

JOINT COMMUNIQUÉ # 62
HAVANA, OCTOBER 17, 2015

In order to alleviate the suffering of the families of persons deemed as missing and in this manner contribute toward the satisfaction of their rights, the National Government and the FARC – EP have reached two kinds of agreements: in first instance, to set in motion some initial and immediate humanitarian measures for the search, location, identification and respectable delivery of the remains of persons deemed as missing within the context and due to the internal armed conflict, which will start before the signature of the Final Agreement; and in second instance, the creation of a special Unit to search for persons deemed as missing within the context and due to the armed conflict.

I. IMMEDIATE TRUST-BUILDING MEASURES TO CONTRIBUTE TOWARD THE SEARCH, LOCATION, IDENTIFICATION AND RESPECTABLE DELIVERY OF THE REMAINS OF PERSONS DEEMED AS MISSING WITHIN THE CONTEXT AND DUE TO THE ARMED CONFLICT

The National Government and the FARC – EP agree:

- 1. Immediate humanitarian measures for the search, location, identification and respectable delivery of the remains of persons deemed as missing within the context and due to the internal armed conflict, which will take place within the framework of the trust-building process.**

Within the framework of the trust-building measures, the National Government and the FARC – EP have agreed on initial actions, immediately and with strictly humanitarian purposes, to locate, identify and respectfully deliver the remains of persons deemed as missing within the context and due to the armed conflict.

For that purpose, we have agreed to ask for the support of the International Committee of the Red Cross for the design and implementation of special humanitarian plans for the search, location, identification and respectable delivery of remains to their relatives.

The National Government and the FARC - EP undertake to provide the ICRC with the information they have available and to facilitate the execution of the special humanitarian plans. Based on the information provided by the Government and the FARC – EP, in addition to the information provided by victims' organizations, within the framework of the Dialogue Table, a working plan will be defined for the ICRC and the National Legal Medicine and Forensic Sciences Institute (*National Legal Medicine and Forensic Sciences Institute*) to design and set in motion the special humanitarian plans. In all cases, information and support will be requested from the Prosecutor General's Office (*Fiscalía General*).

The Table, in coordination with the National Legal Medicine and Forensic Sciences Institute and the ICRC, may ask for additional support from specialized organizations or institutions to carry out the process involving the search, location, identification and respectable delivery of remains.

As a first measure, the delegations of the National Government and the FARC - EP have agreed that:

The National Government will accelerate, on the one hand, the identification and respectable delivery of victims' remains and of those who have died in the course of Law Enforcement operations and buried as N.N. in cemeteries located in the zones most affected by the conflict, pursuant to the recommendations made by the National Legal Medicine and Forensic Sciences Institute; and on the other hand, the respectable delivery of the identified remains which have not been delivered yet to their relatives. Whenever necessary, support will be requested from the ICRC for the respectable delivery of the remains to the relatives of the FARC – EP members.

The FARC – EP will provide information for the location and identification of the remains of victims whose location is known to them, and will contribute to the respectable delivery of same.

In all cases, the respectable delivery will be carried out considering the will of the relatives, who will be provided with the required psycho-social support.

2. Strengthening plan for the search, location, identification and respectable delivery of the remains of persons deemed as missing.

In order to strengthen the institutional capacity and the participation of the victims in the search, location, identification and respectable delivery of the remains of persons deemed as missing, the National Government and the FARC - EP have agreed to ask the Commission for the Search of Missing Persons (*Comisión de Búsqueda de Personas Desaparecidas*) to develop, within the following four (4) months, a plan with recommendations aimed at enabling the achievement of said purpose, for which purpose it will call upon the participation of victims, specialized and human rights organizations.

II. SPECIAL UNIT FOR THE SEARCH OF PERSONS DEEMED AS DISAPPEARED WITHIN THE CONTEXT AND DUE TO THE ARMED CONFLICT.

The National Government and the FARC - EP agree that, in order to elucidate what happened to the persons deemed as missing as the result of actions by State Agents, members of the FARC – EP or of any organization that has taken part in the conflict, and in this manner contribute toward the satisfaction of the victims' right to the truth and reparation, the National Government will set in motion, within the framework of the end of the conflict and after the signature of the Final Agreement, a special, high-level unit with a transitory and exceptional nature, with strong participation of the victims, for the search of all the persons missing within the context and due to the armed conflict (hereinafter referred to as the UBPD). This unit will be of a humanitarian nature and will be part of the Comprehensive System for Truth, Justice, Reparation and Non-Repetition (*Sistema Integral de Verdad, Justicia, Reparación y No Repetición - SIVJRNR*). It will have the necessary independence and administrative and financial autonomy to endure the continuity of the fulfillment of its functions over time.

The UBPD will direct, coordinate and contribute toward the implementation of the humanitarian actions within the framework of the SIVJRNR aimed at searching for and locating persons deemed as missing who are alive, and in the cases of deaths, whenever possible, for the identification and respectable delivery of the remains of persons deemed as missing within the context and due to the armed conflict.

In every case, the UBPD will provide the relatives with an official report regarding the information that has been collected about what happened to the person or persons deemed as missing.

The UBPD and the processes and procedures to be carried out will be of a humanitarian and extrajudicial nature. For the purposes of the design, set in motion and performance of its functions, participation will be requested from victims' organizations, human rights advocacy organizations, along with the support of specialized institutions in order to incorporate the best international practices and the experience on the matter accumulated by the Commission for the Search of Missing Persons.

The UBPD will have the following functions:

- Collect all necessary information to establish the universe of persons deemed as missing within the context and due to the armed conflict.
- Strengthen and streamline the processes for the identification of remains in coordination with the National Legal Medicine and Forensic Sciences Institute.
- Coordinate and engage in the processes for the search, identification, location and respectable delivery of remains, for which purpose it shall:
 - Actively search, contrast and analyze all available information from the different sources, including confidential and voluntary interviews with those who, having directly or indirectly participated in the hostilities, may have information about what happened to the persons

deemed as missing on occasion of the conflict, as well as information about the location of graves, cemeteries and sites where it may be possible to locate remains of persons deemed as missing.

- Design and set in motion a national plan determining the priorities for the performance of its functions and the corresponding regional plans, for which purpose it will have the necessary personnel and equipment and will coordinate and articulate with the competent entities. Guarantees will be provided for the participation of victims and human rights' organizations in the design and implementation of the plans.
- The UBPD will have the necessary authorities and capacities to perform these functions in coordination with the State institutions, the Commission for the Elucidation of the Truth, Coexistence and Non-Repetition (*Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición*), and with the active participation of victims and human rights' organizations.
- The UBPD will have access to official databases and may enter into agreements with victims and human rights' organizations in order to have access to the information they have available. Pursuant to the laws in force at the implementation of the Agreement, the National Government undertakes to facilitate information queries required by the UBPD for the fulfillment of its functions, and the UBPD, in turn, will afford it the corresponding legal treatment.
- Promote the inter-institutional coordination for the provision of guidance and psycho-social assistance to the relatives of the persons deemed as missing within the context and due to the armed conflict.
- Promote alliances with specialized national and international organizations in order to facilitate the performance of its functions.
- Whenever possible, guarantee the respectable delivery to their relatives of the remains of persons deemed as missing within the context and due to the armed conflict, always considering the different ethnic and cultural traditions.
- Guarantee the participation of the relatives of the persons deemed as missing within the context and due to the armed conflict, in the processes for the search, identification, location and respectable delivery of remains.
- Provide the families with an official, detailed report of the information it may have obtained about what happened to the person deemed as missing, upon concluding the execution of the corresponding search plan. Remains that are unidentified or are not claimed by their relatives shall be preserved and will be at the disposal of the competent authorities in order to satisfy the victims' rights.
- Deliver a copy of the report described in the preceding paragraph to the Commission for the Elucidation of the Truth, Coexistence and Non-Repetition.
- Periodically and publicly inform, at least every 6 months, about the activities for the search, identification, location and respectable delivery of remains carried out, always respecting the privacy rights of the victims.
- Plan, coordinate and direct the execution, along with the corresponding entities and with the participation of victims and human rights' organizations, of national and regional tracking, search and identification plans.
- Prepare and implement a national registry of graves, illegal cemeteries and burial grounds.
- In order to perform its functions, the UBPD will adopt procedures to contrast and verify the quality of the collected information, including its reliability, and to identify false information.

The humanitarian work for the search, location, identification and respectable delivery by the UBPD will take place within the framework of the SIVJNR, as a complement and without assuming the functions of the other components thereof. In particular, the activities of the UBPD may not substitute or prevent the investigations of a judicial nature required for the fulfillment of the State's obligations.

The search for remains by the UBPD will not bar the Special Jurisdiction for Peace (*Jurisdicción Especial para la Paz*) and other competent bodies from conducting the investigations they may deem necessary to elucidate the circumstances and responsibilities of the victimization of the case assumed by the UBPD.

In every case, both the technical forensic reports as well as the material elements associated to the corpse that may be found in the site of the exhumations, may be required by the Special Jurisdiction for Peace and other competent bodies. In order to guarantee the effectiveness of the humanitarian work of the UBPD to achieve the maximum possible satisfaction of the victims' rights to the truth and reparation, and first and foremost to alleviate their suffering, the information received or produced by the UBPD may not be used for the purposes of attributing responsibilities in judicial processes or to have evidentiary value, except for the technical forensic reports and the material elements associated to the corpse.

The contribution of information to the UBPD may be taken into account to receive any special treatment on justice matters.

The officers of the UBPD will not be obligated to declare in judicial processes and will be exempted from the duty to report in regard to the work performed at the United. If required by the Special Jurisdiction for Peace, by other competent authorities or by the Commission for the Elucidation of the Truth, Coexistence and Non-Repetition, those who have prepared the technical forensic reports shall ratify and explain the issues concerning those reports and the material elements associated to the corpse.

During the time of operation of the Commission for the Elucidation of the Truth, Coexistence and Non-Repetition, the UBPD will adhere to the requirements and guidelines of the Commission. The UBPD and the Commission will establish a protocol for cooperation and information exchange aimed at contributing toward the fulfillment of the purposes of both of them. It will coordinate its actions with the Commission for the Elucidation of the Truth, Coexistence and Non-Repetition, which will be informed about its actions and results, and will provide the required information.

In the framework of the end of the conflict, the National Government and the FARC – EP undertake to provide the UBPD with all the information at their disposal in order to establish what happened to the persons deemed as missing within the context and due to the conflict.

In order to structure and start the operation of this special unit, consideration will be given to the recommendations made by the Commission for the Search of Missing Persons, as a result of the work carried out in furtherance of the agreement on "Measures contributing to the search, location and identification of persons deemed as missing within the context and due to the armed conflict".

Conformation:

The UBPD will be a part of and will perform its functions in the framework of the Comprehensive System for Truth, Justice, Reparation and Non-Repetition.

The UBPD will have a director who shall be Colombian and who will be selected by the Committee for the Selection of the Commissioners for the Commission for the Elucidation of the Truth, Coexistence and Non-Repetition (Comité de Escogencia de los Comisionados de la Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición), based on criteria of suitability and excellence that will be developed taking into account the suggestions of the International Committee of the Red Cross and the International Commission on Missing Persons (*Comisión Internacional sobre Personas Desaparecidas*).

For the purposes of structuring the UBPD, the director will receive the recommendations and suggestions of the National Commission for the Search of Missing Persons (*Comisión Nacional de Búsqueda de Personas Desaparecidas*), victims' organizations, the International Committee of the Red Cross and the International Commission on Missing Persons.