

Case 001: Illegal Retention of people by FARC-EP

Illegal retention of people breaches the fundamental right of freedom. The Rome Statute, in its article 7 about crimes against humanity, condemns the *imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law*, and forced disappearance, understood as *the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law*.

Kidnapping: an operational tactic of FARC-EP

In Colombia, this conduct has been known as kidnapping (secuestro). According to reports by the Attorney General's Office (FGN), the Historical Memory Centre (CNMH), and organisations of victims of kidnapping, in 1993 the FARC-EP adopted kidnapping as an operational tactic during its Eight Conference, and later prohibited it in 2012.¹ However, some kidnappings took place after that date.

According to the same reports, at least three goals were pursued through kidnapping: 1) demand relatives and loved ones large amounts of money to release the kidnapped person, 2) put pressure on the government, 3) demonstrate control over civilian populations.²

1. Auto No. 002, Sala de Reconocimiento de Verdad, de Responsabilidad y de Determinación de los Hechos y Conductas, JEP. 4 de julio de 2018. [tps://relatoria.jep.gov.co/documentos/providencias/1/1/Auto_SRVR-002_04-julio-2018.pdf](https://relatoria.jep.gov.co/documentos/providencias/1/1/Auto_SRVR-002_04-julio-2018.pdf)

2. Ibídem.



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Case 001 against the former FARC-EP guerrilla for kidnapping

The Chamber for the Recognition of Truth, Responsibility and Determination of the Facts and Conduct (hereafter Chamber of Recognition) of the Special Jurisdiction for Peace (JEP), decided to examine case 001 in July 2018, following the report by the FGN called Illegal retention of persons by FARC-EP, using a case prioritization criteria previously established.

innovation pill

Unlike other transitional justice models, the JEP not only seeks to determine who was responsible for wrongdoings, but also judges those who were in charge of the “policies”. For instance, it not only judges those who committed kidnappings, but also those responsible for creating the policy of kidnapping.

The Case 001 against FARC-EP for its kidnapping policy and the captivity conditions of civilians, police officers and military personnel, has a national scope. As of November 2019, **the Recognition Chamber has accredited 1276 victims, and has received 7 reports from the civil society**, in addition to the reports by the FGN and the CNMH.

Individual and collective testimonies by FARC-EP

With the opening of the truth recognition, responsibility, and fact and conduct finding phase, the Chamber of Recognition has received testimonies in two forms: individual and collective. In the individual scenario, **56 people have appeared**



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before the Chamber and have given information about their chain of command and the operations in which they were involved. In the collective scenario, **legal proceedings have been made with the Central Command of former FARC-EP guerrilla** regarding “retention” orders given by superiors to their military units. Likewise, **testimonies are being received in the Training and Reincorporation Areas (ETCR) to broaden the scope of collective responsibilities.**

This is one of the seven cases that have advanced the most in the JEP thanks to, among other factors, the commitment from the people who have stood before the of Recognition to fulfil the rights of the victims. Those who have failed to do so have already been excluded from the JEP and, as a consequence, been subject to the ordinary jurisdiction.

Recommendations

The processes described above has allowed to identify 25 years of kidnappings by the former FARC-EP, which accounts for thousands of victims, a number that can increase before the Special Tribunal for Peace rules its sentence regarding this case.

Being accredited as a victim gives the status of “special intervener”, which allows to take part in every instance of the process, have access to individual and collective hearings, as well as providing observations afterwards.

Embrace Dialogue (ReD) welcomes the progress made by the JEP and invites victims of kidnapping in Colombia and abroad to be accredited. And for those who read us, we invite them to share this information in order to get those who have been victims of kidnapping to be accredited as such in this case.



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