

Meeting Report

The Colombian Peace Process: State of Play of Negotiations and Challenges Ahead

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Rapporteur

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On 29 June 2016 in Brussels, the Norwegian Peacebuilding Resource Centre (NOREF) and the European Peacebuilding Liaison Office (EPLO) co-organised a seminar entitled **The Colombian Peace Process: State of Play of Negotiations and Challenges Ahead**.

The event was an opportunity for reflection in order to: (a) share concerns about and lessons learned from the Colombian peace process; (b) better inform EU policymakers about local and national aspects of the peace negotiations; and (c) identify policy recommendations for the EU and the international community in order to promote the effective implementation of the peace agreement.

The seminar gathered together a group of experienced practitioners, professionals, diplomats and EU officials whose knowledge, practice and expertise greatly contributed to a successful meeting. In a variety of sessions the participants presented an overview of the negotiations and the peace process, identified the challenges facing the implementation of the final agreement, and discussed the key contributions that international actors – not least the EU – could make in the post-conflict phase. The event took place a few days after the conflicting parties reached an agreement on a definitive bilateral ceasefire, which contributed to the relevance of the event.

It would be impossible to capture in a short report the range and depth of the discussions at the seminar. What is presented in this document is a selection of what the convening organisations consider to be the most relevant issues highlighted by participants.

Innovations and process design

From a mediation and peacebuilding perspective, the Colombian peace process was described by various participants as one that will merit study in years to come and will be used as an example from which to extract lessons for other peace negotiations. One of the most important lessons is the fact that even the most intractable conflict can be addressed through political negotiations.

The resilience and success of this process of negotiation were attributed to a great extent to issues related to the design of the process, including:

- President Santos's leadership and use of windows of opportunity in Colombia and the region to advance the negotiations and the peace process;
- a secure and protected space for dialogue and negotiation outside Colombia and far from national political pressures;
- an initial Framework Agreement that set the stage for the next phases, defining goals, methodology, agenda and rules of engagement; this illustrates the power of a framework agreement to articulate and model ways of thinking towards a common vision;
- a limited and well-focused set of themes in the agenda, including the drivers of the conflict, the impact of the war, and practical issues about how to put an end to war;
- national ownership with international support, initially by the guarantors (Cuba and Norway) and accompanying countries (Chile and Venezuela), and later by other actors (the EU, U.S., UN, and others);
- the limited participation of civil society organisations at the beginning, later extended and articulated around various entry points into the talks (their role had initially mainly been envisaged for the peacebuilding phase);
- the introduction of innovations that included the Subcommission on Gender and the Technical Subcommission on Ending the Conflict;
- the early integration of potential spoilers or sectors that could oppose peace;
- a framework that distinguishes between conflict termination (by the parties at the negotiating table) and conflict transformation (by society at large);
- placing victims' rights at the centre of the process, particularly, but not only, because of the presence in Havana and the participation in the talks of victims' organisations, which had a transformative impact on the outcome (e.g. the agreement on transitional justice);
- the inclusion of rural development and drugs as issues to be negotiated (respectively, the main root cause and facilitator of the conflict); and
- planning for the implementation of the agreement early on, including through the creation of a post-conflict ministry and an already existing reparations programme.

The Special Jurisdiction for Peace

The agreement on victims and justice and the creation of the Special Jurisdiction for Peace were highly praised by all participants. The agreement is:

- *victims-centred*, because victims had the opportunity to meet the parties in Havana and make their voices heard;
- *holistic*, because the agreement focuses not just on criminal penalties, but on the victims' rights to truth, justice, reparations and non-repetition. It aims to strengthen existing reparations programmes, creates a Truth Commission, and covers a range of humanitarian issues;
- *integral*, because it covers all the actors in the conflict;
- *innovative*, because it seeks to apply international standards to the fight against impunity (no amnesty for international crimes) while seeking to contribute to building peace through a differentiated range of sanctions, depending on the extent of an individual's collaboration with the justice system; and
- both *aspirational* and *pragmatic*.

On the other hand, the main challenges are:

- the need to build the Special Jurisdiction's legitimacy, both nationally and internationally;
- the absolute importance of the selection of judges to staff the Special Jurisdiction, since they will have to define important issues (such as the inclusion/exclusion of particular cases), apart from their normal tasks; and
- the need to establish the hierarchy of a complex set of sections, chambers and courts.

The referendum

The parties have agreed to hold a national referendum as the preferred mechanism for a popular endorsement of the agreement. This initiative ensures participation and a democratic ratification mechanism, but also poses risks. Seminar participants warned of the risk of losing the referendum, given the distrust of parts of Colombian society and the opposition of others. On the other hand, the main recent polls show that Colombian society wants to vote for peace.

Given that the process is highly politicised, some political sectors could use the referendum as a political tool to advance their agenda (this happened in Guatemala, where the results were very negative). There is a strong need to develop a positive communications strategy for the referendum (it was highlighted that in some contexts, fear-based campaigns do not necessarily lead to an endorsement of the proposition, as the Brexit referendum results showed in the United Kingdom). Also, those involved should be aware of political realities and the potential of spoiler campaigns to exploit social media.

Gaining public support for the process was emphasised not just for the outcome of the referendum, but also to manage expectations. This is a problem to be addressed through peace dividends and quick-impact projects (which would need to be publicly attributed to the peace process).

The process with the ELN

Participants identified and discussed the challenges of the peace process with the ELN, which appears to be more difficult, including:

- demanding (government)/rejecting (ELN) the possibility of liberating the ELN-held hostages (a red line for the government);
- internal divisions in the ELN, with some sectors more prone to dialogue than others; some of the most dogmatic sectors hold much power (an example is Gustavo Anibal Giraldo Quinchia, a.k.a. 'Bablito', who fiercely rejects the need to enter negotiations and who controls more than 60% of the total force); and
- the ELN's decentralised structure, which is less hierarchical than that of the FARC, making the command-and-control system and the capacity to enforce the decisions of senior commanders less clear.

Participants agreed that a peace process with the ELN will be more time-consuming and challenging than the one with the FARC. Issues of participation are at the centre of

this process and create doubts in terms of the likelihood of its succeeding and its efficiency.

The role of the international community in implementation

There was wide recognition of the role of Norway and Cuba as guarantors of the peace process, and of Chile and Venezuela as accompanying countries. Participants also praised the unanimous approval of UN Security Council Resolution 2261 establishing the special political mission for Colombia. The role of Venezuela was analysed not only in terms of the process with the FARC, but also in relation to the ELN, because the Venezuelan government exercises considerable political influence over this group. However, with regard to Venezuela's role, much will depend on the evolution of the country's internal political situation, which is far from stable.

Various participants from the European External Action Service, including keynote speaker Edita Hrdá, expressed their commitment to a continuous role for the EU in the Colombian peace process, especially in supporting the implementation phase both politically and operationally. To this end, a Trust Fund has been created in order to collect and channel the contributions of EU member states, with particular attention to two priority areas: agriculture and rural development, on the one hand, and the extension of the state's presence and the rule of law throughout Colombia, on the other.

In terms of the role of donors, it was highlighted that Colombia needs funding but, even more so, it needs trusted friends and technical assistance, while retaining the leadership of the process. The country will not become an international protectorate. Countries willing to contribute to peace in Colombia need to engage in resistance mapping and undertake an in-depth analysis of the situation, particularly at the local level (where public officials may have connections with organised crime).

The need for donors to avoid overstepping their role and engaging in competition, and to improve their coordination with one another was also emphasised. International friends and donors must be ready to stay in Colombia for a long time, since building peace is a long-term endeavour that needs a lengthy commitment.

Challenges and risks in post-conflict implementation

The challenges of implementation

- Society's ownership of the peace process and civil society's participation in the implementation of the final agreement must be increased. Among other tasks, civil society could complement the UN special mission to monitor and verify compliance with the bilateral ceasefire. Civil society organisations could also monitor compliance with other parts of the agreement, although they would need international support.
- If territorial peace is to be achieved, the parties must show their capacity to move from words to deeds. There will be resistance to these efforts, most notably at the local level, and the parties will require strong leadership and determination. Peace dividends delivered in the form of the rule of law and democracy could have a transformative impact.

- One of the main challenges ahead is the cultural transformation of Colombian society from a war mentality to a culture of coexistence and mutual respect.
- The parties, especially the government, will need to improve their strategies in terms of teaching and communicating the value of peace, and increase efforts to disseminate knowledge that can contribute to building trust within Colombian society.

How to fund the implementation of the agreement

Most participants agreed that funding will be a Colombian responsibility, although the country will receive international support. Colombia's macroeconomic performance has been good in recent years, but falling oil prices could tighten the available budgets. A tax reform would allow local ownership of the process to be retained, but at the cost of unpopularity. The role of the national and international private sector should not be underestimated.

Illicit economies and other violent groups

Violence could continue even when the final agreement is approved and implementation starts. There are several potential spoiler groups, including insurgents, BACRIM and paramilitaries. Important sources of revenue are also available from various forms of trafficking (drugs, illegal mining, oil, coal, etc.). These groups tend to manage a resource portfolio, and war economies can sustain both the transformation of old groups and the emergence of new ones, as well as threaten the process of reintegrating ex-FARC combatants.

Reintegration of former combatants

The process of the laying down of weapons has to be followed by the (more difficult) reintegration of former combatants into society. Most of them have been socialised into violence and have spent most of their lives in the FARC; they therefore lack social skills and capital for civilian life. Key aspects to keep in mind are:

- There is a risk of the fragmentation of FARC members from the individual level to whole units under some commanders if they feel they will not be able to cope in civilian life.
- Command and control systems, which are strong now, could weaken over time, particularly if the process fails to deliver results.
- Clear-cut, fair and transparent eligibility criteria to join the reintegration programme will be needed.
- Community-based approaches to reintegration should be introduced that can minimise the risk of stigmatisation while improving the situation of the whole community.

Conclusion

The Colombian peace process has been highly innovative and represents a case study offering useful lessons for other peace processes in the years to come. National ownership, direction and a victims-centred approach, combined with focused international support are the main features of this process.

The parties have reached important agreements so far in a continuous and steady process that has contributed to building trust. The agreement on victims is a turning point, since it is both aspirational and pragmatic, victims-centred, and an attempt to provide justice while fostering the building of peace.

National ownership must be protected for the implementation phase. Most funding for implementation will be Colombian, and the country needs to decide on a tax reform or other options to achieve this. Donors should improve their mechanisms to coordinate their activities and avoid overstepping their agreed role and duplicating projects. They must also be prepared for a long-term commitment in Colombia. The process of building peace and extending state presence and the rule of law is a long-term one. On the other hand, there is a need to show peace dividends soon, possibly through quick-impact projects.

The parties are approaching the moment of a final agreement, but challenges remain and implementation will be complex. Among these challenges will be communication with the wider public to gain support in the period before the referendum, and the demobilisation of former combatants, which should be community-based, well planned and deliver results, both for those involved and for the whole of Colombian society.