

## # 2 THE FIRST STEPS OF THE JEP

In 2012, the government of President Juan Manuel Santos (2010-2018) restarted peace negotiations with the Revolutionary Armed Forces of Colombia - People's Army (FARC-EP) through a process of dialogue that relied on the participation of civil society and groups of the population that had been victims of the conflict historically, such as farmers and indigenous and Afro communities. The negotiations concluded in 2016 with the signing of the Final Agreement to end the armed conflict and build a stable and lasting peace; since then, Colombia has been tackling the challenge of implementing the 578 provisions of the Agreement.

### **The JEP: Why was it formed, what is it seeking, and how does it work?**

Justice, as one of the rights owed to victims, was a point of debate at the negotiations. As a result of the discussion to not subject the FARC-EP to ordinary justice, and based on the international principles for realising peace with justice, it was agreed to create a special and transitory mechanism to investigate, to ensure the participation of the highest ranking officials responsible for the most serious violations and to deliver restorative justice. Truth and comprehensive reparation for victims were the foundations of this mechanism. The Special Jurisdiction for Peace (JEP) is the institution responsible for the justice component of the Comprehensive System for Truth, Justice, Reparations and Non-Repetition (CSTJRN).

The JEP, as a state institution, has a duty to investigate, clarify, pursue, judge and punish the most serious violations against human rights and serious infractions against International Humanitarian Law, in the course of and by virtue of the armed conflict. Within this scope, the JEP has objectives to provide the full truth to Colombian society, to contribute to the fight against impunity and to take decisions with legal certainty that fall within their jurisdiction; contributing to the construction of a stable and lasting peace.



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Focused on the guarantee and protection of the rights of victims, the JEP acts based on the principles of a differential approach, gender equality, and the prosecution of the most serious and representative cases; and must operate in an articulate, effective and coherent manner with the other components of the CSTJRN. Its jurisdiction prevails over other criminal, disciplinary and administrative proceedings that arise in the context of the armed conflict.

Additionally, the JEP is in charge of deciding over the granting of amnesties and pardons, in line with international law, the Colombian Political Constitution and the Amnesty Law (Law 1820 of 2016).

The JEP is responsible for two types of proceedings: 1) recognition of truth and responsibility and 2) the absence of recognition of truth and responsibility. To this end, it is composed of five bodies and an Executive Secretariat. The five bodies are comprised three Chambers: a) Chamber for the Recognition of Truth, Responsibility and Determination of Conduct, b) Amnesty and Pardon Chamber and c) Chamber of Definition of Legal Positions; the Unit of Investigation and Prosecution and the Peace Tribunal, which is in turn comprised five sections.

The judiciary is made up of 38 members and 13 substitutes, and the JEP also relies on the participation of 14 foreign lawyers as *Amicus Curiae* (third parties who provide their opinion to collaborate on the resolution of questions on processes). The election of these individuals was undertaken by the Selection Committee, an autonomous and independent body created by the Final Agreement. The selection was carried out in a public, impartial and diverse manner, resulting in 28 women selected as judges and more than 15% of members from Afro and indigenous communities, setting a precedent in the selection of those from ethnic groups.



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## Attacks on the JEP and the response from the international community

Since the arrival of Ivan Duque to the presidency in August 2018, the free operation of the JEP has been at risk. Even though the Constitutional Court declared as constitutional the Legislative Act 01 of 2017 through which the JEP was given life, the president submitted a series of objections to the proposed Statutory Law of the JEP in the first half of 2019. These were rejected by the Constitutional Court, allowing the sanction of Law 1957 of 2019.

Despite these obstacles, the international community and different international human rights organisations, UN bodies, academic and social sectors from around the world, such as the International Criminal Court, have strengthened their support for the implementation of the Agreement, and the JEP in particular. This support has been and continues to be fundamental to the JEP achieving its mandate.

**In the third TJS we will present cases that the JEP is investigating and the advances made towards realising the task of satisfying the rights of victims and delivering justice to ensure non-repetition.**



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