



## Colombia: new momentum for peace?

**SUMMARY** *In autumn 2012, Colombia's government and the insurgent Revolutionary Armed Forces of Colombia (FARC) started direct peace negotiations, in an attempt to put an end to the 50-year old conflict, which has had over 5 million victims to date (assassinations, kidnappings, displaced persons and refugees, etc.).*

*Despite a history of failed negotiations with FARC, a fair amount of optimism surrounds these latest talks: both parties seem unable to win militarily and both have strong incentives to negotiate.*

*Indeed, although they unfold amid ongoing hostilities (a ceasefire will come into effect only if a final agreement is reached), negotiations have made some headway. Recently, FARC and government negotiators have agreed on the first issue on the agenda, relating to land reform.*

*However, the outcome of the talks remains uncertain, as four other difficult issues figure on the agenda: political participation, an end to the conflict, illegal drugs and victims' rights. Moreover, if progress is not made fast enough, opposition to the negotiations might increase among the political class and in public opinion. Finally, other obstacles (remaining guerrillas, criminal groups etc.) could have a negative impact on the talks.*



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### Background

In September 2012, the Colombian president, Juan Manuel Santos, announced his government would enter into direct peace talks with the insurgent FARC-EP.<sup>1</sup> This is the fourth attempt to negotiate an end to the most enduring armed conflict in the Americas.

After the official start was announced in Oslo, Norway, formal negotiating rounds have been held, since November 2012, in Havana, Cuba, established as the main seat of the talks. On 9 July 2013, the 11th round of negotiations concluded.

### The current negotiations

#### Previous attempts at negotiations

The Colombian government previously concluded [successful negotiations](#) with other **guerrilla** groups in the 1990s.<sup>2</sup> The peace agreements with these groups provided for social and judicial guarantees and political favourability mechanisms, after their demobilisation.

The Colombian state also engaged in talks with the **paramilitary groups**, which formed a right-wing counter-insurgency against the guerrillas. Supported by parts of the political and economic elites and part of the military, the paramilitaries were behind a large number of massacres, including the killing of some 3 000 members of the Patriotic Union (UP), FARC's political wing, in

the 1980s. In a controversial move, the Uribe administration achieved the demobilisation, in late 2006, of over 30 000 paramilitaries, grouped under the name of United Self-defences of Colombia (AUC). However, many demobilised members of AUC formed new criminal groups (the *Bacrim*).

In contrast, past attempts at negotiating with FARC have always failed.<sup>3</sup> Among the reasons was the divide between FARC's radical demands and the intransigence of the country's economic and political elites. The most recent talks with FARC, held by the Andrés Pastrana administration (1998-2002), date back 10 years and are remembered as the Caguán talks.<sup>4</sup> Their failure arguably led to the [intensification](#) of the conflict.

### **New momentum for talks**

[Analysts](#) believe the prospects for peace in Colombia are now greater than at any time in the past 50 years. Neither side seems able to win militarily, thus both government and FARC have strong motivations to negotiate.

On the one hand, sustained military action under the "Democratic Security" policy of former President Alvaro Uribe (2002-2010) considerably weakened FARC. The United States supported this policy through an assistance package, known as "[Plan Colombia](#)" (around US\$8 billion, 2000-2012). Consequently, from an estimated 18 000 members under the Pastrana administration, FARC [membership halved](#) to some 9 000 members in 2012 (through killing or capture by the Colombian army, or demobilisation). It also lost many of its leaders. In addition, FARC has been driven out of central Colombia and urban areas, but not yet out of its traditional areas. Under these circumstances, FARC's motivation for entering into negotiations may be to avoid further defeat. Nevertheless, the guerrilla still [possesses](#) important funds (mostly from drug trafficking and kidnappings) and is still able to attract new members into its ranks.

On the other hand, the state, although in a position of strength, has also acknowledged

that it cannot end the conflict only through military means, nor can it address Colombia's socio-economic problems without solving the conflict. A majority of Colombians appears to back a peace process, as well as the major political forces in Congress. Furthermore, the government prefers a cohesive partner with which to negotiate. That may no longer exist if a sustained military offensive were to lead to FARC splitting up into different fronts. Finally, the prospects of a far-right president coming to power in 2014 and unwilling to negotiate may be another motivation in proceeding with talks now.

### **The current framework for negotiations**

Following six months of exploratory talks, on 26 August 2012, the Colombian government and FARC signed a [General Agreement](#) setting out the framework for negotiations. The parties agreed to "initiate direct and uninterrupted talks on the points of the agenda established [...], with the aim of reaching a Final Agreement for the termination of the conflict that will contribute to the construction of stable and lasting peace."

In an effort to avoid the mistakes of previous negotiations, in the [current negotiations](#):

- The agenda is kept limited: it addresses only five core issues, with an additional point on guarantees;
- Talks are held abroad and in secret: they do not directly involve civil society, and limit the role and number of international actors;
- The authorities will not agree on any demilitarised zone during the talks;
- No ceasefire will come into effect until a Final Agreement is signed;<sup>5</sup>
- Both parties aim to conclude the talks swiftly.

Negotiations follow the principle that "nothing is agreed until everything is agreed." The government has [announced](#) that any Final Agreement will have to be approved by popular referendum. President Santos has announced the objective of

reaching a Final Agreement by November 2013, not least to show progress in view of the forthcoming elections. [Elections](#) for Congress are planned for March 2014, followed by a presidential poll in May 2014. President Santos has yet to formally [announce](#) his intention to seek re-election.

[Experts](#) state there is a significant difference in relation to previous negotiations: the current talks do not aim directly at achieving peace, but at ending the armed conflict, as a precondition for peace. Indeed, according to the Colombian [High Commissioner for Peace](#) (one of the government negotiators), the government's primary objective for the talks is to achieve the cessation of hostilities in order to pass to the next, "transitional", phase, of peace building. If a Final Agreement is concluded, the transition would begin at the same time as the disarmament of the guerrilla and the implementation of the Agreement. This phase could take a decade.

#### The National Liberation Army (ELN)

The second largest guerrilla in Colombia, with some 2 500 members, the ELN has also shown [interest](#) in joining the peace talks in Havana or in exploring a separate peace process. In response, President Santos set out as a [condition](#) for talks with the ELN the release of all hostages, including a Canadian mining worker kidnapped in January 2013. Although analysts expect possible intensification of ELN attacks, in order to improve its negotiating position, the group recently [announced](#) it would soon release the Canadian hostage. Moreover, as a unilateral gesture, ELN freed a soldier, captured in May.

FARC has expressed [support](#) for talks between the government and the ELN, as the two guerrillas recently made an agreement to improve their "unity". In a joint statement, they affirm the necessity of negotiations with the entire insurgency in Colombia in order to end the armed conflict.

#### Role of the international community

The international community has an [important role](#) to play in the peace process, as it can offer guarantees, logistical and financial support and may help overcome some obstacles at the negotiating table. Moreover, in a post-conflict scenario, the international community may be of assistance in verifying compliance with a final agreement, plus it may provide financial and technical cooperation for the government to implement its commitments. The Colombian government may also need [regional support](#) in locating FARC revenues from illegal activities or in dealing with other administrative and financial challenges related to the reintegration of FARC members after demobilisation.

The current negotiations have [four participating countries](#) – Norway and Cuba as guarantors, and Venezuela and Chile to accompany the process.<sup>6</sup> **Cuba** seems to be the only country in which FARC insurgents feel safe to hold negotiations, while **Norway** has significant experience in conflict resolution. **Chile** was included, as it held the rotating presidency of [CELAC](#) (Latin American and Caribbean Community of States). Finally, **Venezuela** is an important participant in the process, as former Venezuelan President Hugo Chavez had facilitated secret contacts between FARC and the Santos government and encouraged the start of negotiations. Nonetheless, with a new Venezuelan President, relations between the two states seem to be undergoing a [difficult](#) period, [threatening](#) to damage the talks.<sup>7</sup>

Other countries may be invited to the process. Some role is likely to be assumed by Brazil or Ecuador. The United States could also have a formal role, as it has a strong interest in combating drug trafficking. Conversely, cooperation with the US is needed, as FARC will ask for [guarantees](#) that its members would not be extradited on drug-trafficking charges.

## Points on the agenda

According to the General Agreement, the agenda consists of five substantive issues and one related to the guarantees and implementation of a potential agreement, as follows:

- Rural development and land reform;
- Political participation;
- The end of the conflict;
- Illicit drugs;
- Victims;
- Implementation, verification and ratification.

### Rural development and land reform

[Land rights and distribution](#) have been at the heart of the conflict in Colombia, a country that suffers from massive inequality with regard to rural property. Today, 52% of farms belong to just over 1% of landowners. Moreover, a very high number of peasants or indigenous people that live on the land do not possess [titles to the property](#), making them vulnerable to usurpation by armed groups or denying them access to credit. Government [estimates](#) also show that some 360 000 families or up to [1.5 million people](#) have been forced off their land (a number much lower than non-governmental figures). Furthermore, only 22% of arable land is being cultivated and 6.5 million hectares of land was stolen, abandoned or forcibly changed hands between 1985 and 2008, as a result of the conflict.

In June 2011, the Colombian Congress passed the Victims' and Land Restitution Law ([Law 1448](#)), to offer reparation to victims of the conflict, as well as land restitution or compensation for some of the millions of people displaced by the conflict. Many [challenges](#) confronted the implementation of the law, and, after a year, it was found to have [produced little result](#).

In May 2013, [an agreement was reached](#) in Havana on this first point on the agenda. The deal foresees the creation of a land bank for the distribution of farmland. Farmers will benefit from loans and technical assistance,

as well as legal and police protection. FARC's demand for 9 million hectares as "peasant reserve zones" enjoying some autonomy from the state was firmly rejected by the government. According to the [new Minister for Agriculture](#), such [reserve zones](#) will continue to function as established in 1994, under the laws and control of the state. Their number may increase.

In order to prevent resistance from wealthy landowners who feel affected by the land restitution process, the agreement enshrines respect for private property. The agreement on land reform will take effect only if a Final Agreement is concluded.

### Political participation

From 1 to 9 July 2013, the [11th round](#) of negotiations took place in Havana. As with the previous round (11-21 June 2013), it focused on the second point on the agenda, the political participation of FARC.<sup>8</sup>

This relates to establishing [guarantees](#) for the transformation of the armed group into a political movement that pursues its objectives democratically, on the same terms as other legal movements and without security risks. It also relates to guarantees for society that the group will renounce armed struggle in favour of the political one. These talks should also focus on mechanisms for citizens' participation in the democratic process at all levels.

A likely [successor](#) to FARC is thought to be the [Marcha Patriótica](#), a movement founded in 2012. Although it has no formal links to FARC, the movement seems to share many of FARC's ideas.

In June, FARC put forward its [ten "minimum proposals"](#). The first two refer to profound **reform of the state** and to full **guarantees for the opposition**. FARC [considers](#) that talks should not be restricted to the guerrilla's participation in politics, but should address the "structural transformation of the state". For this reason, the group has called for a **National Constituent Assembly** ("as peace treaty

and new social contract"). Related to this, FARC also proposed to **postpone elections** for one year, in order to give time for a constituent process. FARC may fear that, if a Final Agreement is not reached before the 2014 elections, an agreement will have to pass through a new Congress in which Santos has lost the majority.<sup>9</sup>

Government negotiators (and the President) [rejected](#) immediately both the proposal to postpone the elections and the [Constituent Assembly](#) idea. They suggested focusing on the themes of the current talks and not expanding the discussion to other issues. Moreover, the government's chief negotiator, Humberto de la Calle, stressed that what was being [discussed](#) was the transformation of FARC into a legal organisation, and not the entry into politics of specific combatants (part of another point on the agenda).

Other FARC proposals cover political guarantees for guerrillas and their combatants, making information and means of communication more accessible, and increased participation of regions and territories (FARC has proposed a [territorial Chamber](#), to replace the current Chamber of Representatives).

### End to the armed conflict

Negotiating an [end to the conflict](#) is another difficult aspect of the talks. The first step would be a "definitive bilateral ceasefire and cessation of hostilities", coupled with the disarmament of FARC and a possible international monitoring mission to verify this. Secondly, demobilisation and reintegration of FARC members would follow, with security guarantees being an important part of the process. However, in a recent statement, FARC announced they will [not give up their weapons](#), following the model set by the peace process in Northern Ireland.

### Illicit drugs

Under this point, negotiators will address programmes of illicit crop substitution, as well as preventing consumption and stopping production and commercialisation

of narcotics. Concerning the problem of [drug trafficking](#), the issue at stake for the government is to prevent elements of the guerrilla from continuing the drug trade. However, analysts assert that in the event of FARC demobilising, there would be a limited risk of its members backsliding on a large-scale into organised crime, due to its cohesiveness to date. On the other hand, demobilisation may lead to other criminal groups, the Bacrim, fighting to take over FARC territories and drug trade.

### Victims

The conflict in Colombia has [affected](#) millions of people, at the hands of either the guerrillas, paramilitaries, state security forces or the Bacrim: extrajudicial killings, torture, enforced disappearances, kidnappings, internally displaced persons (IDPs), refugees, people dispossessed of their lands, recruitment of child soldiers, sexual violence, landmines, etc.

In total, almost 5.5 million victims of the armed conflict had been registered at the end of March 2013. Among these, homicides have reached 100 000 (including almost 3 000 trade unionists, between 1978-2012, 3 000 "false positives",<sup>10</sup> more than 2 500 indigenous people), according to "[Proyecto Victimas](#)".

[Another study](#) (2012) found Colombia to be the country with the highest number of IDPs in the world - between 4.9 and 5.5 million; this accounts for around 11%-12% of the [entire population](#). [Indigenous and Afro-Colombian communities](#) seem to be particularly affected. [Statistics](#) provided by the Colombian government, however, state the number of IDPs, for the period 1997-2012, to be 4.7 million, with 99 150 persons displaced during 2012 (provisional numbers). At the end of 2012, the number of [Colombian refugees](#) in neighbouring countries (Venezuela, Ecuador, Panama) had reached 394 100.

Another [report](#) has found there have been more than 39 000 kidnapping cases in

Colombia in the past 40 years. Responsibility for the kidnappings has been confirmed in 37% of cases to belong to FARC, in 30% to ELN, in 20% to the Bacrim, in 9% to others and in 4% of cases to paramilitaries.

The talks in Havana will [address](#) the rights of the victims and the issue of truth. In order to strike a balance between peace and justice, a transitional justice process will be put in place. However, [legal solutions](#) in this transition process will need to respect the victims' rights to truth and reparation, and thus avoid impunity for those FARC members found guilty of crimes.

In June 2012, Congress passed the controversial [Judicial Framework for Peace](#) (*Marco Jurídico para la Paz*), allowing for perpetrators of "political crimes" to be prosecuted under a special procedure, as well as for demobilised guerrilla members to participate in politics. It [provides](#) incentives for combatants to give information on their crimes and reparations to the victims, in exchange for reduced or other judicial sentences. For the time being however, the Judicial Framework has [not been enacted](#). The government is required to "activate" this constitutional instrument through statute, but it has not yet presented a draft law. The above-mentioned Victims' and Land Restitution Law was adopted as part of the process.

The Framework has raised controversy because of the prospects for guerrilla members responsible for crimes against humanity to receive suspended sentences; an idea rejected by most Colombians. Sentences for leaders might be reduced, on condition that they reveal the truth about their crimes, give reparations, surrender their arms and demobilise. Another issue is extradition, as many FARC commanders have been indicted in the US for various crimes. Depending on their cooperation, they could avoid being extradited.

The High Commissioner for Peace presented the [government's position](#) on transitional

justice and on the scope of the Judicial Framework. The entire strategy would need to integrate the rights to truth, justice and reparation and take on the maximum number of violations, in order to fulfil the rights of victims in a transition. For this to happen, the High Commissioner called on members of the guerrillas to be active subjects in this strategy and to assume responsibility before their victims. There will not be impunity and no general amnesty for the guerrillas. He also stated that the transformation of the guerrillas into legal political movements would pose no problem; however, the participation of individual combatants in political life would depend on decisions on a case by case basis.

Finally, [analysts](#) underline the fact that allowing victims' rights to be part of the agenda for talks already signifies the guerrilla is ready to accept the application of transitional justice (previously, FARC had always demanded an amnesty).

### **Implementation, verification and ratification**

Under this point, the parties will decide, among others, on the creation of mechanisms for implementation and verification of the Final Agreement, on international accompaniment, the timetable and on the mechanism for ratification.

### **Potential obstacles to an agreement**

Although there is optimism, significant [challenges](#) still remain to reaching a Final Agreement. Firstly, mutual distrust between the parties is very strong. Then, FARC seems to be trying to expand the scope of the negotiations. In addition, as there is no ceasefire in place, military confrontation may escalate and impede progress. Also, even if an agreement is reached, actual implementation of each of the five points is another major challenge. Finally, the parties must [deal](#) with public opinion which is highly sceptical that FARC really wants peace.

[Obstacles](#) to the current peace talks take different forms. **Political opposition** to the talks and to an eventual agreement is mainly embodied by former President Uribe and his allies. They insist on a military solution to the conflict, especially at a time when FARC appears to be weakened, and reject any peace talks that would give the guerrilla any political benefits. Although the Santos government has the backing of a large coalition in Congress in support of the talks, both the government and FARC need to show progress in the negotiations. Failure could increase political resistance and lead to the emergence of a more aggressive discourse.

[Public opinion](#) could become increasingly disapproving of the peace process. Despite high support for the talks initially (80% of Colombians), many Colombians also oppose FARC participating in politics and maintain that guerrillas must be tried for their crimes. Delay in reaching agreement between FARC and the government will lower public support for the process and increase scepticism: only 20% of Colombians were confident, in February 2013, that the talks will reach a Final Agreement.

The **military** may also be an obstacle, despite recent improvements in civil-military relations. For a long time, the [army](#) has been quite autonomous in dealing with the conflict, and is therefore reluctant to accept a political solution and peace talks (some parts of the army equate talks with military defeat). Another problem for the armed forces is the extension of civilian jurisdiction to try soldiers for extrajudicial executions.

**Paramilitary and new criminal groups** also pose a risk, in particular to post-conflict order. Firstly, there is a high probability they will try to enter the demobilised guerrillas' zones of influence and take over their illegal activities. Secondly, these groups could act on behalf of other broader interests (political, economic) that might be threatened by a peace process.

Other risk factors include the remaining **guerrillas** (e.g. the ELN), as well as different groupings inside FARC, which are heavily involved in organised crime, opposing the talks, on grounds of timing or for financial reasons.

### The position of the European Union

Although FARC is included in the EU (and US) terrorist list, the EU has expressed its [support](#) for the current peace talks. The EU is already [co-sponsoring](#) consultations with Colombian civil society on the agenda for the talks, as well as assisting with the implementation of the Victims' and Land Restitution Law. It is also ready to participate in the negotiation process if the Colombian government invites it. Moreover, the EU is [preparing](#) a €40 million programme to support rural development. High Representative, Catherine Ashton, recently [welcomed](#) the agreement in Havana on land reform.

The EU has also been addressing the needs of people affected by the conflict, through €187.4 million in [humanitarian assistance](#), since 1994. This aid is focused on Colombian IDPs and refugees, as well as on responses to natural hazards.

In June 2012, Colombia and Peru signed a comprehensive [trade agreement](#) with the EU. As of July 2013, the agreement will apply [provisionally](#) for Colombia, pending ratification by all EU Member States.

#### The European Parliament

The President of the EP, Martin Schulz, has recently [called for](#) the release of all kidnap victims held by the FARC and ELN and said that the EU was carefully monitoring the peace talks and would assist the Colombian Government in achieving the right balance between justice and peace.

A number of parliamentary questions have also been addressed by MEPs to the [Council](#) or the [High Representative](#) with respect to the peace process in Colombia.

## Main references

[Colombia: Peace at Last?](#)/ International Crisis Group, 2012.

[Colombia: Ending the Forever War?](#)/ K. Johnson, M. Jonsson, *Survival*, vol. 55, issue 1, 2013.

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## Endnotes

- <sup>1</sup> [Founded](#) in 1964 by Pedro Marin (alias Manuel Marulanda), FARC traces its origins back to the militias formed during the 1948-1958 civil war (*La Violencia*). At the beginning, just one of the several medium-sized left-wing rebel groups in Colombia, FARC enlarged quickly as an organisation, due to its strict internal rules and hierarchical structure, and expanded its territorial reach. From its initial objective of land reform, it shifted to overthrowing the government. In 1982, FARC [added](#) to its name the title "Army of the People" (Ejército del Pueblo), resulting in the acronym "FARC-EP".
- <sup>2</sup> The 19 April Movement (M-19), the Popular Liberation Army (EPL), the Revolutionary Workers' Party (PRT), Quintin Lame indigenous movement, the Socialist Renewal Current (CRS).
- <sup>3</sup> The first negotiations with the FARC took place under the administration of Presidents Belisario Betancur and Virgilio Barco, between 1984 and 1989; a second attempt at negotiations happened in 1991-1992 with the Gaviria administration (the Caracas and Tlaxcala talks); the third attempt at talks was between 1998 and 2002 under the Andrés Pastrana administration (the Caguán talks).
- <sup>4</sup> Analysts state the Caguán talks were destined to fail, as none of the parties was negotiating in good faith, and point to some of [the errors](#): too many points on the agenda for negotiations (12 themes and 48 sub-themes) that prompted prolonged talks leading to the government losing credibility; and a large demilitarised zone that allowed FARC to use this zone to reinforce itself, to recruit new members, to conduct military training and to expand coca cultivation.
- <sup>5</sup> FARC had announced a unilateral ceasefire [starting](#) on 20 November 2012, to last for two months, as a gesture of goodwill to facilitate the dialogue. On 20 January 2013, the [ceasefire ended](#) and FARC resumed its offensive operations. President Santos declared that FARC largely respected its self-imposed ceasefire.
- <sup>6</sup> Previous negotiations involved the United Nations as well.
- <sup>7</sup> On the margins of the most recent round of talks, the parties were reassured on the [continuity](#) of Venezuela's support to the process, as "accompanying country".
- <sup>8</sup> The recent rounds of talks were held against the background of farmers' [protests](#) in the area of Catatumbo, which started on 10 June. The protesters demand the government create a peasant reserve zone in the region and stop its campaign of eradicating illegal coca crops.
- <sup>9</sup> At present, a group of political parties (National Unity, Unidad Nacional) supporting the peace talks together with Santos' government have a majority in Congress.
- <sup>10</sup> The term "[false positives](#)" refers to unlawful killings of civilians by the security forces. "Positive" ("positivo") is the euphemism used by the Colombian police to describe the killing of guerrilla and paramilitary combatants.