and shall be carried out under its supervision. If the victims consider it appropriate, they may make the Tribunal aware of their opinion on the proposed programme. The Tribunal shall be completely independent in taking decisions concerning such projects.

Projects must have been approved in advance by the Judicial Panel for Acknowledgement of Truth and Responsibility and must have been drawn up by the Judicial Panel if the persons appearing do not present them.

In the event of collective acknowledgement, the organisations or bodies to which the persons appearing belong will be responsible for ensuring proper execution and fulfilment of the sanction, without prejudice to the function to be attributed to a national or international monitoring mechanism agreed by the parties.

The First Instance Chamber in Cases of Acknowledgment of Truth and Responsibility shall determine the effective execution of the sanction.

With respect to the FARC-EP, sanctions will be executed in accordance with agreements on the laying down of arms and reincorporation of the FARC-EP into civilian life.

The project may include, *inter alia*, the work or activities set out below, which must not be incompatible with relevant state public policies, provided they are consistent with the ethnic and cultural traditions and customs of the communities:

**A.- In rural areas.**

1. Participation in/implementation of effective reparation programmes for displaced rural people.

2. Participation in/implementation of environmental protection programmes for Forest Reserve Areas.
3. Participation in/implementation of infrastructure building and repair programmes in rural areas: schools, roads, health centres, housing, community centres, municipal infrastructure, etc.
4. Participation in/implementation of rural development programmes.
5. Participation in/implementation of waste disposal programmes where necessary.
6. Participation in/implementation of programmes to improve electrification and connectivity in communications in agricultural areas.
7. Participation in/implementation of programmes to substitute crops used for illicit purposes.
8. Participation in/implementation of environmental recovery programmes for areas affected by crops used for illicit purposes.
9. Participation in/implementation of programmes to build and improve the road infrastructure required to market agricultural products from illicit crop substitution areas.

**B.- In urban areas.**

1. Participation in/implementation of programmes to build and repair infrastructure in urban areas: schools, public roads, health centres, housing, community centres, municipal infrastructure, etc.
2. Participation in/implementation of urban development programmes.
3. Participation in/implementation of drinking water access programmes and construction of waste-water treatment networks and systems.

**C.- Clearance and disposal of explosive remnants of war, unexploded ordnance and anti-personnel mines from areas of national territory affected by such items.**

1. Participation in/implementation of programmes to clear and dispose of explosive remnants of war and unexploded ordnance.
2. Participation in/implementation of programmes to clear and dispose of anti-personnel mines and improvised explosive devices.



**II.- Sanctions applicable to persons who acknowledge truth and responsibility for the first time in adversarial proceedings before the First Instance Chamber of the Tribunal for Peace prior to delivery of judgment.**

Alternative sanctions for very serious acts imposed upon persons who acknowledge truth and responsibility before the prosecuting chamber prior to delivery of judgment shall consist of 5 to 8 years' imprisonment.

1. If the person has appeared after the charge was filed with the Investigation and Prosecution Unit when the acknowledgement of truth and responsibility has been exhaustive, complete and detailed, the Tribunal shall assess the reasons why the person concerned did not present themselves to the Judicial Panel for Acknowledgement of Truth and Responsibility at an earlier opportunity. The sanction to be imposed may be adjusted if such an omission is deemed to be fully justified.
2. Where the Tribunal for Peace considers that the acknowledgement of truth and responsibility set out before it has not been exhaustive, complete and/or detailed, it shall apply for alternative sanctions in accordance with the procedure set out below.

The competent Chamber of the Tribunal for Peace shall establish the appropriate sanction for the crimes, conduct or offences committed in accordance with the rules of the Colombian Penal Code.

The competent Chamber of the Tribunal for Peace will then impose an alternative penalty of a minimum of five (5) and a maximum of eight (8) years' imprisonment, adjusted according to the gravity of the crimes and the degree of acknowledgement of truth and responsibility and their effective cooperation in clarifying the respective facts.

To be eligible for the alternative penalty, the person concerned must undertake to contribute to their reincorporation into society by means of work, training or study during their term of imprisonment, and shall where appropriate engage in activities ensuring non-recurrence.

When the alternative sanction and conditions imposed in the judgment have been completed, they will be released.

In no event shall substitute penalties, additional benefits or supplementary reductions to the alternative sanction be applied.

**III.- Sanctions applicable to persons who do not acknowledge truth and responsibility in adversarial proceedings before the First Instance Chamber of the Tribunal for Peace who are found guilty by the latter.**

The ordinary sanctions to be imposed when there is no acknowledgement of truth and responsibility shall fulfil the functions provided for in the Colombian Criminal Code, without

prejudice to the obtaining of remission, provided the convicted person undertakes to contribute to their reincorporation into society by means of work, training or study during their term of imprisonment. The effective imprisonment shall in no event be less than 15 years, or more than 20 years in cases of serious offences or violations.

Convicted persons may be given substitute penalties or additional benefits provided they undertake to contribute to their reincorporation into society by means of work, training or study during their term of imprisonment and to engage in activities ensuring non-recurrence of the harm or injury caused once they are released.

When the sanction imposed in the judgment has been served, they will be released on probation if they have undertaken to engage in activities ensuring non-recurrence of the harm or injury caused upon their release and this was a reason for granting a reduction in the duration of the penalty imposed. The period of release on probation will expire and the sentence will be deemed to have been served when it is verified that activities ensuring non-recurrence of the harm or injury caused have been carried out and in any event on completion of the term of imprisonment imposed by the Tribunal for Peace.

#### **AGREEMENT TO DEVELOP ITEM 23 OF THE “AGREEMENT TO CREATE A SPECIAL JURISDICTION FOR PEACE” OF 15 DECEMBER 2015**

On their entry into force, the amnesty rules shall cover the release from prison of all persons indicated in the first paragraph of Item 23 of the “Agreement to create a Special Jurisdiction for Peace” (SJP) of 15 December 2015 – rebels who are members of organisations which have signed a final peace agreement and persons who have been accused or convicted of political or politically motivated crimes through decisions delivered by the courts – and shall define the authority that will determine their release. Former detainees shall declare that they will submit to the authority and remain at the disposal of the Special Jurisdiction for Peace on conditional release decided by the SJP in accordance with the conditions laid down in the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence (CS) and verified by the SJP when it comes into operation.

Should the person have been accused of or sentenced for crimes which are not subject to amnesty, the preceding paragraph shall be applied in relation to their release from prison and submission to the SJP to appear before the Judicial Panel for Acknowledgement of Truth and Responsibility, the Judicial Panel for Amnesty and Pardon or the Review Chamber, or until the SJP imposes the corresponding sanctions, where applicable, and they shall remain at the disposal of the SJP under the following conditions:

- a. If the SJP has begun to operate, from the time it comes into operation as provided for in the following point the decision to release, the transfer and the supervision of the special SJP control and guarantee measure determined by the latter with respect to former detainees will be determined by the Review Chamber of the Tribunal for Peace and enforced in the

same places where reincorporation into civilian life occurs, as agreed for other members of the FARC-EP, or in other places of residence proposed by former detainees.

- b. If the SJP has not begun to operate, the authority determining the Amnesty Law will decide on the release from prison and on the special SJP control and guarantee measures and will provide for the special SJP verification mechanism agreed by the parties under Item 6 of the General Agreement of August 2012 to ensure that such persons are at the disposal of the SJP in the same places where reincorporation into civilian life occurs, as agreed for the other members of the FARC-EP, or in other places that may be proposed by former detainees once the authority has given its approval. The foregoing as a whole will be confirmed by the same special SJP verification mechanism agreed by the parties under the aforesaid Item 6 of the General Agreement of August 2012. The authority or mechanism established in the Amnesty Law will be responsible for the transfer of former detainees to the places in which they will remain at the disposal of the SJP. At their own choice and once the competent authority has given its approval, former detainees will go to their place of residence, to the places where reincorporation into civilian life of members of the FARC-EP is to occur or to any other place proposed to the mechanism or authority competent to decide thereupon. Both members of the FARC-EP and persons who do not acknowledge that they are members of that organisation shall remain under the supervision of the above-mentioned verification mechanism determined by the parties until the SJP comes into operation.

Persons accused of or sentenced for crimes which are not subject to amnesty, members of the FARC-EP who are released or persons who are released who do not acknowledge that they are members of the FARC-EP shall remain on release at the disposal of the Special Jurisdiction for Peace.

When the SJP has begun to operate, all persons who have been released or former detainees will appear before that body to allow the Judicial Panel for Amnesty and Pardon, the Judicial Panel for Acknowledgement of Truth and Responsibility, the Judicial Panel for Determination of Legal Situations, the Review Chamber of the Tribunal for Peace or any other competent chamber to resolve their situation. Their liberation or release from prison will not mean that they are discharged from their responsibilities until the SJP resolves the individual situation of each person in each case.

The following persons shall also be released: those convicted or investigated for violent rioting, blocking public roads, throwing dangerous substances, using violence against public officials, disrupting the public transport service, damaging third-party property, causing personal injuries or committing other crimes within the framework of the Law on Public Order, in cases relating to the exercise of the right to protest or internal disturbances, who express their willingness to submit to the authority of the SJP and to appear before the Judicial Panel for Determination of Legal Situations to call for the application of mechanisms to stay proceedings with a view to discharging their responsibility, all as laid down in Item 64 of the Agreement to create the SJP. In that event they shall also remain under the supervision of the SJP when it has come into operation or of the verification mechanism determined by the parties as set out above when the

SJP has not yet begun to operate. The SJP shall define the situation of conditional release, the scheme governing the latter and the supervision of such situations by the SJP until the situation is resolved by the Judicial Panel for Determination of Legal Situations or the appropriate Judicial Panel or Chamber of the SJP.

In all the above cases and in accordance with the principle of application of the most favourable law governing the SJP, the various authorities which are required to take the above-mentioned decisions shall take into account periods of imprisonment served by former detainees under the sanctions that may be imposed by the SJP.

### **5.1.3. Reparations: comprehensive reparation measures for peacebuilding**

#### **5.1.3.1. Acts of early acknowledgment of collective responsibility**

To contribute to realising victims' rights, mark a symbolic new beginning and create a favourable environment for peacebuilding in the context of the end of the conflict, the Government and the FARC-EP have agreed that in developing this Agreement following the signature of the Final Agreement, the National Government will as soon as possible support acts of acknowledgement and contrition in which the Government, the FARC-EP and different sectors of society that may have borne some responsibility in the conflict acknowledge their collective responsibility for the harm or injury caused and apologise, each party assuming their responsibility as an expression of their willingness to contribute towards a definitive Never Again. Such action will not prejudice voluntary acts of acknowledgement of individual responsibility that may take place in this initial period.

Collective acts will be formal, public and solemn and will be carried out at both national and regional level. The National Episcopal Conference (*Conferencia Nacional Episcopal*) will coordinate these acts with the support of Inter-church Dialogue for Peace (*Diálogo Intereclesial por la Paz*, DIPAZ) and other churches, in discussion with victims' and human rights organisations, among others. The coordinators must ensure that the acts meet the expectations both of victims and of communities, avoid re-victimisation, empower victims and help to lay the foundations underpinning coexistence and non-recurrence to be developed by the Truth, Coexistence and Non-Recurrence Commission.

In addition to acknowledgement of responsibility and a public apology, these acts may also include undertakings to take specific action to contribute towards ensuring full reparations to victims, coexistence and guarantees of non-recurrence, and to contribute in general to the peacebuilding process.

The foregoing will not prejudice the possibility of acts of acknowledgement of collective responsibility which the Government, the FARC-EP or any other sector of society decide to take prior to signature of the Final Agreement.

### **5.1.3.2. Concrete contributions to reparations**

In the context of the end of the conflict, the National Government and the FARC-EP have agreed that the National Government will promote and put into operation the measures necessary to ensure that any persons who caused harm or injury during the conflict and who express their willingness and commitment to contribute directly to satisfying victims and communities may do so by taking part in specific reparation acts. This will result from early acknowledgement of responsibility, where applicable, in coordination with collective territorial-based reparation programmes where necessary.

Under the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence, all persons who have caused harm or injury during the conflict shall help to make the respective reparations. Such contributions will be taken into account if any special judicial treatment is to be granted.

Under the Comprehensive System, the National Government will take the necessary actions to promote the participation in various reparation measures of state agents and others who played a direct role in the conflict who may have caused harm or injury as a consequence of serious breaches of international humanitarian law or serious and gross human rights violations, and of anyone who may have borne some responsibility because of their indirect participation in the conflict.

The National Government will also adopt measures to promote and, where applicable, to ensure that collective reparation measures are taken by the various state bodies that may have been responsible for harm or injury caused during the conflict.

The FARC-EP are committed to reincorporation into civilian life and to taking action as part of that process to help to redress the harm or injury caused. Such action may include, *inter alia*, participating in infrastructure rebuilding work in the areas most affected by the conflict and in programmes to clear such areas of anti-personnel mines (APM), improvised explosive devices (IED), unexploded ordnance (UXO) or explosive remnants of war (ERW), participating in programmes to substitute crops used for illicit purposes, contributing to the search for, location, identification and dignified return of remains of deceased persons or persons deemed missing in the context of and due to the armed conflict, and participating in programmes to repair environmental damage, e.g. reforestation.

The National Government and the FARC-EP invite anyone who may have taken part directly or indirectly in the conflict and who may have caused harm or injury at the time to take part in specific acts to ensure reparations under the comprehensive system.

### **5.1.3.3. Collective reparations at the end of the conflict**

In the context of the end of the conflict, the National Government and the FARC-EP, have agreed that the National Government will strengthen collective reparation processes and ensure that comprehensive rural reform plans and programmes will be reparations-based where applicable.

#### **5.1.3.3.1. Reparations-based approach of Development Programmes with a Territorial-Based Focus (DPTFs)**

The aim of a focus on the level of victimisation and its impact as a criterion defining areas where the DPTFs will be put into effect is to provide redress. Their implementation will accordingly seek to provide redress for victims and communities.

#### **5.1.3.3.2. Collective reparation plans with a territorial-based focus**

In order to acknowledge the harm or injury caused to communities by the conflict and to help transform their living conditions so that they can rebuild their plans in the context of the end of the conflict, the National Government will strengthen collective reparation processes with a territorial-based focus in accordance with this Agreement.

To that end, all DPTFs will include collective reparation plans, while in areas where these plans are not put into effect, plans for communities which have been particularly victimised will be strengthened, prioritising community initiatives.

In both cases such collective reparation plans with a territorial-based focus must incorporate the following aspects:

- **Material and symbolic measures to address harm:** Measures aimed at direct individual and collective victims, such as acts to dignify, commemorate and pay homage to them, infrastructure building and commemorative architecture.
- **Coexistence and reconciliation measures:** Measures to address the damage done to the social fabric and to promote coexistence within communities, including victims, former members of paramilitary organisations, members of the FARC-EP in the process of reincorporation into society and third parties who may have participated in the conflict in some way, as well as measures to build and strengthen confidence between the public authorities and communities.
- **Coordination:** Collective reparation plans must be coordinated, where applicable, with the DPTFS, the various plans and programmes agreed and the different efforts to achieve truth and justice.

- **Action plans:** A collective reparation action plan will be drawn up by means of participation. These plans shall include: i) a diagnosis of the collective harm or injury; ii) identification of the material and symbolic measures to be prioritised; and iii) the timetable for implementation.
- **Participation mechanisms:** The active participation of victims and their organisations with the regional authorities will form the basis for the collective reparation plans with a territorial-based focus. Forums for participation will be created to that end to define priorities in implementing the collective reparation measures, ensuring community participation in their implementation and establishing project follow-up and oversight mechanisms. The participation of women in this approach will be ensured.
- **Measures to contribute to reparations:** Where applicable, collective action plans shall involve the participation of anyone who may have caused harm or injury during the conflict in developing specific acts contributing to the reparations referred to in this Agreement.

#### **5.1.3.3.3. National collective reparation plans**

In the context of the end of the conflict, the National Government will strengthen national collective reparation plans in developing this Agreement. These plans will be gender-based and will be aimed at communities consisting, *inter alia*, of groups and organisations such as women's and trade organisations, unions, human rights organisations, political and social parties and movements, particularly those of the opposition, and organisations of the religious sector, with a view to acknowledging the special nature of their victimisation, recovering their identity and their organisational potential and rebuilding their ability to have an impact on the development of local and national policies within a legal framework. These plans must also contribute to coexistence, guarantees of non-recurrence and reconciliation.

In the context of these plans, stress will be laid on acknowledging the responsibility of the state, the FARC-EP, paramilitaries and any other group, organisation or institution that caused harm or injury during the conflict.

The Colombian government and the FARC-EP agree that the National Government, together with the Patriotic Union (*Unión Patriótica*) political party will seek an amicable outcome to the litigation currently pending in the Inter-American Commission on Human Rights concerning the *Unión Patriótica* political party.

Accordingly, the Colombian Government undertakes to develop a Special Reparations Plan and to make the adjustments and carry out the reforms necessary to ensure the participation of victims, considered individually and collectively, and the provision of guarantees of non-recurrence.

#### **5.1.3.4. Psychosocial rehabilitation**

##### **5.1.3.4.1. Emotional recovery measures at individual level**

In order to address and help to alleviate the suffering of victims in the context of the end of the conflict, the National Government and the FARC-EP have agreed that in developing this agreement the National Government will undertake to broaden the public coverage and regional scope and improve the quality of psychosocial care to ensure the emotional recovery of victims in accordance with the specific harm or injury they have suffered, including the particular impact of sexual violence. To do this the number of local centres providing care for victims will be increased and mobile strategies to reach the most isolated places will be promoted.

In fulfilling the agreements reached the National Government will also improve access to mental health services for victims who require them.

##### **5.1.3.4.2. Psychosocial rehabilitation plan for coexistence and non-recurrence**

Within the framework of the collective reparation plans and bearing local reconciliation initiatives in mind, in developing this Agreement the National Government undertakes to increase the coverage and raise the quality of community rehabilitation strategies to rebuild the social fabric. These strategies will be developed through medium and long-term community processes whose key aims are to generate future projects for living together, build confidence among citizens and institutions and achieve peaceful coexistence within communities, including victims, former members of paramilitary organisations and former members of the FARC-EP who are in the process of reincorporation into society, as well as third parties who may have participated in the conflict in some way. The strategies will be equity- and gender-based and will involve the following components:

- Creation of spaces for community dialogue and collective mourning allowing expressions of individual and collective suffering.
- Rediscovery and generation of social, cultural, artistic, recreational and sporting activities associated to exchanges between citizens and coexistence in communities.
- Boosting of local initiatives focusing on reconciliation, dignity and acknowledgement.
- Reflection on collective attitudes regarding future life projects allowing reparations to be transformative and peaceful coexistence to be fostered.
- Creation of learning environments to strengthen the social rejection of violations and infringements that took place in the past, leading to changes in the attitudes which allowed them or justified them.
- Rediscovery of social practices abandoned as a result of the conflict.



- Promotion of agreements for peaceful coexistence within communities, which include victims and persons who may have participated directly or indirectly in the conflict, and confidence-building between the public authorities and communities.
- Strategies for rebuilding family ties affected as a result of the conflict which, respecting religious, ethnic and cultural differences and applying the principle of non-discrimination, seek to help victims to recover their environment and their bonds of affection, solidarity, respect and support.

Psychosocial rehabilitation strategies for coexistence will be coordinated with and supported by the work of the Truth, Coexistence and Non-Recurrence Commission when it is in operation.

#### **5.1.3.5. Collective processes of return of displaced persons and reparations of victims abroad**

In developing this Agreement and in the context of the end of the conflict, the National Government will introduce specific collective territorial- and gender-based programmes to return and relocate displaced persons on the one hand, and accompanied and assisted return plans for victims abroad on the other. The coordination of such plans will be strengthened at territorial level by other aspects of the Victim Reparation Policy, particularly collective reparation and land restitution programmes, and by implementation of the agreement "Towards a New Colombian Countryside: Comprehensive Rural Reform", where applicable.

Measures will be taken accordingly to guarantee collective or individual returns and relocations in conditions of safety and dignity according to a voluntary approach involving the following elements:

- **Identification of territories:** return and relocation plans will prioritise areas in which the DPTFs are implemented and other territories in which collective reparation plans are developed and will be coordinated with land restitution processes.
- **Interinstitutional coordination:** return and relocation plans will be coordinated, where applicable, with the various plans and programmes agreed, particularly the DPTFS, rural housing and water plans, measures to provide access to land, income generation, boosting of the small-scale farmer economy and programmes to clear and decontaminate areas of APM, IED, UXO or ERW, and with land restitution processes.
- **Security in territories for return:** in areas in which return and relocation plans are to be prioritised, the Government will set up the security measures necessary to guarantee life and personal integrity in communities, which will always participate in this process.

- **Strengthening of community advocates:** The Government will take the necessary measures to strengthen the community advocates (*defensores comunitarios*) programme, and in particular their functions of protection and promotion of human rights, so that they can effectively monitor the processes of land restitution, return and relocation of displaced persons and victims abroad, including refugees and exiles, which form part of these processes, and can support and assist the victims in order to guarantee access to the institutional services offered with regard to realisation of their rights.

The implementation of these processes of returns and relocations will require the cooperation of specialised and interdisciplinary teams, capable of ensuring the participatory process and use of local resources.

With regard to the large number of victims who had to leave the country as a consequence of different human rights violations and breaches of international humanitarian law (IHL) during the conflict, the National Government, in fulfilment of this Agreement, will strengthen the programme of recognition and reparation of victims abroad, including refugees and exiles victimised during the conflict, by means of the implementation of “supported and assisted return” plans. The assisted return will consist of promoting conditions to facilitate their return to the country and the construction of their life project, including decent reception conditions through the coordination of these plans with the specific institutional services offered, to progressively guarantee access to basic rights, decent employment, housing, health and education at all levels according to each person’s individual needs. Priority will be given to their relocation to the places they had to leave, respecting the wishes of the victim. The Government will adopt the necessary measures to coordinate these plans, where appropriate, with the different plans and programmes agreed, in particular the DPTFs.

All this is without prejudice to the different measures that, in an end-of-conflict scenario, have to be adopted to drive forward and promote the return of exiles and other Colombians who left the country because of the conflict.

#### **5.1.3.6. Land restitution measures**

In order to strengthen and invigorate the processes of land restitution in an end-of-conflict scenario, as well as guaranteeing coordination between the processes of land restitution and the processes of collective reparation, the development programmes with a territorial-based approach as well as the other plans and programmes arising from the implementation of the Final Agreement, we have agreed that:

In an end-of-conflict scenario, in order to strengthen and invigorate the processes of land restitution, we have agreed that the coordination of these and the processes of collective reparation, the development programmes with a territorial-based approach and the plans and programmes arising from the implementation of the Final Agreement, will be guaranteed, and also that:

- The political application of land restitution will, *inter alia*, meet the technical criteria of historical density of the dispossession and the conditions for the return, taking into account the recommendations, including those concerning territorial prioritisation, made by the victims' organisations and experts on the subject. The territorial-based entities must participate actively in the implementation of the land restitution policy and contribute from the time of drawing up their territorial development plans to the comprehensive care for the population benefiting from the processes of restitution, including investment in infrastructure works and public services.
- The population benefiting from the processes of restitution will receive technical and financial support for the reconstruction of their life projects and strategies for income generation, strategies for substitution of crops used for illicit purposes, strategies for recovery and reconstruction of the social fabric; strengthening of organisational processes and construction of the historical memory for reconciliation.
- The information resulting from the entries in the register of dispossessed and forcibly abandoned land and the subsequent rulings ordering land restitution, will be included in the Unique Register of Victims (*Registro Único de Víctimas*) for purposes of harmonisation of the records and access to the different reparation measures.

**5.1.3.7. Participatory adaptation and strengthening of the Policy of caring for and comprehensive reparation of victims, in the context of the end of the conflict and contribution to material reparation for the victims**

The National Government and the FARC-EP agree that in the context of the end of the conflict it is necessary to strengthen the Policy of caring for and comprehensive reparation of victims, to adapt it to the needs and opportunities of this new context, and to ensure that it contributes effectively to coexistence, guarantees of non-recurrence and reconciliation.

For this, the National Government will set in motion an effective process with the broadest possible participation of victims and their organisations, promoting spaces for the discussion of their proposals with the competent authorities. This process will be carried out in the framework of the existing forums for victim participation, which will be expanded upon and strengthened for this purpose, so that victims' organisations and victims not involved in these forums can participate in this process.

In order to implement this, an event with broad-based participation will be announced and held with victims' organisations and victims including those that are not involved in these forums for participation. Invitations will be issued to academic experts, specialised organisations and organisations of human rights advocates.

As a consequence of this process of participation and discussion of the proposals of the victims and their organisations, the Government will set in motion the necessary adjustments and reforms of regulations and policy in order to: adapt the Policy to that agreed in the sub-item on reparations; guarantee coordination with the implementation of the plans and programmes at local and inter-institutional level resulting from the signing of the Final Agreement; overcome the difficulties and take advantage of the opportunities afforded by the end of the conflict; and make the adjustments to the priorities of delivery of resources, to the plans for achievement of goals, and to the criteria of population- and territorial-based prioritisation for their execution.

The process of strengthening and adaptation of the Policy of caring for and comprehensive reparation of victims will seek to guarantee greater levels of territorial-based coverage in its implementation.

The process for the adaptation and participatory strengthening of the policy of caring for and comprehensive reparation of victims will be overseen by the existing forums for participation of victims, at local and national level. For this purpose these forums will be expanded and strengthened by means of the participation of other victims and victims' organisations and human rights organisations.

In addition, in the context of the end of the conflict, the Government undertakes to implement the following agreed measures:

- To construct an individual and collective victimisation map, which will serve as a source of information and an instrument for acknowledgement and memory of acts committed during the conflict that are not within the realm of victims registered in the Programme of Comprehensive Reparation for Victims, in coordination with the Truth, Coexistence and Non-Recurrence Commission and the Unit for the Search for Persons deemed as Missing in the context of and due to the conflict and with the Special Jurisdiction for Peace.
- To recognise the direct and indirect victims of serious human rights violations or breaches of IHL who have also been combatants. The reparation measures for members of the FARC-EP who have been victims will be discussed in the item of the Agenda relating to the process of reincorporation. In parallel, the National Government will strengthen the measures of caring for and reparation of the members of the Colombian State Armed Forces (which include both the Military Forces and the National Police) who were victims of serious violations of human rights or breaches of IHL.
- To take all the necessary measures for the full and effective financing of the Policy of caring for and comprehensive reparation of victims, including the strengthening of the Reparation Fund for the Victims of Violence, the expansion of its sources of funding and of the fund-

raising mechanisms, as well as the promotion of the mechanisms of participation and oversight as a device for victims' control over the Fund. The state will contribute, in a subsidiary manner, to the reparation of victims when the individuals who caused the injury, loss or damage in the context of the conflict do not have sufficient resources to provide reparation for them.

For its part, within the context of the end of the conflict and within the parameters of the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence, the FARC-EP, as an insurgent organisation that acted in the context of the rebellion, undertakes to contribute to the material reparation of the victims and in general to their comprehensive reparation, on the basis of the facts identified by the Special Jurisdiction for Peace.

During the time that the FARC-EP remain in the Transitional Local Zones for Normalisation (TLZNs) in the process of laying down arms, authorised representatives of that organisation shall agree, with representatives of the National Government, the procedures and protocols for making an inventory of all kinds of property and assets included in what has been referred to as resources for war and for reporting on them, all in accordance with the provisions of section 3.1.1.3 "Provision of information" of the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities and Laying down of Arms.

In accordance with the provisions of this Agreement, the FARC-EP shall make material reparation to the victims, using the above-mentioned property and assets and within the framework of the comprehensive reparation measures, following the criteria established by the case law of the Constitutional Court with regard to war resources.

Once the process of laying down arms has concluded, any property and assets for which an inventory has not been made shall be dealt with in accordance with ordinary legislation.

The terms and procedures for that material reparation shall be specified within the framework of the Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement.

In any case, the approval and implementation of the foregoing measures cannot involve limitation, annulment or restriction of the victims' rights currently acquired.

#### **5.1.4. Guarantees of non-recurrence**

The primary objective of the different mechanisms and measures of the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence agreed by the National Government and the FARC-EP is to contribute to the prevention and guarantee of non-recurrence of the violations and of the conflict itself, in different ways.

The Comprehensive System for Truth, Justice, Reparations and Non-Recurrence contributes to guaranteeing non-recurrence, in the first place, by means of the recognition of the victims as citizens who have seen their rights violated. The measures for reparations and the measures in respect of truth and justice, in particular the attribution of responsibilities and the imposition of sanctions on the part of the Tribunal for Peace of the Special Jurisdiction for Peace, must contribute to this purpose.

Secondly, by means of the recognition of what has occurred in the context of the conflict and of the clarification and rejection of the serious violations of human rights and serious breaches of international humanitarian law, including those that have been historically less visible such as those committed against women, children and adolescents, as well as the rejection of the violence against collectives, social and trade union movements, and political parties, especially the opposition parties that were severely victimised, in order for it to be a shared aim of society that this will never happen again.

The National Government will take all the measures, including those stipulated in this agreement and any others that are necessary, to ensure that no party or political movement in Colombia is ever victimised again and that what happened with the Patriotic Union (*Unión Patriótica*) party will never happen again.

The following items must all contribute, in order to recognise, clarify and encourage the rejection of what occurred: the final report and the recommendations of the Truth, Coexistence and Non-Recurrence Commission; the results of the Unit for the Search for Persons deemed as Missing in the context and due to the conflict; the acknowledgements of responsibility; the judicial truth and the decisions made by the Special Jurisdiction for Peace; and also the measures for reparations, including the measures for collective reparations.

Thirdly, by means of the fight against impunity, contributed to especially by the Special Jurisdiction for Peace and also the measures of clarification of the truth and reparations. The accountability for what happened, on the basis of the implementation of these measures, must contribute to the prevention of and dissuasion from committing new violations, and it is a fundamental guarantee of the non-recurrence of the violations and breaches and of the definitive termination of the violence that the country has suffered due to the conflict.

In order to fulfil this purpose, judicial mechanisms will also be created, outside the Special Jurisdiction for Peace, such as a unit for investigation and dismantling of criminal organisations, including the criminal organisations that have been deemed as successors of paramilitarism, and their support networks, referred to in Item 3.4 of the Agenda for the General Agreement.

And fourthly, by means of the promotion of coexistence on the basis of the acknowledgements of responsibility made in the framework of the Truth, Coexistence and Non-Recurrence Commission, of the Special Jurisdiction for Peace and of the measures for reparations. Insofar as these acknowledgements are also of the rules and rights breached and constitute commitments to non-recurrence, they contribute to the strengthening of trust between citizens and confidence

in the rules that guarantee the validity and respect of those rights. Thus the bases are established for coexistence, which in turn is the foundation for reconciliation and the building of a stable and long-lasting peace.

Furthermore, the primary objective of the Comprehensive System, and of everything agreed in respect of victims, to contribute to non-recurrence, essentially requires fulfilment and implementation of that agreed in the context of Item 3 of the Agenda of the General Agreement “End of the Conflict”, which must guarantee the definitive end to the armed conflict, as well as the implementation of everything agreed in respect of human rights, with a vision of territorial-based development and implementation.

The guarantees of non-recurrence of the conflict also require the implementation of all the agreements reached here, which in the opinion of the Government contribute to reversing the effects of the conflict and to changing the conditions that have facilitated the persistence of violence in the country; and which in the opinion of the FARC-EP contribute to resolving the historical causes of the conflict. To that extent they are a fundamental guarantee of non-recurrence.

The guarantee of rights, including economic, social, cultural and environmental rights, of the rural population by means of the implementation of the Comprehensive Rural Reform which contributes to their well-being and quality of life; the strengthening of the exercise of political rights, the promotion of a democratic culture and of human rights and guarantees for reconciliation, coexistence, tolerance and non-stigmatisation, and the guarantees for mobilisation and social protest, by means of the implementation of a Democratic Opportunity to Build Peace; the measures to protect and guarantee the rights of the population living in territories affected by growing of crops used for illicit purposes and to contribute to overcoming the conditions of poverty, marginalisation and weak institutional presence by means of the implementation of the programmes and measures agreed for the Solution to the Illicit Drugs Problem and the effective judicial control of the criminal organisations and networks associated with national and regional drug trafficking; and the measures agreed in Chapter 5 “Victims” and in Chapter 3 “End of Conflict”, correspond above all to a logic of non-recurrence of the conflict and a guarantee of human rights for all. The Government reiterates its commitment to the implementation of these agreements.

In conclusion, the guarantees of non-recurrence will be the result, on the one hand, of the coordinated implementation of all the foregoing measures and mechanisms, as well as in general of all the items of the Final Agreement; and, on the other hand, of the implementation of the additional measures of non-recurrence that are agreed in the framework of Item 3 “End of Conflict” of the Agenda of the General Agreement.

## **5.2. Commitment to the promotion, respect and guarantee of human rights**

In the *General Agreement to End the Armed Conflict and Build a Stable and Lasting Peace*, signed by the Government and the FARC-EP on 26 August 2012, it is specifically stipulated that “respect

for human rights in all corners of the national territory, is an aim of the state that must be promoted.”

The National Government, representing the Colombian state, reiterates its commitment to the protection of human rights and of those who are working for this cause. It is the duty of the Colombian state to promote, protect, respect and guarantee human rights, including economic, social, cultural and environmental rights, with an equity-based and gender-based approach, following the principles of equality and progressivity, and to guarantee the right to peace, especially in the territories most affected by the conflict.

For its part, the FARC-EP reiterates its unrestricted commitment to human rights and undertakes to ensure that both its members and the organisation that emerges from its transition to legal political life will promote and respect the individual freedoms and the human rights of all, as well as peaceful coexistence across the country.

The Agreement as a whole must contribute to building a shared vision of the need for respect of all human rights. The state will work to guarantee full realisation of these in terms of their universality, comprehensiveness, indivisibility and interdependence, as a basis for justice and materialisation of the recognition of human dignity.

In the new scenario of peacebuilding and democratic opportunity, citizen participation and the exercise of rights will not just be items on a list, but will contribute to the realisation of everybody’s rights.

Another aim is to ensure that all Colombians are aware of the rights of all other Colombians, and that we are committed to respecting them and to the promotion of relations of social harmony and coexistence, on the basis of tolerance and respect for differences, especially differences of thinking, including critical thinking, in order thus to establish the bases for reconciliation, non-recurrence, and peacebuilding.

The commitment to respect and promotion of human rights in the process of reconciliation pursued as part of the achievement of peace, involves the recognition of the need to move forward with public policies of promotion of a political, democratic and participatory culture of respect for human rights. Such commitment also implies respect for cultural and ethnic diversity.

The end of the conflict constitutes the best opportunity to realise the rights of the victims to truth, justice, reparations and non-recurrence, and in general to ensure the full realisation of the human rights of all, including those of women, children, adolescents, youths and the elderly, persons with disabilities, indigenous peoples, rural communities, members of churches, religious faiths, faith-based and religious organisations, the Afro-Colombian, black, *palenquero* and *raizal* communities, the LGBTI community, human rights advocates, trade unionists, journalists, farmers, ranchers, traders and businessmen and businesswomen; which also implies the adoption of measures of affirmative action, to guarantee fully the rights of those individuals who



have been most affected by the conflict. Peace as a fundamental right of all citizens is a necessary condition for the exercise and enjoyment of all other rights.

The end-of-conflict scenario will make it possible to guarantee the culture of legality, free debate of ideas, the effective participation of citizens and their organisations in the taking of decisions, respect for people who think differently and for the exercise of opposition, the deepening of the culture of human rights, protection of cultural diversity and autonomy, the promotion of peaceful conflict resolution, the strengthening of access to justice in conditions of equality, social inclusion, the well-being and quality of life of the population, social justice, the overcoming of poverty, protection of the environment and a territorial-based approach in the implementation of public policies.

In the context of the respect and promotion of human rights, the commitment is reiterated to realise the rights in this area contained in the Political Constitution of 1991, the Covenant on civil and political rights, the Covenant on economic, social and cultural rights, and the other international treaties on human rights ratified by Colombia.

In particular, the National Government will set in motion the following measures:

#### **5.2.1. Strengthening of the mechanisms for promotion of human rights:**

- Promotion of respect for human rights and of a culture of human rights for the building of peace and reconciliation.
- Strengthening of the system of information on the human rights situation, taking into account the progress of the National System of Human Rights.
- Strengthening of the system of monitoring of the human rights situation at national and regional level, taking into account the early warning system.
- Strengthening of the process of implementation of the National Plan for Human Rights Education by means, *inter alia*, of:
  - o The inclusion of the Final Agreement and of the Final Report of the Truth, Coexistence and Non-Recurrence Commission in the National Plan for Human Rights Education.
  - o Coordination with the programmes for promotion of a democratic and participatory political culture of Chapter 2 “Political Participation: A democratic opportunity to build peace”, in particular for overcoming the stigmatisation associated with the conflict.
  - o The strengthening of the measures of non-formal education through the launching of public campaigns for recognition of human rights and prevention of violation of such rights.

#### **5.2.2. Strengthening of the mechanisms for protection of the work performed by human rights advocates and their organisations**

Furthermore, the National Government, recognising the work of human rights advocates, undertakes to contribute to the strengthening of human rights defence organisations, in particular those that work in rural contexts, in the framework of that already agreed in Chapter 2 in relation to the guarantees for social organisations and movements, guarantees of security, recognition and non-stigmatisation; and to maintain with them an ongoing dialogue to respond to their reports, diagnoses and recommendations. For this, and in the framework of that agreed in Chapter 2 “Political participation”, a protocol for comprehensive protection will be drawn up in collaboration with human rights advocates’ organisations, including those that carry out their work in rural environments.

The National Government will strengthen the coordination with the Office of the Attorney General (*Fiscalía General de la Nación*), for driving forward and following up, case-by-case, accusations and investigations of violations of the rights of human rights advocates. Public progress reports will be issued every three months.

### **5.2.3. Prevention and protection of human rights**

- Design, drawing up and execution of a National Plan for Human Rights with the effective participation of human rights advocates’ organisations and social organisations and movements which, taking into account the different existing policy efforts, will make it possible to adjust them to the needs of a peacebuilding scenario.
- In accordance with that approved in the Chapter on Political Participation, the necessary regulatory measures and adjustments will be adopted to give full guarantees for social mobilisation and protest, as part of the constitutional right to freedom of expression, to assembly and to opposition, favouring dialogue and civility in the treatment of this type of activities.
- Creation of an advisory committee convened by the Office of the Ombudsman (*Defensoría del Pueblo*) to advise and make recommendations to the National Government, to state institutions and to human rights organisations, with regard to human rights and peace. The Office of the Ombudsman and representatives of human rights organisations will agree on its composition and functioning.

### **5.3. Additional agreement on the “Comprehensive System for Truth, Justice, Reparations and Non-Recurrence”**

In the Tribunal for Peace, justice will be administered by a minimum of 20 Colombian Justices. Four (4) expert foreign jurists shall also be chosen to act as *amici curiae*.

On the Judicial Panels of the Special Jurisdiction for Peace, justice will be administered by 18 Colombian Justices. Six (6) expert foreign jurists shall also be chosen to act as *amici curiae*. The Justices will not have to be career judges and no age limit will be applied.

The selection mechanism established in Item 68 will choose the aforementioned Justices and foreign jurists - a total of 38 Justices and 10 foreign jurists - and up to a third more - that is, 13 Justices who must be available as reserve or substitute Justices and 4 foreign jurists who must be available as *amici curiae*. The President will formalise the appointment of and swear in the Justices of the Special Jurisdiction for Peace, the foreign jurists and the Director of the Investigation and Prosecution Unit. If need be, the plenary of Justices of the Special Jurisdiction for Peace will make the necessary appointments from the list of deputy or substitute Justices or the list of deputy or substitute foreign jurists selected by the selection mechanism.

The Investigation and Prosecution Unit of the Special Jurisdiction for Peace will be made up of a minimum of sixteen (16) prosecutors of Colombian nationality.

The prosecutors will not have to be career prosecutors and no age limit will be applied.

The foregoing prosecutors - 16 in total - and up to a further one third - 5 prosecutors who must be available as deputy or substitute prosecutors - will be appointed and sworn in by the Director of the Investigation and Prosecution Unit, who will have full autonomy to select and appoint the other professionals required to form part of the Unit.

## 6. Implementation, verification and public endorsement

The National Government and the FARC-EP adopt the following agreement on the creation of the “Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement (CMPVI)”, complying with the provisions of the General Agreement of 26 August 2012.

### General principles for implementation

Without prejudice to the specific principles established for the implementation of the different agreements, the National Government and the FARC-EP have agreed the following guiding principles for the implementation of the Final Agreement.

- **Rights-based approach:** The implementation of all the agreements reached must contribute to the protection and guarantee the effective enjoyment of the rights of everyone. Human rights are inherent in all human beings equally, which means that they belong to them simply on account of being human. Consequently, recognising them is not a concession, since they are universal, indivisible and interdependent imperatives and must be considered in a global, just and equitable manner. It is, therefore, the duty of the state to promote and protect all fundamental rights and liberties, without any form of discrimination, respecting the *pro homine* principle, and it is the duty of all citizens not to violate the human rights of their fellow citizens, applying the principles of universality, equality and progressiveness.
- **Respect for equality and non-discrimination:** The implementation of this Agreement shall respect equality in all its aspects and equality of opportunity for everyone in accessing the different plans and programmes provided for in this Agreement, without any form of discrimination. Nothing contained in the Final Agreement shall be understood or interpreted as denying, restricting or infringing the rights of individuals, regardless of their gender, age, religious beliefs, opinions, ethnic identity, on account of their membership of the LGBTI community, or for any other reason; nor shall it be understood or interpreted as denying, restricting or infringing the right to unhindered development of the personality or the right to freedom of conscience.
- **Gender-based approach:** In this Agreement, the approach to gender means recognition of equal rights for men and women and the special circumstances of each person, especially those of women, regardless of their marital status, life cycle and family and community relationships, as enjoying rights and special constitutional protection. In particular, it implies the need to guarantee affirmative measures to promote that equality, active participation by women and their organisations in peacebuilding and recognition of the victimisation of women as a result of the conflict.

To guarantee true equality, it is necessary to put forward affirmative measures which respond to the disproportionate impact which the armed conflict has had on women, in particular sexual violence. With regard to the rights of victims, their protection includes differential treatment which recognises the causes and the disproportionate effects which the armed conflict has had on women. Moreover, differential action must be taken to enable women to access the plans and programmes contained in this Agreement on equal terms. Participation by women and their organisations and the equitable representation of women in the different areas of participation must be guaranteed. The gender-based approach must be understood and applied in a cross-cutting manner in implementing the whole of the Agreement.

- **Respect for freedom of religion:** implies recognition of and respect for the practice of any expression of religiosity, worship, belief or faith, without any form of discrimination or stigmatisation. The implementation of the Final Agreement shall promote active participation by churches, religious faiths, faith-based organisations and organisations of the religious sector in peacebuilding. It shall also seek to take the measures necessary to restore, on equal terms, the rights of those individuals or groups who were victimised on account of their religious belief during or on account of the armed conflict.
- **Territorial integration and social inclusion:** the measures taken during the implementation must promote the integration of territories within the regions and the integration of the regions within the country, as well as the inclusion of the different populations and communities, in particular those most affected by the conflict and those which have lived in conditions of poverty and marginalisation.
- **Strengthening and coordinating institutions:** to build a stable and lasting peace and in general to guarantee the democratic protection of the rights of all citizens, it is necessary to strengthen the institutional presence of the state in the territory.

Public policy must promote the strengthening of institutions and ensure that the state's response in the territory is comprehensive and effective, with the active participation of regional and local authorities in the decision-making processes and in monitoring the implementation of the Final Agreement in their territories.

The constitutional basis whereby the Colombian state is administratively decentralised is reaffirmed, as is the autonomy of the regional bodies, according to the principles of concurrence, coordination and subsidiarity; the implementation shall, therefore, be carried out in coordination with and with the support of local authorities. The implementation of the Agreement must be carried out with full respect for the powers of the regional authorities, without detriment to its content.

In particular, the measures must help to strengthen the management capacities of departments, municipalities and other regional bodies, to enable them to provide leadership in coordinating the plans and programmes necessary to build peace; they must also promote

the coordination of the national, departmental and municipal authorities to ensure that they act in an integrated, coordinated, joined-up and organised manner.

- **Strengthening democracy and “building on what has already been built”**: Implementing the agreed plans and programmes must take into account development initiatives and processes and recognise the efforts of society in peacebuilding in the regions, to “build on what has already been built” and strengthen democracy, eradicating corruption, any lack of transparency, cronyism and any other action which degrades the other principles.

The implementation of the Agreement shall be led and carried out taking full advantage of the existing institutional structure and recognising the powers of the different levels of government. The organisations and institutional coordination mechanisms created at different points in the Final Agreement shall seek to strengthen that institutional structure and thereby strengthen democracy.

- **Efficacy, efficiency and suitability**: to which end the time and resources associated with the implementation shall be optimised through special mechanisms and efficient public administration, reducing formalities and simplifying processes and instruments. The Government officials responsible for implementing the plans and programmes shall be suitable and satisfy the relevant technical and meritocratic requirements.
- **Prioritisation**: the implementation of the agreements is a continuing and urgent process starting with the definition of the plans and programmes for which there is the most immediate need, according to an implementation timeline which takes into account the social priorities defined in the Agreement, institutional capacities and available resources. As programmes which coordinate the implementation of the agreed plans and projects, the DPTFs must be prioritised in the context of implementing the Final Agreement.
- **Transparency, social control and fighting corruption**: with clear, accesible and timely information regarding decisions, from the allocation of resources to their ultimate application (traceability), which allows them to be monitored in a simple manner, as well as mechanisms for accountability, distributing information, citizen oversight and oversight by supervisory bodies (Office of the Attorney General, Office of the Inspector General, Office of the Comptroller General and Office of the Ombudsman), and, in general, fighting corruption. The aim of all of the foregoing is to guarantee that all public resources allocated to implementation are correctly applied and strictly comply with the terms of the Final Agreement.
- **Democratic principles**: the interpretation and implementation of this Agreement and of the regulations which incorporate it into the legal system shall respect the unitary nature of the rule of law, political pluralism, individual freedoms, the separation of powers, the powers of the different branches of public authority, territorial integrity, economic freedom, the right of all citizens to own private property and the primacy of the inalienable rights of the

individual, as well as society's different organisational endeavours and processes, particularly those of the rural, indigenous and Afro-Colombian, black, *palenquero* and *raizal* communities.

### 6.1. Implementation and verification mechanisms

- a. The day after the signing of the Final Agreement, the "Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement" will be created, comprising of three representatives of the National Government and three representatives of the FARC-EP or the political party that emerges from its transition to legal life. The duration of the Committee may be up to 10 years, and an initial period of operation is agreed until January 2019, after which the members of the Commission will decide on its extension.

Its members will be high-level representatives of the Government designated by the President and plenipotentiaries of the FARC-EP at the Negotiation Table in Havana.

- b. Objectives of the Commission. Dispute resolution; follow-up of the components of the Agreement and verifying their fulfilment; driving forward and follow-up of the legislative implementation of the agreements; follow-up reports on the implementation; receiving input from agencies in charge of implementation.
- c. The implementation of the agreements reached in the peace process must be effected in good faith, addressing reciprocity in the fulfilment of the obligations accepted by the parties, promoting the integration of populations, communities, territories and regions of the country, in particular of those most affected by the conflict and those that have lived in conditions of poverty and marginalisation.
- d. In order to assist with monitoring the approach and guaranteeing the rights of women in the implementation of the Final Agreement, a special forum (*Instancia Especial*) shall be set up comprising representatives from 6 national and regional Colombian women's organisations, to maintain a permanent dialogue with the Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement (CMPVI). Its composition and functioning shall be defined in consultation with the women's organisations and in the context of the CMPVI.

The implementation will include measures and mechanisms that enable citizen participation to have an effective influence on the decisions of the corresponding public authorities and promote dialogue between the different sectors of society, the building of trust and social inclusion.

It will count on technical support, information and methodologies to ensure the efficacy of the participation in the definition of priorities and in the formulation of projects.

It will be the result of work that involves the cooperation and commitment of everybody: the different state institutions, the territorial authorities, the social agents, organisations and movements, the communities, the political parties including the political movement that emerges from the transition of the FARC-EP to legal political activity, the ex-combatants of the

FARC-EP and the citizens in general.

Notwithstanding the foregoing, the National Government will be responsible for the correct implementation of the agreements reached in the peace talks process, to which end it undertakes to guarantee its financing through different sources. The implementation and development of the agreements shall be carried out in compliance with the current budgetary regulations, ensuring the sustainability of the public finances.

### **6.1.1. Framework Plan for Implementation of the Agreements**

After the signing of the Final Agreement and in order to guarantee the implementation of everything agreed - policies, regulations, plans, programmes - and to facilitate follow-up and verification, the Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement (CMPVI) will discuss and approve, within four (4) months following its constitution, a Framework Plan for the Implementation of the Agreements on the basis of the draft to be submitted by the National Government.

The Framework Plan will contain the set of aims and objectives, goals and priorities and indicators, the policy recommendations and the measures needed for the implementation of all the agreements, as well as their prioritisation and sequence - timeline - and responsible institutions. The Framework Plan will contain the different sources of financing and the institutions responsible for implementation, as appropriate.

The Framework Plan will include as a priority the practical and strategic needs of women, identifying the multiple discriminations that must be addressed for the execution of the agreements. Furthermore, in respect of the implementation of the agreements, it will drive forward public policies, programmes and reforms that take into account the particular requirements of women and ethnic populations, including impact indicators that make it possible to identify the progress of implementation in that regard.

The Framework Plan will remain in force for ten (10) years and will have a first phase of priority implementation which will run until 20 May 2019; it will be reviewed annually by the Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement (CMPVI) in order to make the appropriate adjustments.

As soon as possible, and in order to allow the start of the implementation, an NSEPC Document (*Documento CONPES*) on the Framework Plan for Implementation will be drawn up and approved in the National Social and Economic Policy Council (NSEPC), in the terms approved by the Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement (CMPVI), which will also contain an indication of the resources necessary for its financing, as well as the sources of such funding.

On the basis of that established in the Framework Plan, from now on and for the following two presidential terms after the end of the current one, as part of the preparation of the National



Development Plan a Chapter must be included corresponding to the Four-Year Plan for the Implementation of the Agreements.

For this, through the special legislative procedure for peace provided for in Legislative Act 01 of 2016, the necessary constitutional or legal reforms will be processed for the Multi-Year Investment Plan to be incorporated in the National Development Plan for the respective period. In the same vein, the necessary adjustments will be made to the current National Development Plan.

In order to guarantee the implementation of the first measures as from the entry into force of the Final Agreement, the National Government will draw up a list of early implementation measures (D+1 to D+180) which it will submit to the Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement (CMPVI), within 15 days following the signing of the Final Agreement.

### **6.1.2. Measures to incorporate the implementation of the agreements with territorial-based resources**

In order to contribute towards guaranteeing the implementation of the agreements and to coordinate efforts between the different levels of Government:

- The necessary reforms will be processed in order to ensure that the departmental and municipal development plans incorporate measures to guarantee the implementation of the agreements, including in the prioritised territories the action plans for the regional transformation of the DPTFs.
- Mechanisms and measures will be promoted to ensure that with resources of the General Transfer System (*Sistema General de Participaciones*) and of the General Royalties System (*Sistema General de Regalías*) a contribution is made toward the funding of the implementation of the agreements, including in the prioritised territories the action plans for the regional transformation of the DPTFS. Royalties will provide another source of resources for the implementation of the Agreement in the regions, so that these projects support the development of their municipalities and departments.
- The departmental and municipal development plans will be inputs for the formulation of the four-year plans and multi-year plans that form part of the Framework Plan for implementation. In the same way, measures will be adopted to encourage the incorporation in the territorial development plans of those elements that ensure consistency with the Framework Plan for Implementation. In cases where the territorial-based strategies involve two or more departments, as is the case of the DPTFS, the respective plans will have to be adjusted to ensure that efforts and resources come together in the prioritised zones.

### **6.1.3. Other measures to contribute to guaranteeing the implementation of the agreements**

- Participation of the business sector in the implementation of the agreements will be promoted, to contribute to guaranteeing productivity, access to markets and in general the sustainability of the projects contemplated, *inter alia*, in the Comprehensive Rural Reform, the National Comprehensive Programme for the Substitution of Crops Used for Illicit Purposes and in the plans for reincorporation into civilian life.
- The National Government and the Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement (CMPVI), will encourage the receipt of funds from international cooperation.
- The economic resources for the implementation contributed by international cooperation, multilateral bodies and the private sector will be added to the funds provided by the National Government for these purposes.
- Within the discussions on the measures for reincorporation, the measures for contribution to the material reparation of victims will be determined, including the contribution of the FARC-EP.
- In the implementation of everything agreed, the best interests of children and adolescents will be guaranteed, as well as their rights and their prevalence over the rights of everyone else.

### **6.1.4. Promotion of the participation of social and community organisations in the execution**

Recognising the differentiated capacities of the regions and in order to promote the participation of the communities in the execution of projects within the framework of the implementation of the Agreements, the National Government will set in motion the necessary reforms in order to make possible the contracting with social and community organisations, with appropriate technical support, especially in the areas that have been prioritised for setting in motion the DPTFS.

### **6.1.5. Integrated Information System and measures for transparency in the Implementation**

In order to contribute to transparency, to facilitate the follow-up and verification of the Framework Plan for implementation and of the resources invested, in particular the follow-up on the part of the Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement (CMPVI), as well as making the corresponding adjustments for achievement of the goals, the National Government undertakes to create an Integrated Information System and to guarantee transparency in the implementation of the Final Agreement, preventing any form of corruption and giving guarantees to citizens on the delivery of the resources.

The National Government will set in motion the following measures:

- **Interactive follow-up maps:** a website will be set up which contains follow-up maps with all the information on the implementation of the projects: their costs, their progress, their geographical location, *inter alia*, so that any citizen can see the destination of the resources and provide feedback to the System in the event that the information does not correspond to the state of implementation of the projects.
- **Periodic accountability mechanisms:** different accountability mechanisms will be set in motion including public hearings, at the different levels and on the part of entities at national and territorial level. In particular, the mass communication of information will be promoted via the local media, including community radio stations, the distribution of newsletters and the display of results in public places.
- **Citizen oversight boards and public transparency watchdog organisations:** in accordance with that agreed in section 2.2.5, a plan will be established to support the creation and promotion of oversight boards and transparency watchdog organisations especially in the areas where the DPTFs are implemented.
- **New information technology tools:** associated with the Integrated Information System, such as, for example, via mobile phones, to ensure that any citizen can access public information, and to allow and promote mechanisms for collaboration and reporting.
- Corruption risk matrices, as well as strategies of mitigation, raising awareness and prevention of malpractice, cronyism and corruption.
- **Special mechanism for citizens' complaints:** in the framework of that agreed in section 2.2.5, a special mechanism will be created for receiving, processing and following up reports and warnings made by citizens and by organisations and movements about possible acts of corruption related to the implementation of this Agreement.
- **Strengthening of the internal control mechanisms:** technical assistance will be offered to the territorial-based authorities for strengthening internal control mechanisms for the purposes of implementation of that agreed.
- **Special support for the supervisory bodies:** Special control and support for the supervisory bodies (Office of the Attorney General, Office of the Inspector General, Office of the Comptroller General and Office of the Ombudsman) will be requested for the delivery of the resources for implementation of the plans and projects provided for in the agreements across the country's territories.

### **6.1.6. Functions of the Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement (CMPVI)**

The CMPVI will have the following functions:

- To resolve any dispute or unforeseen situation that may arise between the signatories to the Final Agreement in the interpretation of the agreements that cannot be resolved by the mechanisms agreed in the corresponding item, if any. The guarantor countries may contribute to facilitate the solution of the disputes when so required.
- To serve as a space to handle of any situation or dispute between the parties that may arise after the signing of the Final Agreement, which does not involve the United Nations Monitoring and Verification Mechanism (MVM).
- To follow up all the components of the Final Agreement and verify their fulfilment, respecting that established in respect of international accompaniment and without prejudice to the functions of the MVM. In particular, the CMPVI must:
  - o Follow up and verify the fulfilment of the commitments established in the timeline of the Final Agreement, which does not affect the powers of the different branches of public authority or of state bodies.
  - o Ensure that the content of all the draft decrees, laws or legislative acts that are necessary to implement the Final Agreement, corresponds to the Agreement, before they are issued by the President of the the Republic or presented to Congress, as the case may be. For these purposes, the non-exhaustive list of drafts included in this Agreement shall be taken into account. The foregoing is subject to the powers of the Colombian legislature (*Congreso de la República*). The CMPVI shall maintain dialogue with the donor agencies, states and organisations which contribute financially to the implementation of the agreements and/or form part of its international backing. The CMPVI may request monitoring and implementation reports relating to the different programmes and projects which receive international cooperation in the context of implementing the peace agreements.
  - o Propose any draft rules that are deemed necessary for the implementation of the Final Agreement, without prejudice to the ordinary powers of the Colombian legislature.
  - o Organise a system of thematic and territorial-based commissions in order to do its functions, which will allow citizen participation.
  - o Produce periodic reports showing a breakdown of the progress of implementation. Occasionally, it may generate thematic, specialist or territorial-based reports related to the components of the agreements.
- The CMPVI may receive input from the different agencies in charge of the implementation of the agreements as well as from organisations, universities, research centres and monitoring

bodies, both national and territorial.

- Any mandate or function which, for its ordinary or priority fulfilment, is delegated to the CMPVI in the Final Agreement.

#### **6.1.7. Composition**

The CMPVI will be made up of three delegates from the National Government and three delegates from the FARC-EP in process of reincorporation into civilian life, and will have the accompaniment during the bilateral and definitive ceasefire and cessation of hostilities and the laying down of arms (D+180) by one delegate from each of the guarantor countries, Cuba and Norway, and one delegate from each of the observer countries, Chile and Venezuela.

The CMPVI will have a technical secretariat made up by common agreement between the National Government and the FARC-EP, to produce the periodic reports and perform any other task that may be required.

The spokesmen and spokeswoman of the FARC-EP in the Congress may be invited to the Commission meetings.

##### **6.1.7.1. Expanded CMPVI**

In order to ensure the participation of civil society in the follow-up and verification of the agreements, the CMPVI will hold periodic expanded sessions to which it may invite the National Council for Reconciliation and Coexistence and any agreed representation of civil society. The CMPVI will present to the Council and to the other representatives of civil society the progress in the implementation and will receive all the information that they wish to contribute.

##### **6.1.7.2. Location and Time-scale**

The CMPVI may meet initially in Havana. It will be based in Bogotá.

The CMPVI will meet regularly with the present format until the end of the Bilateral and Definitive Ceasefire and Cessation of Hostilities (D+180). Afterwards, it will continue operating for the period established in this agreement.

#### **6.1.8. Start of the implementation of the Final Agreement**

As established in the Agreement of 11 May 2016, the Final Agreement will be signed as a Special Agreement under Common Article 3 of the Geneva Conventions and deposited, after its signature, before the Swiss Federal Council in Bern. Then, the President of the Republic will make a unilateral declaration of the state to the United Nations communicating this Final Agreement and requesting its incorporation in a document of the United Nations Security Council in the

terms established in the Agreement dated 7 November 2016.

### **6.1.9. Priorities for regulatory implementation**

In accordance with the provisions of the Final Agreement, the National Government will guarantee the following schedule of legislative implementation:

The Final Agreement shall be incorporated in accordance with constitutional requirements.

As a priority, the following draft legislation will be processed urgently in accordance with the procedure established in Legislative Act 1 of 2016 or by means of some other Legislative Act in the event that the foregoing procedure is no longer valid:

- a. Amnesty Law and Legislative Act of incorporation of the Special Jurisdiction for Peace, into the Political Constitution, according to the agreement of 7 November 2016.
- b. Legislative Act to incorporate a transitional article into the Political Constitution, according to the agreement of 9 November 2016.
- c. Law or Legislative Act creating the Unit for the investigation and dismantling of criminal organisations, including the successors of paramilitarism, established in Item 74 of the agreement creating the Special Jurisdiction for Peace. Incorporation into the Constitution of the prohibition of the promotion, organisation, funding or official and/or private use of paramilitary structures or practices.
- d. The above three items will be processed simultaneously.
- e. Laws necessary for the approval of the procedural rules governing the proceedings of the Special Jurisdiction for Peace, as established in Item 46 of the agreement creating that jurisdiction. Those rules must, at a minimum, provide for the following principles: the system must be adversarial and respect due process and the principle of impartiality, it must provide for due publicity and guarantee the principle that both sides must be heard in assessing evidence and the defence, as well as the right to a second hearing, and it must comply with the principles provided for in Item 14.
- f. Legislative Act and organisational rules for the Unit for the Search for Persons deemed as Missing in the context of and due to the armed conflict and for the Truth, Coexistence and Non-Recurrence Commission.
- g. Law of differentiated treatment under criminal law for crimes related to crops used for illicit purposes, when those convicted or accused are rural persons not belonging to criminal organisations; this law will include differentiated treatment under criminal law for women in a situation of poverty, with family responsibilities, convicted of drug-related crimes not connected with violent crimes and who do not form part of the leadership structures of

criminal organisations, in accordance with the recommendations made by the Organisation of American States.

- h. Suspension of orders to capture members of the FARC-EP or persons accused of being members or of collaborating with that organisation and suspension of the procedures of extradition of such persons until the entry into force of the Amnesty Law and of the constitutional rule on the prohibition of extradition established in number 72 of the Special Jurisdiction for Peace. Adoption of measures on the civil and legal status of all the members of the FARC-EP which will enable the strict application of that established in number 72 of the Special Jurisdiction for Peace.
- i. Constitutional and legal reform on guarantees and participation for the new political party or movement that arises from the transition of the FARC-EP to legal political life, including the modification of the second sentence of transitional Article 67 of the Political Constitution in order to guarantee political participation.
- j. Rules and measures necessary for the implementation and verification of the agreements, including that relating to financing rules.
- k. Constitutional or legal rules or reforms necessary for the Four-Year Implementation Plan, with its corresponding Multi-Year Investment Plan, to be incorporated in the National Development Plan for the respective period.

**6.1.10. Schedule of regulatory implementation during the first 12 months after the signing of the final agreement, as established in Legislative Act 1 of 2016**

- a. Laws and/or rules for the implementation of that agreed in the framework of the Comprehensive Rural Reform and the substitution of crops used for illicit purposes.
- b. Law and/or implementing rules on political participation: creation of Special Transitory Electoral Districts for Peace, expansion of spaces for outreach of political parties and movements including communication and dissemination media.
- c. Law and/or rules of the system for funding of parties including the increase in their funding, and especially, of the political organisation or movement that emerges from the peace agreements.
- d. Law and/or implementing rules for reform of the legal cessation of ownership.
- e. Reform of the early warning system.
- f. Law and/or implementing rules for the reform of the early warning system.
- g. Law and/or implementing rules on the Comprehensive System of Security Guarantees for the

political organisation that emerges from the peace agreements.

- h. Amendments to Law 1448 of 2011, on Victims and Land Restitution, on the basis of that agreed in section 5.1.3.7 of the “Victims” agreement, taking into account the principle of universality and in accordance with international standards, to extend the recognition of all the victims of breaches of international humanitarian law or of serious and flagrant violations of international human rights standards, occurring during the internal armed conflict.
- i. Laws and/or implementing rules on economic and social reincorporation.
- j. Laws and/or implementing rules on guarantees and promotion of the participation of citizens and society, especially of the communities of the Special Electoral Districts for Peace.
- k. Law and/or rules for the adoption of measures to combat corruption.
- l. Organisation of the Truth, Coexistence and Non-Recurrence Commission.
- m. Rules for the creation, promotion and strengthening of the mechanisms of citizen control and oversight and of transparency watchdog organisations.
- n. Constitutional and legal reforms relating to the electoral system and organisation with special emphasis on the basis of recommendations made by the Electoral Mission.

#### **6.1.11. Priority implementation:**

For implementation of the commitments acquired in the Final Agreement, priority will be given in the Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement (CMPVI), to the following themes:

- a. In respect of the areas prioritised by the DPTFs and immediate action plans:

To define in accordance with the established criteria the areas in which the 16 Development Programmes with a Territorial-Based Focus will be implemented.

As progress is made in the implementation of the DPTFs in the prioritised areas, the Government will, subject to the availability of resources, be able to bring other DPTFs into operation in areas that meet the criteria established in the agreement. All the foregoing is without prejudice to the commitment to implement the national plans throughout the national territory.

In those municipalities that are not prioritised for now for the implementation of the DPTFs where Transitional Local Zones for Normalisation and Transitional Local Points for Normalisation are established, an immediate action plan will be implemented to coordinate and execute acts and projects to reactivate these territories socially and economically. In



coordination with the local authorities, different measures will be set in motion which include humanitarian actions and the identification and execution of projects to improve the living conditions of the rural populations who live in these municipalities and are deemed to be extremely vulnerable. As an exception, and subject to the availability of resources, in the framework of the CMPVI, other municipalities or communities with a vulnerable population, which meet the criteria of the agreement for the implementation of these immediate action plans, may be proposed.

- b. Definition of the institutionality of the non-prioritised areas.
- c. Delimitation of the special electoral districts for peace and criteria for the adoption of the agreed special rules.
- d. Schedules of execution of implementation acts for the first 12 months after the signing of the Final Agreement.
- e. Creation of the mechanism for national or international monitoring of the sanctions of the Special Jurisdiction for Peace.
- f. Creation of the autonomous system for free advice and defence provided for in the Agreement of Special Jurisdiction for Peace and in the Amnesty Law.
- g. Convening of an international conference to reflect on the policy for the fight against drugs.
- h. Installation of the Technical Committee on Security and Protection and Implementation of the Security and Protection Protocol, and of the rules regulating the protection of members of the new movement or political party that emerges from the transition of the FARC EP to legal political life and of their families in accordance with the level of risk, 15 days after the signature of the Final Agreement.
- i. Drawing up of the Security Protocol for the Implementation of the Joint Effort for Voluntary Substitution of Crops used for Illicit Purposes.

## **6.2. Chapter on Ethnic Perspectives**

### **6.2.1. Considerations**

That the National Government and the FARC-EP recognise that the ethnic peoples have contributed to the building of a sustainable and lasting peace, to progress, to the economic and social development of the country, and that they have suffered historical conditions of injustice, resulting from colonialism, slavery and exclusion and from having been dispossessed of their land, territories and resources; that they have also been seriously affected by the internal armed conflict and the maximum guarantees need to be fomented for the full exercise of their human and collective rights in the framework of their own aspirations, interests and world views.

Whereas the ethnic peoples need to have control of the events that affect them and their land, territories and resources, maintaining their own institutions, cultures and traditions, it is fundamental to incorporate the ethnic and cultural perspective in interpreting and implementing the *Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace* in Colombia.

### **6.2.2. Principles**

In interpreting and implementing all the components of the *Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace in Colombia* with an ethnic-based approach, account is taken of the principles enshrined in legislation at the international and constitutional levels, case law and legal regulations, especially the principle of non-regression, recognised in the International Covenant on Economic, Social and Cultural Rights, as well as the principles and rights recognised in the Convention on the Elimination of All Forms of Discrimination Against Women – CEDAW (ratified by Colombia on 19 January 1982), International Convention on the Elimination of All Forms of Racial Discrimination - CERD, Durban Declaration and Programme of Action, the United Nations Declaration on the Rights of Indigenous Peoples, and ILO Convention 169 concerning the Rights of Indigenous and Tribal Peoples.

In interpreting and implementing the *Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace* in Colombia, with an ethnic-based approach, account will be taken, among others, of the following principles: free determination, autonomy and self-government, participation, consultation and prior free and informed consent; social, economic and cultural identity and integrity, rights over land, territories and resources, which involve the recognition of their ancestral territorial practices, the right to restitution and strengthening of territoriality, the current mechanisms for legal protection and security of the land and territories occupied or owned ancestrally and/or traditionally.

### **6.2.3. Safeguards and guarantees**

#### **Substantial safeguards for the interpretation and implementation of the Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace in Colombia.**

The principal and non-subsidary nature of free and informed prior consultation and the right to cultural objection as a guarantee of non-recurrence will be respected, whenever appropriate. Consequently, the phase of implementation of the agreements, as far as ethnic peoples are concerned, should be carried out in guaranteeing the right to prior free and informed consultation respecting constitutional and international standards.

A cross-cutting approach will be incorporated, encompassing ethnicity, gender, women, family and generation.

In no case will the implementation of the agreements be detrimental to the rights of ethnic peoples.

#### **a. In relation to Comprehensive Rural Reform**

The implementation of the CRR Chapter will guarantee the application of an ethnic and cultural perspective, the current legal conditions of collective ownership, and the mechanisms for the legal protection and security of land and territories occupied or owned ancestrally and/or

traditionally. The holistic nature of territoriality and its cultural and spiritual dimensions, and the heightened protection for peoples at risk of extinction and their safeguard plans, will also be observed.

**Access to land including the Land Fund.** Ethnic peoples will be included as beneficiaries of the different measures agreed for access to land without impairment of the rights already acquired. The allocation of plots of land and land titling procedures will be performed with a view to the constitution, creation, expansion, entitlement, demarcation, restitution and resolution of disputes over land use and tenure. It shall be understood for the case of ethnic peoples that the ecological function of property and their own ancestral forms of relationship with the territory take precedence over the notion of non-exploitation. The ethnic peoples and communities will participate with their representative organisations in creating mechanisms to resolve disputes about land tenure and use, and about strengthening of food production, when the disputes concerned compromise their rights.

- **Development Programmes with a Territorial-Based Focus (DPTFs)**, which are planned for implementation in the territories of indigenous and Afro-Colombian communities, must include a special mechanism of consultation for implementation, in order to incorporate the ethnic and cultural perspective in the territorial-based approach, aimed implementing the life plans, ethno-development, plans for environmental management and land-use planning or the equivalents of the ethnic peoples.

**b. In relation to participation**

The full and effective participation of representatives of the ethnic authorities and their representative organisations will be guaranteed in the different forums created in the framework of the implementation of the Final Agreement, in particular those enshrined in Chapter 2 and the participatory planning forums.

Measures will be taken to guarantee the inclusion of candidates from the ethnic peoples in the lists of the Special Transitory Electoral Districts for Peace (*Circunscripciones Transitorias Especiales de Paz*, CTEP), when their electoral district coincides with their territories.

**c. In relation to Security Guarantees of section 3.4.**

The ethnic and cultural perspective will be incorporated in the design and implementation of the Security and Protection Programme for the communities and organisations across the country's territories. The strengthening of ethnic peoples' own security systems, recognised at national and international level, such as the Indigenous Guard (*Guardia Indígena*) and the Cimarrona Guard (*Guardia Cimarrona*), will be guaranteed.

**d. In relation to solution of the illicit drugs problem**

- The effective participation and consultation of the communities and representative organisations of the ethnic peoples will be guaranteed in the design of the NCPS, including the plans for immediate attention in respect of the territories of the ethnic peoples. In any case, the NCPS will respect and protect the cultural use and consumption of traditional plants classed as used for illicit purposes. In no event will policies on the use of territory and the natural resources present in it be imposed unilaterally.
- In the prioritisation of territories, the realities of the territories of the ethnic peoples will be addressed, and account will be taken of the territories of ethnic peoples at risk of physical and cultural extermination or at risk of extinction that are affected affected by crops used for illicit purposes, or the territories of ethnic peoples in a situation of confinement or displacement.
- The Programme of De-mining and Clearance of the areas of the national territory will be developed in dialogue with the ethnic peoples and their representative organisations. Priority will be given to the cases of the Embera people located in the municipality of Puerto Libertador in Córdoba and Ituango in Antioquia, those of the Jiw people located in the municipality of San José del Guaviare in Guaviare, the Nukak people in the department of Guaviare, in the municipalities of Mapiripán and Puerto Concordia in Meta, as well as in the municipality of Tumaco Río Chagüí, and the Awá people in the department of Nariño. Also the cases of the Community Councils of Alto Mira y Frontera and Rio Chagüí and the municipality of Buenos Aires, Vereda La Alsacia in the department of Cauca.
- As a gesture of goodwill for peace, reparation and humanity, the National Government, the FARC-EP and the representative organisations of the ethnic peoples undertake to develop a programme of settlement, return, restoration and restitution of the territories of the Nukak people, the Embera Katío people of the Cañaveral Reserve in Alto San Jorge, as well as the territory of the Community Council of Alto Mira and Frontera, and Curvaradó and Jiguamiandó.

**e. In relation to victims of the conflict: “Comprehensive System for Truth, Justice, Reparations and Non-Recurrence”**

- The design and execution of the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence will respect the exercise of the jurisdictional functions of the traditional authorities within their territorial area in accordance with the current national and international standards.
- The ethnic and cultural perspective will be incorporated in the design of the different judicial and non-judicial mechanisms agreed in respect of the ethnic peoples. The right to

participation and consultation in the definition of these mechanisms will be respected and guaranteed, when appropriate.

- In the framework of the implementation of the Special Jurisdiction for Peace, mechanisms will be created for liaison and coordination with the Special Indigenous Jurisdiction according to the mandate of Article 246 of the Constitution and, when appropriate, with the Afro-Colombian ancestral authorities.
- A special harmonisation programme will be drawn up in collaboration with the representative organisations of the ethnic peoples, for the reincorporation of demobilised individuals belonging to such peoples, who opt to return to their communities, in order to guarantee the restoration of territorial harmony. An educational and communication strategy will be agreed for the dissemination of the principles of non-racial and ethnic discrimination against women, youngsters and girls demobilised from the conflict.

**f. In relation to Implementation and Verification**

- A special high-level forum (*Instancia Especial*) will be created with Ethnic Peoples for the follow-up of the implementation of the agreements, which will be agreed between the National Government, the FARC-EP and the representative organisations of the Ethnic Peoples. The functions of this agency will include acting as a primary consultative, representative and liaison body of the Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement (CMPVI).
- This is without prejudice to the functions and duties of already existing government and participatory agencies.
- The sources of funding for the implementation of the agreements will not involve those agreements on budgetary matters that have already been made between the National Government and the Indigenous and Afro-Colombian Peoples, set out in the current National Development Plan and other policies consulted and agreed.

**6.3. International verification component of the Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement (CMPVI) (*Comisión de Seguimiento, Impulso y Verificación a la Implementación del Acuerdo Final, CSIVI*)**

Item 6 of the *General Agreement to End the Armed Conflict and Build a Stable and Lasting Peace*, concerning implementation, verification and the public endorsement, determines that, on the signing of the final agreement, the implementation of all the points agreed shall commence.

On this basis, the Government and the FARC-EP agree the establishment of a mechanism for the verification of the agreements, which shall have an international component, which, in turn, is part of the mechanism for implementation of the agreements which shall aim to ascertain the status and progress of the implementation of such agreements, to identify delays or

shortcomings, to provide opportunities for continuous improvement and to contribute to strengthening its implementation.

Within this mechanism, verification shall consist of the analysis of the information gathered during the monitoring process, for the purpose of establishing the fulfilment or otherwise of the agreements. It will establish the progress which has been made in the implementation, the subject areas which are in the process of development and the points of discussion and dispute, to the effect that, on the basis of this characterisation and the items of evidence, supported by the confirmation of data and facts, it will be possible to assess the fulfilment of what has been agreed and the measures for solution which have, as their final objective, the due implementation of such measures.

### **6.3.1. Guideline criteria for the verification mechanism**

The National Government and the FARC-EP agree the following criteria to regulate the verification procedures:

- **Verification:** shall be rigorous in the determination of the status of the implementation and points of discussion and dispute.
- **Objectivity:** every report or pronouncement which the verification mechanism produces shall be rigorously supported by data and facts.
- **Correspondence:** the verification effort undertaken by the mechanism shall correspond precisely to the elements and contents incorporated in the Final Agreement and which were agreed at the Negotiation Table, taking into consideration criteria of a bilateral nature.
- **Equity-based and gender-based approach:** this approach shall be verified in the implementation of each of the agreements.
- **Comprehensive and intersectoral approach:** the verification process shall be supported by information issued by the international accompaniment component, the technical component and that provided by the National Government and the FARC-EP representatives and the spokespersons for the social organisations.
- **Access to information:** for the carrying out of the verification work, the verification mechanism shall have access to the information required in respect of the implementation of the agreements which is held in the agencies, state bodies and in the technical information gathering mechanisms. Information of a confidential nature shall be handled in compliance with the regulations in force.

- **Transparency:** the international component shall, for the purposes of the verification process, request from the National Government and the agencies undertaking the international accompaniment, reports on the progress of the implementation of the agreements in respect of the designated use and investment of the public resources for the implementation of such agreements. In the same way and for the purpose of fulfilling its verification tasks, the international component may also coordinate with the state's supervisory bodies (the Office of the Attorney General, the Office of the Inspector General, the Office of the Comptroller General and the Office of the Ombudsman).
- **Territorial aspect:** the verification and monitoring mechanisms shall have special emphasis placed on the regional, departmental and municipal application of the agreements.

### 6.3.2. Composition of the verification mechanism and functions

The verification mechanism shall comprise the following Units:

- **Notable persons:** there shall be two (2) persons with an international status one selected by the National Government and the other by the FARC-EP, who shall head up the verification mechanism and have the following responsibilities:
  - a. To make public pronouncements and produce reports in relation to the progress recorded in the implementation of all the agreements, without affecting those which are to be verified by the United Nations Special Political Mission for Verification, and in relation to points of discussion and dispute, all in coordination with the Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement, hereinafter the CMPVI.
  - b. In relation to the points of discussion and dispute which draw attention to difficulty in the implementation of the agreements, the notable persons, in coordination with the CMPVI, shall present recommendations for the resolution of such difficulties, to which end they may consult with a delegated observer from the United Nations Verification Mechanism. Also, at the request of the CMPVI, the guarantor countries may facilitate the resolution of differences.
  - c. To present their observations to the CMPVI during the first 18 months and, subsequently, every six months, based on the reports of the Kroc Institute for International Peace Studies at the University of Notre Dame (USA) and on any other information which they receive.

- **Technical Secretariat:** The notable persons shall be supported by the Technical Secretariat with the following functions:
  - a. Gathering, analysing and preparing the information necessary for the public pronouncements of the notable persons, to which end it will receive technical support from the Kroc Institute for International Peace Studies at the University of Notre Dame (USA) based on the operational criteria and scope assigned to it by the CMPVI. It may also request information regarding progress with the implementation from any of the organisations making up the international accompaniment component.
  - b. Coordinating its activities with the other components of the international verification process.
  - c. Consulting with institutions with competence in the area or other civil society institutions and organisations which can contribute to the verification of the implementation of the agreements.

The Technical Secretariat shall comply with the protocols established by the CMPVI for the verification of the implementation of the agreements. The CMPVI shall select a Technical Secretary.

The Technical Secretariat shall coordinate all of its functions with the CMPVI. Any additional function shall be established by the CMPVI.

The National Government shall undertake to manage, with the international community, the resources necessary to implement the verification process.

- **Technical support:** shall be provided by the Kroc Institute, subject to the criteria and lines of action defined by the monitoring commission (CMPVI), which shall undertake, *inter alia*, the following activities:
  - a. It shall design the methodology for identifying the progress of the agreements.
  - b. It shall contribute good practices and experience for the effective follow-up to the implementation of the agreements.
  - c. It shall provide the technical support for the follow-up, verification and monitoring of the implementation of the agreements.
  - d. It will draw up with methodological strictness a model for evaluation and follow-up which will enable fulfilment of the agreements to be measured with sufficient accuracy and which will allow decisions to be taken and adjustments made, in real time, all within the framework of a logic of continuous improvement of the performance capabilities in the building of peace.



- e. Its technical work effort may be supplemented with the good practices and experience of other institutions and institutes which are agreed by the international verification component and approved by the CMPVI.
- f. The reports, matrices and products generated by the Kroc Institute shall be intended for the International Verification Component and the CMPVI, in compliance with the confidentiality criteria established there.
- g. The international accompaniment activities and the reports of the subject area components shall be taken into consideration as an input to ensure the objective follow-up to the fulfilment of the implementation of the agreements.

### **6.3.3. United Nations Political Mission for Verification**

The National Government and the FARC-EP will request a Political Mission from the United Nations, through the General Assembly, with the mandate to verify the reincorporation of the FARC-EP and the implementation of personal and collective security and protection measures. This mission will start to operate on conclusion of the mandate of the Mission for Monitoring and Verification of the Bilateral and Definitive Ceasefire and Cessation of Hostilities. Recognising the importance of having an international verification mechanism which ensures the implementation of what has been agreed in respect of reincorporation and security guarantees, the National Government and the FARC-EP consider that the verification system which is implemented must ensure its operation for a period of three (3) years, renewable if necessary.

The National Government will send a communication to the Secretary-General of the United Nations requesting the support required for the purposes of this Agreement.

The content of the texts of the Agreements to be verified are as follows:

Agreement 3.2. Reincorporation of the FARC-EP into civilian life - economic, social and political - in compliance with its interests. The contents of the Agreement which must, in particular, be verified are:

- a. Political reincorporation
- b. Guarantees for the new party or political movement which results from the movement of the FARC-EP into political life.
- c. Economic and social reincorporation.

Agreement 3.4. Guarantees of security and the fight against the criminal organisations responsible for murders and massacres or which attack human rights defenders, social movements or political movements, including the criminal organisations which have been named as the successors of paramilitarism and their support networks and the pursuit of criminal behaviour which threatens the implementation of the agreements and the building of peace. The contents of the Agreement which must, in particular, be verified are:

- a. Protection measures, personal and collective security
- b. Comprehensive Security System for the Exercise of Politics, in particular for the members of the FARC-EP and their families.
- c. Comprehensive Security and Protection Programmes for the communities and organisations across the country's territories.
- d. The Mission must be of a political nature and must be composed of unarmed personnel with experience in human rights.

#### **6.3.4. Qualities of the Verifier**

The verifier, for the purposes of this agreement, is understood to be any participant in the mechanism, and must undertake to maintain the confidentiality of the entire process for the implementation of the agreements, must be outside the dispute and public opinion concerning the criteria and guidelines determined by the mechanism for the communication process and, in all cases, shall seek to find solutions which can contribute to continuous improvement of the implementation of the agreements for peacebuilding.

The Government of the Republic of Colombia shall renew the current mandate of the United Nations High Commissioner for Human Rights (UNHCHR) for a period of 3 years, that could be renewable. It will also request that, within the report which his Office annually produces on Colombia, a special Chapter be included concerning the implementation of the human rights agreements.

#### **6.3.5. Duration of the international verification component**

The CMPVI, following evaluation of the suitability and requirements for verification, will recommend to the President of the Republic the termination of the operation of this component.

#### **6.4. International accompaniment component**

The international accompaniment included in Item 6 of the General Agreement for Ending Conflict, concerning implementation, verification and the public endorsement, shall be understood to be direct or indirect support from the organisations, countries and agencies defined for that purpose, with material and/or human resources, for the design, implementation and monitoring of the implementation of this Agreement.

The international accompaniment is an endeavour to contribute to strengthening the guarantees for the fulfilment of the agreements. It must respect Colombia's constitutional and legal order, have respect for the internal sovereignty and the duty to guarantee the human rights of the citizens. Its role is to support and endorse the joint efforts for the implementation of the agreements to be successfully achieved.

The international accompaniment in the terms as defined in this agreement shall maintain a dialogue with the Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement and shall support the Technical Secretariat of the verification mechanism with such information as it requests.

The National Government and the FARC-EP agree the following criteria to implement the international accompaniment.

#### **6.4.1. General criteria**

On the basis of the international principles for sovereign equality, peaceful resolution of disputes, peace-keeping, respect for the internal jurisdiction of the states and respect for international human rights law, the international accompaniment shall be framed within the following general criteria:

- **Sovereignty:** the international accompaniment shall be understood to constitute support for the efforts of Colombia to achieve the implementation of the agreements and the building of peace successfully, in all cases respecting and taking into consideration the principle of sovereignty in relation to its decisions in the implementation of the agreements. International accompaniment shall also contribute to the effect of the duties and responsibilities of the state, defined in the Final Agreement, guaranteeing the rights of the citizens.
- **Impartiality:** shall be based on respect for and confidence in the institutions, the content of the agreements and democratic values, as a guarantee to ensure that the implementation of such agreements contributes to the building of peace.
- **Provision of experience, technical capacity and resources:** the support of the international accompaniment is rooted in the preparedness to share good practices, transfer of knowledge, experience and resources, to ensure success in the implementation of the agreements and peacebuilding.

#### **6.4.2. International accompaniment**

The FARC-EP and the National Government have agreed that the international accompaniment of the following countries and international organisations shall be sought for the implementation of the Agreements, in each of the Items in the General Agreement to End the Conflict:

<b>Agreement</b>	<b>Agency providing International accompaniment</b>
1. Towards a New Colombian Countryside: Comprehensive Rural Reform	European Union FAO International Peasant Movement ( <i>La Vía Campesina</i> ) United Nations Development Programme (UNDP)
2. Political participation: a democratic opportunity to build peace	The Union of South American Nations (USAN) Switzerland Netherlands Institute for Multiparty Democracy (NIMD) Carter Center
3.2. Reincorporation	European Union UNESCO UNDP Latin American and Caribbean Continental Organisation of Students (OCLAE) Organisation of Ibero-American States (OEI)
The National Government shall review the situation of persons deprived of their liberty, held for trial or sentenced because of membership of or collaboration with the FARC-EP.	Office of the High Commissioner of the United Nations for Human Rights (OHCHR)
3.4. Combating and dismantling criminal organisations	United Nations Office on Drugs and Crime (UNODC) United States of America
3.4. Special Investigation Unit	United States of America European Union
3.2. Security guarantees	United States of America Office of the High Commissioner of the United Nations for Human Rights (OHCHR)
4. Solution to the illicit drug problem	UNODC Global Commission on Drug Policy
5. Victims Human rights of the victims	Office of the High Commissioner of the United Nations for Human Rights (OHCHR) International Committee of the Red Cross (ICRC) International Centre for Transitional Justice (ICTJ)

	United Nations High Commissioner for Refugees (UNHCR) Sweden
Unit for the Search for Persons deemed Missing	Sweden ICRC International Commission on Missing Persons (ICMP)
Gender-based Approach	UN Women United Nations Special Representative of the Secretary-General on Sexual Violence in Conflict Women's International Democratic Federation (WIDF) Sweden

In order to guarantee the greatest possible effectiveness of the international accompaniment component for the implementation of the Agreements, the following lines of action are determined:

- The international accompaniment activities shall meet the criteria and requirements laid down by the CMPVI.
- In order to carry out the specific accompaniment activities, thematic specialisation and full cooperation of the accompanying countries and organisations shall take precedence through the establishment of a coordinating forum that shall meet the criteria of the CMPVI.
- Each thematic component shall draw up periodic reports that shall be shared with the CMPVI, notwithstanding the reports that the various organisations or institutions may send to their respective bodies.

The reports produced by the thematic accompaniment components shall be systematically supplied to the Kroc Institute for International Peace Studies at the University of Notre Dame (USA), which the National Government and the FARC-EP have agreed to have as one of the components providing technical observation to develop the assessment and monitoring model of the CMPVI.

This Agreement invites the countries, institutions and organisations, which are part of the international accompaniment component, to contribute to the financing of those aspects related to the implementation of the Agreements. On the subject of Reincorporation, the Organisation of Ibero-American States for Education, Science and Culture (*Organización de Estados Iberoamericanos para la Educación, la Ciencia y la Cultura*, OEI) is asked to support the reincorporation process into civilian life. The German Government shall also be asked to form part of the accompanying countries that will support the issues referred to in Chapter 5, in regard to the subjects of Victims and Special Jurisdiction for Peace (SJP).

## 6.5. Dissemination and communication tools

In order to educate the public about the content of the Final Agreement and publicise progress made with its implementation, we have agreed the following communication and dissemination tools:

- **Radio stations for coexistence and reconciliation:** Twenty (20) FM, public interest, class “C”, radio stations shall be set up in the areas most affected by the conflict, in the geographical locations and with the power defined by the Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement to provide optimum range for the signal emission. The radio stations shall be allocated to National Radio and Television of Colombia (*Radio Televisión Nacional de Colombia*, RTVC) with the aim of educating the public about the content of the Final Agreement and reporting on progress made with its implementation. For 2 years, the Communications Joint Committee, made up of delegates from the National Government and from the FARC-EP transitioning to civilian life, shall, by mutual agreement, define the educational content and its production. The radio stations may operate 24 hours a day.

All of the radio stations shall be set up and operational within twelve months of the geographical locations being defined, at the latest.

After the first two years in operation, National Radio and Television of Colombia (RTVC) shall run the radio stations for four more years in which the programming shall be allocated, according to the principles governing public interest radio, as follows: a third for victims’ organisations from those regions, a third for ECOMÚN and a third for community organisations from those regions, with the aim of promoting coexistence, reconciliation and the building of the peace. Time slots shall be allocated to the three sectors in an equitable manner.

During the first two years, National Radio and Television of Colombia (RTVC) shall define a technical training pathway to train up to 60 individuals from the three sectors, in an equitable manner, with 20 places per sector, as radio operators and producers for the radio stations, so that they can pass on their knowledge to others.

After the radio stations have been operating for six years, the Ministry of Information Technology and Communications (MINTIC), based on the opinion of the Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement (CMPVI), may extend the class “C” public interest licences for up to four more years, on the same terms on which they have been operating up to that point.

- **Social networks:** Based on the experience of the Negotiation Table website, the Communications Joint Committee shall design a strategy for distributing information about the implementation of the Agreements using new tools over social networks.

- **Space on institutional television:** in order to promote coexistence, reconciliation and the building of the peace, for two years, the Joint Communications Committee, made up of delegates from the National Government and from the FARC-EP transitioning to civilian life, in coordination with RTVC and the National Television Authority (*Autoridad Nacional de Televisión*, ANTV), shall have a slot of one and a half hours per week on the institutional channel (Canal Institucional), with the complete content of that slot being repeated once in the same week, to educate the public about the agreements and report on progress made with their implementation. The National Government shall ensure that the broadcast time of the programme is ideal, taking into account the target audience and the purpose of the information to be broadcast. Until the process of laying down arms is completed, the FARC-EP transitioning to civilian life shall designate two representatives to take part in editorial board meetings chaired by the Government in the context of the Committee. The programme shall be broadcast based on the ANTV guaranteeing a percentage of the funding for its production and transmission, in accordance with the provisions of the current regulations issued by the ANTV for the ordinary public interest programming of Canal Institucional. The two-year term of the arrangement shall begin with the first broadcast of the programme.

All of the foregoing shall not affect any other activities that each party may carry out separately for that purpose. The Joint Communications Committee shall be financed by the National Government.

#### **6.6. Agreement on “Public Endorsement”**

The new Final Agreement to End the Conflict and Building a Stable and Lasting Peace must receive public endorsement, in accordance with Item 6 of the Agenda for the General Agreement. That public endorsement may be given by means of systems for public participation, such as, *inter alia*, a plebiscite, legislative initiatives, consultation and open council meetings, or through elected public bodies whose members have a mandate to represent the public, such as the Colombian legislature (*Congreso de la República*), the departmental assemblies and municipal councils. The National Government and the FARC-EP shall agree the mechanism for public endorsement which must be implemented in accordance with the relevant regulations and rulings.

## PROTOCOLS AND ANNEXES

### **Protocol and Annex of the section entitled INTRODUCTION of the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and Laying Down of Arms (LA)**

This Protocol of the section entitled Introduction of the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and Laying down of Arms (LA), consists of the planning and execution phases, which allows: the deployment of the Monitoring and Verification Mechanism (MVM) at national, regional and local level so that it may carry out its work; the adjustments to the numbers of personnel deployed in the field; the operation of the 20 Transitional Local Zones for Normalisation (TLZNs) and 7 Transitional Local Points for Normalisation (TLPNs) that have been defined by mutual consent; and the technical procedure for the Laying down of Arms; in accordance with the BDCCH & LA Agreement.

#### **1. Planning**

Planning is understood to mean all the activities prior to the signing of the Final Agreement that begins the BDCCH & LA on day D at time T.

##### **1.1. Provision of information for planning purposes**

During this phase, the members appointed by the National Government and the FARC-EP to form the MVM must be trained and certified, and they must have time to adapt to the MVM prior to their deployment. To this end, the National Government and the FARC-EP shall hand over the names of its members to be trained on day D-35 to the International Component of the MVM (IC-MVM).

The information needed to guarantee the movement and participation of the members of the FARC-EP in the training, adaption and subsequent deployment of the MVM shall be handed over to the IC-MVM, which shall coordinate with the National Government, as required.

Day D-30 marks the start of the deployment of any regional units of the MVM.

Day D-25 marks the start of the training of MVM staff.

Day D-20, the National Government and the FARC-EP shall provide the IC-MVM with details of the units and structures involved in the setting-up of the field deployment, the TLZNs and the TLPNs.

Day D-15:

- a. The National Government and the FARC-EP shall provide the MVM with the information on the coordinates of the TLZNs and TLPNs.
- b. The National Government, the FARC-EP and the IC-MVM shall pair up the local MVM teams.



c. The National Government shall link up the protection teams with the MVM.

Day D-12, the National Government and the FARC-EP shall deliver a status report on the TLZNs and TLPNs to the MVM.

Day D-8 marks the deployment of the local MVM units to set up the various Local Headquarters.

Day D-7, the Local Headquarters of the MVM shall be set up.

Day D-6, the National Unit of the MVM shall be deployed.

Day D-5, the deployment of the MVM shall be verified, ensuring that all the administrative, technical, logistical and infrastructure conditions are optimal.

The National Government guarantees that the information gathered by it shall be used solely for purposes related to the BDCCH & LA process.

## **2. Execution**

Execution is understood to mean all the activities that shall be carried out by the National Government, the FARC-EP and the MVM after signing the Final Agreement which marks the start of the BDCCH and DL on day D at time T.

### **2.1. Announcement and start**

On Day D, the National Government and the FARC-EP, making use of all media, shall announce the start of the BDCCH and DL to the country, which implies:

- a. The definitive end to the offensives actions between the Colombian State Armed Forces (which include both the Military Forces and the National Police) and the FARC-EP, hostilities and any conduct that must not be carried out, in accordance with the Annex to the rules governing the BDCCH and DL under this Agreement.
- b. That the rules governing the BDCCH and DL take effect.
- c. That the preparation phase has finished, prompting the start of the operation of the Tripartite Monitoring and Verification Mechanism (MVM), which comprises the National Government, the FARC-EP and an International Component made up of an unarmed political mission of the United Nations.
- d. That it starts the restriction on military aircraft to fly at an altitude of 5,000 feet over the TLZNs, TLPNs and Security Zones (SZ).
- e. That both the Colombian State Armed Forces and the FARC-EP shall temporarily adjust their staff in the field in order to make the start-up of 23 TLZNs and 8 TLPNs and the verification of the BDCCH & DL Agreement viable.
- f. That the Laying down of Arms process has started, as provided for in the BDCCH & DL Agreement, whereby the United Nations (UN) shall receive all FARC-EP weapons, which are to be used to build monuments.

## 2.2 Provision of information in the execution of the BDCCH and DL

Day D+1:

- a. A delegate (a) of the National Government and one (a) of the FARC-EP shall hand over to the IC-MVM the coordinates of the location of the Colombian State Armed Forces and FARC-EP units, so that the necessary steps may be taken to allow the safe movement of the FARC-EP structures to the TLZNs and TLPNs, monitored and verified by the MVM.
- b. The Colombian State Armed Forces reorganises deployment of the troops to facilitate the movement of the FARC-EP structures to these Zones and Points so as to comply with the BDCCH & DL Agreement.

Day D+5:

- a. The National Government and the FARC-EP shall provide the information required by the IC-MVM to ensure the monitoring and verification of the process to move the various missions, committees and Tactical Combat Units (TCU) (*Unidades Tácticas de Combate, UTC*), including the militias of the FARC-EP fronts, to the previously agreed TLZNs and TLPNs, following the movement routes established by mutual agreement between the National Government and the FARC-EP.
- b. The movement of the FARC-EP units to the TLZNs and TLPNs and the transportation of personal weapons starts. This process ends no later than Day D+30 and shall be monitored and verified by the MVM.
- c. The FARC-EP shall provide the IC-MVM with the information that the IC-MVM deems necessary for the transportation, registration, identification, monitoring and verification of the weapons held, collected, stored, removed and finally disposed of.
- d. The FARC-EP shall hand over a list with the specific amounts and needs required for the logistics of each TLZN and TLPN to the local MVM unit, with the aim of speeding up the purchase and supply process in a timely manner.
- e. Once the FARC-EP have been placed in the TLZNs and the TLPNs, the IC-MVM shall specify where the containers for protecting the weapons are to be installed.

On Day D+7, monitored and verified by the MVM, the transportation of accompanying weapons, weapons of the militias, grenades and ammunition to the TLZNs and TLPNs by the members of the FARC-EP starts, subject to adherence to the security protocol for the transportation of the weapons. This process ends on day D+30.

The accompanying weapons, grenades and ammunition which enter the camps, including the weapons of the militias, remain in temporary gun stores under the responsibility of the FARC-EP until day D+60, when they shall be stored in containers made available for this purpose.

Day D+8, the FARC-EP shall hand over the information to the IC-MVM with its membership numbers.

Day D+10, the FARC-EP shall hand over, the coordinates of the depots (caches) of unstable weapons to the IC-MVM, with these being any weapons suffering external damage: cracks, dents, indentations and rusting, weapons oozing explosive material and any other sign that makes it possible to determine that their transportation may prove dangerous, and home-made weapons and explosives and components for their manufacture, to start the process to destroy them, in accordance with the coordinated efforts of the IC-MVM and the FARC-EP, subject to adherence to the safety protocols defined for this purpose, which shall be coordinated with the National Government. The IC-MVM shall verify that this process has been carried out.

The collection and storage in containers of the personal weapons remaining in the possession of the members of the FARC-EP inside the camps in the TLZNs and TLPNs, is done in sequence and in three phases, as follows: Phase 1: D+90, 30%; Phase 2: D+120, 30%; and Phase 3: D+150, the remaining 40%, according to the roadmap (events timetable) agreed by the National Government and the FARC-EP, which guides the End of the Conflict process after signing the Final Agreement.

With the weapons received on day D+150, the process of weapon removal by the United Nations ends no later than day D+180, in accordance with the procedures agreed in this matter and it certifies the completion of this process, informing the National Government and public opinion of this fact.

Day D+180, the operation of these Zones and the Bilateral and Definitive Ceasefire and Cessation of Hostilities come to a close.

The MVM certifies and announces each of the phases of the Laying down of Arms process described above.

All the information mentioned in this protocol shall be handed over to the MVM or to the IC-MVM in written form, as appropriate, and in cases where it warrants, they shall respond in the written form.

### **2.3. Dissemination and communication**

With the Final Agreement reached, the National Government and the FARC-EP respectively, shall ensure that all the units of the Colombian State Armed Forces involved in the BDCCH and DL, and also the FARC-EP structures are informed of the start and carrying out of this process. To this end, all the media required to put this communication into effect shall be used. The MVM shall verify that this process has been carried out.

### **3. Timetable**

As provided for in Annex F “Timetable of the point in time of the Bilateral and Definitive Ceasefire and Cessation of Hostilities and Laying Down of Arms”.

**Protocol for the section on RULES THAT GOVERN THE BILATERAL AND DEFINITIVE CEASEFIRE AND CESSATION OF HOSTILITIES (BDCCH) AND THE LAYING DOWN OF ARMS (LA)**

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**RULES THAT GOVERN THE BILATERAL AND DEFINITIVE CEASEFIRE AND CESSATION OF HOSTILITIES (BDCCH) AND THE LAYING DOWN OF ARMS (LA).**

- The acts described below are the main focus of the activities of the Monitoring and Verification Mechanism (MVM).
- The rules seek to avoid situations that could jeopardise the fulfilment of the BDCCH & LA Agreement.
- Such acts must NOT be carried out, and the rules seek to ensure that the rights of the civilian population are not affected.

**Under this Agreement the National Government and the FARC-EP undertake NOT to engage in the following acts:**

1. Enter into armed contact.
2. Hinder or obstruct the work of the MVM.
3. Conceal information that may be material to the operation of the MVM and the implementation of the BDCCH & LA Agreement.
4. Deploy armed units and unauthorised staff in the Transitional Local Zones for Normalisation (TLZNs), Transitional Local Points for Normalisation (TLPNs) and Security Zones (SZ), under the conditions defined in the BDCCH & LA Agreement.
5. Take any actions that prevent humanitarian protection or assistance.
6. Use defamatory language by whatever medium.
7. Carry out acts of violence or make any threats that could endanger the lives and physical integrity of the civilian population, especially acts that are gender-based.
8. Carry out acts that undermine the physical or moral integrity of the counterparty.
9. Carry out acts against the physical integrity and safety of MVM staff.
10. Interfere in the work of the International Component of the MVM (IC-MVM) concerning the technical procedures for the registration, identification, monitoring and verification of the possession, collection, storage, removal and final disposal of the FARC-EP weaponry.
11. Use the Movement Routes, the setting-up of the field deployments, the TLZNs, the TLPNs and the Security Zones for any purpose other than those agreed within the framework of the BDCCH & LA Agreement.
12. Violate the agreements and protocols concerning entry to and exit from the TLZNs and the TLPNs.
13. Remain temporarily or permanently in the security zones defined previously by mutual agreement.
14. Violate the commitments made under the BDCCH & LA Agreement.

15. Affect the rights and freedoms of the civilian population.
16. The Colombian State Armed Forces (which include both the Military Forces and the National Police) will comply with the Law, particularly Judgment T-455 of 2014 handed down by the Constitutional Court regarding new recruits. For their part, the FARC-EP will not recruit any more men or women into its ranks (guerillas and militias).

**Under this Agreement the National Government undertakes NOT to engage in the following acts:**

1. Practise discrimination in its treatment of the people to whom this agreement refers.
2. Design, plan and carry out military flights below a flight level of 5,000 feet.
3. Design, plan and carry out offensive action operations against the members of the FARC-EP (guerillas - militias) who are complying with the BDCCH & LA Agreement.
4. Control the supply of food and medicinal drugs destined for the areas defined in the TLZNs and the TLPNs.
5. Affect or damage the facilities set up in the TLZNs and the TLPNs.
6. Enter the TLZNs, TLPNs and security zones without notifying or liaising with the MVM.
7. Disseminate hostile propaganda against the FARC-EP.
8. Obstruct the movement of FARC-EP members to the TLZNs and the TLPNs.
9. Obstruct the medical care of FARC-EP members.

**Under this agreement the FARC-EP undertake NOT to engage in the following acts:**

1. Appear armed and in uniform anywhere outside the camps.
2. Leave the TLZNs or TLPNs without complying with the agreed security procedures for movements.
3. Acquire, manufacture, carry or transport weapons, ammunition and explosives that are not authorised under the BDCCH & LA Agreement.
4. Interfere in the normal performance of the civil, military and police authorities's duties.
5. Commit acts of destruction of or material damage to the buildings and installations, infrastructure, government installations and the Columbian State Armed Forces.
6. Engage in unlawful activities to finance the organisation.
7. Increase its fighting capacity.
8. Sell or prepare weapons caches and supplies.
9. Modify the number and lists of individuals and weapons authorised to remain in the Camps, without justification.
10. Violate the agreed technical procedure for the registration and storage of the weapons of the FARC-EP members who go out on peace process tasks and the FARC-EP members assigned to the MVM.

**Protocol for the section on the DEPLOYMENT OF THE MONITORING AND VERIFICATION MECHANISM of the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH)**

**RECRUITMENT AND DEPLOYMENT OF THE MONITORING AND VERIFICATION MECHANISM (MVM) OF THE BDCCH & LA AGREEMENT.**

The National Government and the FARC-EP have agreed this protocol that sets out the timeline for the recruitment and deployment of the BDCCH & LA Monitoring and Verification Mechanism. It covers the setting-up of the facilities, the training of staff, the coordination of the teams at the three levels of authority and the deployment of the MVM.

The following timeline identifies the main activities that must be carried out in order to deploy the MVM in the relevant areas and headquarters, so that they carry out the functions laid down in the mandate.

- **Timeline**

<b>Day</b>	<b>Sequence of activities</b>
D-56	Definition of regional and national headquarters.
D-35	List supplied of National Government and FARC-EP staff to be trained.
D-30	Deployment of some of the mechanism's regional-level units (UN) begins.
D-25	Training of MVM staff begins.
D-20	The National Government and the FARC-EP to provide the IC-MVM with details of the units and structures allocated to the setting-up of the field deployments, the TLZNs and the TLPNs.
D-15	Information - coordinates of the TLZNs and TLPNs as verified during the visits and supplied by the Negotiation Table- to be supplied to the MVM.
D-12	Status report on the TLZNs and TLPNs prepared by the Government and the FARC-EP delivered to the MVM.
D-9	Completion of monitoring and verification course.
D-8	Deployment of local-level MVM units to set up the Headquarters.
D-7	Installation of local and regional MVM Headquarters.
D-7	Coordination of local and regional teams begins.
D-6	Installation of national headquarters.
D	Final agreement signed and MVM starts operating.
D+3	Community outreach for education on verification and monitoring begins.
D+5	Second batch of information to be supplied to the MVM.

**Operation of field teams.**

- The local-level unit consists of 35 people, 15 from the International Component of the MVM, 10 from the National Government and 10 from the FARC-EP. These groups are located in each

of the Transitional Local Zones for Normalisation (TLZNs) and Transitional Local Points for Normalisation (TLPNs).

- These 35 people are divided into teams to perform the monitoring functions described in the various protocols of the BDCCH & LA Agreement. At each headquarters there is a team in charge of coordinating the local monitoring activities.
- The 20 TLZNs and 7 TLPNs are located in 27 municipalities and 15 departments as follows: Fonseca (Guajira), La Paz (Cesar), Tibú (Norte Santander), Remedios (Antioquia), Ituango (Antioquia), Dabeiba (Antioquia), Vigía del Fuerte (Antioquia), Rio Sucio (Chocó), Tierra Alta (Córdoba), Planadas (Tolima), Villa Rica (Tolima), Buenos Aires (Cauca), Caldono (Cauca), Corinto (Cauca), Policarpa (Nariño), Tumaco (Nariño), Puerto Asís (Putumayo), Cartagena del Chairá (Caquetá), La Montañita (Caquetá), San Vicente del Caguán (Caqueta), Arauquita (Arauca), Tame (Arauca), Mesetas (Meta), Vista Hermosa (Meta), La Macarena (Meta), Mapiripán (Meta), Cumaribo (Vichada), San José del Guaviare 1 (Guaviare), San José del Guaviare 2, Calamar and El Retorno (Guaviare).
- At regional level there are 2 verification teams at each of the following headquarters: Valledupar, Bucaramanga, Medellín, Quibdó, Popayán, Florencia, Villavicencio and San José del Guaviare.
- At national level there is just one team operating the headquarters of which are in Bogota.

The dates, timing and number of teams and people included in this protocol are for planning purposes and may undergo changes by mutual agreement between the National Government, the FARC-EP and the United Nations.

**Protocol for the section on Monitoring and Verification: FLOW OF INFORMATION FROM THE MVM of the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and Laying down of Arms (LA)**

**FLOW OF INFORMATION FROM THE MONITORING AND VERIFICATION MECHANISM (MVM).**

The National Government and the FARC-EP have agreed the procedures for how information flows within the mechanism, and how internal and public reports are generated and disseminated.

**Internal reports**

Internal reports are drawn up by the people at the local, regional and national unit levels, and they are presented by the International Component that is in charge of the respective units. These reports set out the incidents that arise in the field and are handled by the MVM. They include a description of the incident, the information gathered about it, an analysis of it, information broken down by gender and a recommendation of how the incident should be handled. Internal reports are issued to the unit at the level above.

Internal reports reflect the points of view of the different components of each unit.

**Public reports**

Public reports are issued by the national unit and are prepared by the staff of the International Component in liaison with the National Government and FARC-EP delegates. They give details of the progress made in the monitoring and verification process. The inputs for these public reports are the monthly statements of events documented at each of the local and regional units, as well as the main developments observed by the MVM, and they give an analysis of the information gathered.

**Flow of information and generation of internal reports at local-unit level**

At local-unit level internal reports are addressed to the regional-level verification unit. The information is gathered by the monitors, and assessed and analysed by all three components of the MVM at local-unit level. The International Component consolidates the information and generates the internal report. The local unit analyses the event and determines whether it falls within its remit, or whether it should be referred up for regional-level verification. In any case, the local MVM unit reports all the information gathered to the regional unit.

**Flow of information and generation of internal reports at the level of the regional verification unit**



At regional-unit level internal reports are addressed to the national verification unit. When a local-entity internal report reaches the regional-level unit, the latter analyses it. If the internal report does not contain sufficient information, the regional verification unit asks for further details from the local unit; or, if required, it sends a task force into the field to gather further elements that will provide the necessary information.

Once the members of the regional unit have completed their analysis and assessment of the information, the International Component consolidates the internal report and sends it to the national unit.

### **Flow of information and generation of internal and public reports at the level of the national verification unit**

The national verification unit prepares two types of documents: internal and public reports.

- a. The internal reports are sent to the representatives of the National Government and the FARC-EP.

When a regional verification uthority internal report reaches the national unit, the latter analyses and assesses it. If the report does not contain sufficient information, the uniy may request inputs from competent bodies, further details from the regional-level unit or, if necessary, it may send a task force into the field to obtain the relevant information. Once there is clarity about an incident and the internal report has been analysed by the members of the national unit, the International Component in charge of the unit consolidates the internal report and issues the appropriate recommendations to the National Government, the FARC-EP, the United Nations, and other bodies committed to the BDCCH & LA implementation process.

- b. The public reports are published nationally and internationally using the channels established by the National Government and the FARC-EP. Public reports are issued every 30 days, or sooner, as considered appropriate by the national unit. Only the national unit makes public statements.

The national, regional and local units maintain fluid and ongoing communication, and they guarantee the timely flow of internal information between them, for which purpose they have sufficient technical, administrative and operational resources.

**Protocol for the section on Monitoring and Verification: STRATEGIC COMMUNICATIONS of the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and the Laying down of Arms (LA).**

**STRATEGIC COMMUNICATIONS OF THE MONITORING AND VERIFICATION MECHANISM (MVM)**

This protocol sets out a standard procedure on how to optimise communication actions and products arising from the MVM activities. The document focuses efforts towards the main audiences of interest: the national and international civilian population, and the members of the National Government and the FARC-EP.

**Objective**

To publicise the activities of the MVM, and any contingencies that may arise in implementing the BDCCH and LA Agreement, with the aim of keeping national and international public opinion as fully and transparently informed as possible.

**Bodies and officers in charge of strategic communications**

**National unit:** the MVM has a team for handling strategic communications and appoints a spokesperson from the International Component (IC-MVM) who is the person authorised to make official public statements on behalf of the mechanism. This can be a rotating appointment.

**All units (national, regional and local):** all levels play a role in disseminating and socialising educational resources and in engaging in dialogue with the different audiences. They are the visible face of the MVM in dealings with the communities and are in constant contact with the press and strategic communications officers of the various state entities and the FARC-EP, and with the social organisations that have a connection with the MVM.

**Communication products**

- The MVM is responsible for three types of communication products: the first is the appropriate dissemination of the monthly (30 days) public reports issued by the national unit. It is the job of the spokesperson to disseminate these public reports among all the mechanism units and to public opinion.
- The second product is educational and its purpose is to facilitate understanding of the objectives of the MVM, its functions and work methodology. It is designed by the MVM national unit and disseminated by all three units, as instructed by the national unit.

- The third product is the result of handling contingencies and events or situations that warrant comment by the MVM. In these cases it is the national unit spokesperson who makes a public statement on them.
- These products must have an appropriate gender-based approach, both in the information they contain and in their dissemination.

### **Dissemination, frequency and duration of the strategic communications work**

To facilitate the dissemination of messages, the MVM national unit defines the channels that it considers most appropriate.

- The monthly (every 30 days) public reports are disseminated at all unit levels from their date of publication and during the following fortnight.
- The educational products are continuously circulated for as long as the MVM is in operation.
- Public statements resulting from contingencies concerning the operation of the MVM are made as judged appropriate by the national unit.

The strategic communication efforts will continue for as long as the MVM is in operation.

It is the national unit, through its spokesperson, which makes official public statements on behalf of the MVM. MVM staff at local and regional unit level may only make public statements with the authorisation of the national unit.

**Protocol for the section on Monitoring and Verification: OBSERVATION AND RECORDING by the MVM of the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and Laying down of Arms (LA).**

**OBSERVATION AND RECORDING BY THE MONITORING AND VERIFICATION MECHANISM (MVM)**

**Monitoring objectives**

Information plays a decisive role in the MVM; how it is obtained, gathered and processed is crucial for the Mechanism to perform well. Information that is wrongly obtained, biased or unreliable does not meet the standard required for an effective validation process.

The main tasks of monitoring consist of observing, seeking, gathering and systematising information relating to events that constitute a violation of the BDCCH & LA Agreement, or that represent a threat to its proper implementation. The monitors document events on their own initiative or in response to a request or a report of an event that is presumed to be a violation of or threat to the BDCCH & LA Agreement.

**Monitoring sources**

Sources can be:

- Direct or primary sources: these may be direct conversations or official reports from Military Forces, the Police, the FARC-EP, local authorities, ombudspersons (*personeros*), the Office of the Ombudsman (*Defensoría del Pueblo*) churches, social leaders, civilian population, social and women's organisations, local human rights committees, NGOs, community action boards (*juntas de acción comunal*).
- Secondary sources: documents of public and private entities, complaints or reports published by social organisations and NGOs, media, surveys, academic analyses, press reports, documentaries, news bulletins.

The following considerations apply to information received from direct sources:

- Enquiries involving people from the population, units and public servants are voluntary; the interviewee's appearance before the monitors must not be considered an administrative or judicial formality. At no time may a monitor require the presence of citizens or local units.
- Cases in which members of the Colombian State Armed Forces (which include both the Military Forces and the National Police) or the FARC-EP do not wish to give the monitors information should be reported.

- In all cases the identity of the source is confidential and may only be revealed with the explicit consent of the person concerned, following the procedure laid down for this purpose by the national unit.

### **Ongoing tasks of monitors**

Observation is an ongoing task for monitors. When faced with an action that is suspected to be a violation of the BDCCH & LA Agreement, the procedure for recording, analysing and preparing reports is activated.

The monitors prepare a daily field log which contains:

- A record of the dates, key details, number and status of enquiries with direct and secondary sources.
- Field observations for subsequent verification, in accordance with the various MVM protocols, including: the Rules that Govern the BDCCH & LA Agreement, security measures, deployments in the field and logistic issues.
- Difficulties of cultural or regional adaptation.
- The monitor's view of the day's observations.

The local unit carries out the following administrative and operational support tasks:

- It provides technical, logistic and technological resources with which to perform the monitoring tasks.
- It supervises the completion of the monitors' record slips.
- It coordinates the daily meetings for planning and assessing the monitors' work.
- It compiles and issues early warnings.
- It has specially trained monitors among its staff for receiving and analysing information relating to violence against women or against LGBTI individuals and, in particular, sexual violence.

### **Tasks of monitors when faced with acts which they suspect are in violation of the BDCCH & LA Agreement**

When reviewing an event that suggests a violation of the BDCCH & LA Agreement, it is assumed that there may be different sources and versions of information, and therefore the aspects about which the details agree and differ are collated.

In response to a suspected incident or violation of the Agreement, the local monitoring units:

- Record the events in accordance with the procedures defined by the MVM national unit.
- Make the necessary enquiries and investigations in the field.
- Compare sources and versions.

- Analyse the information gathered about the events.

As part of their duties, the monitors complete an information record form (see Record form, below).

**Record form:**

Form descriptive details				
Form code				
Local headquarters				
Monitor's name				
	Source 1	Source 2	Source 3	Assessment of information
Source code				
Type of source				
Sex				
Witness				
Description and circumstances of events				
Parties allegedly involved				
Approximate date of event				
Approximate time of event				
Preliminary classification of the facts				
Handling of information				
<b>MONITOR'S VIEW OF EVENT:</b>				

**Record form definitions**

**ROWS**

- Form descriptive details:** form code (unique record identifier); local headquarters (geographical location of the headquarters); name of monitors.
- Source code:** unique identification number of source; type of source (direct or secondary sources); sex; witness (whether or not the source was an eyewitness).
- Description and circumstances of events:** an account, which is as faithful as possible and contains no interpretation by the monitor, of the events exactly as expressed by the source.

Care should be taken to include the basic questions of the information: who; what did they do, or what happened; to whom (those allegedly affected); with what; when; and how? It is unlikely that there will be an answer to the question "Why?" (an aspect that has to do with the internal intentions and motivations of the perpetrator). However, if it is possible to identify this aspect in the source's account, it should be noted. The following details are extracted from this information for better tabulation: parties allegedly involved, date and time of the event.

- **Preliminary assessment of the facts:** this is the monitor's assessment as to whether the act or action observed constitutes an alleged incident or violation of the Agreement. It is tabulated with options such as: information that predominantly suggests that there has been a violation of the Rules that govern the BDCCH & LA Agreement; information that provides evidence of a violation but does not confirm it; information that requires further review and cross-checking; basic information without any major significance; information that indicates that the act does not constitute a violation of the BDCCH but requires a second assessment; information that clearly indicates that the act is not a violation of the BDCCH.
- **Handling of information:** the decision taken or the treatment given to the source: not taken into account; included in the internal report; must be checked against another source.
- **Monitor's view:** this is an elaboration on the information recorded about the event under analysis.

#### **COLUMN:**

- As many columns are included as are required for the number of sources consulted.
- **Assessment box:** this is the assessment of the quality of the information including how complete and reliable it is. It can be tabulated as: full and reliable information; incomplete and reliable information; unreliable information; information that has not been cross-checked, new source (the first time contact has been made with it); anonymous source (it is not known who supplied the information).

#### **Steps to be followed and instructions:**

- Enquiries should preferably be carried out in the presence of all three components of the MVM. However, people being interviewed by the mechanism can ask to speak with any one of its components separately.
- An effort should be made to have at least two sources of information. Once the information has been entered in the Record form, the local MVM unit makes an initial assessment of the event.

If this initial assessment is not conclusive, or it is not shared by all the team members, the International Component of the local unit requests a further alternative source that can provide more tools for analysis.

- The monitors take notes while interviewing a direct source and endeavour to remain as faithful as possible to the response and interpretation being given by the interviewee. No recordings of the conversation may be made. The monitors must avoid including their own views, interpretations and theories.
- In cases where there is only one source (e.g. an eyewitness), the local unit carries out a more thorough inspection in the field and looks for additional sources of information. If no additional sources are found, the event is recorded as "information that has not been cross-checked" in the source assessment column.
- At the end of the interview the information gathered is transferred to the Record form.
- The Record forms must be completed in full, the information they contain must be as precise and clear as possible, and a summary must be given of the most significant information gathered.

### **Analysis of the information**

Once the information has been gathered the key details supplied are cross-checked. It must be remembered that the information is generally incomplete and imperfect, not all sources of information give the same account of the same event. This results in differences in how the same event is perceived and interpreted, and therefore the analysis of the information recorded must be meticulous.

The tasks of the monitors in analysing the information are:

- To analyse the data collected in the fieldwork taking as a reference the Rules that govern the BDCCH and other protocols of the BDCCH & LA Agreement.
- To ensure that the information is as complete as possible by having appropriate communication skills and obtaining multiple sources of information.
- To ensure that the information is relevant, that the versions of the events are as close to the experience of each person as possible, and avoid asking biased, leading or tendentious questions.

Data analysis involves: reducing data to key information; arranging and processing data so that they are comparable and systematisable; reaching and reviewing conclusions.

Once this process has been completed and it has been determined whether the event under analysis is an incident or a violation of the BDCCH & LA Agreement, the internal report is drawn up informing the regional verification unit of the events analysed and conclusions reached by the local unit (see Flow of Information Protocol).



**Protocol for the section on Monitoring and Verification: COORDINATION OF THE MVM for the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and Laying down of Arms (LA)**

**Coordination of the Monitoring and Verification Mechanism (MVM) by the International Component**

Joint Communiqué No. 65 of 19 January 2016 states that the international component of the MVM “will preside over and coordinate the mechanism at all levels, settle controversies, make recommendations and submit reports”. Likewise, Security Council Resolution 2261 (2016) of 25 January 2016 establishes the Mission of the United Nations “as the international component and coordinator of the tripartite mechanism”.

The international component provides this coordination through a system in which each of the three components of the MVM has its own chain of command. The governmental component reports to the National Government; the FARC-EP component reports to its own Secretariat; and the international component reports to the UN Secretary-General through the Head of the UN Mission in Colombia and ultimately to the UN Security Council.

The MVM’s National Steering Group comprises a Head and an Assistant Head for each component. The Steering Group is responsible for joint management of the Mechanism, under the coordination of the international component. The functions of settling controversies, making recommendations and international verification of compliance with commitments under the BDCCH & LA Agreement are the responsibility of the international component.

In this context, the coordinating powers and duties of the international component at local, regional and national level include the following:

**Meetings and decision-making**

At the request of the national components (National Government and FARC-EP), or at its own initiative, the international component shall call tripartite meetings.

To ensure that meetings are productive, the coordinator shall prepare the agenda in consultation with the other components and submit it to them for approval.

The coordinator shall moderate the discussions.

The international component coordinator shall draft the conclusions and decisions reached in the meeting, submit them to the Steering Group (tripartite) for formal approval, and subsequently communicate the approved conclusions to the parties concerned.

The international component coordinator shall be responsible for drafting the minutes of the meetings and shall submit them to the Steering Group for approval. Copies of the minutes shall be distributed to each component.

### **Preparation of reports**

The international component coordinator shall prepare draft reports on the MVM's activities at local, regional and national level; shall incorporate comments and observations from members of the local, regional and national teams, respectively; shall submit the reports for approval by the components in the Steering Groups of the corresponding unit; and shall forward them to the corresponding recipients. Any unresolved discrepancies between the components shall be referred to the next higher level in order to find a solution.

### **Operational planning**

The international component coordinator shall draft proposals for the operational planning of how the MVM teams will be deployed, and present these proposals for consideration to the other components of the Mechanism in the Steering Group. It shall then conduct the appropriate consultations in order to make any necessary adjustments, and present the proposed plan of action to the other components of the Steering Group for approval; following approval it shall communicate the plan to all those concerned so that it may be implemented.

Each unit of the international component shall coordinate and verify compliance with the security procedure established for FARC-EP members exiting the camps as part of the peace process, at both national and regional levels, in relation to the BDCCH & LA Agreement.

The international component shall have all the resources it requires so that it may fulfil its role as coordinator of the MVM in an effective manner.

**Protocol for the section on Monitoring and Verification: CODE OF CONDUCT FOR THE MEMBERS OF THE MVM for the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and Laying down of Arms (LA)**

**CODE OF CONDUCT FOR THE MEMBERS OF THE MVM DURING THE BILATERAL AND DEFINITIVE CEASEFIRE AND CESSATION OF HOSTILITIES (BDCCH-LA)**

The Monitoring and Verification Mechanism (MVM) is comprised of representatives from the National Government, the FARC-EP and the United Nations (UN), including international observers, in particular member countries of the Community of Latin American and Caribbean States (CELAC).

For the National Government, for the FARC-EP and for the people of Colombia, the MVM serves as a guarantee that the commitments made under the BDCCH & LA Agreement will be kept.

The tripartite structure of the MVM facilitates the settling of any controversies and incidents that may arise during implementation of the BDCCH & LA Agreement; cooperation and effective communication between the members of the Mechanism will strengthen the trust between the UN, the National Government and the FARC-EP to consolidate the peace process.

With these responsibilities in mind, the codes of conduct to be applied to members of each party in the component of the MVM must meet the expectations held by the Colombian people and the international community as regards to our actions and behaviour.

The following code of conduct for members of all three components of the MVM has been established by mutual agreement:

**We shall at all times:**

- Behave in a professional and disciplined manner;
- Strive to understand and fulfil the mandate of the MVM and its protocols;
- Act objectively, with integrity and tact;
- Respect other members of the MVM, regardless of their status, rank, ethnicity or nationality, gender or creed;
- Support and promote relationships of trust between our colleagues;
- Take care of our personal appearance and ensure we are well presented;
- Administer as appropriate the property and budget assigned to us as members of the MVM;
- Respect the laws, customs and traditions, culture and religion of the people living in the areas in which we work;
- Interact with the population, particularly with victims and persons affected by the conflict, with the utmost respect, courtesy and consideration;

- Respect gender equality, both within and outside the MVM;
- Condemn all acts or threats of sexual exploitation, violence and abuse;
- Whilst carrying out our duties, take care to avoid harming the environment;
- Be supportive of the other members of the working group and sympathetic to the civilian population.

**We shall under no circumstances:**

- Harm the reputation of the MVM through unacceptable personal acts, non-compliance with duties or abuse of our position as members of the tripartite mechanism;
- Consume alcoholic beverages in excess, or take drugs;
- Cause intentional damage to property or equipment provided for the performance of our work, or use them inappropriately;
- Enter into communications with external organisations, including making press statements, without prior authorisation;
- Disclose or make inappropriate use of information obtained whilst carrying out our work;
- Behave in an arrogant or discourteous manner;
- Participate in illegal, dishonest or inappropriate activities;
- Use our position for personal gain;
- Commit acts of gender-based violence, including sexual exploitation or abuse, or have sexual relations with those under 18 years of age, or offer money, employment, goods or services in exchange for sexual relations;
- Intentionally cause damage to or take property belonging to the civilian population.

**We acknowledge that failure to observe these guidelines may:**

- Jeopardise the fulfilment of our mission;
- Entail loss of status as a member of the MVM; and
- Result in administrative, disciplinary or penal measures being taken.

**Protocol for the section on Monitoring and Verification: SETTLEMENT OF CONTROVERSIES for the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and Laying down of Arms (LA).**

**GUIDELINES FOR THE SETTLEMENT OF CONTROVERSIES UNDER THE BDCCH & LA AGREEMENT BETWEEN THE NATIONAL GOVERNMENT AND THE FARC-EP**

**A. MANAGEMENT OF THE CEASEFIRE AND LAYING DOWN OF ARMS**

The primary objective of the Monitoring and Verification Mechanism (MVM) is to provide a guarantee that the Agreement on the Ceasefire and Cessation of Hostilities and Laying down of Arms will be fulfilled, both for the National Government and the FARC-EP and for the people of Colombia.

As part of their monitoring and verification duties the MVM teams will encounter incidents of all kinds, which may or may not be relevant from the point of view of verifying the commitments made. As far as such incidents and the response from the MVM teams are concerned, it is important that all three components follow the same criteria. The following section provides a classification of the different kinds of incidents that may be encountered in order to assist members of the MVM in performing their monitoring and verification duties.

**Irrelevant incidents**

Within the Transitional Local Zones for Normalisation (TLZNs) and Transitional Local Points for Normalisation (TLPNs) in which the MVM operates, incidents may arise which have no bearing on the fulfilment or non-fulfilment of the agreements but may still require a response from the MVM.

This is typically the case with any accidents or emergencies, medical or otherwise, that affect residents of the local area. These are not covered by the MVM's mandate. However, the members of the MVM have a humanitarian duty to help resolve these situations, as far as is possible.

**Relevant incidents**

**I. Non-compliances that do not constitute violations:**

Relevant incidents are those that constitute non-compliances with the commitments made in the Agreement. However, not all non-compliances necessarily represent conscious and deliberate violations of the Agreement.

In this respect, there are three kinds of situation that the MVM teams may encounter:

- a. Non-compliances caused by technical problems or other kinds of issues that are beyond the control of the National Government and the FARC-EP.
  - For example: Failure to comply with a deadline for movement due to a logistical problem; entering a restricted area as a result of becoming lost; human error in the registering of weapons, etc.
- b. Non-compliances caused by insufficient communication between commanding officers and subordinates. In particular, despite the efforts each party has a duty to make to ensure all their forces correctly understand their obligations under the Agreements and its protocols, at the start of the Ceasefire process it is possible that subordinates may unintentionally commit non-compliances with the Agreement.
- c. There is also a possibility at the start of the process that non-compliances may occur as a result of the parties' different interpretations of certain commitments, which were not identified and settled at the Negotiation Table but which materialise in practice. These cases shall likewise not be held to constitute deliberate violations of the commitments.

## **II. Non-compliances that constitute violations**

Any non-compliance that is committed consciously and deliberately constitutes a violation.

The point of reference for identifying situations that involve major consequences shall be the death of one or more persons or the use of weapons against one of the parties.

Violations themselves may be broken down into two categories:

- a. Moderate violations, which meet the following criteria:
  - Committed by single individuals;
  - Committed by subordinates on their own initiative;
  - Exceptional;
  - Having minor consequences;
- b. Serious violations, which have one or more of the following characteristics:
  - Committed by groups;
  - Committed by persons holding positions of command;
  - Repeated or systematic;
  - Having major consequences.

### **III. Responses of the MVM:**

The MVM has a duty to respond without delay to all non-compliances, whether they are unintentional or deliberate, and moderate or serious, depending on their nature. The response must take the following two forms:

- a. As a priority, whenever possible, implement any one-time alleviating measures that may be necessary to meet the commitment not complied with, whether this was due to technical reasons, lack of communication, divergence of interpretation, a moderate violation or a serious violation.
- b. Implement or promote corrective measures over a longer term in order to address the causes of the non-compliance. In particular:
  - For non-compliances resulting from technical or logistical problems, the MVM must itself make the necessary arrangements, or recommend these arrangements to the parties, to ensure that these technical problems do not recur.
  - For non-compliances resulting from a lack of communication between commanding officers and subordinates, the MVM must put pressure on the commanding officers in question, or itself take action, to ensure that information and communication regarding the Agreement and its protocols reaches all members of the forces, in the areas where it is deployed.
  - For non-compliances resulting from differences in interpretation, the MVM must, either directly or through other units with the involvement of the parties, resolve these differences in interpretation, generally by encouraging study of the agreements and adopting new regulations. It is of particular urgency for the MVM at national level to settle any differences caused by ambiguities in the text of the agreements and protocols or by other issues that may arise.

### **B. SETTLEMENT OF CONTROVERSIES**

In accordance with Joint Communiqué No. 65 of Havana, 19 January 2016, the settlement of controversies is one of the responsibilities of the International Component of the MVM. One of the key merits of the MVM's tripartite structure is that it is possible for both Government and FARC-EP representatives to analyse and evaluate incidents together with the international component, having all the facts and circumstances in which such incidents arise directly available to them.

Furthermore, it may prove difficult for the members of the international component of the MVM, which represents both parties, to assess the facts in the same manner, regardless of who is involved and who is affected by those facts.

Therefore, starting from the stage of monitoring in the field, and particularly in situations involving disagreement between the observers from the parties, it is important for the international observer to look beyond the description of the incident and focus on a series of key questions concerning the circumstances and scope of the incident:

- a. Does the incident have any bearing on the fulfilment of the Agreement and its protocols, and if so which commitments are affected?
- b. If the incident constitutes a non-compliance, do the circumstances indicate that the non-compliance was deliberate, or unintentional?
- c. If the non-compliance was unintentional, what factors caused it and what action can be taken to ensure these factors are not repeated?
- d. If the non-compliance was deliberate, what is the nature of the violation? (Was it committed by an individual, or by a group; was it committed by subordinates not acting under orders, or by commanding officers; was it exceptional, or systematic; and was its impact major, or minor, as regards fulfilment of the Agreement?)

With these points clarified, the international observer will be in a position to determine the level of consensus between the parties as regards the incident. In most cases, there will be a consensus within the local team of the MVM. Where differences still remain, these shall above all be considered in relation to how severe the violation is found to be. In order to settle these differences in assessment, the local teams shall refer their report to the regional unit. If the differences are still unresolved by the regional unit, said unit shall refer the report to the national unit which shall give a final ruling on the matter.



**Protocol for the section on Monitoring and Verification: MANDATE OF THE MVM for the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and Laying down of Arms (LA)**

**MANDATE OF THE MONITORING AND VERIFICATION MECHANISM (MVM) FOR THE BDCCH AGREEMENT AND MANDATE OF THE INTERNATIONAL COMPONENT OF THE MVM (IC-MVM) FOR THE LAYING DOWN OF ARMS, BETWEEN THE NATIONAL GOVERNMENT AND THE FARC-EP**

The National Government and the FARC-EP agree to set up the Monitoring and Verification Mechanism (MVM) for the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH), and propose functions to the International Component of the MVM as regards the verification of the Laying down of arms, as enshrined in the “General Agreement to End the Armed Conflict and Build a Stable and Lasting Peace” of 26 August 2012 and in accordance with the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities and Laying down of Arms.

This mechanism will be set in motion following the conditions defined by the National Government and the FARC-EP. The follow-up of the MVM is agreed upon between the National Government and the FARC-EP.

**Purpose and scope**

To monitor compliance with the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities and Laying down of Arms and to resolve the various factors that may endanger the BDCCH & LA; to coordinate recommendations to the National Government and the FARC-EP in the event of any violations or incidents concerning the aforementioned Agreement.

The Laying down of Arms shall be verified by the International Component of the MVM (IC-MVM) under the terms and with the appropriate guarantees laid down in the protocols of the Agreement.

The MVM shall identify and examine, impartially, any facts indicating a non-compliance with, threat to or violation of the commitments set out by the National Government and the FARC-EP in relation to the Rules that govern the BDCCH, the Deployments in the Field and the security measures, on the basis of the BDCCH & LA Agreement and its annexes and protocols; and inform the National Government and the FARC-EP of the outcome of its work.

The monitoring and verification functions shall be performed across all units of the MVM. The regional and national units shall focus on verification and the local unit shall be concerned with monitoring.

The MVM shall commence its activities once the Final Agreement has been signed and shall operate for a period of 12 months, which may be extended at the request of the National

Government and the FARC-EP.

The MVM shall be unarmed and shall enjoy full security guarantees in accordance with the provisions of the respective protocols.

### **General guidelines and principles**

The MVM shall act under the principles of respect and of impartiality in its procedures and recommendations, and under the principles of transparency in performing its work and of non-discrimination of every kind.

The National Government and the FARC-EP shall commit to cooperating with the MVM, in order to ensure freedom of movement for the members of the MVM and to provide and facilitate site access as set out in the BDCCH & LA Agreement, so that they may carry out their duties safely and effectively.

### **Composition of the MVM**

The mechanism is made up of men and women from the National Government, the FARC-EP and the International Component (IC-MVM).

The international component (IC-MVM) is a political mission of the UN, comprised by unarmed observers from member countries predominantly of the CELAC. It shall preside in all instances of the MVM and is tasked with settling controversies, making recommendations and submitting reports, according to the present mandate which it has been granted for the purpose of guaranteeing and bringing impartiality and transparency to the BDCCH & LA Agreement.

The MVM consists of a national unit, eight regional units, and local monitoring units deployed in each of the Transitional Local Zones for Normalisation (TLZNs) and Transitional Local Points for Normalisation (TLPNs) established by the National Government and the FARC-EP.

The National unit includes a steering group composed of two international delegates, two delegates from the National Government and two delegates from the FARC-EP. The National Government delegates shall consist of one civilian representative and one representative for the Colombian State Armed Forces (which include both the Military Forces and the National Police). The international delegates shall be made known to the parties by the United Nations Special Representative of the Secretary-General for Colombia. The number of members of the national unit shall be determined in line with administrative, logistical and operational needs. Its headquarters are in the city of Bogotá, although sessions may be held in other cities.

The regional units of the MVM include a steering group composed of two international delegates, and two delegates each from the National Government and from the FARC-EP. The number of members of the regional unit shall be determined in line with administrative, logistical and

operational needs. The regional units shall be based in the following eight cities: Valledupar, Bucaramanga, Medellín, Quibdó, Florencia, Villavicencio, Popayán and San José del Guaviare.

The local units of the MVM include a steering group composed of two international delegates, two delegates from the National Government and two delegates from the FARC-EP; the number of members of the local unit shall be determined in line with administrative, logistical and operational needs, and depending on the characteristics of the area, the number of people to be monitored, the topography and the risk factors in each of the TLZNs and TLPNs.

The local units shall be based near to the Transitional Local Zones for Normalisation (TLZNs) and Transitional Local Points for Normalisation (TLPNs).

The MVM's internal regulations shall be established by the National unit once its activities commence. Each component of the MVM may make staff alterations when necessary.

The MVM shall interact with communities, social and political organisations and state institutions at local, regional and national levels, as they may contribute to its work by providing information, by assisting in raising public awareness of its reports and by making proposals and suggestions.

#### **Functions of the National Unit**

- a. To ensure the monitors and verifiers are deployed at the times and in the areas set out in the BDCCH & LA Agreement.
- b. To coordinate the mechanism at national level, and oversee the activities of the regional and local units to ensure correct internal operation of the MVM across all units.
- c. To examine and verify any facts indicating non-compliance with the BDCCH & LA Agreement and its corresponding protocols and annexes. The IC-MVM of the national unit shall verify the Laying down of Arms process.
- d. To settle cases in which the components of the MVM disagree, in order to suggest the corresponding recommendations, a function that remains the responsibility of the International Component.
- e. To verify the accuracy of reports received from the regional units, and from communities, civil units and other sources of information at national and regional level, concerning presumed violations of or threats to the BDCCH & LA Agreement.
- f. To guide the regional unit in its verification of facts constituting presumed violations of or threats to the BDCCH & LA Agreement, and the recommendations from the national unit.
- g. To keep the National Government and the FARC-EP informed and to receive recommendations issued by the former, in relation to its monitoring and verification mission.

- h. To support the activities, functions and design of any new protocols and annexes that the National Government and the FARC-EP may create as part of its monitoring and verification tasks, and to produce any new protocols and annexes it deems necessary for the fulfilment of its functions.
- i. To undertake the tasks of strategic communication to the public at national level and to guide the regional and local units in any aspects that may be necessary, maintaining the stance of the mechanism and its transparency.
- j. To receive all information relevant to the BDCCH & LA Agreement that may be supplied to it by the National Government, the FARC-EP and other sources, ensuring such information is adequately protected and filed.
- k. To fulfil any other duties that may be assigned to it in the Final Agreement, by the National Government and the FARC-EP, taking account of the mandate of the IC-MVM.
- l. To present a consolidated report on its activities to the National Government, the FARC-EP and the public every 30 days.

#### **Functions of the Regional Unit**

- a. Its function is to analyse, evaluate and verify the accuracy of the facts recorded in the reports received from the local units, in which the circumstances, causes and context of the facts under examination are described; to resolve differences and issue any recommendations it may deem necessary for the local units to implement.
- b. In the event that an incident goes beyond the remit of the regional unit, the latter shall send the report to the national verification unit.
- c. The regional verification unit shall produce internal reports at the request of the national unit, which reports shall include those facts under examination which it has received, and the outcomes and suggestions it considers appropriate.
- d. The regional unit may carry out or supervise occasional work in the field when, owing to the complexity of the matter in question, the local unit requires support from regional verifiers.
- e. To perform tasks of dissemination and communication, as set out in the strategic communications protocol, maintaining the stance of the mechanism as well as its legitimacy and transparency.
- f. To guide the local units in their verification of facts constituting presumed violations of or threats to the BDCCH & LA Agreement, and the recommendations from the national unit.

### **Functions of the Local Monitoring Unit**

- a. To observe, gather, record and analyse information on the ground in relation to the fulfilment of the BDCCH & LA Agreement by the National Government and the FARC-EP, within its remit.
- b. To observe and confirm movements on the ground by the Colombian State Armed Forces and the FARC-EP, in line with adjustments to the numbers of personnel deployed in the field, as well as movements of the FARC-EP units to the TLZNs and TLPNs as stipulated in the BDCCH & LA Agreement.
- c. To coordinate with those responsible for the operation of the TLZNs and TLPNs and their security so as to ensure that the mechanism's functions are implemented correctly.
- d. To draw the attention of the regional unit to matters that may jeopardise the BDCCH & LA Agreement in the TLZNs and the TLPNs concerned.
- e. The International Component of the MVM (IC-MVM) shall monitor and carry out checks on the possession of arms by members of the FARC-EP.
- f. To perform tasks of strategic communication with the local people regarding any aspects that may be necessary, in accordance with the strategic communications protocol.
- g. To ensure that anyone wishing to make a complaint not within the MVM's remit is referred to the relevant units.
- h. To comply with all instructions and recommendations received from the regional and national units.

All units of the MVM are under a duty to coordinate logistically with the National Government to ensure that supplies and maintenance are received for the MVM.

**Protocol and Annexes to the section on DEPLOYMENTS IN THE FIELD AND ZONES in the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and Laying down of Arms (LA)**

**Operation of the Transitional Local Zones for Normalisation (TLZNs) and the Transitional Local Points for Normalisation (TLPNs) and adjustments to the deployment in the field of the Colombian State Armed Forces.**

This protocol lays down the criteria for ensuring the appropriate deployment in the field of the Colombian State Armed Forces (which include both the Military Forces and the National Police) and for the operation of the 20 Transitional Local Zones for Normalisation (TLZNs) and the 7 Transitional Local Points for Normalisation (TLPNs) established for the FARC-EP during the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and Laying down of Arms (LA) under the BDCCH & LA Agreement.

Each TLPN will have a camp, a security zone of 500 metres to 1 km, a reception area and a local MVM base outside the security zone. The size of the TLPNs will reflect the nature of the terrain, the amount of water and the number of FARC-EP members to be located there.

For the purposes of this protocol, the term TLPNs will be used to refer to the seven points established under the BDCCH & LA Agreement, in order to differentiate them from the type of camp to be found within the TLZN.

The TLZNs are territorial-based areas that are temporary, transitional, defined, framed and agreed in advance. Their boundaries coincide with the boundaries of the rural settlements where they are located. They may be extended or reduced in size by mutual agreement, depending on the settlement where they are located. They are of a reasonable size that allows for monitoring and verification by the MVM, and they are surrounded by a 1 km security zone. The criteria governing the TLZNs are defined as follows:

- **Temporary:** The Zones and the Bilateral and Definitive Ceasefire and Cessation of Hostilities will cease operation on day D+180.
- **Transitory:** the purpose of the TLZNs and TLPNs is to ensure compliance with the BDCCH & LA, to enable compliance to be verified, to begin the process of drawing up for the reincorporation of the FARC-EP structures into economic and political life and into society in a way that meets their needs, to enable them to make the transition to legality, and to enable the agreements to begin to be implemented.
- **Defined:** in accordance with agreed criteria and specific objectives, which include facilitation of logistics and enabling monitoring and verification by the MVM.

- **Agreed in advance:** they are selected by mutual agreement between the National Government and the FARC-EP, the aim being to ensure that they satisfy the conditions required in order to achieve their intended objectives.

The criteria and objectives used to establish the TLPNs are the same as those for the TLZNs. The TLPNs differ from the TLZNs in that they are smaller – they contain only one camp – and they are located in areas where they can help to house the more dispersed FARC-EP structures.

The number of camps in each TLZN will reflect the number of members to be located there and the conditions on the ground. Each TLZN will have a single site for storing weapons in containers, a reception area, a local MVM base – to be located, where possible, in a neighbouring village – and the logistics needed to implement the BDCCH & LA agreement, as set out in the logistics protocol.

### **Operation of the TLZNs and TLPNs**

In the TLZNs and TLPNs the full rule of law is guaranteed, and to this end the civilian authorities will operate normally, with no restrictions. The TLZNs and the TLPNs are not to be used for political demonstrations. Meetings may be held to teach people about the process.

Likewise, the normal operation of regional economic, political and social activities is also guaranteed in the life of the communities as they exercise their rights. There is also a guarantee that the community, social and political organisations present in the territories will be able to operate normally in the exercise of their rights, especially in the TLZNs and TLPNs.

To this end, the residents of these zones will be entitled to unrestricted freedom of movement, except for the FARC-EP camps, and they will be subject only to the rights and duties enshrined in Colombian law.

Each TLZN and TLPN has a reception area to attend visitors.

Within the TLZNs and the TLPNs, the FARC-EP is responsible for its personnel, including militiamen and women, and for ensuring they comply with the Rules governing the BDCCH & LA and with the provisions in the chapters, protocols and annexes that comprise the BDCCH & LA Agreement.

For its part, the National Government is responsible for ensuring compliance with the Rules governing the BDCCH & LA and with the provisions in the chapters, protocols and annexes that comprise the BDCCH & LA Agreement on the part of the Colombian State Armed Forces and public officials assigned to tasks relating to the BDCCH & LA Agreement.

In order to begin preparations for the Reincorporation of the FARC-EP into economic, social and political aspects of civilian life in a way that meets their needs, and for their transition to legality,

the institutions of the state will carry out the relevant procedures in the TLZNs and TLPNs as agreed between the National Government and the FARC-EP.

The Colombian State Armed Forces' presence in the field, where the TLZNs and TLPNs are located, will vary by area reflecting the conditions on the ground and the operational environment. Specific adaptations to local conditions are set out in Annex Y to this agreement. Any changes to Annex Y must be duly justified and must be notified in advance to the MVM.

Regarding the TLZNs and TLPNs, the presence of the Colombian State Armed Forces in the field (as set out in Annex Y) will be monitored and verified by the MVM. Personnel will maintain the necessary coordination with the MVM through the local MVM base.

On day D+180 these zones and the Bilateral and Definitive Ceasefire and Cessation of Hostilities will cease operation in accordance with the roadmap (timeline) which has been agreed by the National Government and the FARC-EP and which is to guide the process for ending the conflict following the signing of the Final Agreement.



**Protocol and Annexes to the section on Deployments in the Field and Zones – TRANSIT ROUTES (TRs) AND COORDINATION OF MOVEMENTS IN THE FIELD in the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and Laying down of Arms (LA)**

**Transit Routes (TRs) and Coordination of Movements in the Field**

Transit Routes (TRs) are temporary, geographically defined movement corridors created to ensure the safe, rapid and verifiable movement of the FARC-EP structures – missions, commissions, Tactical Combat Units (TCUs) and militia – to the TLZNs and TLPNs.

TRs will be available from day D+5. The process of moving all FARC-EP structures to the TLZNs and TLPNs will take place between day D+5 and day D+30. During this period each FARC-EP structure will move to these zones. Appropriate time will be allowed for transit, which will depend on the distance, terrain and method of transport used. Once a structure is housed in the TLZNs or TLPNs the MVM will be notified so that the deployment of the Colombian State Armed Forces (which include both the Military Forces and the National Police) can be readjusted and the TRs can be decommissioned.

Under the BDCCH & LA Agreement, between the National Government and the FARC-EP for each TLZN and TLPN, on day D+1 a delegate from the National Government and a delegate from the FARC-EP will supply the IC-MVM with the coordinates for the locations of the units belonging to the Colombian State Armed Forces and the FARC-EP so that the necessary steps can be taken to ensure that changes in the deployment of the Colombian State Armed Forces and the movement of the FARC-EP structures to the TLZNs and TLPNs can take place securely under monitoring and verification by the MVM. See the Annex entitled “*Geographical Demarcation of the Transit Routes*”. Amongst other things, this Annex sets out the distinctive characteristics of each TR as follows: 1. Starting points with coordinates; 2. Route description (characteristics); 3. Means of transport; 4. Approximate movement time; 5. Reference points for the MVM; and 6. End point (TLZNs or TLPNs).

The aforementioned structures will be moved in one of three ways, depending on the capabilities and resources available: 1. Cross country (trails or paths); 2. By road or land-based transport networks (using vehicles); 3. Along waterways (by boat). The methods of transport will be defined by mutual agreement between the National Government and the FARC-EP.

There will be permanent coordination with the MVM throughout the FARC-EP movements, and the preparation of the routes for the Colombian State Armed Forces. The MVM will monitor and verify that the procedures are carried out safely, rapidly and in accordance with the Rules Governing the BDCCH & LA. The MVM will carry out its work on a permanent basis and will have reference points on TRs from the point where the FARC-EP structures begin transit until they reach the TLZNs and TLPNs.

The Colombian State Armed Forces, in cooperation with the MVM, will deploy their personnel so as to guarantee security and prevent incidents during the movement of the FARC-EP to the TLZNs and TLPNs.

### **General points regarding the design of the TRs**

- a. Reference points (point's latitude and longitude) are to be established for the movement over the terrain, to assist the MVM in its work.
- b. The route description must follow the format set out in Annex XX, "Transit Routes".
- c. The TRs are to be kept in secret. Their position in the field will be defined using maps and coordinates. Their position will be known to the MVM and may NOT be made public. A duty of confidentiality is mandatory among those involved in the process.
- d. The National Government will provide a proper communication system to allow for coordination between the Colombian State Armed Forces and the MVM. It will ensure that separate channels and levels of communication are available for each institution, with joint channels and levels for coordination purposes. Coordination will be managed by the local MVM base.
- e. By day D+30, at the latest, all FARC-EP structures must have arrived at their respective TLZNs and TLPNs. TRs have been made available in time.
- f. The timing taken for this process will depend on the means of transport used to move the FARC-EP.
- g. Transit routes, methods and timings will be defined by mutual agreement between the National Government and the FARC-EP.
- h. The movement of guerrilla members will take place at group levels or front level. In all cases there will be a starting point for the movement, and an end point in the relevant zones or points. *See Annex XX.*
- i. The departure point and the TRs for the FARC-EP will be determined by the location of each unit in relation to the TLZN or TLPN to which it is to move, once the BDCCH & LA Agreement comes into force.

The FARC-EP, in cooperation with the MVM, will be responsible for the transport required to move the structures to their respective TLZNs and TLPNs.

**Annex “Y”**

This annex will contain information on the presence in the field of the Colombian State Armed Forces (which include both the Military Forces and the National Police). It will be drawn up once these zones have been fully demarcated.

**Annex “XX”**

“Geographical Demarcation of the Transit Routes”

ART	DEPT.	MUNICIPALITY	DISTRICT	SETTLEMENT	COORD	DEPARTURE POINTS	MEANS OF TRANSPORT	ROUTE DESCRIPTION	REFERENCE POINTS
Y	Cesar	La Paz	San José de Oriente	xxxxxx		Caño Frio	1. OVERLAND 2. VEHICLE TRANSPORT	<p><b>1. OVERLAND</b> From xxx within the jurisdiction of the municipality of La Paz, to the district of Los Laureles within the jurisdiction of the municipality of La Paz</p> <p><b>2. VEHICLE TRANSPORT</b> from Y in the district of Laureles in the municipality of La Paz, to the Settlement of Caño Frio.</p>	

**Protocol for the section on Security for MEMBERS OF THE MONITORING AND VERIFICATION MECHANISM (MVM) in the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and Laying down of Arms (LA)**

**SECURITY FOR MEMBERS OF THE MONITORING AND VERIFICATION MECHANISM (MVM) DURING THE BDCCH & LA**

The protocol contains the measures established jointly by the National Government and the FARC-EP to ensure the safety of members of the MVM teams during the BDCCH & LA.

1. Security for MVM members is provided by the designated state institutions, which will coordinate as appropriate with the FARC-EP and the head of security for the International Component of the MVM (IC-MVM).
2. Security measures for MVM members will take account of logistical and administrative demands and resources and will be implemented in coordination with representatives of the IC-MVM and the FARC-EP designated for this purpose.
3. Protection arrangements for the MVM will take account of the characteristics of the terrain, socioeconomic conditions and possible threats identified in each specific area, in accordance with the assessment that is drawn up for each case and the relevant information provided by the National Government, the FARC-EP and the IC-MVM.
4. The state security agencies will appraise the situation in context in each of the zones designated for the BDCCH & LA and will put in place appropriate protection and self-protection measures for members of the MVM teams, depending on the nature of their functions.

In particular, they must ensure that travel by the MVM takes place along safe routes that are free of anti-personnel mines (APMs), improvised explosive devices (IEDs) and unexploded ordnance (UXO) or explosive remnants of war (ERW).

To achieve this, they will take account of comments by the FARC-EP and will coordinate as required.

5. When carrying out their functions, MVM members must wear the appropriate badges, ID and insignia, as defined with the IC-MVM. The state will implement the comprehensive measures required in order to safeguard and facilitate their movements and activities in the national territory.
6. Appropriate security and protection for the MVM teams' operations bases will be provided by the relevant state agencies, which will take account of comments on security issues by the FARC-EP.

7. Where the MVM needs to travel in order to perform its functions it must notify the fact via the designated procedures, and travel arrangements will be coordinated with members of the Colombian State Armed Forces and the FARC-EP at national, regional and local level. The appropriate means and channels of communication will be in place to enable this to happen.
8. The National Government will put in place all measures required in order to deal with any contingencies and medical evacuations for MVM members within national territory.
9. The National Government (the Colombian State Armed Forces, which include both the Military Forces and the National Police) and the FARC-EP will provide the MVM with information on any threats to their security. An early warning monitoring and verification procedure has been implemented to enable threats to the physical safety of everyone involved in the BDCCH & LA to be neutralised.
10. MVM members will be kept informed, and they undertake to follow security and protection advice given them by the state security agencies assigned to this task and by the FARC-EP.
11. Inside the TLZNs and TLPNs, security and protection arrangements for MVM members will be the subject of coordination between the National Government and the FARC-EP.
12. Within the Security Zones surrounding the TLZNs and TLPNs, the MVM will be accompanied by police security where circumstances dictate, by mutual agreement between the National Government and the FARC-EP.
13. The specific needs of women who require medical attention or evacuation will be addressed, as will the particular risks they face because of their gender.

**Protocol for the section on Security for DELEGATES AND PUBLIC OFFICIALS in the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and Laying down of Arms (LA)**

**SECURITY FOR DELEGATES AND PUBLIC OFFICIALS DURING THE BDCCH & LA**

The protocol contains the measures established jointly by the National Government and the FARC-EP to ensure the safety of delegates of the National Government and public officials during the BDCCH & LA.

1. Security for Government delegates and public officials is the responsibility of the state security agencies in accordance with the relevant legislation.
2. Security for Government delegates and public officials covers travel, entry into the TLZNs, TLPNs and the surrounding security zones and stays in these areas undertaken in the course of their work on the BDCCH & LA process.
3. The National Government and the FARC-EP will notify the MVM of any information that indicates a threat to the Government delegates and public officials involved in the BDCCH & LA process.
4. The Government delegates and public officials involved in the BDCCH & LA process will comply with the security and protective measures put in place by the state security agencies responsible for this issue and with recommendations made by the FARC-EP.
5. Where unarmed civilian authorities and public officials enter the TLZNs, TLPNs and surrounding security zones under agreements between the National Government and the FARC-EP, they will comply with the security measures laid down in the BDCCH & LA Agreement.
6. The specific needs of women who require medical attention or evacuation will be addressed, as will the particular risks they face because of their gender.

**Protocol for the section on Security for FARC-EP MEMBERS in the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and Laying down of Arms (LA)**

**SECURITY FOR FARC-EP MEMBERS DURING THE BDCCH & LA**

The protocol contains the measures established jointly by the National Government and the FARC-EP to ensure the safety of FARC-EP members during the BDCCH & LA.

- 1- Inside the Transitional Local Zones for Normalisation (TLZNs) and the Transitional Local Points for Normalisation (TLPNs) the security and safety of FARC-EP personnel is the responsibility of the FARC-EP commanders.
- 2- Outside the camps FARC-EP members will wear civilian clothing and will be unarmed.
- 3- The FARC-EP will appoint a group of 60 FARC-EP members who can be deployed nationally to carry out tasks related to the Peace Agreement. Travel by FARC-EP members in the course of these tasks will be subject to the security measures agreed between the National Government and the FARC-EP in subsections 4 and 6 of section 3 (“End of the Conflict”) of the Security Guarantees Agreement. FARC-EP members may form part of the security corps entrusted with this task provided they are qualified and authorised to do so.

In addition, for each TLZN the FARC-EP will appoint a group of 10 FARC-EP members who can be deployed at municipal and departmental level to carry out tasks related to the Peace Agreement. Two protection teams are available per Zone to provide protection during travel. Where FARC-EP members leave the TLZNs and TLPNs, the FARC-EP commanders assume joint responsibility.

- 4- FARC-EP members who leave a TLZN or TLPN in order to obtain urgent medical attention or specialised medical care that cannot be provided inside these areas will have the necessary means and measures of protection.
- 5- The specific needs of women who require medical attention or evacuation will be addressed, as will the particular risks they face because of their gender.
- 6- The measures required in order to provide protection during travel will be coordinated with the state security agencies as necessary. Detailed information must be provided in advance on the number of people, departure and return dates, travel routes and specific places to be visited, to enable the necessary coordination to take place.
- 7- When travelling, FARC-EP members will have the accreditation needed in order to guarantee free movement.

- 8- The National Government will provide the human, logistical, technical, communications and transport resources needed for travel as required by the security and protection personnel.
- 9- The measures put in place to protect FARC-EP members during travel will reflect the level of risk identified by the security and protection teams for each TLZN or TLPN in coordination with the FARC-EP and the MVM.
- 10- There are two protection teams available per TLZN or TLPN to cover the special journeys outside the TLZN or TLPN provided for in the BDCCH & LA Agreement. In order to guarantee the security measures referred to in that Agreement a procedure will be established, to be coordinated by the MVM, which will include coverage of the following issues:
  - Designation for each TLZN and the TLPNs of the person responsible on behalf of the FARC-EP for authorising the FARC-EP members who are to make the journeys in question and for giving them the appropriate security instructions as provided for in the BDCCH & LA Agreement.
  - Coordination of travel timetables.
  - Journey start date and time.
  - Risk assessment for the person making the journey.
  - Places, routes and timetable for the journey.
  - Coordination and provision of transport, logistical and human resources available for the journeys.
  - Inter-institutional coordination between the body responsible for providing security and protection for FARC-EP members and other relevant state bodies.
  - During these journeys there will be constant communication with the different MVM units, depending on where those making the journey are staying and the routes used.



**Protocol for the section on Security for the CIVILIAN POPULATION in the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and Laying down of Arms (LA)**

**SECURITY FOR THE CIVILIAN POPULATION DURING THE BDCCH & LA**

The protocol contains the measures established jointly by the National Government and the FARC-EP to guarantee the safety of the civilian population and to ensure peaceful coexistence in the Transitional Local Zones for Normalisation (TLZNs), Transitional Local Points for Normalisation (TLPNs) and surrounding Security Zones (SZs) during the BDCCH & LA.

1. The National Government continues to guarantee conditions for peaceful coexistence and security for the civilian population during the BDCCH & LA and to encourage and support citizen and community engagement mechanisms.
2. The safety of the civilian population in the TLZNs, TLPNs and the surrounding SZs during the BDCCH & LA is founded on human rights measures that will protect the population against potential threats to their lives, personal safety, civil liberties and property.
3. The National Government and the FARC-EP will notify the MVM of any information regarding threats to the safety of the civilian population, so that the appropriate measures can be taken.
4. The National Government will disclose all the confirmation and neutralisation activities prompted by early warnings concerning threats to the civilian population, and will coordinate as appropriate with the FARC-EP and the MVM in order to guarantee the BDCCH & LA.
5. While the TLZNs and TLPNs are in operation the civilian population will not be allowed to carry or possess weapons in these areas or in the SZs.
6. Security for people entering the TLZNs and TLPNs is based on the following elements:
  - Each TLZN and TLPN has a reception area to attend to arrivals.
  - There are no civilians in the camps, and civilians may not enter the camps at any time.
  - With regard to the security of the civilian population, the Rules governing the BDCCH & LA apply.

**Protocol for the section on Security for MOVEMENTS undertaken by the FARC-EP in the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and Laying down of Arms (LA)**

**SECURITY FOR MOVEMENTS BY THE FARC-EP TO THE TRANSITIONAL LOCAL ZONES FOR NORMALISATION (TLZNs), AND TRANSITIONAL LOCAL POINTS FOR NORMALISATION (TLPNs) DURING THE BDCCH & LA**

The protocol contains the measures established jointly by the National Government and the FARC-EP to guarantee the safety of the various missions, commissions and Tactical Combat Units (TCUs) of the FARC-EP fronts during movements to the TLZNs and TLPNs.

1. Security for the movements of the FARC-EP structures to the TLZNs and TLPNs will be based on the following elements: compliance with the rules governing the ceasefire; awareness of the movement plans; effective coordination and secure channels of communication; security measures for the handling and transport of weapons.
2. On day D+1 a delegate from the National Government and a delegate from the FARC-EP will supply the IC-MVM with the coordinates for the locations of the units belonging to the Colombian State Armed Forces (which include both the Military Forces and the National Police) and the FARC-EP so that the necessary steps can be taken to ensure that changes in the deployment of the Colombian State Armed Forces and the movement of the FARC-EP structures to the TLZNs and TLPNs can take place securely under monitoring and verification by the MVM.

The MVM may accompany these movements if required by the National Government and the FARC-EP. In this case, for their safety, the members of the IC-MVM must comply with the minimum security standards of the United Nations system.

3. The MVM will coordinate as necessary with the National Government to ensure that the necessary security measures are in place on the routes used by FARC-EP members to move from where they are based to the TLZNs and TLPNs.
4. Movements of FARC-EP members from where they are based to the TLZNs and TLPNs will be coordinated and monitored by the MVM.
5. Where required and requested via the MVM, the National Government will provide the logistics and transport needed to move the various missions, commissions and tactical combat units of the FARC-EP fronts to the TLZNs and TLPNs.
6. The movements will take place in three stages, which the MVM will agree and coordinate with the Colombian State Armed Forces and the FARC-EP:

1. **Planning:** Coordination will take place, the participants will be recruited and information will be made available; a reasonable period of time will be allowed for the Colombian State Armed Forces to withdraw and reorganise in order to enable the move to take place; the actors will be informed of the plan to be implemented.
  - During this stage the commanders of the Colombian State Armed Forces in the regions involved will certify to the MVM by appropriate means that all units deployed in the areas involved have full knowledge of the plans for the movements. This will be verified by the MVM.
  - In planning the movements, the MVM will have all the necessary information and will coordinate as necessary in order to guarantee security and ensure there are no incidents during the movements.
  - A continuous and comprehensive communications plan, to be coordinated among those involved in the BDCCH & LA (the National Government, the MVM, the Colombian State Armed Forces and the FARC-EP), will be implemented for the movements. The plan will ensure that all communications are secure, so as to avoid possible leaks or disruption that could jeopardise the movement.
2. **Implementation:** On D+1 a delegate from the National Government and a delegate from the FARC-EP will supply the IC-MVM with the coordinates for the locations of the units belonging to the Colombian State Armed Forces and the FARC-EP so that the necessary steps can be taken to enable the movement of the FARC-EP structures to the TLZNs and TLPNs to take place securely under monitoring and verification by the MVM.
  - On the same day (D+1), adjustments will be made to the presence of the Colombian State Armed Forces to enable the movements to the TLZNs and TLPNs to take place along the defined routes. This will be verified by the MVM.
  - On day D+5, once the MVM has confirmed that the Colombian State Armed Forces have adjusted their presence in the field, the various missions, commissions and tactical combat units (TCUs) of the FARC-EP fronts will travel to the TLZNs and TLPNs, having regard to the security measures laid down in this protocol.
3. **Adjustment:** during this stage, once the movements have been completed, the Colombian State Armed Forces will make the appropriate adjustments to their presence in the field, in accordance with the provisions of the BDCCH & LA Agreement.

**Protocol for the section on Security for DEPLOYMENTS IN THE FIELD in the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and Laying down of Arms (LA)**

**SECURITY IN THE TRANSITIONAL LOCAL ZONES FOR NORMALISATION (TLZNs) and the TRANSITIONAL LOCAL POINTS FOR NORMALISATION (TLPNs) DURING THE BDCCH & LA**

The protocol contains the measures established jointly by the National Government and the FARC-EP to guarantee security in the Transitional Local Zones for Normalisation (TLZNs) and the Transitional Local Points for Normalisation (TLPNs).

1. Security in the TLZNs and TLPNs is based on the following factors: specific boundaries; a security zone around each TLZN and TLPN; security staff; appropriate physical infrastructure and logistical supplies; secure communications; rules governing peaceful co-existence; basic medical care; and an evacuation plan for emergencies and natural disasters.
2. The National Government and the FARC-EP will clearly define the boundaries of the TLZNs and TLPNs, establishing reference points such as geographical features, coordinates and boundary markers.
3. While the BDCCH & LA Agreement remains in force, security in the TLZNs and TLPNs will be coordinated between the National Government and the FARC-EP. For forces deployed in the field, security will be coordinated between the National Government and the MVM.
4. A one-kilometre (1km) security zone will be put in place around the TLZNs and TLPNs in order to avoid incidents or accidents. These security zones will be overseen by the MVM. No members of the Colombian State Armed Forces (which include both the Military Forces and the National Police) or the FARC-EP will be present in the security zones, with the exception of the monitoring and verification teams who will, where necessary, be accompanied by police security.
5. In each TLZN a single camp will be identified within which a specific site will be established for the location of the containers to house the weapons and ammunition belonging to the FARC-EP. These sites will be clearly identified, will have the appropriate controls and security measures in place, and will be under the supervision of the International Component of the MVM (IC-MVM). The TLPNs will have a single site in the camp for the same purpose.
6. While the TLZNs and TLPNs are in operation the civilian population will not be allowed to carry or possess weapons. Outside the camps FARC-EP members will wear civilian clothing and will be unarmed.
7. Outside the camps but inside the TLZNs and TLPNs there will be a reception area where the FARC-EP will receive visitors.

8. Public officials who provide training for members of the FARC-EP in the TLZNs and TLPNs under the BDCCH & LA Agreement will wear the appropriate accreditation.
9. Security issues in the TLZNs and TLPNs (protection schemes, security mechanisms) will be coordinated with the local MVM Steering Group.
10. Local bases will have the technical resources required to ensure effective and secure communication with the various units of the Colombian State Armed Forces, the MVM and the FARC-EP. Communications security measures will be in place to achieve this (encryption, passwords, frequencies and times of transmissions).
11. An early warning monitoring process will be put in place in the local bases which will be used to receive information and pass it on to the appropriate people in order to neutralise possible threats to members of the FARC-EP, the National Government, the MVM, the civilian population and/or the normal operation of the TLZNs and TLPNs and the Colombian State Armed Forces deployed in the field.
12. The National Government will take the measures required to prevent persons with legal action pending against them from entering the TLZNs and TLPNs. Under no circumstances will these measures be used to prevent people visiting the TLZNs and TLPNs.
13. If an event or situation arises within a TLZN or TLPN that requires the presence of the National Police or any other armed state agency, this will take place in coordination with the MVM in accordance with the following procedure:
  - When the MVM becomes aware of the issue it will begin to coordinate with the FARC-EP commanders in the area in question and with the National Government.
  - The MVM will assess the situation and take forward the process insofar as it is responsible for doing so.
  - The MVM will ask the National Government for support from the appropriate agency.
  - The agency designated by the National Government will contact the MVM.
  - The MVM will coordinate as necessary with the FARC-EP over the entry of that agency into the TLZN or TLPN.
  - Where public officials enter and remain in the TLZNs and TLPNs during proceedings they will be accompanied by members of the MVM.
  - During the process the MVM will be in permanent contact with the FARC-EP commanders in the TLZN or TLPN in question.

## **Safety protocols for the HANDLING, STORAGE, TRANSPORT AND CONTROL OF WEAPONS during the BDCCH & LA**

The protocol contains the measures established jointly by the FARC-EP and the IC-MVM to guarantee the secure handling, storage, transport and control of firearms, ammunition and explosives during the BDCCH & LA process. These will be monitored and verified by the IC-MVM.

### **a. Handling**

1. No explosives, explosive ammunition, hazardous substances or improvised explosive devices may be handled during movements to the TLZNs and TLPNs or in the camps.
2. For safety reasons, firearms, ammunition and explosives may not be handled, carried or held inside the dormitories, dining rooms, classrooms, bathrooms and recreation areas in the camps or in the reception area put in place for each TLZN and TLPN.
3. The safety regulations in the firearms safety code will apply to the carrying, handling and maintenance of firearms.
4. Unstable weapons will be destroyed by the FARC-EP in coordination with the IC-MVM, having regard to international safety standards. The IC-MVM will certify and notify this procedure.
5. The sites where unstable material is to be destroyed and the access routes to those sites must be free of anti-personnel mines (APMs), improvised explosive devices (IEDs) and unexploded ordnance (UXO) and explosive remnants of war (ERW).
6. There must be a paramedic with equipment and medication in attendance at this procedure, and arrangements must be in place for medical evacuation in the event of an accident or medical emergency. These arrangements must be coordinated with the MVM.
7. The FARC-EP in each camp will be responsible for ensuring that safety regulations governing the handling of weapons are observed.

### **b. Storage**

1. The IC-MVM will establish the appropriate conditions for secure storage of weapons and ammunition inside the TLZNs and TLPNs, in accordance with the relevant UN standards.

### **c. Transport**

1. Under no circumstances may unstable weapons be transported to the TLZNs and TLPNs.
2. Small arms and ammunition will be transported to the TLZNs and TLPNs in accordance with safety guidelines laid down in international safety standards.

3. Where necessary, the IC-MVM will coordinate with the National Government over the implementation of safety measures for transporting the FARC-EP's weapons and ammunition to the TLZNs and TLPNs.
4. The FARC-EP guarantee that all weapons listed in the information supplied to the IC-MVM will be transported to the TLZNs and TLPNs.
5. The removal of weapons from the TLZNs and TLPNs to the new storage sites for final disposal will be carried out by the IC-MVM in accordance with UN safety standards.

**d. Control**

1. The IC-MVM will undertake the appropriate monitoring and verification controls on personal weapons, weapons held in weapons stores and those stored in containers in accordance with the provisions of the BDCCH & LA Agreement.
2. The FARC-EP undertakes to disseminate the safety protocols governing weapons handling, transport, storage and firearms safety controls to all its members for implementation.
3. The IC-MVM in coordination with the FARC-EP will select a secure site within the TLZNs and TLPNs, free from natural and artificial hazards, to house the containers where the FARC-EP's weapons are to be stored.
4. The IC-MVM will verify compliance with the safety protocols for the destruction of unstable weapons and coordinate with the Colombian State Armed Forces as necessary to ensure the safety of the area.

**Protocol and Annexes to the section on LOGISTICS in the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and Laying down of Arms (LA)**

This protocol contains the procedures established jointly by the National Government and the FARC-EP to safeguard logistics for the Transitional Local Zones for Normalisation (TLZNs), the Transitional Local Points for Normalisation (TLPNs) and the MVM (at national, regional and local level) during the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and Laying down of Arms (LA).

**Definition of Logistics:** Logistics refers to all the material elements to meet specific needs that are required for the operation of the Transitional Local Zones for Normalisation (TLZNs) and the Transitional Local Points for Normalisation (TLPNs) during the BDCCH & LA and for the operation of the MVM in respect of: accommodation, food, kitchens, food stores, dining rooms, classrooms, offices, libraries, reception areas, bathrooms, basic medical and dental care, communications, quartermaster supplies, men's washing kits, women's washing kits and accessories, sports kit and equipment.

Logistical supplies must take account of the specific needs of women.

Logistics must meet the following needs:

1. **Health.** During the BDCCH & LA process basic medical care will be available to meet immediate needs. Care will be provided to expectant and breastfeeding mothers and, in general, maternal-infant care. Specialised and emergency care will also be provided, for which staff may be moved to the appropriate medical centres; timely provision of care and safety will be guaranteed.
2. **Supply Lines.** These are all the resources and procedures required to ensure that the needs described under the definition of logistics are met to enable the operation of the TLZNs, the TLPNs and the MVM for the duration of the BDCCH & LA. They include the supply, transport and distribution of these elements, all of which will be undertaken through private, legal and natural persons.

The National Government will issue a public call for tenders to supply, transport and distribute foods and medicines. The tender process will include a stipulation that preference will be given to purchases of food and medicines from the regions where the TLZNs and TLPNs are located. The FARC-EP will designate a delegate to be part of this process at national level.

3. **Communications.** For the BDCCH & LA, the National Government and the FARC-EP will define procedures to guarantee the necessary means of communication (primary and alternative means: UHF, VHF and satellite), and will establish frequencies and times to facilitate coordination between the National Government, the FARC-EP and the MVM for the duration of the BDCCH & LA.



In each zone a delegate from the FARC-EP will be responsible for logistics issues and will liaise with the logistics contact in the Monitoring and Verification Mechanism (MVM) at local level, who will receive the list of items required by the TLZNs and TLPNs, which will be responsible for receiving, verifying and signing the respective lists. The entire logistics procedure will be verified by the MVM.

All TLZN, TLPN and MVM bases will receive appropriate supplies to enable optimum operation in accordance with the principles of austerity, transparency, reasonableness, efficiency and responsibility.

The National Government and the FARC-EP have agreed a list of basic items that includes food (Annex A) and medicines (Annex B). These will be adjusted to reflect the characteristics of each region where the TLZNs and TLPNs are located.

To aid planning, logistical requirements in respect of food and medicines will begin to be supplied from day D+30.

**Protocol and Annexes to the section on the LAYING DOWN OF ARMS (LA) in the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities (BDCCH) and Laying down of Arms (LA)**

The Laying down of Arms by the FARC-EP entails an organised, traceable and verifiable process that is divided into two periods, known as Weapons Control and Laying down of Arms. The Laying down of Arms process commences upon signature of the Final Agreement.

The LA includes the following technical procedures: registration, identification, monitoring and verification of possession, collection, storage, removal and final disposal.

- **Registration:** This is the technical procedure under which the International Component of the Monitoring and Verification Mechanism (IC-MVM) will record the quantity and type of weapons received from the FARC-EP (under the procedure in Annex A).
- **Identification:** This is the technical procedure under which the IC-MVM will establish the characteristics of the FARC-EP weapons. This procedure applies only to the personal weapons carried by FARC-EP members in the camps (see Annex A)
- **Monitoring and verification of possession:** In this process the IC-MVM observers who are permanently deployed in the FARC-EP camps will check that each FARC-EP member staying in a camp is carrying his or her personal weapon and its supply of ammunition. This process is based on the registration and identification undertaken previously.
- **Collection:** This is the technical procedure under which the IC-MVM will receive all the weapons from the FARC-EP in accordance with the procedure laid down in this Agreement.
- **Weapons storage:** This is the procedure under which the IC-MVM will take the weapons received from the FARC-EP, having first registered and marked them for inventory control purposes, and deposit them in the containers provided for this purpose in one camp within each TLZN and in each of the TLPNs. The containers will be sited in a restricted area accessible only to the IC-MVM, who will carry out constant monitoring and verification.
- **Weapons removal:** This is the technical procedure under which the UN will take charge of the physical removal of the weapons from the TLZNs and TLPNs. The National Government and the FARC-EP, in conjunction with the UN, will determine where the weapons are to be located. The weapons will be used to build three monuments.

- **Final disposal of weapons:** This is the technical procedure under which the FARC-EP weapons will be used to build three monuments: one at the headquarters of the United Nations, one in the Republic of Cuba, and one on Colombian soil, in a place to be determined by the political organisation that emerges from the transformation of the FARC-EP, in agreement with the National Government.

## **Procedure**

For the purposes of the LA, the day on which the Final Agreement comes into effect is known as “D day”. The LA involves a Planning phase and an Implementation phase.

### **Planning phase**

From day D+5, the FARC-EP will supply the IC-MVM with information on the weapons in their possession, to enable the IC-MVM to plan the number and type of containers needed for storing the weapons. It will also enable them to plan the monitoring and verification of the transportation of the weapons properly, and to proceed with registration, identification, monitoring and verification of possession, collection, storage, removal and final disposal.

- The information to be supplied includes:
- The total quantity of weapons by type to be transported to the TLZNs and TLPNs.
- The quantity of weapons by type belonging to FARC-EP members who are part of the MVM and to FARC-EP members authorised to leave the camps in order to carry out tasks related to the peace process (a total of 60 at national level, plus 10 per TLZN and up to eight for each TLPN).
- The quantity of small arms, grenades, ammunition and militia weapons, by type, to be transported to the TLZNs and TLPNs between day D+7 and day D+30.
- The quantity and type of unstable weapons to be destroyed and the georeferencing for the dumps (caches).
- Where and when the destruction of the FARC-EP’s unstable weapons will be carried out.

All of this information should enable the MVM to draw up detailed plans in conjunction with those responsible for the safety of the process, in order to ensure that the activity is carried out efficiently, safely and with the necessary confidentiality, in accordance with the protocols.

### **Implementation phase**

On day D+5 the FARC-EP units will begin to move to the appropriate TLZNs and TLPNs, taking with them their personal weapons and their supply of ammunition.

The MVM will monitor and verify this process.

Once they have arrived at the TLZNs and TLPNs, the IC-MVM will verify that there are no explosives, weapons or elements that should not be permitted to enter the TLZNs or TLPNs. If any unstable material is detected it will be destroyed at the sites previously selected for this purpose.

An unstable weapon is any weapon that displays external damage due to cracks, dents, indentations or rust, and any weapon oozing explosive material or that displays any other signs to indicate that it would be dangerous to transport it. Homemade weapons, mines and explosives and components for their manufacture will also be deemed unstable weapons.

The IC-MVM will then proceed to register and store the personal weapons belonging to the FARC-EP members assigned to the MVM and the personal weapons belonging to the FARC-EP members who are to go out on activities related to the peace process. After that, the IC-MVM will begin the monitoring of the possession of personal weapons by the FARC-EP members who are to remain in the camps.

Between day D+7 and day D+30 the FARC-EP will transport the small arms, militia weapons, grenades and ammunition to the TLZNs and TLPNs. The MVM will monitor and verify this process. These weapons, grenades and ammunition will be registered and marked for inventory control purposes, and those that are not going to be carried by individuals will be stored in temporary weapons stores under the responsibility of the FARC-EP. The IC-MVM will begin the monitoring of these weapons, grenades and ammunition.

All weapons, grenades and ammunition belonging to the FARC-EP in the camp must be monitored, either through random checks or by some other method. All monitoring will be carried out in coordination with the FARC-EP commander in each camp. The frequency of the monitoring will depend on the quantity of weapons and the situation.

On day D+60 the small arms, militia weapons, grenades and ammunition that were being temporarily held in weapons stores will be put into storage.

In parallel, between day D+10 and day D+60 the FARC-EP will carry out the destruction of the unstable weapons held in dumps (caches) that have previously been georeferenced in accordance with the parameters laid down in the safety protocols. The IC-MVM will verify the destruction of the unstable weapons and will draw up a record detailing the date, time, location (with georeferencing), quantity and type of weapons. At the same time the IC-MVM must verify that preparations for the activity have been carried out correctly. The activity must be properly coordinated between the FARC-EP, the IC-MVM and the National Government in view of the logistical and security effort entailed.

All travel by the IC-MVM must take place along safe routes that are free of anti-personnel mines (APMs), improvised explosive devices (IEDs) and unexploded ordnance (UXO) or explosive remnants of war (ERW).

To this end the FARC-EP will supply the relevant information and there will be full coordination with the National Government and the IC-MVM.

All activities involving the transport of weapons will take place in accordance with the safety protocol governing weapons transport.

The collection and storage of personal weapons remaining in the possession of FARC-EP members in the camps will take place in three successive stages:

- D+90: 30% of the total will have been stored
- D+120: a further 30% of the total will have been stored
- D+150: the remaining 40% will have been stored

The above steps in the process of the Laying down of Arms by the FARC-EP will take place sequentially, in accordance with the roadmap (timeline) agreed by the National Government and the FARC-EP and which is to guide the end of the process for ending the conflict following the signing of the Final Agreement.

Under arrangements similar to those set out in the previous paragraph, between day D+150 and day D+180 the United Nations will proceed to remove all the stored weapons, once they have been deactivated to prevent use as weapons of war, and to destroy the grenades and ammunition.

This activity must be properly coordinated between the FARC-EP, the IC-MVM and the National Government in view of the logistical and security effort entailed.

The IC-MVM will notify the MVM when this activity has been completed.

On day D+180 the operation of the TLZNs and TLPNs will come to an end and the Bilateral and Definitive Ceasefire and Cessation of Hostilities will be completed, in accordance with the roadmap (timeline) agreed by the National Government and the FARC-EP which is to guide the end of the process for ending the conflict following the signing of the Final Agreement.

On completion of the process of removing the weapons in accordance with the agreed procedures, the United Nations will certify that this process has been completed and proceed to notify the National Government and the general public.

The IC-MVM will inform the MVM of the completion of each stage in the Laying down of Arms process, based on the arrangements set out in the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities and Laying down of Arms. The information must detail the activities undertaken, in accordance with the information previously supplied to the IC-MVM by the FARC-EP. In this way, the MVM will certify each stage of the process and inform the general public.

## **ANNEX A**

### **PROCEDURE FOR THE REGISTRATION, IDENTIFICATION, MARKING AND STORAGE OF WEAPONS**

The registration, identification and marking of weapons will be carried out by the IC-MVM as follows:

#### **PERSONAL WEAPONS**

- A form containing the following information will be completed for each weapon:
  - o Type of weapon (machine gun, rifle, pistol, homemade weapon etc.)
  - o Calibre (.50, 7.62 mm, etc.)
  - o Model (M16 A1, AK-47, etc.)
  - o Name of person carrying the weapon
- The IC-MVM observer will verify the information on the weapon form through a visual inspection of the weapon.

The observer must check that the information on the form includes the following details:

- o Type of weapon
- o Calibre
- o Model
- o Name of person carrying the weapon
- The weapon will then be assigned an identification number in the form of a barcode, alphanumeric code or QR code. A label bearing the weapon code will be placed on the weapon, and an identical label will be placed on the form. The weapons belonging to the FARC-EP members assigned to the MVM and the weapons belonging to the FARC-EP members who are to go out on activities related to the peace process (a total of 60 at national level, plus 10 per TLZN and up to eight per TLPN) will be stored in containers for these purposes. For these purposes there must be coordination over where and when these weapons will be handed over.
- The other combatants will carry their personal weapons, which will be subject to monitoring and verification by the IC-MVM.
- The combatants will then be registered personally, under their combat name. The combatant's name will be entered in the database together with the code for his or her weapon.

- The forms will be stored securely and confidentially. The IC-MVM will be the custodian of information concerning the LA.

### **SMALL ARMS, MILITIA WEAPONS, GRENADES AND AMMUNITION**

The IC-MVM will be responsible for verifying compliance with this protocol. In doing so they will coordinate with the FARC-EP commander in each camp.

- The IC-MVM will proceed to register and identify the aforementioned weapons, grenades and ammunition for inventory control purposes, and will carry out a cross-check with the information on the forms. These weapons will be assigned an identification number in the form of a barcode, alphanumeric code or QR code.
- On completion of the inspection, the small arms, militia weapons, grenades and ammunition will be placed in temporary weapons stores.
- The forms will be stored securely and confidentially. The IC-MVM will be the custodian of information regarding the LA.
- On day D+60 the small arms, militia weapons, grenades and ammunition previously held in temporary weapons stores will be stored in containers.

### **STORAGE OF WEAPONS AND AMMUNITION**

Weapons and ammunition will be stored in containers designed for this purpose.

The area designated to house the containers must have the following features:

- It will have a perimeter security system that has been agreed between the IC-MVM and the FARC-EP.
- There will be signs stating that access to the area is restricted.
- The containers or temporary structures will be painted white and will display the United Nations logo. They will have shelves on which to store the weapons, arranged by weapon type to facilitate inventory control.
- The containers will be secured by a double lock system, with one of the keys being held by the IC-MVM and the other by the FARC-EP commander of the TLZN or TLPN in question.

- Perimeter lighting will be installed which will turn on automatically during the hours of darkness and will illuminate the containers and the surrounding area.
- An alarm system connected to the IC-MVM base and the FARC-EP commander in the camp will issue a warning when the container is opened. The warning system will be activated each time a container is opened, except where the system has been switched off to allow for inventory control inspections.
- The IC-MVM observers will not handle explosive material or ammunition other than in exceptional circumstances.



## **OTHER AGREEMENTS AND THE DRAFT LAW ON AMNESTY, PARDON AND SPECIAL CRIMINAL TREATMENT**

### **AGREEMENT OF 7 NOVEMBER 2016**

I.- To implement the right to peace, once the Final Agreement to end the armed conflict and build a stable and lasting peace has been approved, the National Government, by means of the special legislative procedure for peace or by means of some other legislative act, if the former procedure is no longer valid, shall immediately set in train a legislative act repealing article 4 of Legislative Act 01 of 2016 and incorporating the following transitional article regarding the Final Agreement into the Political Constitution:

“Transitional article XX:

“To implement the right to peace, the content of the Final Agreement to end the armed conflict and build a stable and lasting peace, signed on 12 November 2016, where it relates to the rules of international humanitarian law or fundamental rights defined in the Political Constitution and rights related to those rights, shall be an obligatory parameter for interpretation and a point of reference for the implementation and validity of the rules and laws implementing and developing the Final Agreement.

State institutions and authorities are obliged to comply with the provisions of the Final Agreement in good faith. Consequently, the actions of all state bodies and authorities, any regulatory developments of the Final Agreement and their interpretation and application must be wholly consistent with what has been agreed, preserving the content, the commitments, the spirit and the principles of the Final Agreement.

This article takes effect from this date and remains in effect until the end of three complete presidential terms subsequent to the signature of the the Final Agreement.”

II.- Prior and automatic control of constitutionality: The laws and legislative acts processed under the Special Legislative Procedure for Peace shall undergo a single and automatic check for constitutionality after they come into effect. The constitutionality of legislative acts shall be checked only in relation to procedural defects in their formation. Statutory laws shall undergo prior control, in accordance with the provisions of article 153 of the Constitution. The time allocated for such checking of laws and legislative acts shall be reduced to a third of that allocated under the ordinary procedure and may not be extended. Constitutional control relating to the implementation of the Final Agreement by means of ordinary laws shall be single and automatic and shall take place after these come into effect.

III.- The National Government and the FARC-EP agree that the Final Agreement to end the conflict and build a stable and lasting peace shall be signed as a special agreement under the terms of Common Article 3 of the 1949 Geneva Conventions and, immediately following its signature, it shall be deposited with the Swiss Federal Council in Bern or with any such organisation as replaces it in the future as the depository of the Geneva Conventions, replacing the previous deposit in its entirety, all of the foregoing with the scope defined by the ICRC in its commentary no. 850, which is reproduced below:

“A peace agreement, ceasefire or other accord may also constitute a special agreement for the purposes of common Article 3, or a means to implement common Article 3, if it contains clauses that bring into existence further obligations drawn from the Geneva Conventions and/or their Additional Protocols. In this respect, it should be recalled that ‘peace agreements’ concluded with a view to bringing an end to hostilities may contain provisions drawn from other humanitarian law treaties, such as the granting of an amnesty for fighters who have carried out their operations in accordance with the laws and customs of war, the release of all captured persons, or a commitment to search for the missing. If they contain provisions drawn from humanitarian law, or if they implement humanitarian law obligations already incumbent on the Parties, such agreements, or the relevant provisions as the case may be, may constitute special agreements under common Article 3. This is particularly important given that hostilities do not always come to an end with the conclusion of a peace agreement.”

IV.- Likewise, the National Government and the FARC-EP agree that, once the Final Agreement to end the armed conflict and build a stable and lasting peace has been approved, a presidential declaration shall be made in the form of a unilateral declaration of the Colombian state before the Secretary-General of the United Nations, citing the United Nations Security Council resolution of 25 January 2016. The declaration shall ask the Secretary-General to welcome the Final Agreement and to relate it to Security Council Resolution 2261, of 25 January, by generating an official Security Council document and annexing the full text of the Final Agreement to end the armed conflict and build a stable and lasting peace to that resolution.

## AGREEMENT OF 9 NOVEMBER 2016

The National Government and the FARC-EP agree:

- I. Law on Amnesty, Pardon and Special criminal treatment (*Ley de Amnistías, Indultos y Tratamientos Penales Especiales*).

The parties agree that the National Government shall submit the proposed bill on Amnesty, Pardon and Special criminal treatment, the contents of which are attached to this Agreement, to the Congress of the Republic.

This bill comprises four sections:

The first section concerns its aims and principles, which shall apply to all its recipients.

The second section concerns amnesties, pardons and other special criminal treatment.

The third section concerns the differentiated special criminal treatment for state agents.

The fourth section concerns the final provisions, which shall apply to all those subject to this law.

The aforementioned four sections shall form a single, indivisible bill.

The aforementioned bill on Amnesty, Pardon and Special criminal treatment shall be submitted to the Congress of the Republic as soon as possible after the signing of the Final Agreement and shall be processed as a matter of priority under the procedure provided for in “Legislative Act 01 of 7 July 2016, whereby legal instruments are established to facilitate and ensure the implementation and legislative development of the Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace”. It may be processed under some other legislative procedure if that would allow the Law of Amnesty to come into effect more quickly.

The aforementioned bill shall be prepared following the special legislative procedure for peace set out in said Legislative Act.

- II. Executive Secretariat of the Special Jurisdiction for Peace (*Secretaría Ejecutiva de la Jurisdicción Especial para la Paz*)

Both parties undertake to implement the necessary measures to set up the Executive Secretariat of the Special Jurisdiction for Peace as soon as possible, so that the Executive Secretary may duly receive communications from those subject to the bill mentioned in Item I of this agreement, wherein they declare that they submit themselves to and make themselves available to the Special Jurisdiction for Peace and to the commitments provided for in the Agreement for the Laying down of Arms (*Acuerdo de Dejación de Armas*), amongst other responsibilities as may be agreed by the parties.

- III. Legislative Act for Creating the Special Jurisdiction for Peace. (*Acto Legislativo de creación de la Jurisdicción Especial para la Paz*)

The parties agree that the National Government shall submit a draft Legislative Act for Creating the Special Jurisdiction for Peace to the Congress of the Republic.

The Legislative Act for Creating the Special Jurisdiction for Peace shall be submitted to the Congress of the Republic the day after the coming into effect of the “Legislative Act 01 of 7 July 2016, whereby legal instruments are established to facilitate and to ensure the implementation and legislative development of the Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace” or as soon as possible, in the event that Legislative Act 01 of 7 July 2016 does not ultimately come into effect.

This draft Legislative Act shall contain the following:

1. - The introduction into the Political Constitution of a temporary article whereby the Special Jurisdiction for Peace shall be created.

2. - This temporary article shall contain the constitutional rules on:

- a) The Special Jurisdiction for Peace, being a special jurisdiction that autonomously and preferentially exercises judicial functions for matters within its jurisdiction, particularly with respect to conduct deemed to constitute a serious breach of international humanitarian law or a serious violation of human rights. It shall only apply to acts committed prior to its coming into effect.
- b) A rule which establishes that the Tribunal for Peace as the highest authority and ultimate appeal body for the Special Jurisdiction for Peace.
- c) The creation of each of the bodies of the Special Jurisdiction for Peace, as well as the number of members in each body:

(i) Judicial Panel for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct (*Sala de Reconocimiento de Verdad, de Responsabilidad y de Determinación de los Hechos y Conductas*),

(ii) Judicial Panel for Amnesty and Pardon (*Sala de Amnistía o Indulto*),

(iii) Judicial Panel for Determination of Legal Situations (*Sala de Definición de Situaciones Jurídicas*),

(iv) Tribunal for Peace (*Tribunal para la Paz*),

(v) Investigation and Prosecution Unit (*Unidad de Investigación y Acusación*).

3. - Acknowledgement of the power of the Justices, who are members of the SJP, to adopt the rules of this jurisdiction.

4. - The Justices and prosecutors of the Special Jurisdiction for Peace shall be Colombian nationals, without prejudice to the provisions regarding the participation of foreign jurists in the capacity of *amici curiae*, as set out in Items 65 and 66 of the Agreement creating the Special Jurisdiction for Peace.

The Justices and prosecutors do not have to be professional judges, and there shall be no age restrictions placed upon such Justices and prosecutors.

5. - The power of the justices of the Special Jurisdiction for Peace to propose to Congress the procedural rules for the Special Jurisdiction for Peace, in accordance with the provisions of Item 46 of the agreement creating that jurisdiction. Those rules shall also include guarantees of the rights to counsel and due process, as well as the freedom to choose a lawyer entitled to practice in any country. Once the justices of the Jurisdiction for Peace have drawn up the proposed procedural rules, they shall be processed by Congress.

6. - Special system for the enforcement of constitutional rights in the Constitutional Court in accordance with Item 52 of the Agreement creating the Special Jurisdiction for Peace.

7. - The extradition system, through incorporation into the Political Constitution of the text set out in Item 72 of the Special Jurisdiction for Peace Agreement, except for the statement “(...) In the Final Peace Agreement (..)”, in the last paragraph thereof.

8. - Participation in politics, as set out in Item 36 of the Special Jurisdiction for Peace Agreement.

9.- Special system for the resolution of conflicts concerning jurisdiction and responsibility.

10. - The entry into operation of the Special Jurisdiction for Peace, dating from the approval of this Legislative Act, without the need for any implementing regulations, notwithstanding the approval of the procedural rules and the rules of that jurisdiction.

In addition to the previous constitutional rules, the parties may include other aspects in the aforementioned Legislative Act, such as how the sentences previously imposed under the ordinary court system in relation to persons and conduct falling within the remit of the Special Jurisdiction for Peace shall be handled.

The Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement made up of the parties, for the purpose of implementing the Final Agreement, shall draft a text of the proposed Legislative Act or shall verify that the proposed Legislative Act presented to Congress coincides with the provisions of this Agreement.

The National Government undertakes not to deal with any application for extradition that may affect the persons referred to in Item 72 of the SJP Agreement, until such time as the Legislative Act for Creating the Special Jurisdiction for Peace comes into effect.

Both parties agree that, during the first year after the Final Agreement comes into effect, any components of the “Comprehensive System for Truth, Justice, Reparations and Non-repetition” which are not provided for in this Agreement, or in other agreements regarding priorities for regulatory implementation included in the Final Agreement, shall be incorporated into the Colombian legal system.

**SPECIAL IMPLEMENTATION AGREEMENT TO SELECT THE EXECUTIVE SECRETARY OF THE  
SPECIAL JURISDICTION FOR PEACE AND ENSURE ITS DUE OPERATION**

Havana, Republic of Cuba, 19 August 2016

This *Special Implementation Agreement to select the Executive Secretary of the Special Jurisdiction for Peace and ensure its due operation* has been entered into between the Government of Colombia and the FARC-EP:

1. In accordance with section 68 of the Agreement on Special Jurisdiction for Peace of 15 December 2015, the delegations of the National Government and the FARC-EP at the Negotiation Table have determined, by mutual agreement, to entrust the United Nations with appointing the Executive Secretary of the Special Jurisdiction for Peace (SJP) (*Jurisdicción Especial para la Paz*). The Executive Secretary must meet the requirements provided in the said Agreement and must be a Colombian citizen. The Executive Secretary may be male or female and must preferably have experience in the administration of justice. The selected Executive Secretary will be confirmed by the selection committee of the justices of the Special Jurisdiction for Peace. A decision not to confirm the appointment must be made by a vote in favour of the qualified majority established in the agreement to set up the said committee.
2. The appointment of the Executive Secretary will be carried out as soon as possible by the Head of the Monitoring and Verification Mechanism (MVM) of the United Nations, which is the independent mechanism agreed by the parties.
3. Until the post of Executive Secretary of the Special Jurisdiction for Peace and the Executive Secretariat of the said Jurisdiction have been created within the structure of the state, the Executive Secretary will act as an official of the United Nations for a transitional period.
4. The National Government undertakes to provide the Executive Secretary with the cooperation he or she requires to discharge his or her transitional duties. On the date when the Executive Secretary is appointed, the National Government will determine the senior official who will serve as a link for the fulfilment of this undertaking.
5. In accordance with Item 16 of the said Agreement on the Special Jurisdiction for Peace, the Government undertakes to ensure the creation of the Executive Secretariat and to provide the financial resources to guarantee that the Special Jurisdiction for Peace begins to operate in an appropriate, efficient manner in accordance with the rules governing its implementation.
6. The Executive Secretary appointed in accordance with the provisions contained in the first section of this agreement will assume the following duties for a transitional period: "(a) To coordinate with the Ministry of Justice the plan for the creation and commencement of operations of the Special Jurisdiction for Peace and the timetable to enable that Jurisdiction

to duly operate and to put forward the relevant recommendations to the Ministry of Justice as soon as possible; (b) to promote the adoption of the decisions and measures necessary to ensure that the Judicial Panel for Amnesty and Pardon (*Sala de Amnistía e Indulto*) and the Judicial Panel for Determination of Legal Situations (*Sala de Definición de las Situaciones Jurídicas*) may begin performing their duties from the date of their creation; (c) to promote the decisions and measures necessary to enable all the bodies of the Special Jurisdiction for Peace and its justices and prosecutors to duly begin operating in ideal facilities, with the technical, computer, administrative and personnel support that they will require; (d) to provide the necessary coordination with the bodies that, in accordance with the agreement to create the Special Jurisdiction for Peace, must submit reports to the Judicial Panel for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct (*Sala de Reconocimiento de verdad, responsabilidad y determinación de los hechos y las conductas*) to enable them to duly submit such reports; and (e) to take the other necessary actions to establish adequate institutional capacity to allow the Special Jurisdiction for Peace to effectively discharge its duties in accordance with the provisions established in the agreement to create the said Jurisdiction and in particular to guarantee the infrastructure, recruitment of personnel, start-up of information systems and systems for management of judicial proceedings and other technological resources, along with sufficient resources for the operation of all the bodies of this Jurisdiction both in the city in which it is located and in the places to which justices and prosecutors must travel in order to discharge their duties.

7. The Executive Secretary will also assume the following duties relating to the fulfilment of the agreements on laying down of arms of the FARC-EP and granting of amnesties, pardons and special criminal treatment, including the differentiated treatment for agents of the state: (a) To receive statements of submission to the Special Jurisdiction for Peace and of being at its disposal; (b) to prepare a report for the Judicial Panel for Amnesty and Pardon, the Judicial Panel for Determination of Legal Situations and the Judicial Panel for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct of the Special Jurisdiction for Peace stating the name and the precise identification details of each person who has made a statement of submission to the said Jurisdiction, stating the relevant basic information such as the Panel to which the person requests access, the request, the relevant elements to enable classification of whether the said conduct is related to the armed conflict and if any proceedings exist, their location and where the person will be held in the event that the bodies of the SJP wish to consult him or her; (c) to receive an original or a copy, as appropriate, of the undertakings signed in accordance with the agreements on the laying down of arms, application of law 418 of 1997 and the remaining rules in force or that may be issued in future with regard to amnesties, pardons and special criminal treatment, in particular the differentiated treatment for agents of the state, and include in its report to the bodies of the SJP the relevant information on the said undertakings to facilitate the due initiation of the activities of each body of the SJP. In the event that the person making the request has signed an undertaking, to indicate that person's location number to allow him or her to be consulted quickly; (d) to receive information from the Monitoring and Verification Mechanism (MVM) on the actual laying down of arms and include it in the report to the bodies of the SJP or the state, as

appropriate, and in particular with regard to persons who request amnesties and pardons; (e) in his or her report to the bodies of the SJP, the Executive Secretary will group together the cases of compliance with the parameters established in the Agreement on the Special Jurisdiction for Peace of 15 December 2015, notwithstanding to the fact that they may subsequently be supplemented based on the criteria adopted by the Panels.

8. The Executive Secretary of the Special Jurisdiction for Peace will discharge the duties set out in section 7 of this agreement, comparing the identification of the persons making the statements of submission and the requests received on the basis of the rules agreed at the Negotiation Table, and: (a) With regard to the members of the FARC-EP, on the basis of the lists supplied and verified by the procedure defined at the Negotiation Table; (b) with regard to active or retired members of Colombian State Armed Forces (which include both the Military Forces and the National Police), based on the lists prepared for that purpose by the Ministry for National Defence; (c) with regard to other persons, on the basis of the relevant judicial ruling.
9. The Executive Secretary will submit the relevant information on the submission of a person to the SJP to the judicial authorities in the event that judicial proceedings are in progress against that person.
10. In order to discharge his or her duties, the Executive Secretary will organise and provisionally commence the operations of the Executive Secretariat of the Special Jurisdiction for Peace so that it is ready to operate permanently when it has been created by means of the procedures established in the Colombian legal system. For this purpose, he or she will work to set up the Secretariat, the organisation of its infrastructure, the recruitment of personnel, logistical, technical and computer enlistment and will obtain sufficient resources to finance its operation and the operation of the entire Special Jurisdiction for Peace.
11. This agreement will be valid from the moment when it is signed and will be annulled if the parties conclude the current discussions without reaching a Final Peace Agreement.
12. Five original, identical copies of this Special Agreement are signed, one for each party, one for each guarantor country and one to be sent to the Swiss Federal Council for deposit, which must not be publicly accessible until the Final Peace Agreement has been signed.



**AGREEMENT TO FACILITATE THE FULFILMENT OF THE TIMETABLE FOR THE PROCESS OF LAYING DOWN OF ARMS ESTABLISHED BY MEANS OF AN AGREEMENT OF 23 JUNE 2016**

Havana, Republic of Cuba, 20 August 2016.

The National Government and the FARC-EP shall adopt the following agreement to facilitate the fulfilment of the timetable for the process of laying down of arms established on 23 June 2016:

1. With regard to the members of the FARC-EP who are to participate in the process of laying down of arms, the enforcement of arrest warrants in accordance with the provisions established in Article 8 of Law 418 of 1997, amended by Article 1 of Law 1779 of 2016, will be suspended. The suspension will take place from the beginning of the move to the Transitional Local Zones for Normalisation (TLZNs) (*Zonas Veredales Transitorias de Normalización, ZVTN*) and will be maintained during the said move until the process for laying down of arms has been concluded or until the Government so decides in the event of non-compliance with the provisions of the agreement of laying down of arms.
2. In addition, the provisions established in the preceding section with regard to the members of the FARC-EP outside Transitional Local Zones for Normalisation (TLZNs) will apply for the performance of activities forming part of the peace process.
3. The two preceding measures will be applied in accordance with the provisions established in the third paragraph of article 88 of Law 418 of 1997, amended by article 1 of Law 1779 of 2016.
4. The persons imprisoned for belonging to the FARC-EP who have been convicted or tried for pardonable crimes in accordance with the rules in force on the date when the laying down of arms begins will be granted the pardon provided in Law 418 of 1997 and its subsequent amendments, solely for the conduct for which the laws allow a pardon. The pardon will be granted with effect from the moment at which the process of laying down of arms begins.
5. Persons imprisoned for belonging to the FARC-EP who have been convicted or tried for non-pardonable crimes in accordance with the rules in force on the date when the laying down of arms begins will, under the provisions established in the Penitentiary and Prison Code (Law 65 of 1993) and the rules governing it, be moved to the Transitional Local Zones for Normalisation (TLZNs) once the members of the FARC-EP in the process of laying down arms have been assembled in such Zones in accordance with the agreement of 23 June 2016.

The persons moved will remain in the Transitional Local Zones for Normalisation (TLZNs) in a state of detention in the conditions established in Section 7 of Article 2 of Decree 4151 of 2011 and concordant rules.

Such persons will be located in areas separate from the camps where the members of the FARC-EP in the process of laying down arms are located and may not enter the said camps.

The movement will be carried out when the Director of the INPEC [*Instituto Nacional Penitenciario y Carcelario* – National Penitentiary and Prison Institute] receives the certificate issued by the Monitoring and Verification Mission approved by resolution 2261 of the United Nations Security Council, affirming that the necessary facilities have been duly equipped to accommodate the persons moved.

The INPEC may enter Transitional Local Zones for Normalisation (TLZNs) at any time for the purposes of verifying compliance with the system of movement, supervision and custody. When the INPEC decides to verify the location of the person moved, it will inform the Monitoring and Verification Mechanism in order for the Monitoring and Verification Mechanism to coordinate its entry in accordance with the protocols agreed by the National Government and the FARC-EP.

Before the movement is carried out, the imprisoned person will sign an undertaking in which he or she agrees to comply with the system for movement, supervision and custody in accordance with the provisions established in this agreement and to submit to the Special Jurisdiction for Peace when it is in operation.

The person moved will remain at the disposal of the justice system in the terms set out in the current laws and pursuant to the Directive or instructions issued for this purpose by the Attorney General (*Fiscal General de la Nación*).

6. The persons to whom the provisions established in this Agreement apply will be members of the FARC-EP according to the list supplied to the National Government by the person expressly appointed for that purpose by the aforesaid organisation and verified by the National Government in accordance with the provisions established in the "Final Agreement" and the persons classified as members or collaborators of the FARC-EP in a court ruling issued prior to the start of the implementation of this Agreement who are not recognised as such.
7. For the purposes of Sections 1, 2 and 3, a person appointed by the FARC-EP will provide the National Government with a list expressly indicating the persons to whom Section 2 also applies for verification by the National Government in accordance with the provisions established in the Final Agreement and subsequently supplied to the Monitoring and Verification Mechanism (MVM) established in the Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities and Laying down of Arms between the National Government and the FARC-EP.
8. For the purposes of Sections 4 and 5, a delegate from the FARC-EP expressly appointed for that purpose will formally deliver two lists in writing to the National Government as soon as possible, one containing the members of the organisation who are imprisoned for any crime and another containing the persons who are imprisoned due to having been convicted or tried for membership of or collaboration with the FARC-EP who are not recognised as such. The lists will be verified by the National Government according to the provisions established

in the Final Agreement within the shortest term possible in order to fulfil what has been agreed within the established timetable, providing that the lists have been duly supplied. The first list referred to in this section will form part of the final, single list of members of the FARC-EP covered by the Final Agreement. For the purposes of application of this Agreement, the FARC-EP may supply partial lists up to the moment of entry into force of the amnesty law.

9. For the purpose of drawing up the lists referred to in this agreement, visits by lawyers appointed by the FARC-EP to the places where FARC-EP prisoners or those accused of being so are imprisoned will begin immediately in order to collect, based on existing groups, the names and other personal particulars and the details of criminal proceedings of all the persons imprisoned for belonging to or collaborating with the FARC-EP. The Negotiation Table will ask the office of the High Commissioner for Peace to supply the information in its possession on the persons imprisoned, charged, accused or convicted for belonging to the FARC-EP or accused of belonging to the FARC-EP without being recognised as such. The National Government will supply the Negotiation Table with the information in its possession, in the possession of the Office of the Attorney General (*Fiscalía General de la Nación*) or in the possession of the Supreme Council of the Judiciary on persons tried and convicted for acts relating to their membership of the FARC-EP or accused of collaborating with or belonging to the FARC-EP without belonging to it.
10. The Government will issue the regulatory decrees and other relevant administrative rules to enable the movement to be carried out and to ensure compliance with the rules for supervision and custody established in this agreement.
11. This agreement will be valid from the moment when it is signed and will be annulled if the parties conclude the current discussions without reaching a Final Peace Agreement.

## APPENDIX I

### LAW ON AMNESTY, PARDON AND SPECIAL CRIMINAL TREATMENT

#### PART I AIMS AND PRINCIPLES

##### CHAPTER I AIM AND SCOPE

**Article 1. Aim.** This law aims to govern amnesties and pardons for political crimes and politically motivated crimes, and to adopt differentiated special criminal treatment, particularly for state agents who have been convicted of, held for trial for or identified as committing punishable acts due to, during, or directly or indirectly related to, the armed conflict.

**Article 2. Scope of application.** This law shall apply in a differentiated and indivisible manner to anybody who has participated directly or indirectly in the armed conflict, has been convicted of, held for trial for or identified as committing punishable acts due to, during, or directly or indirectly related to, the armed conflict, with such acts having been committed prior to the Final Agreement coming into effect. It shall also cover any acts eligible for amnesty, closely linked to the Laying down of Arms process.

Furthermore, it shall apply to acts committed in the context of political riots or social protest, within the terms set out in this law.

As far as the members of an armed rebel group are concerned, it shall only apply to members of the group who have signed a peace agreement with the government, within the terms set out in this law.

**Article 3. Scope.** All the principles contained in the Agreement for Creating the Special Jurisdiction for Peace in the context of ending the conflict shall apply in relation to amnesties, pardons and other differentiated special criminal mechanisms for extinction of criminal liability and primary and accessorial criminal sanctions. In the same way, those principles shall apply in respect of all administrative, disciplinary, and fiscal sanctions and to the right of the state to not pursue criminal prosecution. The principles must be applied in a timely manner.

##### CHAPTER II APPLICABLE PRINCIPLES

**Article 4. Right to peace.** Peace is a right and an obligatory duty. Peace is an essential condition of any right and it is the inescapable duty of Colombians to achieve and preserve it.

**Article 5. Comprehensiveness.** The amnesties, pardons and special criminal treatment, including the differentiated treatment for state agents, are measures of the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence, the main purpose of which is to facilitate the end of the internal armed conflict, contribute to the achievement of a stable and long-lasting peace with guarantees of non-recurrence, take decisions that provide full legal certainty for everyone and realise the rights of victims. Therefore, the various components and measures of the Comprehensive System are interconnected through mechanisms, guarantees and requirements for accessing and maintaining oneself within the special legal proceedings of the Special Jurisdiction for Peace.

All the principles contained in the Agreement for Creating the Special Jurisdiction for Peace shall apply in respect of amnesties, pardons and other special mechanisms for extinction of criminal liability and primary and accessorial criminal sanctions. The foregoing shall apply in the same way in respect of all administrative sanctions and the right of the state to not pursue criminal prosecution. The principles must be applied in a timely manner.

**Article 6. Precedence.** Amnesties, pardons and criminal treatments, such as the extinction of criminal liability and criminal and administrative sanctions, or the right of the state to not pursue criminal prosecution laid down in the Special Jurisdiction for Peace Agreement, including differentiated treatment for state agents, shall take precedence over the acts of any other jurisdiction or proceeding, particularly over criminal, disciplinary, administrative, fiscal or any other type of proceedings, for acts committed in the context of, due to, during, or directly or indirectly related to, the internal conflict.

Amnesty shall be a mechanism for waiving criminal, disciplinary, administrative and fiscal proceedings, the purpose of which is to provide legal certainty to members of the FARC-EP, or persons accused of being members of the FARC-EP, after the signing of the Final Peace Agreement with the National Government and the ending of hostilities. The foregoing remains subject to the provisions of Article 40 regarding the legal cessation of ownership of property.

With respect to disciplinary or administrative sanctions, amnesties shall also have the effect of cancelling or discharging responsibility or disciplinary or administrative sanctions imposed due to conduct directly or indirectly related to the armed conflict.

**Article 7. Acknowledgement of political crimes.** As a result of acknowledging political crimes and in accordance with international humanitarian law, at the end of the hostilities the Colombian state shall grant the broadest possible amnesty.

By reason of the nature and development of political crimes and politically motivated crimes, for all purposes regarding the application and interpretation of this law, political crimes and politically motivated crimes shall be treated in a differentiated manner to common crime. Such crimes where the state and its current constitutional system is the victim of the unlawful conduct shall be considered to be political crimes, where they are not committed for personal profit.

Politically motivated crimes, that refer to acts specifically connected with the development of the rebellion and committed during the armed conflict, as well as acts aimed at facilitating, supporting, financing or concealing the development of the rebellion, shall also be eligible for amnesty.

Such crimes that are classified as common crimes, but which also fulfil the foregoing requirements and do not involve unlawful acts committed for personal profit, for personal gain or for the benefit of a third party, shall be considered to be politically motivated crimes.

**Article 8. Equal, simultaneous, balanced and equitable special criminal treatment.** Agents of the state shall not be granted amnesty or pardon. Agents of the state who may have committed crimes on the occasion of, because of, or directly or indirectly related to the armed conflict before the Final Peace Agreement comes into effect, shall receive differentiated, equal, equitable and simultaneous special criminal treatment, in accordance with this Law.

**Article 9. Duty to investigate, establish the truth, prosecute and sanction.** The provisions of this law do not preclude the Colombian state from performing its duty to investigate, establish the truth, prosecute and sanction serious violations of human rights and serious breaches of international humanitarian law, as provided for in the Special Jurisdiction for Peace Agreement.

**Article 10. Favourability.** In the interpretation and implementation of this law, recipients thereof shall be guaranteed the application of the most favourable law.

**Article 11. Due process and procedural guarantees.** In all judicial and administrative proceedings arising from this Law, the procedural principles and guarantees of due process and the right to defence shall be respected.

**Article 12. Legal certainty.** The decisions and resolutions adopted in accordance with this law have the effect of material *res judicata* as grounds for legal certainty. They shall be immutable, as a necessary element for achieving a stable and lasting peace. They may only be revised by the Tribunal for Peace.

**Article 13. Contribution to the realisation of victims' rights.** The granting of amnesties or pardons or any special, equal, simultaneous, balanced and equitable treatment gives no exemption from the duty to contribute individually or collectively to the establishment of the truth or the fulfilment of any reparation obligations that may be imposed by the Special Jurisdiction for Peace.

If, during the five years following the granting of amnesty, pardon or any other special, equal, simultaneous, balanced and equitable treatment, the requirements of the Tribunal for Peace to participate in programmes to contribute to the reparation of victims, or to come before the Truth, Coexistence and Non-Recurrence Commission (*Comisión de Esclarecimiento de la Verdad de la Convivencia y No Repetición*), or before the Unit for the Search for Persons deemed as Missing (*Unidad de Búsqueda de las Personas Dadas por Desaparecidas*), where there is an obligation to

appear before the above bodies, are repeatedly and unjustifiably refused, they shall lose the right for the special sanctions of the Special Jurisdiction for Peace to be applied to them, or the equivalent sanctions provided for in any treatment of those described as special, simultaneous, balanced and equitable, in the event that they are subsequently declared responsible for any of the conduct that may be attributed to them therein.

**PART II**  
**AMNESTIES, PARDONS AND OTHER SPECIAL CRIMINAL TREATMENT**

**CHAPTER I**  
**DE JURE AMNESTIES**

**Article 14. De jure amnesty.** In accordance with this law, amnesty is granted to anyone who has been involved in the political crimes of “rebellion”, “sedition”, “violent rioting”, “conspiracy” and “seduction, usurpation and unlawful retention of command” and crimes related to them.

**Article 15.-** For the purposes of this law, the following are politically motivated crimes: seizure of aircraft, vessels or collective means of transport where it is not associated with hijacking/kidnapping; compulsion to commit an offence; breaking and entering of other people’s homes; unlawful violation of communications; offer, purchase or sale of any instrument suitable for intercepting private communications between persons; unlawful violation of communications or correspondence of an official nature; unlawful use of communications networks; violation of the freedom to work; slander; libel; indirect slander and libel; damage to third party property; personal falsehood; material falsehood in a public document; obtaining a false public document; agreement to commit an offence; unlawful use of uniforms and badges; threats; instigation to commit an offence; fires; disturbance in public, collective or official transport services; possession and manufacture of hazardous substances or objects; manufacture, bearing or possession of firearms, parts or ammunition subject to restricted use, exclusive use by the armed forces or explosives; disturbance of democratic contests; constraining voters; electoral fraud; document registration fraud; voter corruption; fraudulent vote; contract without fulfilling legal requirements; violence against a public official; escape; and espionage.

The above list of crimes shall also be taken into account by the Judicial Panel for Amnesty and Pardon of the Special Jurisdiction for Peace, notwithstanding the fact that this Judicial Panel may also consider other conduct to be politically motivated crimes, in accordance with the criteria set out in this Law. The conduct which under no circumstances shall be subject to any amnesty or pardon are the ones mentioned in Article 22 of this law.

In implementing the amnesty dealt with by this law, any aggravating circumstances or amplifying provisions of the criminal offences shall be included.

**Article 16. Personal coverage.** Any amnesty granted by operation of this law in accordance with the previous Articles, shall apply as from the day it comes into effect, provided that the crimes have been committed prior to the Final Peace Agreement coming into effect.

It shall apply to the following persons, both Colombian and foreign nationals, who are or have been perpetrators of or participants in attempted or consummated crimes, provided that the following requirements are given:

1. That the judicial order convicts, puts on trial or investigates because of membership of or collaboration with the FARC-EP.
2. Members of the FARC-EP, after the Final Peace Agreement with the National Government comes into effect, in accordance with the lists handed over by representatives appointed by this organisation specifically for this purpose, which lists shall be verified, as provided for in the Final Peace Agreement. The foregoing applies even though the judicial order does not convict, put on trial or investigate because of membership of the FARC-EP.
3. That the conviction states that the convicted person is a member of the FARC-EP, even though he is not convicted for a political crime, provided that the crime as a result of which he has been convicted, fulfils the requirements of being a related offense set out in this law.
4. Anyone who is or has been investigated, put on trial or convicted for political crimes and politically motivated crimes, where it may be deduced from the judicial, fiscal and disciplinary investigations, judicial orders or by means of other evidence, that they were investigated or put on trial because of alleged membership of or collaboration with the FARC-EP. In this case, as from the day after this law comes into effect, the party concerned shall petition the Prosecutor (*Fiscal*) or competent Probation Judge (*Juez de Ejecución de Penas*), to implement this amnesty, providing or describing the orders or evidence that prove the foregoing.

**Article 17. Laying down of Arms.** In relation to the persons referred to in paragraphs 1 and 2 of the aforementioned Article, who are in the process of laying down arms and who remain in the Transitional Local Zones for Normalisation (*Zonas Veredales Transitorias de Normalización*) or in the agreed camps, the amnesty shall progressively apply to each of them individually, where the recipient has laid down arms in accordance with the timeline and corresponding registration agreed for this purpose. Amnesty shall also be granted to them for conduct closely linked to the Laying down of Arms process.

As regards members of the FARC-EP who, because of being imprisoned, are not found in possession of any arms, the amnesty shall apply to each of them individually where the recipient has signed a deed of commitment undertaking not to return to using arms to attack the current constitutional and legal system.

This deed of commitment shall match the clearly defined text for the Laying down of Arms process.



**Article 18. Procedure for the implementation of de jure amnesties.**

1. With regard to those members of the FARC-EP who remain in the Transitional Local Zones for Normalisation or in the camps agreed in the laying down of arms process and who neither have ongoing trials nor convictions, the President of the Republic shall issue an administrative act implementing the de jure amnesty, when they leave the camps to begin their reincorporation into civilian life. Any lists containing the personal data of persons granted amnesty shall be handled as provided for in the Data Protection Act, and cannot be publicly disclosed.
2. With regard to anyone involved in ongoing trials for the crimes mentioned in Articles 14 and 15 of this Law, the Office of the Attorney General (*Fiscalía General de la Nación*) shall immediately apply for estoppel to the competent Trial Judge hearing the case (*Juez de conocimiento*).
3. With regard to anyone who is already convicted of committing the crimes mentioned in Articles 14 and 15 of this Law, the competent Probation Judge shall proceed with implementing the amnesty.

In relation to paragraphs 2 and 3 above, the Office of the Attorney General and the Administrative Panel of the Supreme Council of the Judiciary (*Sala Administrativa del Consejo Superior de la Judicatura*), shall have to coordinate with the persons responsible for the laying down of arms process, for the purpose of issuing the orders or decisions required, so as not to delay the deadline set for bringing this laying down of arms process to a conclusion.

In any case, the amnesty shall have to be implemented within a period of not more than ten days as from the time this law comes into effect, provided that the recipient has completed the laying down of arms process, as provided for in Article 17 of this law and has signed the corresponding deed of commitment.

Should what is stated in Articles 16 and 17, paragraph two of this law, not happen within a period of forty-five days from the time this law comes into effect, the recipient of the amnesty may apply to the Judicial Panel for Amnesty and Pardon of the Special Jurisdiction for Peace for this, notwithstanding the use of other legal remedies or legal channels to which he might be entitled.

The judicial officers or authorities in whose offices are handled the criminal, disciplinary, fiscal or other proceedings for the political or related crimes covered by this rule, shall have to implement the amnesty as soon as possible, on penalty of committing a breach of discipline.

**Article 19. Effectiveness of the amnesty:** As regards the crimes committed prior to the Final Peace Agreement coming into effect, if, after the amnesty has been implemented, a crime report is submitted for the crimes covered by Articles 14 and 15 of this law, in relation to the persons referred to in Article 16, the judicial official shall refrain from initiating the respective process. He shall do the same if the crime report refers to conduct closely linked to the laying down of arms process, for which an amnesty has been granted.

If, in spite of the foregoing, any judicial officer initiates a process contrary to what is laid down in the previous subparagraph, the person may invoke his status as a person to whom an amnesty has been granted in accordance with the law, as objective grounds for termination of the criminal proceedings.

### CHAPTER III

#### AMNESTIES OR PARDONS GRANTED BY THE JUDICIAL PANEL FOR AMNESTY AND PARDON

**Article 20. Judicial Panel for Amnesty and Pardon.** In all cases that are not subject to de jure amnesty, the decision to grant amnesties or pardons shall depend on the Judicial Panel for Amnesty and Pardon of the Special Jurisdiction for Peace. In accordance with the principle of applying the most favourable law, governed by this law, and with the provisions of Article 6.5 of the Additional Protocol II of the Geneva Conventions of 1949, the Judicial Panel shall implement the amnesty or pardon as provided for in this law and in the Agreement for Creating the Special Jurisdiction for Peace.

In any case, the application for amnesty shall have to be decided within a period of not more than three (3) months since application was made to the Judicial Panel, provided that the recipient has completed the laying down of arms process, as provided for in Article 17.

**Article 21. Personal coverage.** Any amnesty granted by the Judicial Panel for Amnesty and Pardon shall apply as from the day this law comes into effect, provided that the crimes have been committed prior to the Final Agreement coming into effect, as well as in relation to any conduct closely linked to the Laying Down of Arms process, eligible for amnesty.

It shall apply to the following persons, both Colombian and foreign nationals, who are or have been perpetrators of or participants in attempted or consummated politically-related crimes, as provided for in the following Article with regard to criteria for being a related action, provided that any of the following requirements are satisfied:

1. That the judicial order convicts, puts on trial or investigates because of membership of or collaboration with the FARC-EP, or
2. Members of the FARC-EP, after the Final Peace Agreement with the National Government comes into effect, in accordance with the lists handed over by representatives appointed by this organisation specifically for this purpose, and such lists shall be verified, as provided for in the Final Peace Agreement. The foregoing applies even though the judicial order does not convict, put on trial or investigate because of membership of the FARC-EP, or
3. That the conviction states that the convicted person is a member of the FARC-EP, even though he is not convicted for a political crime, provided that the crime as a result of which he has been convicted, fulfils the requirements of being a related action set out in this law, or
4. Anyone who is or has been investigated, put on trial or convicted for political crimes and politically motivated crimes, where it may be deduced from the judicial, fiscal and disciplinary

investigations, judicial orders or by means of other evidence, that they were investigated or put on trial because of alleged membership of or collaboration with the FARC-EP. In this case, as from the day after this law comes into effect, the party concerned shall petition the Prosecutor or competent Sentence Enforcement Judge, to implement this amnesty, providing or describing the orders or evidence that prove the foregoing.

**Article 22. Criteria for politically motivated crimes.** The Judicial Panel for Amnesty and Pardon shall grant amnesties for political crimes or politically motivated crimes. Crimes which meet any of the following criteria are understood to be politically motivated crimes:

- a. Those crimes specifically related to the development of the rebellion, committed on the occasion of the armed conflict, such as death in combat, consistent with international humanitarian law and the capture of combatants during military operations; or
- b. Those crimes where the state and its current constitutional system is the victim of the conduct; or
- c. That conduct aimed at facilitating, supporting, financing or concealing the development of the rebellion.

The Judicial Panel for Amnesty and Pardon shall determine the relationship with political crime on a case-by-case basis.

**Paragraph:** In no case will the following conduct be subject, under any circumstances, to amnesty or pardon:

- a. Crimes against humanity, genocide, serious war crimes, hostage taking or other serious deprivation of liberty, torture, extra-judicial executions, forced disappearance, rape and other forms of sexual violence, child abduction, forced displacement and the recruitment of minors, as provided for in the Rome Statute. In the event that any criminal sentence has used the terms “ferocity”, “barbarity” or any such equivalent term, amnesty or pardon may not be granted for only those types of criminal conduct corresponding to those stated herein as not eligible for amnesty.
- b. Ordinary crimes not related to the rebellion, that is to say, those crimes which have not been committed in the context of and due to the rebellion during the armed conflict or which have been motivated by the opportunity to obtain personal profit, personal gain or benefit for a third party.

The provisions of this Article do not prevent that conduct which has been independently classified as ordinary crimes from being considered politically motivated crimes, provided that they were committed on the basis of a political crime and the rebellion.

“Serious war crime” shall be understood to mean any infringement of international humanitarian law committed as part of a systematic attack.

**Article 23.-** Where it is transferred from the Judicial Panel for Determination of Legal Situations (*Sala de Definición de Situaciones Jurídicas*), the Judicial Panel for Amnesty and Pardon shall grant the pardon that discharges the sanctions imposed, for the following crimes or others, committed in the context of civil disorder or social protest, provided that they are politically motivated crimes, in accordance with the criteria set out in Article 22: personal injury resulting in disablement for less than 30 days; damage to third party property; disruption of public, collective or official transport services; obstruction of public highways which affects law and order; discharging of firearms; use or throwing of hazardous substances or objects; and violence against a public official; disruption of official events; and violent rioting under the Colombian Criminal Code.

**Article 24. Procedure and effects.** The granting of the amnesties or pardons to which this Chapter refers shall be granted on the basis of the list or recommendations that the Judicial Panel for Amnesty and Pardon shall receive, for analysis and for decision making, from the Judicial Panel for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct.

The Judicial Panel shall grant amnesty or pardon in cases where persons have been convicted or investigated for crimes eligible for amnesty or pardon, both in view of the recommendations made by the Judicial Panel for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct and ex-officio or ex parte.

The Judicial Panel for Amnesty and Pardon shall analyse each case in accordance with the principles laid down in the Special Jurisdiction for Peace Agreement and in this law, as well as in accordance with the assessment criteria laid down in Article 22 of this law, and it shall decide whether or not such amnesties or pardons are appropriate.

Once the decision granting amnesty or pardon has been given, it shall be sent to the judicial authority which is trying the criminal case, for it to fulfil the decision of the Judicial Panel for Amnesty and Pardon and to make the effects of extinction of criminal liability and criminal sanctions a reality, as appropriate.

Once the decision to grant the amnesties or pardons is firm, it shall become *res judicata* and may only be revised by the Tribunal for Peace.

Where it is deemed inappropriate to grant the amnesty or pardon, the Judicial Panel for Amnesty and Pardon shall refer the case to the Judicial Panel for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct or to the Judicial Panel for Determination of Legal Situations, so that based on the determination already made, it may take the appropriate decision in accordance with its powers and jurisdiction.

**Article 25. Submission of lists.** The representatives appointed by the FARC-EP specifically for this purpose shall be legitimate representatives for submitting to the authorities, including the judicial authorities, or to the Special Jurisdiction for Peace, the lists of persons who are members of the rebel organisation which has signed the Final Peace Agreement, and such lists shall be

verified as provided for in the Final Peace Agreement. These lists may be submitted until such time as the Judicial Panel for Amnesty and Pardon of the Special Jurisdiction for Peace has finished examining the judicial status of all members of the FARC-EP.

**Article 26. Obtaining additional information.** Where deemed necessary, the Judicial Panel for Amnesty and Pardon may obtain additional information through interviews, document requests and any other means which it considers appropriate.

#### **CHAPTER IV JURISDICTION AND OPERATION OF THE JUDICIAL PANEL FOR DETERMINATION OF LEGAL SITUATIONS**

**Article 27. Judicial Panel for Determination of Legal Situations.** The Judicial Panel for Determination of Legal Situations of the Special Jurisdiction for Peace shall have the following functions:

- 1.- Determine the judicial status of anyone who has gained access to the Special Jurisdiction for Peace in relation to two cases: persons who shall not be subject to amnesty or pardon or who shall not be included in the resolution of conclusions, and persons who shall not have to be called to account before the Tribunal, because of being worthy of amnesty or pardon.
- 2.- Determine how the sentences previously imposed by the judicial system with regard to persons subject to the Special Jurisdiction for Peace shall be treated, including the extinction of criminal liability because the sanction is understood to have been served.
- 3.- So that swift and full justice may be administered, determine possible procedural selection and prioritisation mechanisms for anyone who does not acknowledge truth and responsibility. When making its determinations, this Judicial Panel shall assess the decisions taken by the Judicial Panel for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct of the Special Jurisdiction for Peace, with regard to concentrating its functions on the most representative cases, in accordance with the powers and jurisdiction of this Judicial Panel for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct.
- 4.- To fulfil its duty, describe the relationship of the conduct to the armed conflict.
- 5.- Take any other decisions needed to determine the judicial status of anyone who was not granted amnesty or pardon, or has not been subject to resolution of conclusions.
- 6.- At the request of the person under investigation, determine the judicial status of persons who, without belonging to a rebel organisation, may currently be undergoing investigation for conduct that may come under the jurisdiction of the Special Jurisdiction for Peace. The Judicial Panel shall decide whether it is appropriate to refer it to the Judicial Panel for Amnesty and Pardon, whether it is appropriate to refer it to the Judicial Panel for Acknowledgement of Truth, Responsibility and

Determination of Facts and Conduct, or whether, in order to determine the judicial status, it is appropriate to waive its right to pursue criminal or disciplinary prosecution, in this last case also in respect of non-combatant civilians, or to apply any other legal mechanism, as appropriate. The decision determining the judicial status shall become *res judicata*.

7.- To ensure the efficient, effective and swift operation of the Special Jurisdiction for Peace, the Judiciary Panel shall have the widest possible powers to organise its tasks, include working committees, fix priorities, collect similar cases and determine in what order it shall deal with them, as well as to adopt selection and decongestion criteria. When exercising these powers it shall take into account the need to prevent the most serious and representative crimes from remaining unpunished, and also to prevent work-overload for the Tribunal.

8.- Determine the judicial status of anyone who has not been decisively involved in the most serious and representative crimes, particularly in relation to the conduct referred to in Article 22 of this Law.

9.- Receive the appropriate information from social, trade-union and human rights organisations and processes that are part of the Ethnic and Popular Agrarian Summit (*Cumbre Agraria, Étnica y Popular*), where the following crimes are involved, committed in the context of civil disorder or social protest: violent rioting, obstruction of public highways, throwing of hazardous substances, violence against a public official, disruption of public transport, damage to third party property, personal injury and other crimes caused within the framework of the Public Safety Law or in social protest. In these cases, the Judicial Panel shall use mechanisms for discontinuing proceedings, with the aim of discharging the action and responsibility or it may send this information to the Judicial Panel for Amnesty and Pardon for such purposes as it may have jurisdiction.

10. - Decide on waiving criminal prosecution against persons who, having directly or indirectly participated in the armed conflict as minors when the unlawful conduct, which comes under the jurisdiction of the Special Jurisdiction for Peace, was committed, are held responsible for crimes not eligible for amnesty, as provided for in the principles adopted by the United Nations in this matter.

**Article 28. Sphere of personal competence.** Notwithstanding what is laid down for agents of the state in Section III of this law and as provided for in the Special Jurisdiction for Peace Agreement, the Judicial Panel for Determination of Legal Situations shall try cases within its jurisdiction, in relation to the following Colombian and foreign nationals, whether they are responsible as perpetrators or participants in attempted or consummated crimes:

1. Members of the FARC-EP, after the Final Peace Agreement with the National Government comes into effect, in accordance with the lists handed over by representatives appointed by this organisation specifically for this purpose, and such lists shall be verified, as provided for in the Final Peace Agreement.

2. Persons who, for conduct deployed in contexts related to exercising the right to protest or internal disturbances, have been criminally prosecuted for the crimes set out in Article 112 (personal injury resulting in disablement for less than 30 days), Article 265 (damage to third party property), Article 353 (disruption to public, collective or official transport), Article 353A (obstruction of public highways which affects law and order), Article 356A (discharging of firearms), Article 359 (use or throwing of hazardous substances or objects) Article 429 (violence against a public official), Article 430 (disruption of official events) and Article 469 (violent rioting) of the Colombian Criminal Code. Other persons convicted of crimes other than the foregoing as a result of taking part in protest activities may ask the Judicial Panel for Determination of Legal Situations to look at their convictions, if they can demonstrate that the conduct for which they were convicted was not more serious than the forms of conduct provided for in the above articles of the Criminal Code.
3. Persons who are held for trial or who have been convicted for political or related crimes linked to membership of or collaboration with the FARC-EP, without acknowledging that they are part of the aforementioned organisation. In this case, the person shall provide the judicial orders or other documents from which it may be inferred that the prosecution or conviction was due to an alleged connection with this organisation.

The foregoing does not prevent the Judicial Panel for Determination of Legal Situations from exercising its jurisdiction in relation to the persons indicated in paragraph 63 of the Special Jurisdiction for Peace Agreement, in the terms provided for in this agreement.

**Article 29. Assessment criteria of the Judicial Panel for Determination of Legal Situations.** Any persons to whom the crimes committed in the context of and due to the armed conflict may be subject to the decisions mentioned in this chapter, provided that they do not constitute:

1. Cases of decisive involvement in the following crimes: crimes against humanity, genocide, serious war crimes, hostage taking or other serious deprivation of liberty, torture, extra-judicial executions, forced disappearance, rape and other forms of sexual violence, child abduction, forced displacement or the recruitment of minors, as provided for in the Rome Statute, notwithstanding the power set out in paragraph 2 of Article 27 of this Law.
2. Ordinary crimes which have not been committed in the context of or in relation to the armed conflict or which have been motivated by the opportunity to obtain personal profit, personal gain or benefit for a third party.

**Article 30. Decisions given by the Judicial Panel for Determination of Legal Situations.** Taking into account the stage of the proceedings before any jurisdiction that affects the party appearing, the Judicial Panel for Determination of Legal Situations may make the following decisions, among others that may be within its jurisdiction:

1. Waiver of criminal prosecution
2. Stay of proceedings
3. Suspended enforcement of the sentence

4. Extinction of criminal liability because the sanction has been served
5. The other decisions needed to determine the judicial status

**Article 31. Procedure and effects.** The decisions to which this chapter refers shall be granted on the basis of the referral of cases by the Judicial Panel for Acknowledgement of Truth and Responsibility and Determination of Facts and Conduct. The Judicial Panel for Determination of Legal Situations shall analyse each case in accordance with the assessment criteria of Article 29, and shall decide what is appropriate.

Once it is firm, the decision taken shall become *res judicata* and may only be revised by the Special Jurisdiction for Peace.

If it is considered inappropriate to take any of the decisions indicated in Article 30 of this Law, the Judicial Panel for Determination of Legal Situations shall refer the case to the Judicial Panel for Acknowledgement of Truth and Responsibility and Determination of Facts and Conduct, so that based on the determination already made, it may take the appropriate decision in accordance with its jurisdiction.

**Article 32. Contribution to the realisation of victims' rights.** The adoption of any of the decisions indicated in Article 30 of this Law gives no exemption from the duty to contribute individually or collectively to the establishment of the truth or the fulfilment of any reparation obligations that may be imposed in accordance with the provisions of the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence.

If, during the five years following the adoption of any of the decisions indicated in Article 30 of this Law, the requirements of the Tribunal for Peace to participate in programmes to contribute to the reparation of victims, or to come before the Truth, Coexistence and Non-Recurrence Commission, or before the Unit for the Search for Persons Deemed as Missing, where there is an obligation to appear before the above bodies, are repeatedly and unjustifiably refused, they shall lose the right for the special sanctions of the Special Jurisdiction for Peace to be applied to them, in the event that they are subsequently declared responsible for any of the conduct that may be attributed to them therein.

## **CHAPTER V SYSTEM FOR RELEASE**

**Article 33. Release due to the application of an amnesty or waiver of criminal prosecution.** The granting of amnesty and the waiver of criminal prosecution contemplated in this law will result in the immediate full release of those persons who have been imprisoned and who have benefited from the above measures.

**Article 34. Conditional release.** When this law enters into force, the persons referred to in Articles 14, 15, 16, 21 and 28 of this law who are imprisoned, including those who have been



convicted of the crimes contemplated in Articles 22 and 23, will be granted conditional release provided that they have signed the undertaking contemplated in the following article.

**Article 35. Formal undertaking.** The Undertaking to be signed by the persons benefiting from release as provided in this Chapter will contain an undertaking to submit to and remain at the disposal of the Special Jurisdiction for Peace, an obligation to inform the Special Jurisdiction for Peace of any change of residence and an undertaking not to leave the country without prior authorisation from the Special Jurisdiction for Peace.

The Undertaking must be signed before the Executive Secretary of the Special Jurisdiction for Peace.

**Paragraph.** In addition to the undertakings outlined in this article, persons who are imprisoned for crimes for which no amnesty may be granted, when they have been released due to the application of the provisions contained in Article 34, may, in accordance with a decision by the Special Jurisdiction for Peace, be monitored by means of electronic surveillance systems or other systems until the Special Jurisdiction for Peace finally resolves their judicial status.

**Article 36. Procedure.** With regard to rebels belonging to organisations that have signed a Final Peace Agreement and persons who have been imprisoned on the basis of a security measure for political or related crimes in accordance with the provisions of this law, the competent prosecutor will appear before a Pre Trial Judge (*Juez con funciones de control de garantías*) as soon as possible to request conditional release and that judge must verify that the person in question meets the requirements laid down in Articles 34 and 35 of this law and must order that conditional release.

With regard to rebels who belong to organisations that have signed a Final Peace Agreement and persons who have been imprisoned on the basis of a conviction for political or related crimes in accordance with the provisions of this law, the Probation Judge (*Juez de ejecución de penas y medidas de seguridad*) hearing the case concerning the convicted person must verify that the person concerned meets the requirements laid down in Articles 34 and 35 of this law and must order that conditional release.

If the person has been accused or convicted of crimes for which no amnesty may be granted that took place within the framework of the armed conflict and at the same time as it, the provisions established in the above paragraphs will be applied with regard to the release and submission to the Special Jurisdiction for Peace until the Special Jurisdiction for Peace has imposed the relevant sanctions, as appropriate, and that person will remain at the disposal of the Special Jurisdiction for Peace in the places where the process of reincorporation into civil life agreed for the other members of the FARC-EP takes place or in other domiciles proposed by those being released, without prejudice to the provisions set out in the paragraph in Article 35.

Persons who are imprisoned due to conduct in situations relating to the exercise of the right to protest or internal disturbances for the offences contemplated in Articles 112 (personal injury

with incapacity of less than 30 days); 265 (damage to third party property); 353 (disturbance on a public, collective, or official transport service); 353A (obstruction of public roads affecting public order); 356A (discharging a firearm); 359 (use or throwing of dangerous substances or objects); 429 (violence against public servants); 430 (disruption of official acts) and 469 (violent rioting) of the Colombian Criminal Code and who express their willingness to submit to the Special Jurisdiction for Peace and appear before the Judicial Panel for Determination of Legal Situations to request the application of mechanisms of stay of proceedings with a view to the extinction of criminal liability shall also be released as soon as possible. In these cases, the following will be competent to decide on their release:

- a) With regard to persons who have been imprisoned on the basis of a security measure, the competent prosecutor will appear before a Pre Trial Judge duties to request conditional release and that judge must verify that the person concerned meets the requirements laid down in Articles 34 and 35 of this law and must order that conditional release.
- b) With regard to persons who have been imprisoned on the basis of a conviction, the Probation Judge hearing the case concerning the convicted person must verify that the person concerned meets the requirements laid down in Articles 34 and 35 of this law and must order that conditional release.

**Article 37.** All the provisions of this law will be applicable to the persons, conduct, offences and situations provided therein, regardless of the jurisdiction before which they have been convicted or are being investigated or tried.

Recognising the sovereignty of other states in the matters to which their jurisdiction for penal matters relates and their independence to decide on particular cases, the National Government shall inform the competent foreign authorities of the enactment of this law of amnesty, attaching a copy thereof so that they may fully ascertain its scope with regard to persons imprisoned or investigated or who are serving sentences outside Colombia due to facts or conduct covered by the contents of this law.

**Article 38.** The term for submission of accusations or reports concerning the persons contemplated in this law for any act or conduct that may be covered by an amnesty or pardon will become subject to statute of limitation one year after the Special Jurisdiction for Peace begins to operate, provided that the offence or conduct was committed:

- a) Prior to the entry into force of the Final Peace Agreement, or
- b) Up to the moment when the process of laying down arms ends, in the case of conduct closely connected with the fulfilment of that process.

**Article 39.** Once the Special Jurisdiction for Peace has begun to operate, the Judicial Panel for Amnesty and Pardon (*Sala de Amnistía e Indulto*) will be responsible for dealing with requests for the release of any person falling within the scope of an amnesty or pardon. The order must be immediately fulfilled by the authorities competent to release the person concerned and it may not be subject to any appeal whatsoever.

## CHAPTER VI

### EFFECTS OF AMNESTY

**Article 40. Effects of Amnesty.** Amnesty extinguishes the duty of criminal prosecution and the main and any accessory sanctions, any action for compensation for damages arising from punishable conduct, and responsibility arising from any compensation action against the offender (*acción de repetición*) when the person granted the amnesty has performed public duties. The foregoing is without prejudice to the duty of the state to realise the right of victims to full reparation in accordance with Law 1448 of 2011. This is without prejudice to the reparation obligations imposed in accordance with the provisions established in the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence.

In any case, the provisions of this article will have no effect on any action of legal cessation of ownership brought by the state under current rules regarding unlawfully appropriated property. If the real property affected by the annulment of ownership is owned by the father, mother, brother or sister or spouse of the person granted amnesty and has been habitually used for a long period after acquisition as his or her family home, the burden of proof of unlawful acquisition will rest with the state.

If the ownership of the said property was already annulled before the entry into force of this law and the decision on legal cessation of ownership classified the asset as having been acquired with funds deriving from the activities of the FARC-EP and the former owner declares under oath that he or she obtained the asset with lawful funds, he or she may request a review of the judgment ordering the legal cessation of ownership before the Criminal Division of the Higher Court of the Judicial District (*Sala Penal del Tribunal Superior*) that is competent according to the place where the property is located or before the Criminal Appeals Chamber of the Supreme Court of Justice, as appropriate. If the review judgment has not been handed down within one year, it must be adopted in two months, taking precedence over any other matter. The request for review may be instituted within a term of two years from the entry into force of this law. All requests for review must be signed by a plenipotentiary who signed the Final Peace Agreement.

**Paragraph.** If, due to the acts or conduct for which an amnesty or pardon provided in this law was granted, there are disciplinary investigations or investigations by a prosecutor in progress or sanctions imposed as a result of such investigations, the amnesties or pardons provided in this law will cover them. The competent official must issue the decision annulling both the action and the sanction by the relevant legal means as soon as possible. If this does not occur within a term of three (3) months from the entry into force of this law, the person concerned may request the annulment of the action or sanction before the Judicial Panel for Amnesty and Pardon of the Special Jurisdiction for Peace, without prejudice to the use of any other appeals or legal courses that he or she may consider.

**Article 41. Effects of the waiver of criminal prosecution.** The waiver of criminal prosecution annuls the action and the criminal sanction as well as any action for compensation for damages

resulting from the punishable conduct and responsibility arising from any compensation action against the offender. The foregoing is without prejudice to the duty of the state to realise the right of victims to full reparation in accordance with Law 1448 of 2011. This is without prejudice to the reparation obligations imposed in accordance with the provisions established in the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence.

If, due to the acts or conduct for which a waiver of criminal prosecution, there are disciplinary investigations or investigations by a prosecutor in progress or sanctions imposed as a result of such investigations, the waiver will cover them. The competent official must issue the decision annulling both the action and the sanction by the relevant legal means as soon as possible. If this does not occur within a term of three months from the entry into force of this law, the person concerned may request the annulment of the action or sanction before the Judicial Panel for Determination of Legal Situations of the Special Jurisdiction for Peace, without prejudice to the use of any other appeals or legal courses that he or she may consider.

**Article 42. Effects of stay of proceedings and conditional suspension of enforcement of the sanction.** The stay of proceedings, the suspension of enforcement of the sanction and other resolutions or decisions required in order to define the judicial status do not annul any action for compensation for damages. The above action or the criminal action will be annulled when such is expressly resolved by the Judicial Panel for Determination of Legal Situations, which also must rule on the annulment of disciplinary responsibility and responsibility for prosecution.

### **PART III DIFFERENTIATED SPECIAL CRIMINAL TREATMENT FOR STATE AGENTS**

#### **SECTION I**

#### **JURISDICTION AND FUNCTIONING OF THE JUDICIAL PANEL FOR DETERMINATION OF LEGAL SITUATIONS**

**Article 43. Judicial Panel for Determination of Legal Situations.** The Judicial Panel for Determination of Legal Situations will also be responsible for granting agents of the state a waiver of criminal prosecution as one of the mechanisms for differentiated special criminal treatment in accordance with the provisions established herein.

The jurisdiction of the Judicial Panel for Determination of Legal Situations provided in Section II of this law will also apply where relevant to agents of the state in order to implement the provisions of this section.

## SECTION II

### MECHANISMS FOR DIFFERENTIATED SPECIAL PROCEEDINGS FOR AGENTS OF THE STATE

**Article 44. Mechanisms for differentiated special proceedings for agents of the state:** The Judicial Panel for Determination of Legal Situations of the Special Jurisdiction for Peace, applying the principle of favourable proceedings governed in this law, will apply any of the mechanisms for final resolution of the judicial status to agents of the state, including the waiver of criminal prosecution, for those who have been convicted, tried or named for punishable conduct due to, during or directly or indirectly relating to the armed conflict in accordance with the criteria established in the following article.

**Article 45. The waiver of criminal prosecution.** The waiver of criminal prosecution is a mechanism for differentiated special criminal treatment for agents of the state that forms part of the Comprehensive System whereby criminal acts, criminal responsibility and criminal sanctions are annulled. This is necessary for building up trust and facilitating the end of the internal armed conflict and must be applied in a preferential manner in the Colombian criminal system to help achieve a stable, lasting peace.

This mechanism is not appropriate in the case of:

1. Crimes against humanity, genocide, serious war crimes, taking hostages or other serious deprivation of liberty, torture, extra-judicial executions, forced disappearance, rape and other forms of sexual violence, abduction of minors, forced displacement in addition to recruitment of minors in accordance with the provisions established in the Rome Statute.
2. Crimes that were not committed because of, at the same time as or directly or indirectly in relation to the armed conflict.
3. Crimes against the service, discipline and interests of the Colombian State Armed Forces (which include both the Military Forces and the National Police) and the honour and security of the Colombian State Armed Forces as contemplated in the Military Criminal Code.

**Article 46. Procedure for the application of waiver of criminal prosecution for agents of the state.** The Judicial Panel for Determination of Legal Situations, ex-officio or ex parte, will resolve the judicial status of agents of the state by means of the application or otherwise of a waiver of criminal prosecution.

Agents of the state who request the application of this mechanism must accompany their request with reports, court rulings, disciplinary, administrative or prosecution reports or administrative documents that describe his or her judicial status and that allow it to be established that they committed the act due to, during, or directly or indirectly related to, the armed conflict.

When the proceedings are instituted officially, the Judicial Panel for Determination of Legal Situations will compile the facts necessary to form a judgment that it considers necessary to determine whether the person's conduct took place due to, during, or directly or indirectly related to, the armed conflict

When the foregoing has been established, the Judicial Panel will order a waiver of criminal prosecution provided that the conduct in question does not constitute a crime against humanity, genocide, serious war crimes, taking hostages or other serious deprivation of liberty, torture, extra-judicial executions, forced disappearance, rape and other forms of sexual violence, abduction of minors, forced displacement, in addition to recruitment of minors in accordance with the provisions established in the Rome Statute or a crime against the service, discipline and interests of the Colombian State Armed Forces and the honour and security of the Colombian State Armed Forces as contemplated in the Military Criminal Code.

When the ruling granting the waiver of criminal prosecution has been issued, it will be sent to the court that is hearing the criminal proceedings in order that the court may fulfil what has been decided by the Judicial Panel for Determination of Legal Situations and implement the annulment of the criminal action, the criminal responsibility and the criminal sanction, as appropriate.

**Article 47. Other effects of the waiver of criminal prosecution.** The waiver of criminal prosecution also gives rise to the following effects:

1. It prevents the institution of new proceedings for the conduct in question.
2. The ruling has the effect of *res judicata* and they may only be reviewed by the Tribunal for Peace.
3. It eliminates the criminal record from the database.
4. It cancels or extinguishes any disciplinary or administrative responsibility or sanction, or responsibility for prosecution or sanction resulting therefrom, that may derive from the criminal conduct.
5. It prevents the institution of any action for recovery and impleader against agents of the state, without prejudice to the duty of the state to satisfy victims' right to full reparation.
6. Its effects are orientated towards the future and it has no retroactive effects in labour, disciplinary, administrative or prosecution terms.

**Article 48. Appeals against rulings of the Judicial Panel for Determination of Legal Situations.** Rulings adopted by the Judicial Panel for Determination of Legal Situations may be made subject to an internal appeal before the same Panel and may only be appealed before the Appeals Chamber of the Tribunal for Peace at the request of the person against whom the ruling is issued.

## SECTION III

### SYSTEM OF RELEASE

**Article 49. Transitional, conditional early release.** Transitional, conditional early release is a benefit that forms part of the comprehensive system deriving from the differentiated special criminal treatment that is necessary for building up trust and facilitating the end of the internal armed conflict and must be applied in a preferential manner in the Colombian criminal system to help achieve a stable and long-lasting peace.

This benefit will be applied to agents of the state who, at the time when this law comes into effect, are detained or have been convicted and who state or accept their submission to the Judicial Panel for Determination of Legal Situations of the Special Jurisdiction for Peace in order to benefit from the mechanism of waiving criminal prosecution.

The said statement or acceptance of submission will be made before the Executive Secretary of the Special Jurisdiction for Peace in the event that the Judicial Panel for Determination of Legal Situations has not begun to operate.

The granting of temporary, conditional, early release is a benefit that does not define the final judicial status within the framework of the Special Jurisdiction for Peace. Only persons who have been finally absolved from responsibility may rejoin the Colombian State Armed Forces.

**Article 50. The beneficiaries of temporary, conditional, early release.** Agents of the state that meet the following requirements will be considered as beneficiaries of transitional, conditional early release:

1. They must have been convicted or tried for punishable acts committed due to, during, or directly or indirectly related to, the armed conflict.
2. The acts in question must not constitute a crime against humanity, genocide, serious war crimes, taking hostages or other serious deprivation of liberty, torture, extra-judicial executions, forced disappearance, rape and other forms of sexual violence, abduction of minors, forced displacement, in addition to recruitment of minors in accordance with the provisions established in the Rome Statute unless the beneficiary has been imprisoned for a period equal to or exceeding five (5) years in accordance with the provisions established for alternative sanctions in the Special Jurisdiction for Peace.
3. They must request or accept, freely and voluntarily, the intention to have recourse to the system of the Special Jurisdiction for Peace.
4. They must undertake, once the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence has begun to operate, to contribute to truth, guarantees of non-recurrence, the immaterial reparation of victims and to comply with the requirements of the bodies comprising the system.

**Paragraph 1.** For the purposes of the above sections, the person concerned will sign a document containing an undertaking by him or her to submit to the Special Jurisdiction for Peace and stating the obligation to give notice of all changes of residence, not to leave the country without prior authorisation from the Special Jurisdiction for Peace and to remain at its disposal.

The said document must expressly state the court that is hearing the criminal proceedings, the stage of the proceedings, the crime and the location of the proceedings.

**Paragraph 2.** In the event that the beneficiary is summoned by the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence and fails to attend or to fulfil any of the obligations assumed in the undertaking, the release will be revoked. The release may not be revoked for circumstances other than those set out herein.

**Article 51. Procedure for transitional, conditional early release.** The National Defence Ministry will consolidate the lists of members of the Colombian State Armed Forces (which include both the Military Forces and the National Police) which, *prima facie*, satisfy the requirements for the application of transitional, conditional early release. To draw up the lists, information will be requested from the ordinary and military criminal jurisdictions, which must reply within 15 working days. Once the lists have been consolidated, they will be sent to the Executive Secretary of the Special Jurisdiction for Peace, who will check the lists and amend them where he or she thinks it necessary, as well as checking that the signed undertaking referred to in the previous article has been given. The Executive Secretary of the Special Jurisdiction for Peace will inform the official hearing the criminal proceedings that the beneficiary has fulfilled the requirements in order for the official to grant the temporary, conditional, early release referred to in the preceding article and the official will immediately take the action or decision required in order to implement it.

Failure to comply with the provisions set out herein constitutes a disciplinary fault.

**Article 52. Supervision.** The directors of penitentiaries and prisons from which persons benefiting from transitional, conditional, early release will supervise those releases until the Judicial Panel for Determination of Legal Situations determines matters within its jurisdiction, making use of both ordinary mechanisms and the mechanisms provided in the Special Jurisdiction for Peace.

**Article 53. Final, unconditional release.** The ordinary court that is hearing the criminal proceedings will comply with an order of immediate, unconditional and final release of the beneficiary with the waiver of criminal prosecution issued by the Judicial Panel for Determination of Legal Situations.

## SECTION IV

### IMPRISONMENT IN A MILITARY OR POLICE UNIT FOR MEMBERS OF THE MILITARY OR THE POLICE FORCES WITHIN THE FRAMEWORK OF THE SPECIAL JURISDICTION FOR PEACE



**Article 54. Imprisonment in a Military or Police Unit for members of the Military or the Police Forces.** Imprisonment in a Military or Police Unit for members of the Military or the Police Forces within the framework of the Special Jurisdiction for Peace is a benefit deriving from the differentiated special criminal treatment that forms part of the Comprehensive System and that is necessary for building up trust and facilitating the end of the internal armed conflict. It must be applied in a preferential manner in the Colombian criminal system to help achieve a stable and long-lasting peace.

This benefit will be applied to members of the Military or the Police Forces who are detained or convicted and who state or accept their submission to the Special Jurisdiction for Peace. The foregoing shall respect the rules relating to imprisonment with regard to other public servants.

The said statement or acceptance of submission will be made before the Executive Secretary of the Special Jurisdiction for Peace in the event that the bodies of the Jurisdiction have not begun to operate.

Only persons who have been finally absolved from responsibility may rejoin the Colombian State Armed Forces.

**Article 55. Beneficiaries of Imprisonment in a Military or Police Unit for members of the Military of the Police Forces.** Members of the Military or the Police Forces who, at the moment when this law comes into effect, have been imprisoned for less than five (5) years will, in accordance with the provisions established for alternative sanctions in the Special Jurisdiction for Peace, continue to be imprisoned in a Military or Police Unit provided that they comply with the following concurrent requirements:

1. They must have been convicted or tried for punishable acts committed due to, during, or directly or indirectly related to, the armed conflict.
2. The crimes in question consist of either crimes against humanity, genocide, serious war crimes, taking hostages or other serious deprivation of liberty, torture, extra-judicial executions, forced disappearance, rape and other forms of sexual violence, abduction of minors, forced displacement, in addition to recruitment of minors in accordance with the provisions established in the Rome Statute.
3. They must request or accept, freely and voluntarily, the intention to have recourse to the system of the Special Jurisdiction for Peace.
4. They must undertake, once the Comprehensive System for Truth, Justice, Reparations and Non-Recurrence has begun to operate, to contribute to truth, guarantees of non-recurrence, the immaterial reparation of victims and to comply with the requirements of the bodies comprising the system.

**Article 56. Procedure for Imprisonment in a Military or Police Unit for members of the Military and the Police Forces.** The National Defence Ministry will consolidate the lists of members of the Colombian State Armed forces which, *prima facie*, satisfy the requirements for substituting intramural imprisonment with Imprisonment in a Military or Police Unit, as referred to in the

preceding article. To draw up the lists, information will be requested from INPEC (National Penitentiary and Prison Institute), which must reply within 15 working days. Once the lists have been consolidated, they will be sent to the Executive Secretary of the Special Jurisdiction for Peace, who will check the lists and amend them where he or she thinks it necessary. The Executive Secretary will then notify the official who is dealing with the criminal case that the beneficiary satisfies the requirements, so that intramural imprisonment may be substituted with Imprisonment in a Military of Police Unit, as referred to in the preceding article. The official will then immediately take the action or issue the decision necessary to bring that about.

**Paragraph.** In the event that the beneficiary fails to fulfil any of the obligations assumed in the undertaking or disregards his or her status as a person deprived of liberty, he or she will have the benefit of imprisonment in a Military Unit revoked. The order may not be revoked for circumstances other than those set out herein.

**Article 57. Supervision.** The Director of the military or police detention centre or, failing that, the Commander of the Military or Police Unit where members of the Military of the Police Forces are to continue being imprisoned will exercise control, supervision and verification of the persons benefiting from Imprisonment in a Military or Police Unit, making use of both the ordinary mechanisms and the mechanisms provided in the Special Jurisdiction for Peace.

#### **SECTION IV FINAL PROVISIONS SYSTEM OF DEFENCE**

**Article 58. System of free legal defence.** The state will offer a system of advice and defence free of charge for the beneficiaries of this law who allege that they lack sufficient resources for a proper defence with regard to the procedures and acts provided in this law. That system will provide duly-qualified defence lawyers. Subject to a decision by the interested party, he or she may make use of the systems of judicial defence already existing in Colombia, lawyers who are members of the Colombian State Armed Forces, civil employees of the Ministry of Defence, the legal services of the human rights organisations that provide assistance to persons accused or convicted of acts or conduct relating to the conflict or the legal services of the human rights organisations that provided the beneficiary with legal assistance during his or her criminal trial or conviction. The state will establish the necessary financing agreements with the human rights organisations designated by the beneficiaries so that all persons for whom this law is intended may benefit equally from a system of defence.

#### **TERM**

**Article 59.** This law will enter into force on the day after its publication and it repeals all provisions contrary to it. Amnesties, pardons and other special proceedings in criminal proceedings granted subsequent to the signing of the Final Peace Agreement will retain their full legal effect when this law has entered into force, without prejudice to the provisions contained therein.

Final Agreement  
24.11.2016

Signed on 24 November 2016 in Bogotá, Colombia.

**Juan Manuel Santos**  
President of the Republic of Colombia

**Timoleón Jiménez**  
Commander-in-Chief of the FARC-EP