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# Open Letter to the Members of the United Nations Security Council on the Future Verification Mission in Colombia

“Que la paz no nos cueste la vida”<sup>1</sup>

## INTRODUCTION

The peace agreement<sup>2</sup> entered into force between the Government of Colombia and the FARC-EP (FARC) in November 2016 (the Agreement) includes as a support for its implementation and the construction of a lasting peace the setting of two consecutive political missions mandated by the United Nations (UN). The first Fact-Finding Mission was established by the Security Council Resolution 2261(2016)<sup>3</sup> and its mandate will expire on September 25th. This mission will be replaced by a Verification Mission from September 26, 2017 as decided by the Security Council in Resolution 2366 (2017)<sup>4</sup>.

In resolution 2366, the Security Council requested the Secretary General to initiate preparations immediately, including on the ground, and to present detailed recommendations for consideration and approval regarding the size, the operational aspects and the mandate of the Verification Mission, consistent with the Final Agreement within 45 days of the resolution.

The Agreement provides that the mandate of the second political mission should be to monitor the implementation of two main axes:

- (i) the reinstatement of the FARC-EP in civilian life, -in economic, social and political

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A group of human rights defenders have united last June under the following slogan: "May peace not cost our lives".

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Dialogue table. *Final Agreement to End Conflict and Build Stable and Lasting Peace*. 24 November 2016. Accessed 24 March 2017 <http://www.altocomisionadoparalapaz.gov.co/procesos-y-conversaciones/Documentos%20compartidos/24-11-2016NuevoAcuerdoFinal.pdf>. Item 6.3.3, p. 213.

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S/RES/2261 (2016). <https://colombia.unmissions.org/sites/default/files/n1601742.pdf>

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[https://colombia.unmissions.org/sites/default/files/100717\\_adopted\\_resolution\\_on\\_colombia\\_-\\_s\\_res\\_2366\\_2017\\_-\\_e\\_1.pdf](https://colombia.unmissions.org/sites/default/files/100717_adopted_resolution_on_colombia_-_s_res_2366_2017_-_e_1.pdf)

- terms and in accordance with their interests and
- (ii) the implementation of security guarantees and the fight against the criminal organizations and criminal behavior responsible for murders and massacres, which target human rights defenders, social and political movements or which threaten or attack persons taking part in the implementation of the agreements and the peace building efforts, including the criminal organizations which have been named as successors to the paramilitaries and their support network.

Based on the findings and conclusions of a mission that FIDH conducted in Colombia from May 12th to 19th 2017<sup>5</sup>, we would like to share recommendations on the mandate and the operational aspects of the upcoming Verification Mission.

Our recommendations mostly focus on the second axis related to security guarantees, which we consider an essential preliminary condition for the successful implementation of the whole Agreement and the construction of a lasting peace. This does not diminish the importance of the work that must also be done by the Mission on the reinstatement of the FARC-EP in civil, economic, social and political life, the first axis of the Verification Mission.

## HIGH RISK OF PERPETUATION OF VIOLENCE DUE TO THE RECONFIGURATION OF ILLEGAL ARMED GROUPS IN THE VOID LEFT BY THE FARC-EP AND TO THE ABSENCE OF THE STATE

The signing of a final peace agreement between Colombia and the FARC-EP guerrilla forces, intends to bring to an end a long period of more than 50 years of domestic armed conflict. Besides the considerable decline in violent actions resulting from the conflict<sup>6</sup>, the Agreement has also set an important agenda to build sustainable peace and structurally improve the human rights situation in Colombia. A diversity of root causes of violence have led to a humanitarian crisis in Colombia. The peace Agreement addresses them, as it foresees, inter alia:

- the fight against drug trafficking, combining judicial action against organized crime with a public health approach for consumers, and viable sustainable economic alternatives for crop growers; rural reform; State actions against crimes committed by paramilitary and criminal organizations; guarantees to political opposition and participation of former guerrillas in politics; guerrillas' demobilization and reintegration into society,

The withdrawal of the FARC-EP from the highlands of Colombia and their move to transitory zones and points has triggered a dispute amongst remaining armed groups (and new splinter groups) actively fighting for the control of the territory that was previously controlled by the “guerrilla”. This carries high risks for the security of those areas and in particular for, inter alia, demobilized FARC-EP members that will stay in those areas, the

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See article by FIDH President, Dimitris Christopoulos: <https://www.opendemocracy.net/dimitris-christopoulos/if-there-is-hope-in-colombia-then-there-can-be-hope-everywhere>

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See Centro de Recursos para el Análisis de Conflictos –CERAC–: Monitoreo de desescalamiento del Conflicto Armado Interno, agosto de 2016, en: <http://blog.cerac.org.co/category/monitoreo-de-desescalamiento>

political party that will be set up in the wake of the demobilization, social leaders and human rights defenders who are documenting the human rights violations committed by those actors, or fighting to recover the territory of vulnerable communities who had fled the conflict as well as for the civilian population living in the midst of these historically abandoned areas.

In particular, since 2015 the reconfiguration of the control over those territories has started to generate an escalation of human rights violations against:

- Human rights defenders in regions, in particular related to land claimants and those who denounce environmental, economic, social and cultural rights violations; Social and community leaders, including indigenous leaders, afro-colombian communities Leaders and members of the *Marcha Patriótica* or the *Congreso de los Pueblos* movements who support the FARC transformation into a political party.

In its 2015 and 2016 annual reports on Colombia, the UN Office of the High Commissioner for Human Rights (OHCHR) highlighted that cases of murders of human rights defenders (HRDs) were higher than the average registered during the previous 20 years.

According to OHCHR figures, 389 attacks on human rights defenders and social leaders took place in 2016 as follows: 59 murders, 44 attacks, 210 threats, 72 breaches of privacy, 3 forced disappearances and one case of sexual violence<sup>7</sup>. Only in the first semester of 2017, the Colombian Human Rights Defenders' Aggression Information System (SIADDHH) has registered a total of 335 individual attacks against human rights defenders including 51 murders<sup>8</sup>.

The interviews conducted by FIDH with family members or lawyers of human rights defenders murdered in the last two years have confirmed the opinion expressed by the Ombudsman notably, that these murders mostly due to illegal armed groups are a consequence of the reconfiguration of forces after the demobilization of the FARC and of the inadequate state capacity to control these territories<sup>9</sup>.

This issue is addressed by the second axis of the peace Agreement provisions on the mandate of the next UN mission, which states that *the second political mission should be to monitor the implementation of:*

- security guarantees and
- the fight against the criminal organizations and criminal behavior responsible for murders and massacres, which target human rights defenders, social and political movements or which threaten or attack persons taking part in the implementation of the agreements and the peace building efforts, including the criminal organizations which have been named as successors to the paramilitaries and their support network.

## MAIN CHALLENGES AND RECOMMENDATIONS

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Human Rights Council. *Annual Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia*. A/HRC/34/3/Add.3. 14 de marzo de 2017, Accessed 25 March 2017 at [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session34/Documents/A\\_HRC\\_34\\_3\\_Add.3\\_AUV.docx](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session34/Documents/A_HRC_34_3_Add.3_AUV.docx).

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<https://somosdefensores.org/images/informe-semestral-enero-junio-2017-SIADDHH.pdf>

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Revista Semana. *Hay un fenómeno criminal contra la paz", advierte el defensor*. 1 April 2017. Accessed 2 April 2017 at <http://www.semana.com/nacion/articulo/carlos-negret-sobre-lideres-sociales-asesinados-en-colombia/520507>

- i. The remaining violent actors are the greatest risk for the security and the implementation of the agreement

As already mentioned, the withdrawal of the FARC-EP has also been accompanied by the emergence and the expansion of armed groups, who seek to fill “the void left by the end of fighting in vast areas of the country”<sup>10</sup>. The main objectives of those groups are to take control of the territory and the population in order to continue or set illegal activities such as drug trafficking, illegal mining and to obtain ownership of land.

Three kinds of groups are increasing their presence in the territories left by the FARC and are at the origin of the attacks against demobilized FARC members, social leaders and human rights defenders:

*Paramilitary groups / organized crime groups:*

Without entering into the debate that exists in Colombia on the qualification of those groups, whether they are the same paramilitary groups operating in Colombia since the 90s, post paramilitary demobilization groups or organized crime groups, one witnesses a significant reinforcement of the presence of those groups following the demobilization of the FARC and that those groups are responsible for 60% of the attacks against human rights defenders and social leaders<sup>11</sup>.

The largest group seems to be the “self-defense Gaitanista of Colombia”, (referred to by the public forces as the **Golfo Clan**). It is present in Antioquia, Chocó, Casanare, Valle del Cauca, Nariño, Córdoba, Sucre, Bolívar, Magdalena, Atlántico, La Guajira, the urban zones of Cesar, some areas of Magdalena Medio<sup>12</sup>. This group is recognizable from its use of uniforms that are similar to those of the army. During our visit to the Uraba region, people interviewed confirmed that this group was installed in places previously controlled by the FARC (see for example a video from Uraba of the Clan del Golfo<sup>13</sup>). In Carrizales, paramilitaries were seen just outside the zona veredal where the demobilized members of the guerrilla are installed.

Other such groups can also be mentioned, such as “Águilas Negras Nueva Generación” “Águilas Negras” “Comando Central Los Rastrojos”, “Los Rastrojos”, “Los Urabeños” postdemobilization.

*FARC and Ejército de Liberación Nacional (ELN) dissidents:*

The groups that result from the dissidence process of some sectors of the FARC-EP who did not want to be reinstated in civilian life for they would have to give up the lucrative drug-trafficking business<sup>14</sup>. Such groups have also committed crimes against demobilized

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<sup>10</sup> Héctor Abad Faciolince. “¿Vuelven los paramilitares”? 11 March 2017. Accessed 13 June 2017, *El Espectador* <http://www.elespectador.com/opinion/vuelven-los-paramilitares-columna-684044>

<sup>11</sup> SEE OHCHR REPORT: <http://www.hchr.org.co/documentoseinformes/informes/altocomisionado/informes.php3?cod=20&cat=11T>

<sup>12</sup> Special report on risks : violence and threats against social leaders and human right defenders March 30st 2017 Bogota Colombia, Defensoria del pueblo.

<sup>13</sup> <https://www.youtube.com/watch?v=JpyTzKy2oYk&feature=youtu.be>, <http://pacifista.co/tenemos-el-video-completo-del-supuesto-campamento-paramilitar-en-apartado/>

<sup>14</sup> Revista Semana. *Los disidentes de las Farc*. 17 December 2016. Accessed 13 of June 2017 <http://www.semana.com/nacion/articulo/desercion-de-cinco-mandos-medios-de-las-farc-en-el-guaviare/509760>

FARC and probably against social leaders. Finally, despite, the development of peace talks in Quito, part of the ELN is also busy extending its control over areas where it previously had no influence as they were the traditional domain of the FARC-EP<sup>15</sup>.

*Their main strategies is to control the territory through violence, corruption and cooptation:*

These illegal armed groups have significant capacity to recruit, including children and juvenile, as well as demobilized guerrilleros. They use criminal structures and sicarios (contract killers) to support their activities. To carry out their criminal activities, these groups control territory, restrict the freedom of movement of the population, and perform a “social control”, imposing their code of conduct and public sanctions, and “resolving” social conflicts, often brutally<sup>16</sup>.

The paramilitary groups benefit from the collusion of some local authorities including from the judiciary and members of security forces, due primarily to corruption, intimidation and threats. Testimonies collected during FIDH mission around the killing of seven social leaders or HRDs in 2017 in Antioquia, confirm that the paramilitaries have begun co-opting campaigns. Through threats, they force the leaders of the community boards to meet with them, they oblige to grow coca and respect schedules in the hamlets. They also initiated forced recruitment days. Most of the killings we documented were part of this campaign of fear. In two cases, the paramilitaries wanted through duress to obtain the legal titles of the concerned land.

A salient example of the afore-going phenomenon is the so called “*plan pistola*” which involves monetary rewards for murdering members of the police in some areas of the country<sup>17</sup>. Set up by **the Golfo Clan**, this plan is aimed at strengthening the control of the criminal gang over the region of the Bajo Cauca antioqueño, as well as over the South of Cordoba and Bolivar departments.

While the Colombian State is engaged in the implementation of the Agreement, it is nevertheless subject to strong pressure. Indeed, the movements that led dynamics around the “no” vote during the referendum have a significant influence in the pre-electoral dynamics and benefit, for example, from the support of some high-level members of the Army.

Another challenge in the implementation of security measures in the region is the level of corruption and co-optation of local authorities including judicial authorities and public forces.

Lastly, the refusal to recognize that some of the illegal armed groups operating in the regions have paramilitary characteristics makes it easier for certain local authorities to describe criminal acts as individual actions, rather than as acts committed by illegal armed groups.

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<sup>15</sup> Revista Semana. *Ilegales: el acecho a las zonas de las FARC*. 2 January 2017. Accessed 13 of June 2017 <http://www.semana.com/nacion/articulo/proceso-de-paz-bandas-criminales-ocupan-zonas-de-las-farc/514019>

<sup>16</sup> OHCHR REPORT 2011 39

<sup>17</sup> Revista Semana. *12 miembros del Clan del Golfo fueron capturados como responsables de "Plan Pistola"*. 9 June 2017. Accessed 13 of June 2017 <http://www.semana.com/nacion/articulo/proceso-de-paz-bandas-criminales-ocupan-zonas-de-las-farc/514019>

Recommendations for the mandate and operational aspects of the Mission on security guarantees and the fight against impunity for attacks against human rights defenders, leaders and members of the demobilized FARC

General recommendations:

- The second mission should have a sufficient **presence at local and regional levels**, particularly in areas where there will be a large number of demobilized guerrillas, as well as in areas where most human rights defenders and social leaders have been murdered over the last two years.
- As it is an essential condition for the implementation of all the other commitments set in the Agreement, **the utmost importance should be given to the monitoring of security guarantees.**
- The Mission should be able to verify the implementation of the Agreement **pro-actively** and to present **with great independence** the obstacles to its implementation and the possible solutions to remedy the situation.
- When establishing the Verification Mission, the Security Council should clarify its mandate and dissipate any confusion with the mandate of the OHCHR in Colombia which remains, amongst UN entities on the ground, primarily responsible for monitoring and reporting on human rights abuses committed on the Colombian territory.
- **Proper coordination with the Mission and the Office of the High Commissioner for Human Rights** in these matters will be central. Therefore, the participation of the High Commissioner in the design of the operational plan of the mission is indispensable in consideration of the human rights aspects derived from the object of verification. It is in this sense also necessary to establish an articulated and complementary approach through teamwork between the Department of Political Affairs and the Office of the High Commissioner for human rights. This articulation will allow, among others, the conformation of an appropriate civilian team with a high degree of experience in verification of aspects related to human rights.
- **Collaboration with other agencies of the UN present on the ground.** The Mission in the development of its mandate, should seek to work in an environment of harmonious collaboration with all UN agencies present in the country. This should not weaken their respective mandates. For this purpose, collaboration protocols must be set.
- **Support to State institutions through technical and specialized assistance.** The Mission should ensure an effective communication that allows it to establish partnerships and provide the necessary and specialized technical assistance to the national, regional and local institutions relevant such as: The Ombudsman's Office, municipalities, the Special Investigations Unit, the National Commission of Security Guarantees, the National Protection Unit, the National Police, the Judicial Police, the Attorney General of the Nation, the Territorial Committees of Alert for the Immediate Reaction in the territories and zones preselected.
- **Dialogue with social and human rights organizations at the national and local level** The Mission should maintain a proactive and pluralistic dialogue with

social and human rights organizations at national and local level.

- **Incorporation of gender and ethnic approach.** The Mission should take into account an ethnic and gender perspective, seeking also to establish a gender balance in its teams.

- Four entities provided for in the Agreement are of particular importance to the implementation of the mentioned second axis:

The Security Council decided that the Verification Mission shall verify the implementation by the Government of Colombia and FARC-EP of section 3.2 and 3.4 of the Final Agreement as called for in section 6.3.3 of the Final Agreement. We will focus on section 3.4 that defines the agreement on security guarantees and the fight against organizations and criminal conduct responsible for killings and massacres. The definition of security in paragraph 2 is reinstated, the guiding principles (3.4.1) and the promotion of a National Political Pact (3.4.2) are defined, as well as the creation of **the National Commission on Security Guarantees** (3.4.3), which will aim at the design and follow-up of the public and criminal policy regarding the dismantling of any organization or conduct that threatens the implementation of the agreements. It will be presided over by the President of the Republic.

**A Special Investigation Unit** will be established for the dismantling of criminal organizations and their support networks (3.4.4). It will be part of the Attorney General office but autonomous in its organization and decisions. It will have a Special Judicial Police Unit.

**An Elite Corps** (3.4.5) will be integrated into the National Police for immediate action against such organizations and for their dismantling.

Likewise, **the High Level of the Integral System of Security for the Exercise of the Policy** (3.4.7), will be in charge of the functioning, articulation and supervision of this Security System for political parties and social movements, especially those who declare themselves in opposition and whose technical secretariat is in under the authority of the Presidency of the Republic.

#### The fight against criminal groups and the impunity of their actions

- The Mission should monitor the work carried out by the newly established special unit for the dismantling of criminal organizations and their support networks. It is to that end essential that specialists in criminal investigation of crimes (including so called crimes of social cleaning) committed by organized group/ illegal armed group such as of paramilitary group, join the Mission.

Special concern should be given to the monitoring of the way the threats and homicides against HRDs, Social leaders and Members of the FARC and their family are dealt with by the authorities.

- The agreement also mentions the fight against the support network. It is indeed necessary to dismantle and prosecute when necessary the entities that support those groups as well as non-state actors or local authorities colluded or co-opted by those groups. In order to promote the fight against corruption and the intimidation of these actors

by criminal groups, the mission should provide expert advice on related issues regarding the independence of the judiciary.

#### Ensuring a sustainable protection of the population and of the demobilized FARC

- The mission should monitor solutions deployed for the protection of local populations in areas left by the guerrillas and of the demobilized guerrilla. Some steps have been taken such as the creation of **the elite Corps** to consolidate the presence of the state in the territories and in managing the enduring manifold violence. The mission should monitor the activities and strategy of this entity.

The securitarian response is nevertheless not enough and must be supplemented by other policy measures in affected areas.

As such, monitoring the return of basic services in rural areas, supporting comprehensive rural agrarian reform, analyzing the exploitation of resources and the impact on the environment and local production are issues that directly influence how to ensure the security of populations and cannot be left aside of other security guarantees.

These last points are also important for the reincorporation of the FARC-EP into civilian life. From the interviews we carried out with FARC ex-combatants demobilized and with the leadership of the FARC, we understand that the reintegration of many of them will be done through rural activities since many want to enter into a collective productive project.