

5. Agreement on Victims of the Conflict:

“Comprehensive System of Truth, Justice, Reparation and Non-repetition”, including the Special Jurisdiction for Peace; and Commitment on Human Rights

The central aim of this agreement between the National Government and the FARC is to provide redress for the victims. To that end, we have discussed and come to agreements at the Table of Dialogue in Havana, on point 5 of the Agenda “Victims” which includes the subpoints: 1. Human rights of the victims, and 2. Truth, trying to make provision that satisfies the demands of those who have been affected by the long confrontation with regard to whose political solution we have made a fundamental step forward in today, through these new consensus and important measures and agreements of de-escalation, for the construction of a stable and lasting peace and termination of a war of more than half a century, which has bled the country dry.

The National Government and the FARC-EP, considering the integrality that should characterize the development of the articles included in the point relating to Victims, began their analysis with the [“Declaration of principles” of June 7, 2014](#). These principles were taken into account throughout the discussion in the development of Point 5 – Victims, and should be used to assist its implementation:

1. Acknowledgement of victims. It is necessary to recognize all victims of the conflict. They should be recognized not only as victims but also, preeminently as citizens with rights.
2. Acknowledgment of responsibility. Any discussion of this item must start with the acknowledgment of responsibility towards the victims of the conflict. We are not going to exchange impunities.
3. Satisfaction of victims' rights: The rights of the victims of the conflict are not negotiable; rather we aim to agree on how they should be satisfied in the best way possible within the framework for the end of the conflict.
4. Participation of victims: The debate on the satisfaction of the rights of victims of serious human rights violations and International Humanitarian Law infractions during the conflict necessarily requires the participation of victims by various means and at different moments.
5. Clarification of the truth: Clarifying what happened during the conflict, including its

multiple causes, origins and effects, is a key part of the fulfillment of the rights of victims, and society in general. Rebuilding trust depends on full clarification and recognition of the truth.

6. Reparation for victims: Victims are entitled to be compensated for damage suffered during the conflict. To restore the rights of victims and transform their living conditions within the framework of the end of the conflict is a fundamental part of building a stable and lasting peace.
7. Guarantees for protection and security. Protecting the life and personal integrity of the victims is the first step towards the satisfaction of other rights.
8. Guarantee of non-repetition: The end of the conflict and the implementation of reforms arising from the Final Agreement constitute the main guarantee for non-repetition and for not allowing new generations of victims to be generated. The measures adopted both for the 5th item and for the other Agenda items should be aimed at ensuring non-repetition so that no Colombian can ever become victim again or be at risk of becoming one.
9. Principle of reconciliation: One of the objectives of the satisfaction of victims' rights is the reconciliation of all Colombian citizens in order to transit roads of civility and conviviality.
10. Rights perspective: Any agreement we reach on the items of the Agenda and in particular the 5th item "Victims" should contribute to the protection and guarantee of the effective enjoyment of the rights of all. Human rights are inherent to all human beings in an equal way, which means they belong to humans just by virtue of being one. Therefore, the recognition of human rights is not a concession, they are universal, indivisible and interdependent and must be considered in a comprehensive, just and equitable way. Consequently, the state has the duty to promote and protect all human rights and fundamental freedoms, and it is every citizen's duty not to violate the human rights of their fellow citizens. The infringements of economic, social and cultural rights that might have occurred within the framework of the conflict shall be taken into account for purposes of compensation, considering the principles of universality, equality and progressiveness.

On the basis of these principles we arrived at central agreements on: 1.

Comprehensive System of Truth, Justice, Reparation and Non-repetition and 2. Commitment relating to the promotion, the respect and the guarantee of human rights.

Within these commitments, are far-reaching agreements such as the creation of the *Commission for the Clarification of Truth, Co-existence and Non-repetition*; the *Special Unit for the Search of Missing Persons in the context of and as a result of the conflict*; the *Special Jurisdiction for Peace* and specific measures of reparation. All of these components have been articulated within a *Comprehensive System of Truth, Justice, Reparation and Non-Repetition*, to which measures of non-repetition will be linked as well, specifying that on this last topic, apart from the coordinated implementation of all the previous measures and mechanisms, as well as in general of all the points of the Final Agreement, additional measures will be implemented that will be agreed within the discussion on Point 3 – “End of Conflict” of the Agenda of the General Agreement.

During the development of the discussion on point 5 “Victims”, the Historical Commission on the Conflict and its Victims was brought into operation, which yielded important conclusions of a diverse and plural content regarding the origins and multiple causes of the conflict, the main factors and conditions that have facilitated or contributed to the persistence of the conflict and the most notorious effects and impact on the population, all of which has been considered as a fundamental input for the work of the Commission for the Clarification of Truth, Co-existence and Non-repetition.

Other key measures taken within the framework of the discussions on point 5 “Victims” have been: the signing of measures and protocols to forward programs of cleaning and de-contamination of territories of antipersonnel mines (APM), improvised explosive devices (IEDs) and unexploded ordnance (UXO), or explosive remnants of war (ERW); immediate humanitarian measures of search, location, identification and dignified delivery of remains of missing persons in the context and due to the conflict.

The armed conflict, which has multiple causes, has caused suffering and harm to the population unparalleled in our history. Millions of Colombian men and women are victims of forced displacement, there have been hundreds of thousands of deaths, tens of thousands of missing persons of all kinds and a large number of collectives and affected populations

throughout the length and width of the territory, including peasant communities, indigenous, Afro-Colombian, black, palenquero, raizal, and Rom communities, political parties, social and trade union movements, economic guilds, among others. Without forgetting other forms of less visible but no less painful victimization, such as sexual violence, psychological effects, or even the presence of fear.

In recognition of this national tragedy, since the Exploratory Meetings in 2012, we had agreed that the reparation of the victims had to be in the center of any agreement; and that the agenda for the termination of the conflict had to include a section on victims, as was enshrined in the General Agreement of August 26, 2012.

This is also why, before beginning this point of the Agenda, we agreed the above-mentioned “Declaration of principles” which reflects this commitment to the victims and has guided the conversations to assure that the comprehensive satisfaction of rights to the truth, justice, reparation and non-repetition, is at the center of the agreement.

Simultaneously, we expanded the mechanisms of participation. More than 3.0000 victims participated in four forums in Colombia, organized by the United Nations and the National University, and sixty victims traveled to Havana to give direct testimony at the Conversation Table and offer their recommendations, supported by the Episcopal Conference, the United Nations and the National University. On top of that, the 17 thousand proposals, sent to the Conversation Table by the victims and other citizens through different means. All the proposals that we received from the victims were crucial to reaching the agreements.

Finally, we thank the victims for their dedicated participation, their generous testimonies and their proposals, without which it would not have been possible to reach this Agreement. We encourage them to participate actively in the implementation of the proposals and in the construction of peace.

We hope that during the implementation of this and all of the Agreements, the victims will be honoured, that justice will be done and that the bases will be set to finish once and for all with the violence of the conflict in the country, so that no one will ever be victim in Colombia again.

5.1. Comprehensive System of Truth, Justice, Reparation and Non-repetition

To fulfil our commitment to place the victims at the center of the Agreement and in response to their testimonies, proposals and expectations, which we heard from them

personally, the National Government and the FARC-EP have agreed to create the Comprehensive System of Truth, Justice, Reparation and Non-repetition, and this is also why we have taken the measures previously described.

The Comprehensive System is based on the principle of acknowledgment of the victims as citizens with rights; the acknowledgment that there should exist full Truth as regards what happened; the principle of acknowledgment of responsibility by all those who participated in a direct or indirect way in the conflict and were involved in some way in serious human rights violations and serious breaches of International Humanitarian Law; the principle of satisfaction of the rights of the victims with regard to truth, justice, reparation and non-repetition, on the basis of no-exchange of impunity, taking into account also the basic principles of the Special Jurisdiction for Peace, one of which provides that “the caused harm should be repaired and restored whenever possible”.

The end of the conflict should contribute to the guarantee that violations and breaches cease, and also provides an opportunity to guarantee the satisfaction of the rights of the victims. The definitive termination of the hostilities should enable the conditions for victims to express themselves without fear and to receive the acknowledgment they deserve; it should provide an opportunity for all who have some responsibility for human rights violations or breaches of IHL to make the relevant acknowledgment; and as a consequence, an opportunity to apply measures in order to guarantee truth, justice, reparation and non-repetition more effectively.

International experience shows that the effectiveness of these measures is increased if applied in a connected and complementary way. Therefore the System is intended to be comprehensive, so that the measures achieve maximum justice and accountability for violations of human rights violations and the breaches of international humanitarian law that occurred during the conflict. The comprehensiveness of the System should also contribute to the establishment of truth about the conflict and the construction of historical memory.

We consider that a broad and genuine response to the rights of victims -in the framework of the implementation of all other agreements, which also guarantee their rights- provides a foundation for justice.

To meet that end, and advance the fight against impunity, the Comprehensive System combines judicial mechanisms that allow investigation and punishment of serious human rights violations and serious breaches of International Humanitarian Law, as provided for by the Special Jurisdiction for Peace, with complementary extra-judicial mechanisms that contribute to clarifying the truth of what happened, searching for missing loved ones and

repairing the damage caused to individuals, groups and entire territories.

In addition to the Special Jurisdiction for Peace, judicial mechanisms will be created, such as a unit for the investigation and dismantling of criminal organizations, including criminal organizations that have been called successors of paramilitarism, and their support networks, referred to in point 3.4. of the Agenda of the General Agreement.

The Comprehensive System has a differentiated and gender-based approach, which is designed to respond to the particular characteristics of victimization in each territory and each population, and in particular to the needs of women and children.

The Comprehensive System puts special emphasis on restorative and remedial measures, and aims to achieve justice not only with retributive sanctions.

The System should also ensure legal security for those benefiting from the measures of justice, as an essential element of the transition to peace.

The success of the Comprehensive System also depends on it having the broadest possible acceptance and support in society.

Finally, the comprehensiveness of the system will help lay the foundation for the recovery of trust, for coexistence through peace building, and for genuine reconciliation among all Colombians.

Goals:

In summary, the different measures and mechanisms of the Comprehensive System should contribute to the fulfilment of the following purposes:

- ***Satisfaction of victims' rights***, by combining judicial and extra-judicial mechanisms.
- ***Accountability***, by establishing the responsibilities of all participants in the conflict, directly or indirectly, combatants or non-combatants, with respect to serious violations and breaches committed in the context and due to the armed conflict.
- ***Non-repetition***, through the implementation of all measures of the System -and others that will be agreed under Point 3 of the Agenda- to prevent revictimization and repetition, to encourage the rejection of society to war and its effects, to strengthen the end of the conflict, and to prevent the emergence of new forms of violence.
- ***Territorial, gender and differential approach***, through the differentiated treatment of territories and populations, in particular of women and boy and girl victims, and of

the most deprived and most vulnerable populations and collective groups, that are most affected by the conflict.

- **Legal security**, by means of the conditions of the Comprehensive System and especially the Special Court for Peace, with the necessary guarantees of due process.
- **Coexistence and reconciliation**, by building trust in each other through the positive transformation brought by the peace agreements within society, especially through the acknowledgment of the victims, recognition and establishment of responsibilities, and in general by the acknowledgment by the whole society of the need to seize this opportunity to build a better future based on social justice, respect and tolerance.
- **Legitimacy**, with respect to the expectations of the victims, of society in general, and to national and international obligations of the Colombian State, including compliance with the agreed in the Final Agreement.

Components:

The Comprehensive System consists of the following five mechanisms and measures:

- **Commission for the Clarification of Truth, Coexistence and Non-repetition:** This will be a temporary, extra-judicial body, which seeks to establish the truth about what happened and to clarify violations and breaches and provide a full explanation to the whole society regarding the complexity of the conflict; to promote acknowledgment of the victims and of the responsibilities of those directly and indirectly involved in the armed conflict; and to promote coexistence in the territories to ensure non-repetition.
- **Special unit for the search for missing persons in the context and due to the armed conflict:** This will be a high-level special unit of a humanitarian and extrajudicial nature, which aims to direct, coordinate and contribute to the implementation of humanitarian measures through the search and identification of all missing persons in the context of the conflict who remain alive, and for those who have died, if possible, the location and dignified return of the remains. The activities of the Unit should neither replace nor impede criminal investigations that may take place in compliance with the obligations of the State.

- ***Special Jurisdiction for Peace:*** This will consist of a number of justice Chambers, including a Chamber of Amnesty and Pardon, and a Peace Tribunal, to administer justice and investigate, clarify, prosecute and punish those responsible for serious human rights violations and serious breaches of International Humanitarian Law.
- ***Comprehensive reparation measures for peace-building:*** These are measures that seek to ensure comprehensive reparation of victims, including the right to restitution, compensation, rehabilitation, satisfaction and non-repetition; and the collective reparation of the most vulnerable territories, populations and communities that are most affected by the conflict, in the framework of the implementation of other agreements. To this end, existing mechanisms will be strengthened, new measures will be adopted, and the commitment of everybody to repair for the conflict will be promoted.
- ***Guarantees of non-repetition:*** Guarantees of non-repetition will be the result of, on the one hand, coordinated implementation of all the above measures and mechanisms, and in general all the items of the Final Agreement; and on the other, the implementation of measures of non-repetition to be agreed within Point 3 - "End of Conflict".

The various mechanisms and measures relating to truth, justice, reparation and non-repetition, as part of a system that seeks a comprehensive response to victims, cannot be understood in isolation. They are interconnected through relationships of conditionality which provide incentives to access and maintain any special treatment of justice, always founded on the acknowledgment of Truth and responsibilities. Compliance with these conditionalities will be verified by the Special Jurisdiction for Peace.

No mechanism of the System will have priority over another. Each mechanism must fulfill its primary function flexibly and not duplicate those of other mechanisms, for which the necessary cooperation protocols will be established.

5.1.1. Truth: Commission for the Clarification of Truth, Coexistence and Non-repetition and Unit for the Search of Missing Persons in the context and due to the conflict

5.1.1.1. Commission for the Clarification of Truth, Coexistence and Non-repetition

The end of conflict establishes a unique opportunity for satisfying one of the main wishes of Colombian society and of the victims in particular: to clarify and know the truth about what

occurred in the conflict. Colombia needs to know what happened and what must never happen ever again, in order to forge a future based on dignity and general wellbeing and thus able to contribute to breaking the cycles of violence that have characterized Colombia's history.

This new scenario, will enable the construction and preservation of the historical memory and to achieve a broad understanding of the multiple dimensions of the truth of the conflict, including its historical dimension, in such a way that will not only satisfy the right to truth, but also to contribute to lay the foundations for coexistence, reconciliation and non-repetition.

For this purpose, the National Government and the FARC-EP have reached an agreement to put into operation the Commission for the Clarification of Truth, Coexistence and Non-repetition (the Commission from now), once the Final Agreement is signed. This Commission will be an independent and impartial mechanism of extra-judicial nature.

The Commission is part of the Comprehensive System of Truth, Justice, Reparation and Non-repetition, agreed with a view to satisfying the rights of the victims, ending the conflict and reaching peace. Therefore, the Commission cannot be understood outside of the context of the Comprehensive System that includes judicial and extra-judicial mechanisms to guarantee the rights of victims to truth, justice and reparation, as well as contributing to ensure non-repetition of the conflict for all Colombians. This Commission, along with other initiatives, will respond to the ethical, political and historical need to create conditions, commitments and guarantees of non-repetition.

The Commission must fulfill three fundamental goals that as a whole contribute to non-repetition of the conflict.

The Commission must fulfil three fundamental objectives, which as a whole contribute to the non-Repetition of the conflict:

First, the Commission shall contribute to the clarification of what happened, in accordance with the elements of the mandate as described later, and offer a substantive explanation of the complexity of the conflict, in such a way as to promote a shared understanding in society, in particular of the least-known aspects of the conflict, as the impact of the conflict on children and adolescents and gender-based violence, among other matters.

Second, the Commission must promote and contribute recognition. This requires the acknowledgment of the victims as citizens whose rights were infringed and as political subjects of who are vital to the transformation of the country; the voluntary

acknowledgment of individual and collective responsibilities by all those who directly or indirectly participated in the conflict as a contribution to truth, justice, reparation and non-repetition; and in general, the acknowledgment by the whole society that violations and breaches deserve everyone's rejection and that cannot be repeated.

Third, the Commission should promote coexistence in the territories, in the understanding that coexistence is not a matter of simple sharing of the same social and political space, but involves the creation of an environment that allows the transformative peaceful resolution of conflicts and the construction of the broadest culture of respect and tolerance in democracy. This will promote an atmosphere of dialogue and create spaces in which the dignity of victims will be restored, individual and collective recognition of responsibility will take place, and in general the respect and confidence of citizens in each other, cooperation and solidarity, social justice, gender equity, and a democratic culture that fosters tolerance, promotes the good life, free us from indifference to the problems of others, will be consolidated. The Commission shall contribute to the construction of a peace based on the truth, the knowledge and recognition of a bloody past that must be overcome.

The Commission will develop an appropriate differential and gender approach that allows evidencing the differential forms in which the conflict affected women, children, adolescents, young people and older adults, to persons in situations of disability, to indigenous peoples, to peasant communities, to Afro-Colombian, black, palenquero and raizal populations, to the population LGBTI, to displaced persons and exiled, [women and men] defenders of human rights, trade unionists, journalists, and women and men farmers, traders and businessmen/women, among others. This should also contribute to the Colombian society's understanding of the specific ways in which the conflict reproduced historical mechanisms of discrimination and gender stereotypes, as a critical first step to having a more just and inclusive society.

All the above must contribute to creating structural conditions for coexistence among Colombians and lay the foundations of non-repetition, reconciliation and construction of a stable and long-standing peace. It is therefore necessary to understand truth-building as an essential part of peace building.

Finally, the success of the Commission will depend on the acknowledgment of responsibilities by those who directly or indirectly participated in the conflict, and of the active commitment of all sectors within society to the truth-building process.

Therefore, the National Government and the FARC-EP, as part of their moral and political commitment to contribute to the satisfaction of the rights of victims, commit to firmly contribute to the process of clarification of the truth and to recognize their respective

responsibilities before the Commission and they invite all sectors of society to participate in this effort.

5.1.1.1. Guiding criteria:

Centrality of victims: The Commission's efforts will be focused on ensuring the participation of the victims of the conflict, assuring their honouring and contributing to the satisfaction of their right to the truth in particular and of their rights to justice, comprehensive reparation and guarantees of non-repetition in general, paying due regard to pluralism and equality. All of the above should also contribute to the transformation of their living conditions.

Impartiality and independence: The Commission will be impartial and independent, with full autonomy for the development of its mandate and the fulfillment of its functions.

Transitory character: The Commission will be an extraordinary mechanism which will operate during a limited period and make an effective contribution to the construction of a stable and long-standing peace through its conclusions and recommendations.

Participation: The Commission will start a broad, diverse and balanced participative process in which different voices and views will be heard, beginning with those of the victims – individual or collective- of any circumstance related to the conflict, as well as from those who directly or indirectly participated in the conflict, and from other relevant actors.

Territorial approach: The Commission will be a national-level entity but it will have a territorially differentiated approach with the aim of achieving a better understanding of the regional dynamics of the conflict and of the diversity and particularities of the affected territories, and of promoting the process of truth-building and contributing to the guarantees of non- repetition in the different territories. The territorial approach will also enable the consideration of persons and populations that were forcibly displaced from their territories.

Differentiated and gender-specific approach: in the development of its mandate and functions, the Commission will take into account the different experiences, differential impact and particular conditions of persons by reason of sex, gender, age, ethnicity or disability situation, including but not limited to the populations or sectors in conditions of vulnerability or especially affected by the conflict. Special attention will be paid to the victimization suffered by women.

Coordination with other measures of peace building: The Commission will coordinate with the mechanisms put into place as a result of the implementation of the Final Agreement. In particular and if necessary, it will coordinate with the plans and programs of peace building

that will be put into operation in particular regions, as a consequence of the implementation of the Final Agreement.

Guarantees for the commissioners: While working for the Commission, the commissioners will not be forced to participate in judicial processes; they will be exempted from the obligation to report crimes, and their opinions and conclusions will not be judicially questioned.

Security conditions: The Commission will assess the security conditions needed for the development of its activities and will coordinate with the State authorities as regards the implementation of the necessary security measures, both for the commissioners and for those who participate in the activities of the Commission.

Coexistence and reconciliation: In order to contribute to the goal of non-repetition and reconciliation, and in development of its mandate, the activities of the Commission will be aimed at promoting coexistence among Colombians, especially in areas most affected by conflict and violence. Therefore, the Commission will ensure the establishment of spaces or hearings that will serve to strengthen respect and tolerance, citizen's trust in each other and in the norms that guarantee respect for human rights. In this way, the Commission will help to lay solid foundations for peace building.

Rules of Procedure: Prior to commencing its work, the Commission will establish procedures that ensure the due guarantees and a fair, dignified and non-discriminatory treatment of those who participate in it.

Methodology: The Commission will take all the necessary measures to guarantee the highest possible level of objectivity and impartiality during the development of its activities. To this end, it will adopt proceedings to investigate and verify the information gathered by it –including testing its reliability- identifying any false information that could have been supplied in bad faith to the Commission. The Commission will announce their methodology publicly.

Extra-judicial mechanism: The Commission will operate as an extra-judicial mechanism. In that sense, its activities will not be of a judicial nature and cannot result in criminal conviction of those who appear before the Commission. Information received by, or produced for, the Commission cannot be transferred by it to judicial authorities for the purposes of attributing responsibility in judicial processes or as evidence; neither can judicial authorities request such information from the Commission.

The Commission may request information required for the fulfillment of its mandate before

magistrates, judges and investigative bodies, according to protocols which will be established, always respecting guarantees of due process.

The documents received by the Commission that could constitute documentary evidence, which are not oral or written testimonies given to the Commission, will not lose their probative value and their use by the Commission will not be used to interfere in ongoing judicial processes.

5.1.1.1.2. Mandate:

The mandate of the Commission is to clarify and promote the recognition of:

- Practices and acts that constitute serious human rights violations and serious breaches of International Humanitarian Law, particularly those that reflect patterns or have a large-scale nature and that occurred in the context of the conflict. This will include consideration of the complexity of the contexts and the territorial dynamics in which those violations and breaches occurred.
- Collective responsibilities of the State – including the Government and the rest of public authorities-, of the FARC-EP, of the paramilitaries, and of any other group, organization or institution –national or international- that had any participation in the conflict with respect to the practices and facts referred to in the previous paragraph.
- The human and social impact of the conflict on the society, including the impact on economic, social, cultural and environmental rights, and the different ways in which the conflict affected women, boys, girls, children, adolescents, youth and the elderly, people with disabilities, indigenous peoples, peasant communities, Afro-Colombian, black, palenquero and raizal populations, the LGBTI population, displaced and exiled persons, the [women and men] defenders of human rights, trade unionists, journalists, and women and men farmers, traders and businessmen/women and entrepreneurs, among others.
- The impact of the conflict on the exercise of politics and on the functioning of democracy as a whole, including the impact on political and social movements and parties, particularly the opposition.

- The impact of the conflict on those who directly participated in it as combatants, and on their relatives and environment.
- The historical context, origins and diverse causes of the conflict, considering the reports of the Historical Commission of the Conflict and its Victims, among others, as an input.
- The factors and conditions that contributed to or facilitated the persistence of the conflict, considering the reports of the Historical Commission of the Conflict and its Victims, among others, as an input.
- The development of the conflict, particularly the actuation of the State, of the guerrillas, of paramilitary groups, and the involvement of different sectors of society.
- The phenomenon of paramilitarism, particularly its causes, origins and expressions; its organization and the different ways of collaboration, including its financing; as well as the impact of its activities on the conflict.
- The displacement and land dispossession in the context of the conflict and its consequences.
- The relationship between the conflict and the illicit use of crops, production and commercialization of illicit drugs, and money-laundering deriving from the phenomenon of drug trafficking. The processes of strengthening of the social fabric in communities, and the experiences of collective or individual resilience within communities.
- The processes of positive transformation of organizations and institutions throughout the conflict.

5.1.1.3. Period under study (time domain):

In order to address the different elements of its mandate, the Commission will use the period of the conflict as its target period. As the Commission will be of temporary duration, it is necessary to establish priorities for investigation. Nevertheless, for the purpose of its aim to clarify the origins and diverse causes of the conflict, the Commission may explore historical events prior to the conflict, considering the reports of the Historical Commission of the Conflict and its Victims, among others, as input.

5.1.1.4. Functions:

To fulfill its mandate, the Commission will have the following main functions:

- To investigate all elements of its mandate through methodologies and analysis of

information necessary, considering generally accepted social sciences methodologies, using a gender-based approach and taking into account previous efforts of truth-finding, including but not limited to, the reports of the Historical Commission of the conflict and their victims.

- To create national, regional and territorial spaces, especially public hearings – thematic, territorial, institutional, of organizations, and of emblematic cases and situations, among others- with the aim of hearing the different voices
- These spaces may include public forums for discussion and reflection or cultural ceremonies, so that those who participated directly or indirectly in the conflict may carry out acts of acknowledgment of responsibility and appeal for forgiveness, in its various dimensions, both for the damage the suffering caused to the people, and for the political and social impact of their actions. These forums will be used to provide explanations relating to events, contribute to reparation, make commitments of non-repetition and peace building. In this way, they should contribute to truth and peaceful coexistence throughout the land.
- To prepare a final report that considers the different contexts, reflects the investigations relating to the mandate, and contains conclusions and recommendations with respect to work. The Report of the Commission will be officially presented to the branches of public government and Colombian society in a public event.
- To guide the victims and victimized communities that participate in the Commission with respect to institutional and other means of satisfying their rights.
- To establish relations between the Commission and the victims and their organizations: to design and implement a strategy to achieve an active relationship with victims and victims' organizations.
- To implement a strategy for dissemination, pedagogy and communication with the media to report about the advances and developments of the fulfillment of the functions of the Commission during its operation, designed to ensure the broadest possible participation. The Government will adopt the necessary measures for the Commission to have a broad access to public media. The final report, in particular should have the broadest and most accessible distribution possible, including the development of cultural and educative initiatives, such as the promotion of exhibitions or inclusion in the educational curriculum. In addition, the conclusions of

the Commission must be taken into account by the National Museum of Memory.

- To adopt measures for the archiving of information produced as a result of its functions, at the end of its mandate, take the necessary measures to ensure its preservation. The Commission will specify the entity where the archives will be deposited and safeguarded. The Commission will establish guide-lines for the depositary entity with respect to adopting mechanisms that will enable the victims and the society as a whole to access the archive of recollected information.
- To ensure the mainstreaming of a gender approach in the entire scope of the work of the Commission, with the creation of a working group on gender that can contribute specific tasks of a technical nature, including but not limited to research, preparation of hearings on gender. This working group will not be the only one to address gender, but shall take responsibility for the review of methodologies for all the work of the Commission as regards a gender approach and coordinate with women's organizations and LGBTI. The foregoing is without prejudice to the necessary autonomy of the Commission in the definition of its structure and methodology of work.
- To give periodic public reports to society, at least every six months, about the activities and procedures the Commission has undertaken for the fulfillment of all its functions.
- To establish its own regulations and working schedule.

5.1.1.1.5. Selection process:

The Commission will be composed of 11 commissioners. Selection will be by way of a selection procedure that offers guarantees of legitimacy, impartiality and independence to the whole Colombian society and particularly to the victims. The nomination process will be broad and pluralist, ensuring that all sectors of society, including but not limited to victims, will be able to nominate candidates.

The commissioners will be elected by a selection committee. This committee will be composed by 9 members. The government and the FARC-EP, will select 6 members of the committee by mutual agreement through a mechanism to be agreed. The remaining members will be the delegates of 3 persons or organizations to be agreed in the negotiations. Every member of the selection committee must inspire confidence in citizens.

The selection will be based exclusively on the nominations, and the election shall take into account individual selection criteria such as ethics and integrity, the impartiality, independence, the commitment to human rights and justice, the absence of conflicts of interest, and the knowledge of the armed conflict, international humanitarian law and human rights, and the recognized components of any of these fields. The selection of the commissioners must also take into account collective criteria such as gender equity, pluralism, the interdisciplinarity and the regional representation.

The selection committee may select foreign commissioners, but in no case should there be more than 3 external members.

The selection committee will have up to three months for the selection of the commissioners, after the closing of the nomination phase.

The selection of the commissioners will be done with a 2/3 majority of the members of the selection committee.

The selection committee will be elected before the signing of the Final Agreement.

5.1.1.1.6. President of the Commission:

The President of the Commission must be Colombian and will be elected by mutual consent between the National Government and the FARC-EP through a mechanism to be agreed. The President of the Commission will be its main public spokesman, will coordinate the work of the commissioners, will facilitate the good internal functioning and will direct the tasks of the Commission, preferably searching consensus in the decision-making process. The role of the President of the Commission is important because he or she will also be a national and international reference point for the Commission.

5.1.1.1.7. Duration:

5.1.1.1.8 Commitments of contribution to clarification:

The National Government, as executive power, and the FARC-EP commit to contribute in the process of clarification of the truth and to recognize their respective responsibilities before the Commission.

The Government will adopt the necessary measures to guarantee the contribution of other State entities and will promote the participation of third parties in the Commission, so that they can contribute to the clarification and acknowledgment of responsibilities, as part of the necessary guarantees for non-repetition.

In accordance with the applicable laws, the Government commits to facilitate the use of information required by the Commission for the fulfillment of its functions, and the Commission, for its part, will fulfil its legal duties with regard to the information.

5.1.1.1.9. Funding:

The National Government commits to guaranteeing the timely funding of the whole functioning of the Commission, in such a way that it can comply fully with its mandate and functions in an autonomous and uninterrupted way, including the publication and dissemination of the final report. The Commission must adopt the necessary measures to ensure transparency in how it uses its finances, attempting to ensure efficiency in spending. Oversight and guarantees with regard to good use of resources will be promoted.

5.1.1.1.10. Committee for the follow-up and monitoring of the implementation of the Commission's recommendations:

The Commission will work for 3 years, to include the completion of the final report. The Commission will have a 6-month inception phase to prepare everything that is needed for its functioning. The publication of the final report will take place during the month following the conclusion of the activities of the Commission.

A monitoring committee shall be set up to monitor the implementation of the recommendations of the Commission which will come into operation once the final report has been published. As part of its task it will facilitate the dialogue with different entities and organizations of victims and of human rights, among others. This committee shall be composed of representatives of various sectors of society, including but not limited to organizations of victims and of human rights. The Commission will establish the time period during which it will operate the committee. The Committee shall make periodic reports to follow up on the recommendations. These reports must have a differentiated territorial and gender approach. The Committee shall take the necessary measures to disseminate their reports widely in the media at the national and regional levels. The Government will guarantee the financing of the Committee for the fulfilment of its functions.

5.1.1.2. Unit for the Search of Missing Persons in the context and due to the conflict

The National Government and the FARC-EP agree that in order to establish what happened to people reported as missing as a result of actions carried out by State Agents, members of the FARC-EP or any organization that has participated in the conflict, and thus to help meet the victims' rights to truth and reparation, the National Government will put in operation - within the framework of the end of conflict and after the signing of the Final Agreement -, a

high-level special unit of exceptional and transitory nature, to include participation of victims, to search for all missing persons in the context and due to the armed conflict (hereinafter UBPD). This unit will be of a humanitarian nature and will be part of the Comprehensive System of Truth, Justice, Reparation and Non-repetition. It will have the necessary independence and administrative and financial autonomy to ensure it can function during the period of fulfillment of its duties.

The UBPD will direct, coordinate and contribute to the implementation of humanitarian operations under the SIVJRNR in particular to search and locate missing persons who are alive, and in cases of death, if possible identify and ensure the dignified return of the remains of persons missing due to the armed conflict.

Whether located or not, the UBPD will deliver an official report to the families, with information obtained on what happened to the person or persons reported as disappeared.

The UBPD and the processes and procedures that will be put into operation, will be of a humanitarian and extrajudicial nature. Victims' organisations, human rights organisations and specialized institutions will assist in the design, implementation and development of its functions in order to enable the Commission to incorporate the best international practices and experiences, in the search of missing persons.

The UBPD will have the following functions:

- To collect all the necessary information to establish the universe of missing persons in the context and due to armed conflict.
- To strengthen and streamline processes for identifying mortal remains in coordination with the National Institute of Legal Medicine and Forensic Sciences.
- To coordinate and promote processes of searching, identifying, locating and dignified return of mortal remains, for which it must:
 - Search actively, compare and analyze all the information available from various sources, including voluntary and confidential interviews with those who, having participated directly or indirectly in the hostilities, might have information about what happened to people reported as missing during the conflict, as well as information on the location of graves, cemeteries and places where remains of missing people might be.
 - Design and implement a national plan establishing the priorities for

the performance of its functions and the corresponding regional plans, for which it will receive the necessary staff and equipment and it will articulate and coordinate with the relevant entities. Ensure the participation of victims and human rights organizations in the designing and implementation of the plans.

- The UBPD will have the powers and capabilities to perform these functions in coordination with State institutions, with the Commission for the Clarification of Truth, Coexistence and Non-repetition and with the active participation of victims' and human rights organizations.
- The UBPD will have access to official databases and will be able to enter into agreements with victims' and human rights organizations to have access to their information. According to the existing laws at the time of implementing the Agreement, the National Government commits to facilitating the use of the information required by the UBPD to fulfill its functions, and the UBPD, for its part, will treat it appropriately legally.
- To promote inter-institutional coordination on guidance and psycho-social care for the families of those persons missing in the context and due to the armed conflict.
- To stimulate partnerships with specialized national and international organizations to facilitate the performance of their functions.
- To ensure whenever possible the dignified return of remains of those persons who are missing due to the armed conflict to their families, while respecting different ethnic and cultural traditions.
- To guarantee participation from relatives of those who are missing due to the armed conflict, in the processes of search, identification, location and dignified return of remains.
- To provide a detailed official report to the relatives with all the information that has been obtained regarding to what happened to the person reported as missing, after the execution of the search operation. Unidentified or unclaimed remains should be preserved and competent authorities will be responsible for satisfying the rights of victims.

- To provide a copy of the above-described report to the Commission for the Clarification of Truth, Coexistence and Non-repetition.
- To report regularly and publicly, at least every six months, on the activities of search, identification, location and dignified return of mortal remains, always respecting the right to privacy of the victims.
- To plan, coordinate and direct, together with the relevant authorities and with the participation of victims' and human rights organizations, the implementation of national and regional plans for tracking, search and identification.
- To develop and implement a national registry of graves, illegal cemeteries and tombs.
- To fulfill its functions, the UBPD will adopt procedures to compare and verify the quality of the information collected, including assessing reliability, and identifying false information. The humanitarian effort with regard to search, location, identification and dignified return by the UBPD will be developed under the SIVJRN as complementary to but not subsuming the functions of its other components. In particular, the UBPD's activities will neither replace nor prevent possible judicial investigations in compliance with the obligations of the state. The search for remains by the UBPD will not disable the Special Jurisdiction for Peace or other relevant organs to carry out the necessary investigations for the clarification of the circumstances and responsibilities of the case assumed by the UBPD. In any case, both forensic and technical reports and material elements associated with a corpse, found at the site of the exhumations may be required by the Special Jurisdiction for Peace and other competent organs. In order to ensure the efficiency of the humanitarian work by UBPD with respect to respecting as far as possible the rights to the truth and reparation of victims, and above all to ease their suffering, the information received or produced to the UBPD cannot be used to assign responsibilities in judicial proceedings or to have probative value, with the exception of forensic technical reports and material elements associated with the corpse.

The contribution with information to the UBPD may be taken into account to receive any special treatment in the field of justice.

The officials of the UBPD will not be required to testify in court and they shall be exempt from the complaint regarding their work in the Unit. If required by the Special Jurisdiction for Peace, by other competent authorities or by the Commission for Clarification of the

Truth, Coexistence and Non-repetition, those who have made technical-forensic reports must affirm and explain these reports and material elements associated with the corpse.

During the operation period of the Commission for the Clarification of Truth, Coexistence and Non-repetition, the UBPD will respond to the requirements and guidelines of the Commission. The UBPD and the Commission shall establish a cooperation and information exchange protocol that contributes to achieve their mutual objectives. The UBPD will coordinate its actions with the Commission for the Clarification of Truth, Coexistence and Non-repetition, to which it will report its actions and results and provide the information it requires.

Within the framework of the end of the conflict, the National Government and the FARC- EP commit to provide the UBPD with all the information at their disposal to establish what happened to people missing due to the conflict.

To establish and implement this special unit, the recommendations and suggestions from the National Commission for the Search of Missing Persons, produced as a result of the work done in development of the agreement "Measures to contribute to the search, location and identification of missing persons in the context and because of the armed conflict", will be taken into account.

Conformation:

The UBPD will be part and perform its functions under the Comprehensive System of Truth, Justice, Reparation and Non-repetition.

The UBPD will have a director, who must be Colombian and who will be chosen by the Selection Committee of Commissioners of the Commission for the Clarification of Truth, Coexistence and Non-repetition, based on criteria of aptitude and excellence that will be elaborated taking into account the suggestions of the International Committee of the Red Cross and the International Commission on Missing Persons.

To structure the UBPD, the director will receive the recommendations and suggestions from the National Commission for the Search of Missing Persons, victims' organizations, the International Committee of the Red Cross, and the International Commission on Missing Persons.

5.1.2. Justice:

In matters of Justice, the creation of a Special Jurisdiction for Peace was agreed.

SPECIAL JURISDICTION FOR PEACE

I. BASIC PRINCIPLES OF THE JUSTICE COMPONENT OF THE COMPREHENSIVE SYSTEM OF TRUTH, JUSTICE, REPARATION AND NON-REPETITION (CSTJRNR)

1. "States are legally obliged to attend the rights of victims and also to have equal regard to the obligation to prevent new acts of violence and to achieve peace in an armed conflict by the means at their disposal. Peace as product of a negotiation is morally and politically superior alternative to peace as product of the annihilation of the opponent. Therefore, international human rights law should consider peace as a right and an obligation for the State to achieve."¹
2. The goals of the justice component of the Comprehensive System of Truth, Justice, Reparation and Non Repetition – from now on CSTJRNR- are to satisfy the right of victims to justice, offer truth to the Colombian society, protect the rights of victims, contribute to the achievement of a stable and long-lasting peace and adopt decisions that grant full legal security to those who participated directly or indirectly in the internal armed conflict, regarding facts committed in the context of and during the conflict and that suppose serious breaches of International Humanitarian Law and serious Human Rights violations.
3. A guiding model of the Justice Component of the CSTJRNR is the idea that political community is not just a union of contemporaries, but also spans generations that are linked through time. Justice is prospective because one period influences later periods. Prospective justice is respectful of the values of the present and at the same time concerned with ending conflicts that should not be perpetuated, in order to defend the rights of future generations.
4. The State has autonomy to create jurisdictions or special legal systems, derived from the established in the United Nations Charter on sovereignty and free self-determination of nations, and from the established in the Principles of International Law, including International Humanitarian Law, International Human Rights Law and International Criminal Law.
5. In the exercise of such autonomy, accepted and recognized by the International Human Rights Law, the State can assess and evaluate the complexity, duration and seriousness of the internal armed conflict, with the purpose of designing and adopting the justice mechanisms to designed to achieve peace while respecting the criteria established by

¹ Concurring opinion, Inter-American Court of Human Rights, case El Mozote massacre and nearby places vs. El Salvador (sentence of October 25, 2012)

International Law, especially the guarantee of human rights.

6. The purpose of repairing victims is in the center of the General Agreement for the Termination of the Conflict and the construction of a stable and lasting peace, signed in Havana on August 26, 2012. In any activities of the justice component of the CSTJRNR, the rights of the victims and the seriousness of the suffering inflicted by serious violations of International Humanitarian Law and human rights occurred during the conflict, will be taken as central axes. Such violations cause serious and lasting damage to the life of victims. The damage that has been caused should be repaired and restored whenever possible.

7. Likewise, the consequences of such violations are more serious when committed against women or when it comes to victims belonging to the most vulnerable groups, subject to special protection, and who deserve reparation and special protection, including villages of indigenous, communities of Afro-descendant and other ethnically distinct groups, peasants, the poor, disabled, displaced people and refugees, girls, boys and adolescents, LGBTI people and elderly people.

8. The operation of the component of justice will give emphasis to the needs of the women and child victims who suffer disproportionate and differentiated effects of serious infringements and violations committed during the conflict. Reparations must respond to the call of the United Nations that any peace agreement must adopt a gender perspective, recognizing the measures of reparation and restoration, the special suffering of women, and the importance of their active and equal participation in the justice component of TJRNR.

9. The Justice Component of the CSTJRNR, called Special Jurisdiction for Peace (SJP) is a special jurisdiction to carry out judicial functions autonomously and to have primacy with regard to the issues within its competence, especially regarding conducts that are considered serious breaches of International Humanitarian Law or serious Human Rights violations. It will enter into force within the terms established in the Final Agreement. It will only have jurisdiction with regard to conduct committed prior to its entry into force.

10. After the hostilities end, amnesty for the rebels will be conditioned on the termination of the rebellion of the respective armed organizations and on the accomplishment of the matters established by the Final Agreement, without undermining the provisions of point 23 and 27. What constitutes ‘termination of rebellion’ in order to have access to amnesty or pardon will be defined in the Final Agreement.

11. With regard to cases that are not eligible for amnesty or pardon, it will be necessary to define the legal situation and set out the sanctions stated in the CSTJRNR, when all the components of the CSTJRNR have become operational.

12. The responsibility of the recipients of the CSTJRN does not exempt the State from its obligation to respect and ensure the full enjoyment of human rights and its obligations, according to International Humanitarian Law and to the International Human Rights Law.

13. To have access to the special treatment as stated in the Justice component of the CSTJRN, it is necessary to provide full truth, repair the victims and ensure non-repetition. Providing full truth means to tell, when there is a basis for it, in a comprehensive and detailed manner the committed conducts and the circumstances of its commission, as well as the necessary and sufficient information to attribute responsibilities, in order to guarantee the satisfaction of the rights of the victims to reparation and non-repetition. Special treatment refers to SJP's and alternative sanctions as described in article 60.

14. All the activities within the justice component, according to the applicable regulations of the Special Jurisdiction for Peace, will respect the fundamental right to a due legal process, defence, assistance of a lawyer, presumption of innocence and the independence and impartiality of the judges of the Chambers and Sections, as well as of the members of the Investigation and Indictment Unit. All the legal decisions relating to the responsibilities and sanctions of persons will be duly substantiated and based on evidence deemed reliable and acceptable by justice tribunals. The resolutions and sentences of the Chambers and Sections can be appealed or revoked at the request of their recipient.

15. The functioning of the justice component of the CSTJRN is indivisible and will be applied in a simultaneous and comprehensive manner to all those who participated directly and indirectly in the armed conflict, and its decisions will offer guarantees of legal security to all of them. The provisions of articles 9 and 32 will determine its scope of application.

Where, after the signing of the agreement on the Special Jurisdiction for Peace, laws or regulations were approved that provide different treatments to State agents or to other persons for conducts related directly or indirectly to the armed conflict, whether they be combatants or non combatants, which cause those persons to be excluded from the competence of the Special Jurisdiction for Peace, or which result from the inapplicability of Special Jurisdiction or the inapplicability of the conditions referring to the sanctions that are mentioned in this text regarding those persons, the Special Tribunal for Peace will exercise its preferential jurisdiction with regard to matters within its competence as set out in this document.

16. The State will guarantee sufficient administrative autonomy and an autonomous budget for the CSTJRN, especially for the justice component. An Executive Secretariat will be created who will be in charge of the administration, management and execution of the resources of the Special Jurisdiction for Peace, guided by its Presidency. This Secretariat

should become operational with enough time as to guarantee its availability from the start of the infrastructure of the Special Jurisdiction for Peace. The State will establish economic and financial mechanisms for a timely and efficient management of the resources, which may come from different national and international sources. The appointment of the Executive Secretary, who should have a broad experience in administration and high moral qualities, will be carried out through the mechanism decided by the parties during the process of dialogue and negotiations.

II.- CONTENT, SCOPE AND LIMITS OF THE GRANTING OF AMNESTY AND PARDON, AS WELL AS OTHER SPECIAL TREATMENTS.

17. The Comprehensive system of Truth, Justice, Reparation and non-repetition will have as a main purpose the consolidation of peace and the guarantees of the rights of victims.

18. The final result of the application of the Comprehensive System of Truth, Justice, Reparation and Non-Repetition should ensure legal security in order to promote a stable and long-lasting peace.

19. For the purpose of the CSTJRN, the legal reference frameworks mainly include International human rights law (IHRL) and International Humanitarian Law (IHL). The sections of the Peace Tribunal, the Chambers and the Investigation and Indictment Unit, when they adopt their resolutions or judgments, will provide their own legal articulation regarding the conducts that are examined by it, which may be different to that carried out by legal, disciplinary or administrative authorities.

20. The victims will enjoy the rights to truth, justice, reparation and guarantees of non-repetition. To ensure those rights they will participate in the CSTJRN according to rules to be developed by the justice component, including but not limited to a right to be listened to as regards how cases should be prioritized and selected. The rules should respect the right of the victims to a timely, effective and efficient justice.

21. Likewise, the Colombian State must ensure, through reasonable means within its reach, truth, justice, reparation and measures of non-repetition, regarding serious violations of IHRL and serious breaches of IHL.

22. In matters of justice, according to IHRL, the Colombian State must investigate, clarify, pursue and punish the serious violations of IHRL and serious breaches of IHL.

23. When hostilities come to an end, according to IHL, the Colombian State can grant an amnesty “as broad as possible”. To the rebels who belong to organizations that have subscribed to a final peace agreement, as specified in article 10, as well as to those

persons who have been accused or condemned for political or related offences through orders handed down by justice, the broadest possible amnesty will be granted, respecting the principles established in the present document, according to the provisions of article 38.

24. The Constitution allows the granting of amnesty or pardon for the offence of rebellion and other political and related offences.

25. There are offences that are not eligible for amnesty or pardon, according to articles 40 and 41 of this document. Crimes against humanity cannot receive amnesty nor other crimes proscribed in the Rome Statute.

26. It is necessary to provide a clear description of those crimes eligible for amnesty or pardon and those that are not, for the purpose of legal certainty. To that end, the regulations for amnesty that will be adopted will respect the principles established in the present document of creation of the SJP. When determining the conducts that are eligible for amnesty or pardon, a principle of acting favorably towards the proposed recipient of the amnesty or pardon, in cases where international law does not establish a clear prohibition of amnesty or pardon regarding the conducts the rebels, or other accused persons are charged with. The ‘principle of favorability’ will be applied to all those to whom the SJP applies.

27. The granting of amnesty or pardon or the access to any special treatment does not remove the obligation to contribute, in an individual or collective manner, to the clarification of the truth according as established in this document.

28. The degree of voluntary contribution of each person or group to the truth will be proportional to their treatment within the justice component [of the Special Jurisdiction].

29. The scope of each offence that is not capable of amnesty will need to be determined in a clear way, to ensure legal certainty.

30. Offences not capable of amnesty or pardon should be submitted to the justice component of the Comprehensive System of truth, justice, reparation and non-repetition (CSTJRN) as agreed by the parties.

31. Within the justice component, punishment will be established for those responsible for cases that have been excluded from amnesty or pardon.

32. The justice component of the Comprehensive System of truth, justice, reparation and non-repetition will be applied to all those who participated directly or indirectly in the armed conflict. It will be applied to those who have been investigated or condemned for the

offence of rebellion or other offences related to the conflict, even if they are not members of the armed rebel organizations.

Regarding the combatants of the armed outlaw groups, the justice component of the system will only be applied to those who subscribe to the final peace agreement with the Government.

The special jurisdiction for peace will also have competence over financing or collaboration with paramilitary groups, where these are not the result of coercion, with regard to those persons who had a decisive or on-going participation in the commission of crimes that are competence of this jurisdiction, according to the established in article 40, except in those cases in which they have been previously condemned by justice for these same conducts. The bodies of the SJP will decide the appropriate procedure for each case. According to article 48 (t) and 58 (e), those persons who may have played a determining role in one of the conducts described in article 40 and who have not been called previously before the Chamber of Truth and Acknowledgment, will be called before the Special Jurisdiction for Peace on the part of the Tribunal's Review Section.

The component of justice will also be applied to State agents who may have committed crimes related to the armed conflict and within its context. This application will be carried out in a differentiated way, providing an equitable, balanced, simultaneous and symmetrical treatment. With regard to this treatment, the State's capacity as guarantor of rights, as well as the presumption that the State legitimately holds the monopoly on force, should be kept in mind.

The creation and the functioning of the Special Jurisdiction for Peace will not modify the existing regulations applicable to the persons who have exercised the Presidency of the Republic, in accordance with the provisions of article 174 of the Political Constitution of Colombia as in force at the time of the approval of the present document. Where the SJP receives information concerning a person who has exercised the Presidency of the Republic, this information will be sent to the Chamber of Representatives, which will act in accordance with its competence. This transfer of information will be done at the moment deemed appropriate by the SJP, after having carried out the relevant verifications.

33. The justice component of the CSTJNR, as provided in the Final Agreement, will prevail over the criminal, disciplinary or administrative decisions for conducts committed within, as a result of and in direct or indirect relationship with the armed conflict, because it has exclusive competence over these conducts. Regarding disciplinary or administrative sanctions or investigations, including financial penalties imposed on natural persons in any jurisdiction, the competence of the Special Jurisdiction for Peace will be limited to

overruling or extinguishing responsibility or disciplinary or administrative sanction imposed for conducts related directly or indirectly to the armed conflict, or to reviewing those sanctions, on the request of the person who is being sanctioned or investigated. Moreover, the request cannot lead to the re-opening of a criminal investigation for the same crimes. Where the review of the imposed sanction or the extinction of the sanction and responsibility is requested, this will fall under the competence of the Review Section of the Peace Tribunal. Those who are under investigation the definition of legal situations will be competence of the Chamber.

34. The legal treatment of members of the FARC-EP, of State agents and of other actors that might have participated in the conflict, whether as combatants or non-combatants, whenever they have committed crimes, can be differentiated but must be mutually proportionate and equitable.

35. Peaceful protests, human rights defense and the leadership of groups of civil society cannot be classified as crimes, or judged on their own. Where they had been punished, a mechanism of special treatment will be provided that has power to extinguish responsibility. The Chamber of Amnesty and Pardon and the Review Section of the Peace Tribunal will have competence to decide if they extinguish, review or overrule the sanctions, investigations and sentences imposed in the previous cases.

36. The imposition of any punishment within the CSTJRN will not disable political participation nor will it limit the exercise of any right, active or passive, of political participation, to which the parties will agree the relevant constitutional reforms.

37. Article 6.5 of Protocol II of the Geneva Conventions, to which Colombia is a State party, will be applied, states: "At the end of hostilities, the authorities in power shall endeavor 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. According to this provision, the political and related offences committed as part of rebellion by the persons that are part of rebel groups with whom a peace agreement is being signed, will be granted amnesty or pardon. Respecting matters agreed to in the Final Agreement and in the present document, regulations on amnesty will determine in a clear and precise way the offences that will be eligible for amnesty or pardon and the criteria for related offences. Membership of a rebel group will be determined by a list, previously handed over by the relevant group, according to what has been established by the parties for its verification. Political and related crimes can include, for example, rebellion, sedition, military uprising, as well as illegal possession of weapons, death in combat compatible with

International Humanitarian Law, and agreement to commit an offence to the purpose of rebellion and other related offences. The same criteria for amnesty or pardon will be applied to persons who are investigated or punished for the offence of rebellion or related offences, without requiring them to self-identify as rebels.

Before the entry into force of the Final Agreement, the following issues will be coordinated: decommissioning of arms and the re-incorporation of the FARC-EP to civil life, the entry into force of the justice component of the CSTJRN and the effective access to amnesty. In the case of the FARC-EP, participation in the CSTJRN will be subject to leaving down arms according to the agreed in point 3.2 of the General Agreement for the termination of the conflict and the construction of a stable and lasting peace of August 26, 2012.

39. Actions related to political offences will be determined based on two criteria, an inclusive one and a restrictive one. The first criterion consists of the inclusion as related offences of: 1. Those related specifically to the development of rebellion, committed within the context of the armed conflict, such as, for example, the apprehension of combatants carried out during military operations; 2. Offences in which the passive subject of the conduct is the State and its current constitutional regime; and 3. Conducts that point to facilitating, supporting, financing or hiding the development of rebellion, for which the contents of the previous conducts will have to be defined.

The second criterion, of a restrictive nature, will exclude international crimes, according to points 40 and 41, as established by international law, according to the Rome Statute. With regard to the application of the criteria of 'relatedness' with regard to anything that has not been defined definitively in the amnesty law, the Doctrine adopted by the Chamber of Amnesty and Pardon and the Review Section of the Peace Tribunal, when interpreting the mentioned Law, will be taken into account.

40. The following will not be subject to amnesty or pardon or equivalent benefits: crimes against humanity, genocide, serious war crimes, the taking of hostages or other severe deprivation of freedom, torture, extrajudicial executions, enforced disappearance, rape and other forms of sexual violence, child abduction, forced displacement, in addition to the recruitment of minors in accordance with the Rome Statute.

The amnesty law, will establish which conducts, classified by national legislation, are not eligible for amnesty, as far as they correspond to the above.

The law will specify the scope of these conducts in accordance with the provisions of the Roma Statute, International Human Rights Law and International Humanitarian Law.

41. Within the CSTJRNR, common crimes that are not related to rebellion as specified in the amnesty law, will not be eligible for amnesty or pardon.
42. On-going investigations and the disciplinary and/or administrative sanctions will become extinct, when they have been imposed for conducts related to the armed conflict or rebellion. Conducts that are eligible for amnesty or pardon with respect to these investigations or sanctions will be addressed, according to the amnesty law.
43. The granting of amnesty and pardon will not extinguish the right of the victims to receive reparation.
44. In accordance with the above, with regard to the State agents, a special, reciprocal, balanced and equitable treatment will be established, based on International Humanitarian Law. Such differential treatment will value the operational rules regarding use of state force of IHL. Under no circumstances will the responsibility of a commander be determined exclusively by rank, hierarchy or legal reasons. The responsibility of members of the State Forces for acts committed by their subordinates should be based on the effective control of the respective conduct, on the knowledge given the information the State Forces had before, during and after the materialization of the respective conduct, as well as on the means at its disposition to prevent it, and if it has occurred, whether the state has promoted the necessary investigations.

III.- PROCEDURE, BODIES AND SANCTIONS OF THE JUSTICE COMPONENT OF THE CSTJRNR.

45. In the justice component, two procedures will be applied: 1. Procedure relating to cases where there has been an acknowledgment of truth and acknowledgment of responsibility. 2. Procedure relating to cases where there has not been acknowledgment of truth and responsibility.
46. With regard to satisfying the rights of victims to justice, the justice component will be composed by the following bodies: (a) Chamber of Acknowledgment of Truth, Responsibility and establishment of facts and conducts, (b) the Peace Tribunal, (c) Chamber for Amnesty or Pardon, (d) Chamber for the Definition of legal situations, for those cases not dealt by the definitions or other cases that hadn't been foreseen and, (e) Investigation and Indictment Unit, which should satisfy the right of the victims to justice when there has been no collective or individual acknowledgment of responsibility. Judgements must be reasoned and sufficiently justified and supported by law. They can be limited to the verification of compliance with the requirements of the CSTJRNR.

Before all the organs of the justice component of the CSTJRN, people will be able to exercise their right to defense, as they choose, in an individual way or through the organization to which they belonged. Any lawyer can act as a defender before the CSTJRN, provided he/she is accredited as such by the corresponding bodies in his/her country of residence. The State will offer an autonomous system of advice and defense – free of charge if the applicant lacks resources- that will be composed by appropriately qualified defense lawyers, whose selection mechanism will be agreed by the parties before the justice component of the CSTJRN starts operating. If an interested party so decides, the existing defense systems in Colombia may be used.

The judges of the Chambers and Sections of the justice component of the CSTJRN will adopt, in the exercise of their autonomy, their own operative rules for the regulation and functioning of the Special Jurisdiction for Peace, while respecting the principles of impartiality, independence and the guarantees of the due process, avoiding any re-victimization and providing support to the victims according to the established in the relevant international standards. This regulation will also define the grounds and procedures of disqualification and recusal for the judges. Judges will be able to be transferred between different Chambers and Sections, depending on the accumulation of work in one or another, and according to the criteria agreed in the Regulations.

The Peace Tribunal will be the final body of the special jurisdiction for peace created in the CSTJRN.

47. Acknowledgment of truth and responsibility for the performance of acts can be made individually or collectively, orally or by letter sent to the Chamber of recognition of truth and responsibility of the JEP, within one year from the Chamber has been inaugurated - a term which can be extended, provided done in a public way with sufficient debate, by successive periods of three months. In case of collective acknowledgment, the subsequent identification should be determined with regard to members of the organization that has made the acknowledgement. The persons whose responsibilities are identified individually can accept responsibility or they can express their disagreement with such identification. Where there is no disagreement with the individualized identification, for the sake of respect for the due process, the declaration in which the person is mentioned should be communicated to him or her. Once a person who has maintained silence, is located, where he/she accepts the responsibilities, he/she will receive the sanctions that had already been imposed, provided he/she complies with the conditions of the System. Where he/she doesn't accept responsibilities or maintain silent, he/she will be send to the Investigation and Indictment Unit.

The Chamber may agree that the acknowledgment of truth and responsibility is to be carried out in a Public Hearing in presence of the victims' organizations invited by it on an established date, notwithstanding that such recognition is made in writing.

48. The Chamber of Acknowledgment of Truth and Responsibility and the Establishment of facts and behavior will have the following tasks:

- . (a) To decide if the facts and activities attributed to people are within the competence of the system because they are directly or indirectly related to the internal armed conflict or due to it.
- . (b) To receive the reports that will be presented by the Attorney General, the competent bodies of the military criminal justice system, the Indictment Commission of the Chamber of Representatives or the body that replaces it, the Procurator-General of the Nation, the Comptroller of the Nation and any jurisdiction that operates in Colombia with regard to all the current investigations related to the conducts committed within the context of the armed conflict, including those that have been taken to court or had been concluded by the Procurator-General or the Comptroller Office or by any jurisdiction. The reports will classify the facts according to suspected perpetrators and they will group similar conducts in the same category without making legal decisions. A report will also be sent to the Chamber of the relevant judgments issued by justice, sent by the body of the Administrative organ of the Judicial Branch or by the perpetrator. The competent bodies of the military criminal justice system will send the verdicts handed down as well. Any administrative body that has issued sanctions for conducts related to the conflict will also send the resolutions in which they are contained. In all the previous cases, copies of the judgments or resolutions will be attached.

Together with the reports presented by the Attorney General's Office, this institution will incorporate the certification of copies sent by the jurisdiction of Justice and Peace created by Law 975 in 2005, so that the SJP can determine if the related conducts are within its competence, according to the established in the third paragraph of article 32.

- (c) To receive the reports from Colombian victim and human rights organizations regarding the conducts committed on the occasion of the armed conflict, as well as from legal or administrative sources. These reports will receive the same treatment by the SJP as those established in article b).
- . (d) The reports will classify the facts by alleged perpetrator or convicted person and they will classify similar activities in the same category without making legal decisions.

The reports will have to be rigorous. The Chamber can order the reports to be organized by most representative facts.

- . (e) When a person is involved in a report or declaration of acknowledgment, the Chamber will notify him/her to give him/her the opportunity to tell voluntarily his/her side of the story. When doing so, the person can recognize truth and responsibility or deny the facts or plead that they are not conflict-related.
- . (f) Establish reasonable dates and terms for receiving the reports and inform the people or organizations mentioned by them.
- . (g) Once the reports have been received, a reasonable deadline will be set for the declarations, oral or written, of acknowledgment of truth and responsibility.
- . (h) Once all the reports describing conducts, as established in paragraphs b) and c), have been received, the Chamber will compare them, and after keeping into account the version described in paragraph (e), in case it considers that there are sufficient grounds for deciding that the conduct took place, that the mentioned person participated and that the conduct corresponds to criminal offences not eligible for amnesty, these should be made available to alleged perpetrators so that they can make a decision as to whether or not to appear to acknowledge truth and responsibility or to defend himself/herself from the accusations.
- . (i) To receive the declarations of acknowledgment of truth and responsibility, both individual and collective. For the imposition of a sanction, those most responsible with command responsibility should be identified individually.
- . (j) The Attorney General or the investigating body of any jurisdiction that operates in Colombia, will continue until investigations until after the initial phases of establishing the system have been concluded until the day on which the Chamber, announces publicly that within three months it will present its resolution of conclusions before the Peace Tribunal. At that point, the Attorney General or the investigating body in charge, will have to hand over to the Chamber all the investigations it possesses with relation to the relevant facts and activities. Once the resolution has been adopted, the Chamber will indicate which conducts have already been subject to acknowledgment of responsibility, so that the investigation carried out by the Attorney General or the corresponding investigating body can cease. In the event that the Attorney General or the investigating body in charge identify a case that should have been dealt with in the report mentioned in part b) of this

article, it should be sent immediately to the Chamber of Acknowledgment. This will not prevent the Attorney General or the investigating body in charge from continuing to investigate the facts and activities that are not within the competence of the justice component of the CSTJRN or from supporting its bodies when requested.

- . (k) After receiving the report from the Attorney General, and from victim and human rights organizations or the investigating body in charge, the Chamber can request these or other competent bodies of the State, to provide information regarding facts about which there is not enough information available.
- . (l) To, as soon as possible and at any moment deemed appropriate, send to the Chamber of Amnesty and Pardon the list of people to benefit from those measures, based on the list made by the FARC-EP and cross-checked in the Chamber of Acknowledgment of Truth and Responsibilities.
- . (m) To present a resolution of conclusions before the Tribunal with the list of sanctions that correspond to the respective acknowledged conduct.
- . (n) As soon as possible and at any moment deemed appropriate, to decide if the activities not acknowledged will be submitted to the Unit of Investigation and Indictment so that if required, a trial procedure should be opened before the Tribunal. It is also possible to send the activities to the Chamber for the Definition of legal situations.
- . (o) For the purposes of issuing a resolution, the Chamber should concentrate from the outset on the most serious cases and on the most representative activities and practices.
- . (p) Two types of persons should be sent to the Chamber for the Definition of legal situations: the first persons or activities that cannot be granted amnesty or pardon or cannot be included in the resolution of conclusions, and the second those who have not acknowledged responsibility before the Tribunal, for whatever reason.
- . (q) When the acknowledgment of truth and responsibility is deemed incomplete, to request the presence of the declarants so that they can provide a complete account, with an indication of which activities for which an incomplete account is provided will be sent to the Investigation and Indictment Unit to decide if there are grounds to send the case to the Trial Chamber. The request to the declarants should indicate

the particular aspects which require a complete declaration.

- . (r) Where the individual persons acknowledged in a collective declaration shows his/her disagreement with inclusion of his/her responsibility, to send the case to the Investigation and Indictment Unit, so that this latter can decide if it merits being sent to the Prosecution Section of the Tribunal.
- . (s) To ensure the efficient, effective and swift functioning of the Justice component, the Chamber will have the broadest possible faculties to organize its tasks, compose working commissions, establish priorities, consider similar cases and set out the order in which they will be addressed, as well as adopt criteria for selection and efficiency. In the exercise of these powers, the Chamber should be aware of the need both to avoid serious and representative conducts remaining unpunished while preventing the Tribunal from being overloaded with cases.
- . (t) Within three months before submitting the resolution of conclusions, if the Chamber considers that a person regarding whom there are clear and sufficient grounds for suspecting him/her of participation in one of the activities described in article 40, should be included in the resolution of conclusions or be sent to the Investigation and Indictment Unit, but the person refuses to appear, the Chamber should request the Review Section of the Tribunal to oblige him/her to appear before the Special Jurisdiction for Peace.

49. The Chamber of Amnesty and Pardon will apply special legal treatments for crimes that are eligible for amnesty or pardon, taking into account the recommendations of the Chamber for the Acknowledgment of Truth and Responsibility and the Establishment of facts. However, prior to that, the Chamber will grant amnesty or pardon in case of persons who are convicted or investigated for crimes that are eligible for amnesty or pardon, at the initiative or at the request of a party and always according to the established in the Amnesty Law. In the event that the petition for pardon or amnesty relates to conducts that are not eligible for pardon or amnesty, the Chamber of Amnesty and Pardon will send the case to the Chamber for the Acknowledgment of Truth and Responsibility.

For the purpose of granting amnesty, the Chamber of Amnesty will set out the activities with relation to the exercise of rebellion and other political offences.

50. The Chamber for the Definition of legal situations will have the following functions:

- (a) To define the legal situation of all those who have accessed the justice component of the CSTJRN, with relation to two different situations: persons who cannot be granted amnesty

or pardon nor included in the resolution of conclusions; and persons who cannot be held accountable before the Tribunal, to be granted amnesty or pardon.

(b) To define the treatment that will be given to the sentence previously imposed by justice regarding the persons who are under the justice component according to the requisites established in the CSTJRN -point 3.3 of the General Agreement- including the extinguishment of responsibilities due to having complied with the sanction.

(c) In order to rapid and appropriate administration of justice, to determine the possible processing mechanisms of selection and prioritization for those who have not acknowledged truth and responsibility. When it adopts its determinations, this Chamber will pay due regard to the decisions adopted by the Chamber for the Acknowledgment regarding the concentration of its tasks in the most representative cases, according to the established in parts l) and p) of article 48 of this document.

(d) For the exercise of its functions, to specify the required link between the conduct and the armed conflict.

(e) To adopt any resolutions necessary to define the legal situation of those who are not to be granted amnesty or pardon, nor to have been the object of the resolution of conclusions.

(f) At the request of the defendant, to define the legal situation of the persons who, without belonging to a rebel organization, are subject to an ongoing investigation for activities that are within the competence of the Special Jurisdiction for Peace. The Chamber will decide if it is appropriate to refer them to the Chamber for Amnesty and Pardon, if it is appropriate to refer it to the Chamber of Acknowledgment of Truth and Responsibility, or whether to define the legal situation, it is appropriate to stay the exercise of criminal or disciplinary actions, or apply any other legal mechanism according to the case. The resolution that defines the legal situation will become res judicata.

(g) To ensure the efficient, effective and swift functioning of the justice component, the Chamber will have the broadest possible powers in order to organize its tasks, compose work commissions, establish priorities, accumulate similar cases and define the sequence in which they will be addressed, as well as adopt criteria of selection and de-congestion. For the exercise of these powers it will be aware of the need both to avoid serious and representative conducts to remain unpunished and prevent the congestion of the Tribunal.

51. The Investigation and Indictment Unit will be the body that satisfies the right of the victims to justice when there is no collective or individual acknowledgment of responsibility. It will have the following tasks:

- . (a) To investigate and, where necessary, charge before the Peace Tribunal those persons whose cases have been sent by the Chamber for the Acknowledgment of Truth and Responsibility or by the Chamber for the Definition of legal situations.
- . (b) To decide the measures of protection applicable to victims, witnesses and others who are part of the proceedings.
- . (c) To request the Section of first instance of the Peace Tribunal for cases in which there is no acknowledgment of truth and responsibility, the adoption of protective and precautionary measures to ensure a proper conclusion of the process.
- . (d) To organize its tasks, compose working commissions, establish priorities, collect similar cases and define the sequence in which they will be addressed, as well as to adopt criteria of selection and case management. In the exercise of these faculties, the Chamber must remain aware of the need both to avoid serious and representative activities to remain unpunished while preventing the congestion of the Tribunal.
- . (e) If, on the basis of the decisions that have been made, it considers that it is not necessary to investigate or charge, it can send the case to the Chamber for the Definition of legal situation or to the Chamber of Amnesty and Pardon. The Unit will be provided with an investigative support team, selected by its Director. The team that will work with integrity and independence under the guidance of the Director.

52. The Peace Tribunal will have different Sections. In particular, there will be a Section of first instance as regards acknowledgment of truth and responsibility, which will issue sentences. Another Section of first instance will be provided for cases in which there is no acknowledgment of truth and responsibility, where judgement after trial will be carried out and sentences will be issued, whether of acquittal or conviction. In this case, the ordinary or alternative sanctions that apply will be imposed.

A third Section will provide for the review of sentences, with the task of reviewing the sentences issued by justice according to the established in article 58. At the request of the sanctioned party, this Section will receive the cases that have already been adjudicated on by jurisdictional bodies or sanctioned by the Attorney General or the Comptroller of the Nation, provided the persons involved are not eligible for amnesty or pardon. It will exercise any other task established expressly in this document.

It will also have a Section of Appeal to decide challenges to the sentences issued by any of the sections of first instance. In second instance the sentence cannot be increased when the sanctioned party is the only appellant. The resolutions of the Chambers and Sections of the justice component may be appealed before the same Chamber that issued them and before the Tribunal's Section of Appeals, only at the request of the person affected by the resolution or sentence.

In the event that sentences of the Sections violate fundamental rights of a victim with direct and legitimate interest, he/she can apply for protection by filing of an appeal before the Section of Appeals, which must be resolved within 10 days.

After the Peace Tribunal has finished its tasks, a mechanism will be established for the creation of a Section whose main task will be to ensure stability and effectiveness in the Resolutions and Sentences adopted by the justice component of the CSTJRN, as well as compliance with them.

If, after the Peace Tribunal has finished its functions, orders or legal, administrative or disciplinary resolutions are issued, with accusations about activities that are within the competence of this Special Jurisdiction for Peace, the mechanism as described in the previous paragraph will enter into force again, where it was no longer continuing, and once it decided on the relevance and merits of the accusations, if necessary, the Investigation and Indictment Unit and/or the Chambers and Sections might deem it necessary to prosecute the accused according to the established in the regulative norms of the Special Jurisdiction for Peace in which case it will become operational again. If after its decision it considers that there is no need for proceeding with the new inquiry by the Investigation and Indictment Unit and/or the Chambers and Sections, it will issue a resolution that resolves the legal situation of the person involved. The Section as described in the previous paragraph will evaluate whether the accused person meets the system's requirements regarding access to special treatment, if he/she has not attempted to avoid its jurisdiction. Where this is not the case, the accused person will not have the opportunity of recognizing truth and responsibility before the Chamber.

53. The Section of first instance of the Peace Tribunal for cases of acknowledgment of truth and responsibility will have the following functions:

(a) To evaluate the relationship between the recognized conducts, and those responsible of them and the sanctions made on the basis of resolution issued by the Chamber for the Acknowledgment of Truth and Responsibility and the establishment of the facts. It will verify that the resolution corresponds to the legal descriptions of the acknowledged conducts that cannot be object of amnesty and pardon. Where it is decided that there is no relationship, it

will communicate this decision to those who made the acknowledgment so that they will be listened to, after listening to the Chamber for the Acknowledgment of Truth and Responsibilities. Once it has listened to these, it will issue its sentence.

- . (b) Once the previous correspondence has been approved, to impose the respective punishment, described in the List of sanctions in accordance with the proposed sanction included in the Resolution of the Chamber for the Acknowledgment of Truth and Responsibility.
- . (c) To establish the conditions and modes of performance of the punishment according to the established in the List of sanctions in accordance with the proposal for a sanction included in the Resolution of the Chamber for the Acknowledgment of Truth and Responsibility.
- . (d) To supervise and certify the compliance of its sentence to the support of the bodies and mechanisms of monitoring and verification of the comprehensive system that have been appointed with that purpose, which should submit periodic reports on compliance.

54. The Section of first instance of the Peace Tribunal for cases in which there is absence of acknowledgment of truth and responsibility will have the following tasks:

- . (a) To bring the person to a judgment after trial and, depending on the case, punish or absolve him/her.
- . (b) To impose ordinary sanctions to those who do not acknowledge truth or assume responsibilities, if they resulted convicted.
- . (c) Where a judgment after trial is started without acknowledgment of truth and responsibility, and during the trial before a sentence is issued, the offender acknowledges truth and responsibility, alternative sanctions, described in the list of sanctions, will be imposed, which will be more severe than those imposed to individuals who acknowledged truth and responsibility before the Chamber of Acknowledgment.
- . (d) Once the decisions of the Tribunal have been taken, it will seek to place the activities within the context of the armed conflict. It can establish symbolic or reparative obligations for the State and organizations, respecting due process where the organization or the State has no effective procedures to prevent the punishable conduct. Moreover, it can establish guarantees of non-repetition as has been done

by national law as well as by international law, according to the provisions established in the Final Agreement.

- . (e) To learn about the indictments presented by the Investigation and Indictment Unit.
- . (f) At the request of the Investigation and Indictment Unit, to adopt protective and precautionary measures to ensure the proper conclusion of the process.
- . (g) When it adopts the decisions, the Tribunal can declare that the analyzed conduct complies with the requirements for amnesty or pardon; in which case, it will be sent to the Chamber of Amnesty or Pardon; or it may consider that the legal situation is unclear as regards acquittal or conviction, in which it will be sent to the Chamber for the Definition of legal situations.

55. The final sentences issued by the Peace Tribunal will be sent immediately to the Commission for the Clarification of Truth, Coexistence and Non-repetition.

56. All the sentences of the Peace Tribunal, as well as the resolutions of the Chambers of the justice component that define the legal situations or grant amnesty or pardon, will become res judicata when they are final and their immutability will be ensured. Such sentences can only be invalidated or withdrawn by the Tribunal itself, on restrictive grounds to be expressly determined by the regulations.

57. Any decision adopted by a jurisdictional body or another authority intends to invalidate the amnesty, the pardon or another measure adopted by the system, will have to be submitted to the Peace Tribunal, so that it can verify whether the decision taken infringes the principles of the CSTJNR or not.

58. The Peace Tribunal's Section of Review will have the following tasks:

- (a) At the request of the Chamber for the Definition of legal situations, to ensure that the sentences imposed by justice will be sent to the Peace Tribunal's Review Section so that the latter, if circumstances allow so, can decide the corresponding punishment, according to the list of Sanctions and determine if it had already taken effect, without undermining the satisfaction of the rights of the victims to reparation and non-repetition. This sentence can never increase the punishment previously imposed.
- (b) At the request of the person sentenced, to revise the sentences issued by justice because facts cannot be proved, or because of a manifest error in its legal interpretation, with regard to conducts committed on the occasion of the conflict or related to it, or to social protest, whenever the conditions of the System are complied with.

- (c) Regarding the conducts and facts object of the procedures and norms of the Justice component, if requested by any Chamber or Section and whenever there are doubts, to determine if the activities related to financing are or are not related to rebellion, according to the criteria established in the amnesty law.
- (d) Exceptionally, to review the resolutions or sentences imposed by the justice component, if the matter so merits it because of the causal factors established by the norms of development of the justice component of the CSTJNRN.
- (e) Decide on the requests made by the Chamber of Acknowledgment of Truth and Responsibility, requesting an order for a person to appear before the special jurisdiction for peace, and deciding before which body he/she should appear.
- (f) To resolve conflicts of competence between Chambers, between a Chamber and the Investigation and Indictment Unit or any other conflict that arises after the presidents of the Chambers or the Director of the Unit involved have met in order to find a consensual solution to the conflict and have not been able to resolve it.
- (g) To examine and decide on any decision adopted by a legal body or another authority that intends to derogate from amnesty, pardon or any other measure adopted within the system, verifying among other matters, if this decision infringes the principles of the CSTJNRN.

59. Regarding the responsibility of the members of the FARC-EP, International Humanitarian Law, International Law of Human Rights and International Criminal Law will be taken into account. The justice component of the CSTJNRN will take into account the relevance of the decisions taken by this organization that are relevant to its analysis of responsibilities. The responsibility of the FARC-EP commanders for acts carried out by their subordinates should be based on the effective control of the respective conduct, on the knowledge based on the information he/she had prior to or during and after the respective conduct, as well as in the means he/she had within his/her reach to prevent it, or where it had occurred, to make the relevant decisions. The responsibility of a commander cannot be based exclusively on his/her rank or hierarchy.

60. The main purpose of the sanctions will be to satisfy the rights of the victims and consolidate peace. Victims should be given the largest amount of restorative and reparative functions of the damage caused, always related to the level of acknowledgment of truth and responsibility before the Justice component of the CSTJNRN through individual or collective declarations.

To fulfil the reparative and restorative functions of the punishment, the punishments of the SJP that will be imposed on those who acknowledge truth and responsibility before the Chamber of Acknowledgment, regarding certain very serious offences, will have a minimum duration of five years and a maximum duration of eight years.

They will include effective restrictions of freedom and rights, such as freedom of residence and movement that are necessary for its execution, and should also ensure non-repetition.

Effective restriction means that there should be mechanisms of control and oversight to guarantee the compliance in good faith of the restriction ordered by the tribunal, in such a way that it can supervise promptly compliance, and certificate whether the punishment was complied with. The SJP will determine the conditions of effective restriction of freedom that are necessary to ensure compliance with the sanction, conditions that under no circumstance will be understood as prison or adopting similar measures of restriction.

In where there has been acknowledgment of truth and responsibilities before the Chamber, the restrictions of the previous rights and liberties will be less than in the case of acknowledgment of truth and responsibility before the Tribunal or in case of non-acknowledgment.

The alternative sanctions for very serious offences that will be imposed to those who acknowledge truth and responsibility before the Section of Judgments, before the Sentence, will have a function essentially retributive of a deprivation of liberty from 5 to 8 years.

The implementing rules will determine how to graduate sanctions and which cases will attract sanctions of less than 5 years because those involved did not play a decisive role in the most serious and representative conducts, or even engage in them. In this case, the minimum penalty will be two years and the maximum penalty will be 5 years.

The ordinary sanctions that will be imposed when there is no acknowledgment of truth and responsibility, will comply with the functions described by criminal legislation, without undermining the possibility of reducing the deprivation of liberty, provided the person sentenced commits to contributing with his/her social rehabilitation through work, training programs or study during the time he or she is deprived of liberty. However, in the case of very serious conducts the effective deprivation of liberty will not be less than 15 years or exceed 20 years.

The so-called alternative and ordinary sanctions can include effective deprivation of liberty such as prison and/or any measure of which secures the person.

Regarding the implementation of the sanctions, in the case of the State agents, the special

prison jurisdiction will be applied, subject to the system's monitoring mechanisms. The definitive configuration of the sanctions of the system applicable to State agents will be decided before the signing of a Final Peace Agreement, respecting what has already been established by the SJP regarding its own, alternative and ordinary sanctions.

61. The Resolutions and sentences imposed, according to the special norms of the justice component of the comprehensive system, will set out the content of the sanction, the place where it should be fulfilled, as well as the conditions and the effects of the sanctions for the crimes that are not eligible for amnesty in a precise way.

62. The places where the sanctions will be implemented will be monitored as well as having in place security and surveillance to ensure the life and physical integrity of the sentenced persons. Any movement of the person in order to carry out compliance with the punishment will be monitored by a national or international body agreed by the parties. The removal of sanctioned people must be compatible with the enforcement of the sanctions.

Within the justice component of the CSTJNR, a body will be created to verify compliance with the sanctions. This body will also grant the necessary authorizations for displacements that are not compatible with the compliance of the sanction.

63. Those persons who, without being part of the armed groups or organizations, have contributed directly or indirectly to committing crimes in the context of the conflict, will be able to be included in the justice mechanisms, without prejudice to what is established by article 48 t) of this document, and receive the special treatment determined by the norms, provided they fulfill the conditions established with relation to contribution to truth, reparation and non-repetition.

64. The Chamber for the Definition of legal situations may implement mechanisms of procedural cessation aimed at extinguishing responsibility, when it deals with contexts that are related to the exercise of the right to protest or internal disturbances. The state authorities, social organizations, trade unions, human rights organizations and processes that are part of the Agrarian, Ethnic and Popular Summit will contribute with information to the Chamber in case of the following crimes: coup, obstruction of public roads, launching of hazardous substances, violence against public servant, disturbance of the public transport service, damage to third-party property, personal injury and other crimes committed within the framework of the Citizen Security Law.

65. The Peace Tribunal will consist of Colombian judges. The foregoing does not preclude that persons subject to its jurisdiction request that the section dealing with their case is comprised of 3 Colombian judges and 2 foreigners. Twenty judges chosen must be

Colombians, in addition to four foreign judges who will act in the sections in the event that they are requested.

All of them must be highly qualified and must be included experts in various branches of law, with emphasis on knowledge of IHL, human rights or resolution of conflicts. The Court must be formed with criteria of gender equity and respect for ethnic and cultural diversity, and will be chosen through a selection process that you trust to Colombian society and to the different sectors that make it up.

To be elected Judge of the Peace Tribunal, the person should meet the same requirements as for a judge of the Constitutional Court, of the Supreme Court or of the State Council of Colombia, except for foreigners with regard to the requirement of Colombian nationality. No career system will be applied.

Where the number of judges increases, the number of foreign judges will increase proportionally.

Persons who have helped with the elaboration of this document cannot be elected judges.

66.- Each Chamber shall consist of a minimum of 6 highly qualified judges and should include experts in various branches of law, with emphasis on knowledge of IHL, human rights or resolution of conflicts. The chamber must conform with criteria of gender equity and respect for ethnic and cultural diversity, and will be chosen through a selection process that has the confidence of Colombian society and the different sectors of which it is made up.

To be elected Judge of Chamber, the person should meet the same requirements as for being judge of a Higher District Court. No career system will be applied. Regarding the nationality of the judges, there can be up to two foreign judges for each Chamber, at the request of the person appearing.

67.- The unit of investigation and prosecution will be made up of a sufficient number of highly qualified legal professionals in the field of investigation and prosecution, and should include experts in various branches of law, with emphasis on knowledge of International Humanitarian Law and Human Rights. It must have a forensic technical research team, which may have international support, particularly in the field of exhumation and identification of the remains of missing persons. It will be formed according to criteria of gender equity and respect for ethnic and cultural diversity, and the members shall be chosen by a selection process which has the confidence of Colombian society and the different sectors that make it up.

The Unit will have a special investigation team for cases of sexual violence. Acts of sexual violence will be dealt with in accordance with the special provisions on evidence in the field included in the Rome Statute.

The Unit may request other competent bodies of the State or human rights organizations and victims, to report with regard to the facts on which they do not have enough information.

Before the signing of the agreement, the Parties shall decide on the number and nationality of the members of this unit.

68. The parties will establish by mutual agreement and before the signing of the final agreement, the criteria for selection and appointment of the Judges of Chambers and Sections, the members of the Investigation and Indictment Unit and the Executive Secretary. The mechanism of selection that is established will appoint an initial President of the Special Jurisdiction for Peace, a Director of the Investigation and Indictment Unit and an Executive Secretary, for which it must consider the regulations of the jurisdiction, the period of previous job performance and the procedure of election of the successive Presidents, Directors or Secretaries.

69. The parties will determine the system of access to documents and sources of information during the peace negotiations and before the signing of the final agreement.

70. The State should make the justice component of the CSTJRN operational as quickly as possible after the signing of the Final Agreement, The Chambers and the Investigation and Indictment Unit should become operational at the latest three (3) months from the signing of the Agreement. There should not be more than one month between the point in which the Chambers become operational and the point at which the Sections become operational.

71. The CSTJRN will assess the necessary measures for non-repetition. In particular, the State should ensure non-repetition of the committed crimes regarding the Patriotic Union.

72. Extradition shall not be allowed nor will any measures aimed to protect the possibility of extradition regarding facts or conducts covered by the System, caused by or occurred during the internal armed conflict or on the occasion of it until its end, whether these constitute crimes eligible for amnesty or not so eligible, and especially for no political offence, of rebellion or related to the mentioned, whether committed inside or outside of Colombia.

Such guarantee of non-extradition covers all the members of the FARC-EP and the persons accused of belonging to that organization, for any conduct carried out previously to the signing of the final agreement, and for those persons who submit themselves to the CSTJRN.R.

Where a member of FARC-EP or a person accused of being a member of this organization, is alleged to have committed conduct covered by a request for extradition occurring after the signing of a Final Agreement, the Review Section of the Peace Tribunal will evaluate the incriminated conduct to determine its exact date and decide the appropriate procedure.

In the event the conduct occurred before the signing of the Final Agreement, it will be sent to the Chamber of Acknowledgment to be dealt with; in such a situation extradition is always prohibited. If the alleged conduct occurred after the signing of the Final Agreement, it will be sent to the competent authority for its investigation and sentencing in Colombia, without excluding the possibility of extradition. As regards conducts committed prior to the signing of a final agreement, if there exists a request for extradition regarding family members up to the second degree of relationship and the first degree of affinity, of members of the FARC-EP or of a person accused of belonging to that organization, it can be submitted to the Section of Review of the Peace Tribunal so that it can decide if the request relating to the family member whose extradition is being requested is motivated by facts or conducts related to the membership, or accusation of membership of the FARC-EP. Where this is the reason and the claim or accusation relate to conducts that have never been a reason for extradition requests before, or which do not meet the requirements for it, the Section can deny the extradition and in this case decide if the fact or the conduct is competence of the CSTJRN.R or if it should be investigated and judged by ordinary criminal jurisdiction. A case such as this should be submitted to the Review Section by any of the former members of the FARC-EP who signed the Final Peace Agreement.

The SJP should resolve the issues it faces regarding extradition within a period of not more than 120 days, except where justified with relation to the need for collaboration with other institutions. In the Final Peace Agreement the additional measures will be determined to guarantee and assure these provisions, as well as to avoid those who are offering Truth before the CSTJRN.R being extradited before they finished offering such truth.

73. The State should consult with the indigenous people with regard to when and how the decisions that have been adopted or will be adopted by their respective jurisdictions, regarding conducts covered by the Justice component will fall under its competence. The above does not apply if there has been a previous and express decision of acceptance of the competence of the Justice component of the CSTJRN.R.

74. The CSTJRNR in its functioning should focus on making an end to impunity. Legal mechanisms will be created, outside of the Special Jurisdiction for Peace, according to the agreed by the parties, such as a unit for the investigation and dismantling of criminal organizations, including the criminal organizations that have been considered successors of paramilitarism, and its support networks referred to in point 3.4 of the General Agreement of August 26, 2012, which will be created as soon as possible and in any case before the signing of the Final Agreement.

For their part, the Government will implement effective strategies and instruments to contribute to the clarification of the phenomenon of paramilitarism; simultaneously, the Government will take measures to strengthen the clarification of the phenomenon within the processes of Justice and Peace and within Law 1424 of 2010. The foregoing does not prevent the Government from implementing other instruments in order to achieve the clarification of this phenomenon.

In any case, the Special Jurisdiction for Peace can autonomously establish mechanisms of cooperation and protocols of access to the information of the bodies administering justice of the processes of Justice and Peace and Law 1424 of 2010.

75. All the operators of the justice component of the CSTJRNR should interpret the relevant rules and make their decisions with regard to the guiding principle that peace, as a composite right, is a necessary condition for the exercise and enjoyment of all others rights.

LIST OF SANCTIONS

The present list delineates sanctions that may be imposed by the Peace Tribunal. This list will be complemented at a later stage.

In accordance with the document Basic Principles of the Justice Component for a Comprehensive System of Truth, Justice, Reparation and Non-Repetition (CSTJRNR) drawn up by the Commission of Justice, in particular as indicated in articles 60 and 63, the present list of sanctions is established, taking into account the following:

1. The extent of truth disclosed by the person
2. The gravity of the sanctioned conduct
3. The degree of participation and responsibility, and
4. The commitments made in terms of reparations of victims and guarantees of non-

repetition.

The activities, tasks or work accomplished personally and directly from the moment in which the agreement on “Cleaning and decontamination of the territory of the presence of unexploded ordnance, explosive remnants of war and cleaning of antipersonnel mines”, was agreed, by any individual under the Special Jurisdiction for Peace will be considered, at the request of the person concerned, by the Chamber of Acknowledgment of Truth and Responsibility and by the Peace Tribunal at the moment of imposing sanctions on the applicant, provided the following requirements are met:

1. The undertaken activity should have led to victim reparation or should have had a restorative impact.
2. Its fulfillment should be certified by the verification mechanisms agreed by the parties for each activity, task or work, or by the verification mechanisms agreed by the parties in point 6.1 of the General Agreement of August, 26, 2012, regarding the compliance of the conditions of CSTJRNR.
3. It should be compatible with the list of sanctions.

There are three kinds of sanctions:

I.- Sanctions applicable to persons that comprehensively acknowledge truth in the Chamber for the Acknowledgment of Truth and Responsibilities:

The sanctions inherent to the system, according to the established by article 60, are of a restorative and reparative nature, as are restrictions of rights, such as the freedom of residence and mobility. The sanctions must guarantee non-repetition.

This present list enumerates sanctions designed in relation to compliance with the reached agreements, among others, I. Comprehensive Rural Reform, II. Political Participation and IV. Replacement and eradication of illicit crops, which form part of the dialogue's agenda. In addition, sanctions for damage caused to children, women and other affected individuals will be incorporated. This addresses the need for reparation and restoration for victims of the armed conflict to the greatest extent possible.

The implementation of sanctions may take place within a period previously established that takes into account results, such as for example the construction of a certain infrastructure, without undermining the duration of the sanction imposed by the tribunal in each case.

Persons appearing before the Chamber for the Acknowledgment of Truth and Responsibility may present a detailed individual or collective project for the execution of work, tasks or reparative and restorative activities. This project should specify the obligations, objectives, temporary phases, working hours and places of the work as well as the persons carrying it out and the place where they will stay. The sanctions imposed by the Tribunal will pre-establish the places where the persons who carry out the projects will reside. The places of residence will meet the appropriate standards of habitability and dignity.

The plan should establish a mechanism for the consultation of victims' representatives who reside in the respective areas in order to give them room for their opinion and ensure that they are not opposed to the plan. If victims deem it necessary, they may communicate their opinion on the plan to the Tribunal. The Tribunal has the full authority to decide on the project.

The project must have previously been approved by the Chamber for the Acknowledgment of Truth and Reparation and must be issued by the Chamber should the persons appearing before not present it.

Collectives, institutions or organizations that belong to persons appearing before the Chamber will have the obligation and responsibility for guaranteeing the execution of the sanction and monitoring its compliance, without prejudice to the verification function for compliance of sanctions inherent to an international monitoring mechanism.

The Section of first instance of acknowledgment of truth and responsibility will determine the effective execution of the sanction.

The sanctions will be executed, as far as the FARC-EP is concerned, in coordination with the agreed on leaving aside arms and re-incorporating FARC-EP to civil life.

The project may include, amongst others, the following work, tasks or activities, which must not be incompatible with public State policies on the matter, provided that the previous are in accordance with the ethnic and cultural traditions and customs of the communities:

A. - Rural areas.

1. Participation/Execution in/of reparation programs for displaced farmer peasants.
2. Participation/Execution in/of programs for the protection of the environment in reserve areas.
3. Participation/Execution in/of programs for the construction and reparation of

infrastructures in rural areas: schools, roads, health centers, housing, community centers, municipal infrastructures, etc.

4. Participation/Execution in/of rural development programs.
5. Participation/Execution in/of programs for the elimination of waste in areas where this may be necessary.
6. Participation/Execution in/of programs for the improvement of electrification and communication connectivity in agricultural areas.
7. Participation/Execution in/of programs for the substitution of illicit crop cultivation.
8. Participation/Execution in/of programs for environmental recovery of areas affected by illicit crop cultivation.
9. Participation/Execution in/of programs for the construction and improvement of road infrastructure needed for the commercialization of agricultural products in zones of illicit crop substitution.

B. - Urban areas

1. Participation/Execution in/of programs for the construction and reparation of infrastructures in urban areas, schools, roads, health centers, housing, community centers, municipal infrastructures, etc.
2. Participation/Execution in/of programs for urban development.
3. Participation/Execution in/of programs for accessing drinking water and the construction of sanitary networks and systems.

C. - Clearance and eradication of explosive remnants of war, munitions, unexploded ordnance and antipersonnel landmines within national territory that has been affected by these devices.

1. Participation/Execution in/of programs for the clearance and eradication of explosive remnants of war and unexploded ordnance.
2. Participation/Execution in/of programs for the clearance and eradication of antipersonnel landmines and improvised explosive devices.

II. - Sanctions applicable to those who acknowledge truth and responsibilities for the first time in the contradictory process before the Section of first instance of the Peace Tribunal,

prior to the pronouncing of a sentence.

Alternative sanctions for very serious offences that are imposed on those that acknowledge truth and responsibility before the prosecution chamber, prior to the pronouncing of a sentence, will have an essentially retributive function consisting of liberty deprivation of 5 to 8 years in prison.

1. Should a person come forward after the accusation has been presented to the Tribunal by the Investigation and Indictment Unit, and if the acknowledgment of truth and responsibility has been exhaustive, complete and detailed, the Tribunal will evaluate the reasons why the person in question did not appear in due time before the Chamber for the Acknowledgment of Truth and Responsibility. If it finds that the omission was fully justified, then the sanction to be imposed may be adjusted.
2. Should the Peace Tribunal, in any of its cases, find that the acknowledgment of truth and responsibility made before it was not exhaustive, it may impose alternative sanctions in accordance with the following procedure:

The competent Section of the Peace Tribunal will determine the sanction that corresponds to the crimes, conducts or offences committed, in accordance with the norms established in Colombian Criminal Law. The competent section will subsequently impose an alternative sanction that consists of deprivation of liberty for a minimum of five (5) and a maximum of eight (8) years, depending on the gravity of the crimes and the degree of acknowledgment of truth, responsibility and effective cooperation in the disclosure of such crimes.

To be entitled to an alternative sanction, the beneficiary will have to commit to contribute to his or her re-socialization through work, training or education during his or her period of liberty deprivation, and if possible promote activities aimed at non-repetition.

Once the sanction and conditions imposed in the sentence have been complied with, the beneficiary will be released.

Under no circumstances will substitute penalties, additional benefits or additional reductions of sentences be applied.

III. – Sanctions applicable to persons that do not acknowledge truth and responsibility in the contradictory process before the Section of first instance of the Peace Tribunal and are found guilty by the Tribunal.

Ordinary sanctions will be imposed when there is no acknowledgment of truth and responsibility correspond to the functions envisaged by the Criminal Code, without

prejudice to obtaining redemption during the period of liberty deprivation, provided that the convicted person commits to contribute to the re-socialization through work, training or education during time spent deprived of liberty. In any case, the effective deprivation of liberty will not be inferior to 15 years or exceed 20 years in case of serious breaches or violations.

Substitute penalties, additional benefits or additional reductions of sanctions envisaged by the Colombian Criminal Law may be applied, provided that the beneficiary commits to contribute to his or her re-socialization through work, training or education during time spent deprived of liberty and engages in activities aimed at the non-repetition of damage caused following his or her release.

Once the sanction imposed by the sentence has been complied with, he or she will be released on probation if he or she has committed to engage in activities aimed at the non-repetition of damage caused following his or her release that came as a result of a reduction of the imposed sanction. The probation period expires once the sanction has been complied with by completing the activity of promoting the non-repetition of the damage caused, and in any case, expires when the sentence imposed by the Peace Tribunal has been served.

5.1.3. Reparation: Measures on comprehensive reparation for peace building

5.1.3.1. Timely measures for the acknowledgment of collective responsibilities

Aiming to contribute to full satisfaction of victims' rights, to mark symbolically a new beginning, and create a positive environment for in which to build peace, both sides - the Government and the FARC-EP – have established that, in development of the agreement here presented, the National Government will support events – as soon as possible and after the signing of a final agreement - of acknowledgment and contrition in which both the Government, the FARC-EP and different sectors of society who had any involvement in the conflict, can assume collective responsibility for the damage caused and appeal for forgiveness for what corresponds to their part, as an expression of willingness to contribute to a definitive "Never Again". This should take place without undermining any other voluntary acts of acknowledgment of individual responsibility that could take place at this early stage.

All collective acts will be formal, public and solemn, and will be held both at a national level and in the territories, for which the National Episcopal Conference, with the support of the *Interchurch Dialogue for Peace*, DIPAZ (Acronym in Spanish) and other churches will be invited to coordinate these events, directly consulting the victims' and human rights organizations, among others. The coordinators should encourage acts that meet the

expectations of victims and communities, empower them, prevent further victimization, and contribute to laying the foundations on which to promote peaceful coexistence and guarantees of non-repetition.

IN addition to acknowledgment of responsibility and a public appeal for forgiveness, these events may also include demonstrations of a commitment to contribute, with concrete measures, to victims' compensation, peaceful coexistence, and guarantees of non-repetition and, in general, to the peace building process.

None of the above should exclude the possibility that the Government, the FARC-EP or any other sector of society carry out events of acknowledgment of collective responsibilities, before the signing of the Final Agreement.

5.1.3.2. Concrete measures to contribute to reparation

Within the framework of the conflict, the National Government and the FARC-EP have agreed that the National Government will promote and implement all necessary measures to enable all those who caused harm in the context of the conflict and express their willingness and commitment to directly contribute to the satisfaction of victims and communities, to be able to do so through participation in concrete restorative actions. These activities should be the result of timely events of acknowledgment of responsibility whenever possible and in coordination with the programs for territorial collective reparation, if necessary.

Under the Comprehensive System of Truth, Justice, Reparation and Non-repetition, all those who have caused harm during the conflict must contribute to repairing it. This contribution to reparation will be taken into account with respect to any special treatment in matters of justice.

Within the framework of the comprehensive system, the National Government will take the necessary measures to promote participation in different modes of reparation designed for state agents and others who have been involved directly in the conflict causing harm as a consequence of serious Human rights violations or breaches of International Humanitarian Law, and also of those who have indirectly participated in the conflict and may have had some responsibility in it.

Furthermore, the National Government will adopt measures to promote and, if necessary, ensure collective actions of reparation by different state entities that may have been responsible for causing harm during the conflict.

The FARC-EP commits to the re-incorporation process to civilian life and, as part of this

process, to carry out actions that contribute to reparation for any harm caused, which may include, participation in infrastructure reconstruction projects in those territories most affected by the conflict, involvement in cleaning and decontamination programs to remove anti-personnel mines (APM), improvised explosive artifacts (IEA) and unexploded ordnance (UXO) or explosive remnants of war (ERW), participation in programs for the substitution of the illicit use of crops, contribution with the searching, location, identification and recovery of remains of the persons reported as missing or dead during and within the context of the conflict, and participation in environmental restoration programs such as reforestation.

The National Government and the FARC-EP invite those who have participated directly or indirectly in the conflict and caused harm, to participate with concrete reparation actions within the framework of the Comprehensive System.

5.1.3.3 Collective reparation at the end of the conflict

Within the framework of the end of conflict, the National Government and the FARC-EP have agreed that the National Government will strengthen collective reparation processes and will guarantee that the plans and programs of the comprehensive rural reform will have a restorative approach, if so required.

5.1.3.3.1. Restorative nature of Rural Development Plans with a Territorial Approach (RDPTA)

The level of victimization and degree of affectedness, will be used as criteria to define the areas where the RDPTA's are going to be implemented intended to have a restorative intention, and to that extent, a restorative nature for victims and communities will be sought during its implementation.

5.1.3.3.2 Plans for collective reparation with a territorial approach.

Aiming to acknowledge harm caused by the conflict to the communities and to contribute with the transformation of their living conditions for them to be able to re-build their neighborhoods, within the framework of the end of the conflict, the National Government will strengthen the processes of territorial collective reparation, in line with this Agreement.

With that in mind, all the RDPTAs will include plans for collective reparation; and in those territories where RDPTAs are not implemented, collective reparation plans will be reinforced in particularly victimized communities, prioritizing their own proposals.

In both cases, the collective reparation plans with a territorial approach must incorporate the following aspects:

- *Material and symbolic measures for addressing the harm:* Measures targeting direct, individual and collective victims, such as dignifying actions, memorials, tributes and commemorations, infrastructure projects, and memorial architecture.
- *Coexistence and reconciliation measures:* Measures aimed at addressing harm caused in the social fabric and promoting coexistence within communities including victims, former members of paramilitary organizations, members of the FARC-EP in process of re-incorporation to civilian life, and others who might have had some participation in the conflict. Also, measures to build and strengthen trust between public authorities and communities.
- *Articulation:* Collective reparation plans must be articulated, if appropriate, with the RDPTAs, and with the different agreed plans and programs, as well as with the diverse efforts of truth and justice.
- *Action plans:* An action plan will be prepared for collective reparation in a participative way. These plan should include: i) A diagnosis of the collective harm, ii) The identification of material and symbolic measures that will be implemented as matters of priority, and iii) A schedule for its implementation.
- *Participation mechanisms:* Active participation of victims and their organizations, alongside the regional authorities, will be the basis of collective territorial reparation plans. In order to do so, participation spaces will be created to define priorities to implement the measures of collective reparation; to ensure community participation in the implementation of reparation measures; and establish monitoring mechanisms of the projects. The participation of women in these spaces of participation will be ensured.
- *Measures of contribution to reparation:* If appropriate, the collective action plans will include participation of those who caused harm within the framework of the conflict, in the development of concrete actions that contribute to the reparation referred to in this Agreement.

5.1.3.3.3. National plans of collective reparation

In the context of the end of the conflict the National Government, in development of this Agreement, will strengthen national plans of collective reparation, which will have a gender approach and will be directed to the collectives, groups, organizations, including women's

organizations, guilds economic, political and social parties and movements in particular the opposition, among others, in order to recognize the special characteristics of their victimization, recover their identities and organizational potential, and rebuild their capacities to influence the development of local and national policies in the framework of legality. These plans should contribute also to coexistence, non-repetition, and reconciliation.

Within the framework of these Plans, efforts will be made to the acknowledgement of responsibilities by the State, the FARC-EP, paramilitary groups, and any other group, organization or institution that may have caused harm during the conflict.

5.1.3.4. Psycho-social rehabilitation

5.1.3.4.1. Measures for Individual emotional recovery

In the context of the end of the conflict, and in order to address and contribute to the alleviation of the suffering of victims, the National Government and the FARC-EP have agreed that the National Government, in development of this Agreement, will undertake to expand public coverage and territorial deployment, and improve the quality of the psycho-social care for the emotional recovery of victims according to particular damage they have suffered, including the impact on individuals who are of victims of sexual violence. To achieve this they will increase the local centres attending victims and encourage mobile strategies to ensure that the most remote places are reached.

Likewise, in fulfilment of the agreements reached the National Government will strengthen the access and mental health services for victims who so require.

5.1.3.4.2 Psycho-social rehabilitation plan for coexistence and non-repetition

In the framework of the collective reparation plans and taking into account the local initiatives of reconciliation, the National Government, in development of this Agreement, undertakes to increase the coverage and improve the quality of the community rehabilitation strategies for the reconstruction of the social fabric. These strategies will be implemented through medium and long-term community processes that will as part of their fundamental purposes generate projects for future communal life, strengthen confidence between the citizens and their institutions, and achieve Coexistence.

Re-establishing the peaceful relations of trust between the public authorities and communities and promoting coexistence within the communities including victims, to the former members of paramilitary organizations, members of the FARC-EP in process of reincorporation into civilian life and also from third parties which could have some

involvement in the conflict. The implementation of the strategies will be made taking into account the differential and gender approaches.

These strategies will be developed through each of the following components:

- Creation of spaces for communitarian dialogue and collective grieving process that allow an individual and collective manifestation of suffering.
- Restoration and generation of social, cultural, artistic, recreational and sports activities related to the interchange between citizens, and to the coexistence of communities.
- Promotion of local initiatives directed towards reconciliation, dignification and acknowledgment.
- Reflection about collective ideas on future life projects that allow giving a transforming sense to the reparation and achieve a pacific coexistence.
- Creation of spaces in which to use pedagogical approaches to strengthen social rejection of the violations and breaches that happened in the past, promoting the transformation of ideas that allowed or justified them.
- Recovery of social practices that have been abandoned as a consequence of the conflict.
- Promotion of pacts for peaceful coexistence inside the communities, that include both victims and those who might have had direct or indirect participation in the conflict, as well as processes of reconstruction of trust between public authorities and communities. The psycho-social rehabilitation strategies for coexistence will be coordinated and complemented with the efforts made by the *Commission for the Clarification of Truth, Coexistence and Non-repetition* throughout its operational period.

5.1.3.5. Collective return processes for people in displacement situation, and reparation of victims living abroad.

Collective processes of return of displaced persons and compensation to victims overseas:

The National Government, in development of this Agreement and in the context of the end of the conflict, will launch on the one hand collective programs on the return

and relocation of persons in a situation of displacement with a territorial and gender specific approach, and on the other hand put in place return plans which will assist victims outside Colombia and strengthen their connection with the implementation of other components of the policy of redress of victims at the territorial level, in particular the collective reparations programs and for the restitution of the land, and with the implementation of the agreement called "Toward a new Colombian field: comprehensive rural reform", in cases where it is appropriate to do so.

To that end, measures will be implemented to guarantee individual or collective returns and relocations under conditions of safety, dignity, and voluntariness, which will take into account the following elements:

- *Identification of territories:* The return and relocation plans will be prioritized in the same areas where RDPTAs will be implemented and other territories in which plans for collective reparation are to be developed, and in coordination with land restitution processes.
- *Inter-institutional coordination:* Return and relocation plans must be linked, when possible, with the different plans and programs established, particularly the RDPTAs, the plans for water and rural housing, the measures for access to land, income generation, promotion of rural economy and *cleaning and decontamination programs* to remove APM, IEA, UXO or ERW, as well as to land restitution processes.
- *Security in the territories in order to return:* In the areas prioritized for the implementation of return and relocation plans, the Government will establish the necessary security measures to guarantee the life and personal integrity of the communities, counting in any case, with their participation.
- *Strengthening of communitarian defenders:* The Government will take the necessary measures to strengthen the communitarian defenders program, and particularly its functions of protection and promotion of human rights, for them to effectively accompany the processes of land restitution, return and relocation of people under situation of displacement and victims living abroad, including refugees and exiles involved in these processes, and to accompany and assist victims to guarantee access to institutional offers for the satisfaction of their rights.
- The implementation of these return and relocation processes will require the involvement of specialized and interdisciplinary teams with capacities to guarantee the

participative nature of the process, and the use of local funds. As to the great number of victims that had to abandon the country as a consequence of different violations to human rights or breaches of IHL in the context of the conflict, the National Government, within the development of this agreement, will reinforce the program to acknowledge and repair victims living abroad, including refugees and exiles that have been victimized during the conflict, setting up “supported and assisted return” plans. This assisted return will consist in the promotion of conditions to facilitate their return to the country, and to the construction of their life project, including reception conditions based on dignity, through coordination between these plans and the specific institutional offer to progressively guarantee access to basic rights, jobs which have dignity, housing, health and education at all levels, fitting their own particular needs. The relocation will give priority to those areas from which those returning had to leave, respecting the victims’ choice. The National Government will adopt the necessary measures to articulate -when possible- these plans with other plans and programs agreed, particularly with the RDPTAs.

Return is to take place, without undermining any of the different measures that must be adopted, as regards the end of the conflict, to encourage and promote the return of exiles and other Colombians who abandoned the country because of the conflict.

5.1.3.6. Land restitution measures

With the purpose of boosting and strengthening land restitution processes in an end-of-conflict context and, furthermore, ensuring the articulation of the land restitution processes with the collective reparation processes, development programs with a territorial approach, as well as with other plans and programs resulting from the implementation of the Final Agreement, we have agreed that:

- The application of the land restitution policy will comply to the technical criteria relating to the historical intensity of dispossession and conditions for the return, considering the recommendations concerning territorial focusing made by victims’ organizations and experts, among other matters. The territorial entities must participate actively in the implementation of the restitution policy and contribute to the very formulation of the territorial development plans giving comprehensive attention to the populations to benefit from the restitution processes, including attention to investments in infrastructure and public services.
- The population that will benefit from the restitution processes will receive technical and financial support for the reconstruction of their life projects and strategies to

generate income, strategies for the substitution of the illicit use of crops, strategies for recovery and reconstruction of social fabric; and strengthening of the organizational processes and the construction of historical memory for reconciliation.

- The information resulting from the inscriptions in the registry of forcibly despoiled and abandoned lands and the subsequent sentences referring to land restitution, will be included in the Registry of Victims in order to harmonize the registration and the access to the different measures of reparation.
- **5.1.3.7. Implementation and participative strengthening of the Policy for attention and comprehensive reparation of victims within the framework of the end of the conflict and contribution to material reparation of 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 for attention to, and comprehensive reparation for, victims, and to adapt it to the needs and opportunities of this new context and assure that it will effectively contribute to coexistence, non-repetition and reconciliation.

In order to achieve this, the National Government will put into operation an effective process with the widest possible participation of the victims and their organizations, promoting spaces for the discussion of their proposals with the competent authorities. This process will take place within the existing participation mechanisms for victims, which will be extended and reinforced to that end, so that victims' organizations and other victims who are not part of these mechanisms may be included in this process.

In order to achieve this, an event of broad participation shall be convened and celebrated, with victims' organizations and victims, including those who are not part of any current participation modalities. Experts from the academy, specialized organizations and human rights defenders will be invited.

As a consequence of this process of participation and discussion of victims proposals, the National Government will make the necessary adjustments, and regulatory and political reforms to: adapt the Policy to the agreements made in the *Reparation* subsection, assure its articulation with the implementation of plans and programs at both local and inter-institutional levels resulting from the signing of the Final Agreement; to overcome difficulties and embrace the opportunities provided by the end of the conflict, and to make adjustments to the priorities for fund allocation, for the execution plans relating to goals,

and for the territorial and population-based prioritization criteria for its implementation.

The process to strengthen and adapt the Policy for attention and comprehensive reparation, will seek to guarantee higher levels of territorial coverage in its implementation.

The process for the strengthening the implementation and participative Policy relating to recognition and comprehensive reparation will include oversight of existing modes of participation of Victims at a local and national level. To that effect, these modes will be extended and strengthened through the participation of other victims and human rights and victims' organizations.

Additionally, within the context of the end of the conflict, the Government commits to implement the following agreed measures:

- To elaborate an individual and collective victimization map, which will serve as a source of information and as an instrument of acknowledgment and memory over events committed during the conflict that are not included in the universe of victims, registered in the Program for the Comprehensive Reparation of the Victims, in coordination with the *Commission for the Clarification of Truth, Coexistence and Non-repetition* and the Special Unit for the Search of Missing Persons in the context and as a result of the conflict, as well as with the Special Jurisdiction for Peace.
- To recognize 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 within the point of the Agenda concerning the re-incorporation process. In parallel, the National Government will strengthen attention and reparation measures for members of the Public Force who have been victims of serious human rights violations or breaches of IHL.
- To take all necessary measures to ensure full and effective funding of the Policy of attention and comprehensive reparation for victims, including the strengthening of the Fund for the Reparation of Victims of Violence, expanding its financial sources and mechanisms to capture resources, as well as the promotion of the participation and oversight mechanisms as a way for the victims to have control over the Fund. The Government will provide subsidies for victims' reparation if those who caused the harm individually in the context of the conflict don't have sufficient resources to repair them. Meanwhile, in the framework of the end of the conflict and within the parameters of the Comprehensive System of Truth, Justice, Reparation and Non-repetition, the FARC-EP as an insurgent organization acting within the framework of the offence of rebellion, commits to contribute to material reparations for victims

and in general to their comprehensive reparation, on the basis of the events identified by the Special Jurisdiction for Peace. The terms of that material compensation will be specified within the framework of the Final Agreement. In any case, the approval and implementation of the above measures will not imply limitation, cancellation or restriction of the rights currently acquired by the victims.

5.1.4. Guarantees of non-repetition

The different mechanisms and measures of the Comprehensive System of Truth, Justice, Reparation and Non-repetition agreed by the National Government and the FARC-EP have the overarching goal of contributing to the prevention and guarantee of non-repetition of the violations and the conflict itself, in different ways. The Comprehensive System of Truth, Justice, Reparation and Non-repetition helps to ensure non-repetition, first, by recognizing the victims as citizens who had their rights violated. The reparation measures and the measures regarding truth and justice, in particular the allocation of responsibilities and the imposition of sanctions by the Peace Tribunal for the Special Jurisdiction for Peace, should contribute to that purpose.

Second, by recognizing what happened in the context of conflict and clarification and rejection of the serious violations of human rights and grave breaches of international humanitarian law, including those that have historically been less visible as those committed against women and children, and adolescents, as well as the rejection of violence against groups, social movements and trade unions, and political parties, especially the opposition were severely victimized, to be shared purpose of society this will never happen again.

The National Government will take all measures, including those agreed in this agreement and any other necessary, to ensure that no party or political movement in Colombia will be re-victimized and that what happened with the Patriotic Union will never be repeated.

The report and recommendations of the Commission for the Clarification of Truth, Coexistence and Non-repetition; the results of the Unit for the Search of Missing Persons in the context and due to the conflict; the acknowledgments of responsibility; the judicial truth and the decisions cast by the Special Jurisdiction for Peace; and also the reparation measures, including measures of collective reparation, must contribute to the purpose of recognizing, clarifying and encouraging the rejection of what happened.

Third, by fighting impunity, with a special contribution of the Special Jurisdiction for Peace

and the measures for the clarification of the truth and reparation. Accountability for what happened, based on the implementation of these measures, should contribute to the prevention and deterrence of further violations and is a fundamental guarantee of non-repetition of the violations and breaches and of the definitive end of violence the country has suffered because of the conflict.

To fulfill this purpose, there will be created, outside the Special Jurisdiction for Peace, judicial mechanisms such as a unit of research and dismantling of criminal organizations, including criminal organizations that have been designated as successors of paramilitarism, and their networks of support, referred to in point 3.4. of the Agenda of the General Agreement.

And fourth, by promoting coexistence based on the acknowledgments of responsibility made within the framework of the Commission for the Clarification of Truth, Coexistence and Non-repetition, of the Special Jurisdiction for Peace and of measures of reparation. To the extent that these acknowledgments also include both acknowledgement of infringed rules and of the rights and commitments on non-repetition, they contribute to the strengthening of trust between citizens and to ensure the validity and respect of human rights. Thus, the foundations for coexistence are being laid, which in turn is the foundation of reconciliation and construction of a stable and lasting peace.

On the other hand, the higher objective of the Comprehensive System, and everything agreed in respect of victims, to contribute to the non-repetition, has as a necessary condition of compliance with and implementation of what is agreed in the framework of point 3 of the agenda of the General Agreement relating to the "end of the conflict", which must ensure the definitive termination of armed conflict, as well as the deployment of all that was agreed in the field of human rights, with special emphasis on gender and with a vision of territorial development and deployment.

The non-repetition of the conflict also requires the implementation of all agreements reached here, which according to the Government helps to reverse the effects of the conflict and change the conditions that have facilitated the persistence of violence in the territory; and that according to the FARC-EP contribute to solve the historical causes of the conflict. To that extent, they are a fundamental guarantee of non-repetition.

The guarantee of rights, including economic, social, cultural and environmental rights of rural people by implementing the Comprehensive Rural Reform intended to contribute to their well-being and good living conditions; strengthening the exercise of political rights, promoting a culture of democracy and human rights and guarantees for reconciliation, coexistence, tolerance and non-stigmatization, and guarantees for mobilization and social

protest, by implementing the Democratic Opening for Peace-building; the measures to protect and guarantee the rights of the population living in areas affected by illicit crops and contribute to overcoming poverty, marginalization and weak institutional presence by implementing agreed programs and measures for the Solution to the Problem of Illicit Drugs and the effective prosecution of criminal organizations and networks linked to drug trafficking at the national and regional level; and the measures agreed at Point 5 "Victims" and Point 3 "End of Conflict", respond primarily to a logic of non-repetition of the conflict and guarantee of human rights of all. The Government reiterates its commitment to the implementation of the agreements.

In conclusion, the guarantees of non-repetition will be a result on the one hand, of the coordinated implementation of all the above measures and mechanisms, and in general all points of the Final Agreement; and on the other hand, of the implementation of additional measures of non-repetition to be agreed within the framework of point 3 "End of conflict" of the Agenda of the General Agreement.

5.2. Commitment with the promotion, respect and guarantee of human rights

In the General Agreement ending the conflict and building a stable and lasting peace, signed by the Government and FARC-EP on August 26, 2012, it is stated specifically that "respect of human rights in all the confines of the country, is a state order to be promoted."

The National Government on behalf of the Colombian State reiterates its commitment to the protection of human rights and to those who work 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, with a differentiated and gender approach in accordance with the principles of equality and progressiveness, and the guarantee of the right to peace, especially in those areas most affected by the conflict.

For its part, the FARC-EP reiterates the total commitment to human rights and they commit to promote and respect individual freedoms and the human rights of all and peaceful coexistence in the territories, both by its members and by the organization arising from its transition to legal political life.

The Agreement as a whole should contribute to building a shared vision about the need for respect for all human rights. The State will work to ensure full satisfaction of these rights, in its dimensions of universality, comprehensiveness, indivisibility and interdependence, as the basis for justice and the realization of the recognition of human dignity.

In the new scenario of peace-building and democratic opening, citizen participation and the

exercise of rights will help achieving the rights of all, beyond its simple enunciation.

It is also about encouraging all Colombians to become aware of the rights of others, and committing ourselves to respect and promote relations of (social) coexistence based on tolerance and respect for differences, especially differences in thinking, including critical ideas, thus laying the foundation for reconciliation, non-repetition, and the construction of peace.

The commitment of respect and promotion of human rights in the process of reconciliation that will take place as part of the achievement of peace implies the acknowledgment of the need to advance public policies to promote a political, democratic and participative culture of respect for human rights. Besides, this commitment implies respect for cultural and ethnic diversity.

The end of the conflict is the best opportunity to achieve the rights of victims to truth, justice, reparation and non-repetition, and generally ensure the full realization of human rights for everyone, including women, children, adolescents, young and elderly people, persons with disabilities, indigenous peoples, peasant, Afro-Colombian populations, black, Palenqueras and Raizales, the LGBTI population and defenders of human rights, trade unionists, journalists, farmers, ranchers, traders and businessmen and -women; which also implies the adoption of affirmative action measures to fully guarantee the rights of those 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 the conflict context will ensure a culture of legality, the free debate of ideas, the effective participation of citizens and their organizations in decision-making, respect for those who think differently and for those who exercise opposition, the intensification of the culture of human rights, protection of cultural diversity and autonomy, encouraging the peaceful resolution of conflicts, strengthening access to justice in conditions of equality, social inclusion, welfare and good living conditions of the population, social justice, the overcoming of poverty, environmental protection and territorial approach in the implementation of public policies.

In the framework of respect and promotion of human rights, we reiterate the commitment to enforce the rights contained by the 1991 Constitution on this matter, the Covenant on Civil and Political Rights, the Covenant on Economic, Social and Cultural Rights, and other international human rights treaties ratified by Colombia.

In particular, the Government will implement the following measures:

5.2.1. Strengthening of the mechanisms of promotion of human rights:

- Promoting respect for human rights and a culture of human rights for peace building and reconciliation.
 - Strengthening of the information system on the situation of human rights taking into account the progress of the National Human Rights System.
 - Strengthening of the monitoring system for the situation of human rights at a national and regional level, taking into account the early warning system.
 - Strengthening of the process of implementing the National Education Plan for Human Rights, through, among other matters: The incorporation of the Final Agreement and the final report of the Commission for the Clarification of Truth, Coexistence and non-repetition into the National Education Plan for Human Rights. Coordination with the programs to promote a democratic and participatory political culture of Point 2 "Political Participation: democratic opening to build peace", in particular to overcome the stigmatization associated with the conflict. The strengthening of non-formal educational measures through the implementation of public campaigns for recognition of human rights and the prevention of their violation.
- **5.2.2. Strengthening protection mechanisms work performed by human rights defenders and their organizations**

On the other hand, the National Government, recognizing the work of human rights defenders, commits to help strengthen organizations in defense of human rights, particularly those working in rural settings as part of the already agreed in Point 2 regarding the guarantees for social organizations and movements, security guarantees, recognition and non-stigmatization; and to maintain a permanent dialogue with them to address their reports, diagnoses and recommendations. To this end and within the framework of the agreement on point 2 "Political participation", a protocol for comprehensive protection will be developed in concert with the organizations of human rights defenders, including those who do their work in a rural context.

The National Government will strengthen coordination with the Attorney General's Office for the promotion and monitoring, case by case, of allegations and investigations of violations of the rights of human rights defenders. Public reports on progress will be elaborated every three months.

5.2.3. Prevention and protection of human rights

- Design, development and implementation of a National Human Rights Plan with the effective participation of the organizations of human rights defenders and social organizations and movements that, taking into account the different existing policies, allow to fit the needs of a scenario of peace building.
- In accordance with the agreed within the point of Political Participation, the necessary measures and policy adjustments will be undertaken to provide full guarantees for mobilization and social protest, as part of the constitutional right to freedom of expression, assembly and opposition, favoring dialogue and civility in dealing with these kind of activities.
- Creation of an advisory committee convened by the Ombudsman to advise and make recommendations to the National Government, to State institutions and human rights organizations, on matters of human rights and peace. The Ombudsman and representatives of human rights organizations will agree its composition and functioning.