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**STATEMENT BY THE INTER-AMERICAN COMMISSION
ON HUMAN RIGHTS ON THE APPLICATION AND
SCOPE OF THE JUSTICE AND PEACE LAW IN
COLOMBIA**

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1. The Inter-American Commission on Human Rights (IACHR) has often emphasized the need to put an end to the violence inflicted on the people of Colombia during the past four decades through an effective negotiation process aimed at disarming the parties in the conflict. A lasting peace, the Commission has also pointed out, is based on the non repetition of crimes under international law, violations of human rights and serious infringements of international humanitarian. Therefore, acts of violence perpetrated during the conflict must be clarified and their consequences remedied through mechanisms designed to establish the truth, administer justice and grant reparations to the victims.

2. During 2005 and 2006 Colombia has adopted legislation to prosecute and punish members of illegal groups that have demobilized and surrendered their weapons after their involvement in the commission of crimes against the civilian population during the conflict. The Colombian Constitutional Court has ruled on the constitutionality of one particular piece of legislation –Law 975 of 2005, better known as the Justice and Peace Law. The application of this Law to members of recently demobilized paramilitary groups is imminent.

3. It is crucial for the success of this new phase in the process that the legal framework and its interpretation by the Constitutional Court be fully complied with by the agencies responsible with implementing them namely, the Justice and Peace Unit of the National Prosecutor's Office, the Justice and Peace Tribunals, the Procurator General of the Nation, and the National Commission on Reconciliation and Reparation. The implementation of the legal framework must ensure that the benefits granted to the demobilized do not become an unwarranted concession of justice but that they meet their legitimate goal of operating as an incentive for reaching peace, searching for the truth and granting appropriate reparations to the victims of the conflict. Accordingly, the IACHR highlights the need that the Colombian authorities strictly enforce the eligibility requirements for benefiting from a reduced sentence and preserving that benefit; and to contribute to a diligent and full investigation of crimes covered by the law, thereby ensuring that the imposition of lighter penalties reflects the uncovering of the whole truth and does not rely solely on the defendant's confession.

4. The IACHR presents its comments, conclusions and recommendations on the legal framework designed to clarify and redress the crimes committed during the armed conflict, and its compatibility with the State's international obligations in the arena of human rights. These considerations by the Commission are based on information received from government and civil society sources in Colombia, as well as from its own direct observation during its *in loco* visits in December 2005 (Bogotá), February 2006 (Bogotá), March 2006 (Valledupar), April 2006 (Apartadó) and May 2006 (Bogotá) during which it received full cooperation from the government, the MAPP/OAS Mission and civil society.

I. GENERAL FRAMEWORK

5. Over the past 15 years, parties to the armed internal conflict –particularly the United Self-defense Forces of Colombia (AUC) and the FARC-EP– have employed massacres as a strategy against members of the most vulnerable sectors of the population, such as indigenous peoples, communities of Afro descendents, and displaced people, as well as selective assassination and forced disappearance of human rights defenders, justice auxiliaries, labor union and social leaders, journalists and candidates for elected office, who have been repeatedly declared to be military targets, especially by the AUC. Dissident armed groups—primarily FARC-EP— have, in turn, also employed as a strategy indiscriminate attacks with explosives and kidnapping, violating the most

basic tenets of international humanitarian law and causing numerous victims among the civilian population.

6. The IACHR has repeatedly voiced its concern that the overwhelming majority of these crimes have not been clarified by the judiciary.¹ In cases in which agencies of the inter-American system may exercise their jurisdiction –for instance, where the responsibility of government agents is alleged for actions or omissions connected with non-combat deaths of civilians who may not be regarded as legitimate military targets– the Commission has processed cases on the alleged violation of human rights protected by the American Convention on Human Rights. A significant number of complaints have been resolved by both the Commission² and the Inter-American Court of Human Rights.³

7. Between November 2003 and April 2006, according to official data, more than 30 thousand members of 35 groups within the armed network of the AUC are said to have demobilized under an agreement with the Government of President Uribe.⁴ For over a year and a half this process took place under the umbrella of the individual and collective demobilization system applicable to all members of illegal armed groups who wished to rejoin civilian life. At that time the IACHR,⁵ like other international agencies,⁶ recommended enacting a legal framework to establish clear requirements for demobilization of illegal armed groups consistently with the State's international obligations in the areas of truth, justice and reparation for victims of the conflict.

¹ The IACHR has periodically expressed its views on the general human rights situation in Colombia in Chapter IV of its annual reports for 1995, 1996, 1999, 2000, 2001, 2002, 2003, 2004 and 2005; in the *Third Report on the Status of Human Rights in Colombia OEA/Ser.L/V/II.102 Doc. 9 rev. 1*, February 26, 1999; and in its *Report on the Demobilization Process in Colombia OEA/Ser.L/V/II.120 Doc. 60*, of December 13, 2004.

² Report 1/92 Orlando García Villamizar et al., case 10.235, *IACHR Annual Report 1991*. Report 33/92 Alirio de Jesús Pedraza, case 10.581, *IACHR Annual Report 1992-1993*. Report 32/92 Martín Calderón Jurado, case 10.454, *IACHR Annual Report 1992-1993*. Report N° 2/94 Pedro Miguel González Martínez and 19 other workers of the Honduras and La Negra estates, case 10.912, *IACHR Annual Report – 1993*. Report N° 1/94 Álvaro Garcés Parra et al., case 10.473, *IACHR Annual Report – 1993*. Report N° 24/93 Olga Esther Bernal Dueñas, case 10.537, *IACHR Annual Report – 1993*. Report N° 23/93 Irma Vera Peña, case 10.456 *IACHR Annual Report – 1993*. Report N° 22/93 Patricia Rivera et al. case 9.477, *IACHR Annual Report - 1993*. Report N° 15/95 Hildegard María Feldman, case 11.010, *IACHR Annual Report - 1995*. Report 3/98 Tarcisio Medina Charrand, case 11.221, *IACHR Annual Report - 1997*. Report 26/97 Arturo Ribón Ávila, case 11.142, *IACHR Annual Report - 1997*. Report 5/98, Álvaro Moreno Moreno, case 11.019, *IACHR Annual Report - 1997*. Report N° 62/99 Santos Mendivelso Coconubo, case 11.540, *IACHR Annual Report - 1998*. Report N° 61/99 José Alexis Fuentes Guerrero et al., case 11.519, *IACHR Annual Report - 1998*. Report N° 36/00 Caloto, case 11.101, *IACHR Annual Report - 1999*. Report N° 35/00 Los Uvos, case 11.020, *IACHR Annual Report – 1999*. Report N° 7/00 Amparo Tordecilla Trujillo, case 10.337, *IACHR Annual Report – 1999*. Report N° 62/09 Massacre at Riofrío, case 11.654, *IACHR Annual Report – 2000*. Report N° 63/01 Prada González and Bolaño Castro, case 11.710, *IACHR Annual Report – 2000*. Report N° 64/01 Leonel de Jesús Izasa Echeverri, case 11.712, *IACHR Annual Report – 2000*.

³ The Inter-American Court has held States liable for directly supporting or acquiescing in actions of paramilitary groups in the cases of: the massacre of 19 businessmen in the "Magdalena Medio" region in 1987; the disappearance of civilians at Pueblo Bello (Córdoba) in 1990; the massacre of civilians at Mapiripán (Meta) in 1997; the massacres of civilians at Ituango (Antioquia) in 1996 and 1997.

⁴ On July 15, 2003, under the "Santa Fe de Ralito Agreement," the AUC undertook to demobilize its armed forces and have them rejoin civilian life.

⁵ See *IACHR Report on the Process of Demobilization in Colombia, OEA/Ser.L/V/II.120 Doc. 60*, December 13, 2004, available at Internet portal [http://www.IACHR.org/countrandrep/Colombia04sp/ indice.htm](http://www.IACHR.org/countrandrep/Colombia04sp/indice.htm)

⁶ See Report by the United Nations High Commissioner for Human Rights on the human rights situation in Colombia, dated February 28, 2005, *E/CN.4/2005/10* and Amnesty International, Press Release of April 26, 2005.

8. On June 22, 2005, the Colombian Congress enacted Law 975, which took effect after promulgation by the President on July 22, 2005. The IACHR issued a statement voicing its concern about the implementation prospects of this law.⁷

9. On December 30, 2005, Decree No. 4760 was issued to regulate certain aspects of Law 975. Firstly, the Decree extends the time limits to investigate those who apply for benefits under the Law, before they are formally charged. Secondly, it introduces the principle of opportunity for the benefit of third parties involved in the purchase, possession, holding, conveyance and in general with the ownership of unlawfully obtained property, surrendered to compensate victims.⁸

10. Several human rights organizations,⁹ for their part, challenged the constitutionality of Law 975, before the Colombian Constitutional Court.¹⁰ The Prosecutor General of the Nation also took part in these proceedings.¹¹ The Constitutional Court issued its ruling on May 18, 2006¹² and the grounds for its decision were made public on July 13, 2006.

11. Overall, the Constitutional Court found Law 975 constitutional; at the same time, it set constitutionality requirements for several of its provisions. Among the interpretation parameters established by the Court are those intended to ensure the victims' participation in the proceedings¹³ and their access to integral reparation.¹⁴ The decision also clarifies the obligation to enforce the imposition of reduced sentence as provided by the Law, and introduces legal consequences such as the loss of benefits if demobilized persons seeking to benefit from the Law conceal information from

⁷ IACHR Press Release 26/05 "IACHR Issues Statement on the Enactment of the Peace and Justice Law in Colombia," July 15, 2005. Available at Internet portal <http://www.IACHR.org/Comunicados/Spanish/2005/26.05.htm>.

⁸ Republic of Colombia, Ministry of the Interior and Justice, Decree No. 4760 of December 30, 2005, Articles 4 and 13.

⁹ Some of the lawsuits filed with the Constitutional Court were from entities grouping several human rights organizations. These are some of the names of the Colombian civil society organizations that filed suit against the Justice and Peace Law: 1) *Comisión Colombiana de Juristas (CCJ)*, *Asociación Campesina de Antioquia (ACA)*, *Asociación de Afrocolombianos Desplazados (AFRODES)*, *Asociación de trabajo Interdisciplinario (ATI)*, *Asociación Líderes en Acción*, *Asociación Nacional de Mujeres Campesinas, Negras e Indígenas de Colombia (ANMUCIC)*, *Asociación para la Promoción Social Alternativa MINGA*, *Consultoría para los Derechos del Desplazamiento (CODHES)*, *Confederación de Trabajadores de Colombia (CTC)*, *Corporación Apoando a Víctimas de Violencia Socio Política Prorecuperación Emocional (AVRE)*, *Corporación Cactus*, *Corporación Casa de la Mujer*, *Corporación de Servicio a Proandectos de Desarrollo (PODION)*, *Corporación Jurídica Libertad*, *Corporación para el Desarrollo del Oriente (COMPROMISO)*, *Corporación para la Defensa y Promoción de los Derechos Humanos (REINICIAR)*, *Corporación Región para el Desarrollo y la Democracia*, *Corporación SISMA Mujer*, *Corporación Vamos Mujer*, *Escuela Nacional Sindical*, *Fundación para la Educación y el Desarrollo (FEDES)*, *Humanidad Vigente Corporación Jurídica*, *Instituto Popular de Capacitación (IPC)* de la *Corporación de Promoción Popular (CPP)*, and *Organización Indígena de Antioquia (OIA)*; and 2) *Movimiento de Víctimas de Crímenes de Estado*. Several nongovernmental organizations also made presentations to the Constitutional Court as *Amicus Curiae*, among them the International Center for Justice (ICTJ), the International Commission of Jurists (CIJ), the Center for Justice and International Law (CEJIL) jointly with the Allard K. Lowenstein Human Rights Clinic of Yale Law School, the Human Rights Committee of the Barristers of England and Wales, and the International Confederation of Free Labor Unions.

¹⁰ Article 241, paragraph 4, of the Political Constitution empowers the Constitutional Court to hear claims of unconstitutionality against legal provisions such as Law 975 of 2005. Government agencies responsible for applying the provisions must fully comply with decisions of the Constitutional Court when interpreting and applying the law and its implementing regulations.

¹¹ The Attorney General made presentation No. 4030 of February 15, 2005, to the Constitutional Court in the legal action brought by human rights organizations.

¹² Constitutional Court, Press Release on the legal challenge to the Justice and Peace Law, Law 975 of 2005, May 18, 2006. Dossier D-6032 - Decision C-370/06.

¹³ Constitutional Court Decision C-370/06 (Dossier D-6032), para. 6.2.3.2.2.1 – 6.2.3.2.2.10.

¹⁴ *Ibidem*, para. 6.2.4.1 – 6.2.4.1.24.

the judiciary.¹⁵ The decision also clarifies the definition of paramilitarism as a common crime. In brief, persons demobilized who are implicated in crimes connected with the armed conflict and wish to secure the benefits of Law 975 will have to cooperate with the judiciary in securing the full effectiveness of the victims' rights to the truth, justice, reparations and non-repetition.

II. THE JUSTICE AND PEACE LAW AS A GUARANTEE OF THE VICTIMS' RIGHT TO JUSTICE, TRUTH AND REPARATIONS

12. The Constitutional Court decision defines Law 975 as a set of provisions intended to facilitate individual or collective reinsertion into civilian life of former members of illegal armed groups with the aim of achieving pacification. The judgment considers that the Law's purpose is to adjudicate the benefit of reduced sentences without disregarding the rights of victims in order to ensure the right to peace.¹⁶

13. The Justice and Peace Law prescribes a benefit that suspends application of a specific sentence, and enforces an alternative prison sentence ranging from five to eight years. These reduced penalties are granted as a consequence of the beneficiary's contribution to peace, his cooperation with justice, fact-finding and the reparation of the victims. The alternative penalty benefit depends directly on fulfillment of certain eligibility requirements that the law establishes for both individual and collective demobilizations.

14. In addition, the law prescribes a system of special criminal proceedings for applicants. Their names are included in a list to be provided by the National Government to the General Prosecutor's Office. Under the established procedure, applicants will need to provide their own version of events in a deposition before a prosecutor designated for the demobilization process, who will then conduct the necessary investigation culminating in the appropriate charges.

15. This Law establishes a Justice and Peace Unit of the National Prosecutor's Office, Justice and Peace Tribunals, and a National Commission on Reconciliation and Reparation. These agencies are responsible for clarifying and investigating the applicants' participation in the commission of massacres, selective executions, forced disappearances, kidnappings, torture and serious injuries, forced displacements and illegal occupation of land, among other offenses, and for ensuring that the victims are duly heard and are afforded reparations.

16. We now turn to the scope of Law 975 in relation to the State's obligation to respect and ensure the victims' right to justice, truth and reparations.

A. Protection of the right to justice under Law 975

1. Verification of eligibility requirements

17. The demobilized involved in the commission of crimes during the armed conflict who wish to benefit from the lighter penalties established in Law 975, must meet certain requirements prescribed in Articles 10 and 11. Compliance with such requirements is verified by the judiciary with cooperation from other government agencies.¹⁷ The Justice and Peace Law, consequently,

¹⁵ *Ibidem*, para. 6.2.2.1.1 – 6.2.2.1.7.30.

¹⁶ Constitutional Court, Statement by the Constitutional Court on the Decision finding Law 975 of 2005 consistent with the Constitution, May 19, 2006.

¹⁷ Republic of Colombia, Ministry of the Interior and Justice, Decree No.4760 of December 30, 2005, Article 3, para. 6.

clearly defines a double set of obligations. On the one hand, obligations that must be met by applicants to qualify for and preserve those benefits in the future without risking their loss. On the other, the duty of government agencies to zealously oversee compliance with those eligibility requirements, as decided by the Constitutional Court.

18. The IACHR observes that for Law 975 to be applied, the Government must send the list of persons demobilized who wish to apply for its benefits to the General Prosecutor's Office. As soon as the list is delivered, the judicial phase of this demobilization and disarmament process will commence and the agencies designated by Law 975 will investigate, ensure the victims' participation, and the courts will verify compliance with the eligibility requirements and issue orders to secure property surrendered to the authorities. The IACHR believes that it is crucial for government agencies involved in this process to apply the rules consistently with the judgment of the Constitutional Court, so as to make certain that the State fulfills its international obligations regarding human rights.

19. The IACHR observes that, even if the specific framework introduced by the Law is interpreted as taking effect only as from the delivery of the relevant list to the Justice and Peace Unit of the National Prosecutor's Office, the State may not disregard its international obligations in the area of fundamental rights during the preliminary stages. The existence of a specific framework cannot be regarded as a sort of suspension of the obligations to uncover the truth and dispense justice. It is crucial for government officials to zealously monitor activities before the opening of the specific procedure established in the Law. Negotiations with illegal armed groups or their members, registration and verification of weapons turned in, verification of the identity of persons demobilized and their criminal record, preparation of the final lists to be sent to the prosecutors, approval of social reinsertion programs, verification of the actual dismantling of armed networks, as well as any other government activities preceding the opening of the special procedure under the law, are vital to the subsequent fulfillment of the government's obligations there under, especially in ascertaining compliance with the eligibility requirements for obtaining the criminal benefits and preserving them. The Commission further believes that it is essential for government authorities, at this initial stage, to broadly disseminate information regarding decisions taken in the processes and publicize them, so as to encourage maximum public scrutiny.

20. Eligibility requirements for collective demobilization make benefits contingent on compliance with the following: 1) the organized armed group in question must have demobilized and have been dismantled as provided in the agreement with the National Government; 2) surrender of the assets gained from the illegal activity; 3) delivery of all recruited minors to the Colombian Family Welfare Institute (ICBF); 4) cessation of any interference by the group in the free exercise of political rights and public freedoms and in any other unlawful activity; 5) the group itself must not have been organized for the purpose of drug trafficking or making illegal profits; 6) release of persons kidnapped and held by the group, under the understanding that information about the fate of missing persons must be given in each case.¹⁸ The Constitutional Court added this requirement on the need to report on the missing persons, inasmuch as it would be unconstitutional for the State to grant a reduced penalty to those responsible for forced disappearances without requiring them not only to demobilize under the Law but to reveal, from the very moment their eligibility is being determined, the whereabouts of the missing persons.¹⁹

21. For individual demobilization under this Law, the person must: 1) provide information on or cooperate in dismantling the group to which he belonged; 2) sign a commitment document

¹⁸ Law 975 of 2005, Articles 10.1, 10.2, 10.3, 10.4, 10.5, 10.6 and Constitutional Court Decision C-370/06 (Dossier D-6032), ruling No. 8, p. 211.

¹⁹ Constitutional Court Decision C-370/06 (Dossier D-6032), ruling No. 8 and 22, p. 212; also see para. 6.2.2.2.5.

with the national government; 3) have demobilized or laid down his arms according to the terms established by the National Government; 4) cease all unlawful activity; 5) turn over all assets gained from illegal activities, to benefit the victims; and 6) have not been involved in drug trafficking or making illegal profits.²⁰ In addition, only persons whose names and identities are reported by the National Government to the General Prosecutor's Office may apply for benefits under this Law.²¹

22. Implementation of some aspects of this legal framework may turn out to be complex. The IACHR deems advisable to point out some of these aspects, as a contribution to the interpretation of this legal framework in accordance with the State international obligations of the State.

23. The IACHR notes that, in order to meet the targets established in the Law, eligibility requirements must be verified according to the type of demobilization chosen, namely, individual or collective. This because the system of incentives and burdens imposed on the two types of demobilization reflects different reasons and objectives. Individual demobilization seeks to encourage the delivery of information on groups involved in the conflict. Collective demobilization, on the other hand, seeks to effectively dismantle them and bolster a peace process or a lowering of tensions with armed organizations.

24. One problematic aspect of the application of the Law is, in fact, the link that must exist between collective and individual demobilization procedures. The IACHR notes with some concern the absence of a clear definition of the status of persons demobilizing individually and applying for legal benefits under group demobilization. It is the view of the IACHR that the State should not tolerate legal interpretations enabling an individual to evade collective demobilization requirements by invoking the requirements of individual demobilization. Likewise, the IACHR urges officials to clearly define the consequences of failing to meet collective demobilization requirements under Article 10, especially the consequences that noncompliance by the group may have on its individual members. This is particularly important because Article 10 establishes, in principle, duties of the demobilized group –aside from the fact that criminal proceedings may be individual– as well as the criminal-law benefits that may be granted in each case. The IACHR believes that failure to meet any requirement under Article 10 should be interpreted as barring, in principle, access to those legal benefits by all members of the demobilized group as a whole. At the same time, failure to meet the requirements of Article 10 should be interpreted as barring individual to demobilize under Article 11, unless the procedure is begun anew. Thus, Colombian officials should zealously interpret and apply the Justice and Peace Law with a view to preserve the delicate balance of incentives it offers.

25. The IACHR notes that the Justice and Peace Unit of the National Prosecutor's Office will be responsible for verifying compliance with eligibility requirements, so that only persons demobilized who satisfy all requirements may benefit from the alternative penalty. Justice and Peace Magistrates will also play a crucial role in setting interpretation standards to verify compliance with the requirements. The IACHR urges both agencies to apply the law strictly when assessing the degree of compliance, so as to preserve the meaning of the reduced-sentencing system, support the victims' right to justice and the effective dismantling of paramilitary networks and enable integral reparation for the victims.

26. Furthermore, under the procedure established in Law 975 beneficiaries will make a deposition before the prosecutor designated for the case by the Justice and Peace Unit of the

²⁰ Law 975 of 2005, Articles 11.1, 11.2, 11.3, 11.4, 11.5, 11.6 and Constitutional Court Decision C-370/06 (Dossier D-6032), ruling No. 9, p. 211.

²¹ Law 975 of 2005, Article 11 last paragraph.

General Prosecutor's Office. The prosecutor will question them about all events they have knowledge of.²² The Constitutional Court held that this provision is constitutional so long as the statement given is complete and truthful, thus ruling out the possibility that events not included in that statement might later be confessed without thereby losing the legal benefits.²³ The IACHR notes that compliance with this requirement is crucial to solving the crimes perpetrated and to the proper administration of justice. Beneficiaries under this Law must cooperate with the justice system so that victims and society as a whole may effectively exercise their right to truth, justice, reparation and non-repetition.²⁴ The mechanics of the Law itself, consequently, will demand special attention from the authorities when verifying the completeness and truthfulness of these statements, as will be discussed in paragraphs 40 and 41.

27. The IACHR notes as well that the defendants' confession does not relieve the authorities of their duty to diligently investigate the events. This obligation, under the Justice and Peace Law, has a twofold purpose. First, to ensure that events will be fully clarified. In most cases a confession might not satisfy this purpose and the State will need to exhaust all investigative mechanisms within its power to ensure achieving the truth. Secondly, the purpose will be to discharge the duty of investigating and preventing impunity. The reduced prison terms provided by Law 975 offer a very strong incentive not only to those sincerely wishing to fully confess their participation in violations of human rights, but also to those seeking to evade criminal prosecution by the State. Lastly, a complete and diligent investigation of the events is also the foundation for effective verification of eligibility for reduced sentencing and preservation of that benefit in the future, as discussed in paragraphs 36, 37 and 41.

28. One eligibility requirement for such benefits, under articles 10 and 11 of the Law, is that the illegal armed group demobilizing must not have been organized for drug trafficking or making illegal profits. This requirement seeks to prevent the negotiation process and its regulatory framework from being used surreptitiously to legalize drug trafficking activities.

29. Paramilitary groups have been connected with drug trafficking since their inception and subsequently development.²⁵ Articles 10 (5) and 11 (6) compel the interpreter of the law not only to examine how the group came to be but also its development over time and its operational dynamics, in order to determine if its purpose is to traffic in drugs or make illegal profits. This requires examining the various levels of relations or connections that the demobilized group may have established with drug trafficking, including relations and connections of an operational, financial and territorial nature, the so-called "sale of franchises," as well as the relations between its leaders.²⁶

²² Law 975 of 2005, Article 17, first paragraph.

²³ Constitutional Court Decision C-370/06 (Dossier D-6032), ruling No. 12, p. 211.

²⁴ *Ibidem*, ruling No. 4, p. 211.

²⁵ It has been pointed out that "paramilitarism in Colombia must be understood from a political standpoint, as a federation of groups intimately connected with drug trafficking." See Mauricio Romero, *"La desmovilización de los paramilitares y las autodefensas: riesgosa, controvertida y necesaria"*, Bogotá, 2005. See also Gustavo Duncan, *"Del campo a la ciudad en Colombia, la infiltración de los señores de la guerra"*, Document CEDE 2005-2, ISSN 1657-7191, January 2005, p. 22.

²⁶ Between 1999 and 2001 the number of AUC combatants went from 6.000 to 10.500, approximately, with a simultaneous expansion of coca crops in the areas of influence of this organization, such as the northeast of Antioquia, southern Córdoba, the Sierra Nevada de Santa Marta, southern Santander, western Boandacá, southern Meta and Vichada. At the same time, rumors sprouted about "purchases of franchises" from the AUC by known drug traffickers such as Miguel Arroandave, who was said to have bought the military units organized by Vicente Castaño – including the Frente Capital – for US \$7 million in 2001. The "Bloque Catatumbo," in turn, implemented a strategy of "achieving a military position by removing any risk of a civilian or armed opposition, so as to gain control of a portion of territory with coca leaf crops," and set the price of the kilogram of coca base, focused sales on AUC buyers, controlled inputs and transportation, barred drug

30. Both the Prosecutor's Office and the Justice and Peace Tribunals must use all investigative tools in their power to accurately determine the genesis and development dynamics of each demobilized group, so as to dispel any suspicion of connection with drug trafficking and illegal businesses, before deciding whether it qualifies for benefits under the law. In addition, wide publicity should be given to the fulfillment of this eligibility requirement for each demobilized group and its members who demobilized individually. This will increase accountability of officials involved in the process as well as oversight by the public at large.

2. Procedures and reasonable time period

31. Once the deposition has been made before the designated prosecutor, complex deadlines begin to run under the law for bringing charges and investigating the events, as established by the implementing decree and interpreted by the Constitutional Court. The IACHR has noted in earlier statements the time period, as prescribed by the Law, would seriously compromise the investigation and prosecution of beneficiaries.

32. Under the Law, after making his statement the person demobilized is to be brought before a judge to ensure that formal charges are brought within the following 36 hours.²⁷ The Decree implemented, in turn, provides that the designated prosecutor will be given a reasonable time that may not exceed the six-month period set by article 325 of the 2000 Code of Criminal Procedure.²⁸ Examining these controversial time periods, the Constitutional Court decided that 36 hours would be considered constitutional if the persons demobilized are placed at the disposal of a judge to ensure the proper safeguards and a hearing to bring charges is held, once the methodological schedule is completed, in accordance with Article 207 of the 2004 Code of Criminal Procedure.²⁹

...continuation

shipments without its authorization and, of course, promoted a massive increase in coca plantings. In 1996-1997 about 2.580 hectares were planted with coca. A year after the paramilitary incursion, this figure was about 12.390, according to data from the General Command of the Armed Forces. See *Corporación Nuevo Arco Iris, "Catatumbo: la tragedia continúa"* and *"El Bloque Capital de las AUC en el sur de Bogotá and Soacha"* in Revista Arcanos No. 11, available at Internet portal www.nuevoarcoiris.org.co/arcanos11.htm. See also UNODC, Colombia Coca Survey (2003 -2004).

²⁷ Law 975 of 2005, Article 17(4).

²⁸ Republic of Colombia, Ministry of the Interior and Justice, Decree No.4760 of December 30, 2005, Article 4(1).

²⁹ Constitutional Court Decision C-370/06 (Dossier D-6032), ruling No. 13, p. 211 and para. 6.2.3.1.61 – 6.2.3.1.6.4. See also Code of Criminal Procedure, Law 906 of 2004 published in Diario Oficial [Official Gazette] No. 45.657 of August 31, 2004, as amended by Decree 2770 of 2004, Article 207. Methodological Program. After receiving the report mentioned in Article 205, the prosecutor responsible for coordinating the investigation will take steps, as appropriate, to verify the investigative work and meet with members of the judicial police. If warranted by the complexity of the matter, the prosecutor may order, with authorization from the head of the unit to which he is assigned, a larger investigative team. Article 205. The Role of the Judicial Police In the Inquiry and Investigation. Public officials who, in the exercise of their judicial police functions, receive reports, complaints or information pointing to the possible commission of a criminal offense, must immediately take every urgent step, such as inspecting the scene, the body, conducting interviews and questioning witnesses. They must also identify, collect and properly pack the material and physical evidence and write down, tape or make audio/sound recordings of the interviews and interrogation sessions and preserve the chain of evidence. When a medical-legal examination of the victim is required, the victim will be accompanied, insofar as possible, to the appropriate medical center. When dealing with a dead body, it will be taken to the proper facility of the National Legal Medicine and Forensics Institute or, barring that, to an official medical center for the medical-legal autopsy. In urgent cases, within the following thirty six (36) hours the judicial police must submit an executive report on the case and results to the proper prosecutor, so that he may take charge, coordinate and oversee the investigation. In any event, the judicial police authorities must report their initial steps so that the National Prosecutor's Office may immediately begin to direct, coordinate and oversee the investigation.

33. The IACHR notes that this interpretation by the Constitutional Court makes it possible for the designated prosecutors and their teams to fully and seriously investigate the crimes committed by demobilized members of illegal armed groups. This interpretation concerning the time period to investigate will make it easier for prosecutors to contribute the full evidence needed to do justice. In short, the IACHR recommends that the agencies responsible for applying these provisions interpret and apply the deadlines according to the Constitutional Court's decision.

3. Participation of victims in all stages of the proceedings

34. Another noteworthy aspect of the right to justice has to do with the victims' participation in the proceedings. In its decision on the constitutionality of the Law, the Constitutional Court held that victims have the right to participate in all stages of the proceedings,³⁰ which furthermore guarantees their right to learn the truth about the events.

35. The Constitutional Court's decision points out that "a systematic vision of the provisions on the procedural rights of victims--the procedural accusation system--leads to the conclusion, in light of the underlying principles and current case law on procedural participation by victims, that the law guarantees the victims' participation during the stages of the deposition and confession, the bringing of charges and their acknowledgment."³¹ The IACHR observes that the victims' participation in the various procedural stages guarantees the right to the truth and justice is part of the complex structure of weights and balances in criminal proceedings and encourages public oversight of government actions.

4. Revocation of benefits

36. The Constitutional Court decision laid down the requirements for preserving the benefit of the alternative penalty, establishing the possibility of revoking it when the demobilized person's deposition concealed his participation in a crime directly connected with his membership in the armed group. This interpretation, as mentioned, encourages full and truthful confessions and discourages concealment of information. In addition, as regards to second offense, the Court decided that any criminal offense committed by the beneficiary may entail revocation of the alternative penalty benefits. This helps promote the effective dismantling of armed organizations and the cessation of criminal activity.³²

37. Similarly, the IACHR notes that other problematic situations may arise in granting or revoking the benefit. Verification of compliance with requirements, for example, may not be a simple matter when all or part of the information needed to rule on eligibility must be produced by government agencies involved in the negotiation process. It is critical that the Executive act in a transparent fashion in applying the law, and that the Prosecutor's Office and the judiciary, aside from other government agencies, play an active role in ascertaining compliance with requirements for eligibility and subsequent preservation of benefits. This is particularly important in certain sensitive areas such as supervision of the effective dismantling of armed groups, cessation of criminal activities, the actual surrender of weapons used in the conflict and land illegally taken, as well as other property intended to ensure reparation of victims.

³⁰ Constitutional Court, Decision C-370/06 (Dossier D-6032), ruling No. 26, p. 211, and para. 6.2.3.2.2.3 – 6.2.3.2.2.10.

³¹ *Ibidem*, ruling No. 26, p. 212, and para. 6.2.3.2.2.8.

³² Constitutional Court, Decision C-370/06 (Dossier D-6032), ruling No. 22, p. 212. The Law did not explicitly provide for loss of benefits already granted if other crimes are later proven to have been committed (Article 25).

B. The right of victims to learn the truth

38. The Justice and Peace Law envisages lighter sentencing as a result of a series of actions designed to arrive at the truth and provide redress for the victims. The IACHR notes that, in applying this law, it is important that components of truth and redress be strictly examined as an essential prerequisite for granting a lesser penalty. The law must be applied as a system of useful incentives to tell the truth, identify and punish perpetrators and provide reparations to the victims.

39. Several provisions of Law 975 leave open the possibility of beneficiaries receiving lighter sentences without revealing the whole truth about the crimes perpetrated or the participation of various parties in the conflict, including government security forces (Articles 17, 18, 19 and 25 of the law).

40. In this connection, the Constitutional Court held:

the law under challenge does not clearly establish the judicial mechanisms needed to uncover the overall criminal enterprise in question. Nor does it establish judicial means to ensure disclosure of the truth about specific crimes committed by members of specific groups that may demobilize. In fact, persons applying for benefits under the law have as their sole obligation to acknowledge the offenses that the State is able to charge them with (...) but this is entirely insufficient to guarantee the minimum constitutional content of the right to the truth.³³

The Court consequently held that the statement given by persons demobilized who apply for benefits under the law will only achieve its purpose, which is to serve as a means of arriving at the truth, if it is full and truthful.³⁴ In addition, it indicated, beneficiaries have a single opportunity to tell the truth, and if their statements have concealed the truth about their participation as members of the group in a crime directly connected with that membership, the benefit of the alternative penalty is to be revoked.³⁵

41. The IACHR insists on the need for government officials, specifically the agencies responsible for administering justice and applying the Justice and Peace Law, to fully apply the law and the Constitutional Court decision, so that the victims and Colombian society as a whole may learn the truth about the serious crimes committed over the last decades of the internal armed conflict. Implementation of the present system will satisfy international standards only if, and to the extent that, the granting of lower penalties is made strictly contingent on eliciting the truth and does not rely exclusively or primarily on the defendant's confession.

42. The National Commission on Reconciliation and Reparation³⁶ was established to guarantee the right to the truth and redress for the victims. Since its establishment in July 2005, the Commission has been outlining its basic guidelines and work program to discharge its mandate,

³³ Constitutional Court, Decision C-370/06 (Dossier D-6032), para. 6.2.2.1.7.14.

³⁴ *Ibidem*, ruling No. 12, p. 212 and para. 6.2.2.1.7.1- 6.2.2.1.7.30.

³⁵ *Ibidem*, ruling No. 22, p. 212, and para. 6.2.2.1.7.27. In addition, to provide legal certainty standards the Court held that "for a benefit to be revoked, it is not enough for somebody to allege during the probationary period that the truth was concealed in the deposition, or to report the beneficiary for the commission of another offense not mentioned in that deposition. The concealed offense must be real, not the product of imagination or suspicion, which means that during the probationary period there must be a court decision providing legal certainty about the commission of the unreported offense. The existence of a court decision is important because, for the convicted defendant, it will mean serving a long regular sentence reflecting the seriousness of the crimes committed, which requires certainty about his participation in those crimes." *Ibidem*.

³⁶ Law 975 of 2005, Article 50.

which is expected to be defined in 2006.³⁷ Among the primary functions assigned to this Commission are creating favorable conditions to promote a Truth Commission in the future; ensuring the participation of victims in judicial proceedings and the exercise of their rights; presenting a public report on the causes that led to the establishment and development of unlawful armed groups in Colombia; monitoring the reinsertion of former combatants into civilian life and the policy of demobilization of armed groups outside the law; periodically evaluating the policies on restitution and making recommendations to the State on how they may best be implemented; recommending standards for reparations to the victims from the Victims Reparations Fund.³⁸

43. In the view of the IACHR, the work that the National Commission on Reconciliation and Reparation may be able to do in the eight years of its mandate under Law 975 is crucial; the IACHR hopes that the gains made by this Commission will be made known to Colombian society and the international community.

C. The right of victims to integral reparation

44. The IACHR observes that the Justice and Peace Law includes provisions designed to satisfy the right of victims to be fully compensated for injuries suffered as a result of crimes perpetrated during the conflict.³⁹ Full redress will depend in part on the demobilized beneficiaries returning their assets unlawfully acquired.⁴⁰

45. In its decision the Constitutional Court held that, in light of the individual nature of criminal liability, demobilized beneficiaries must turn over the proceeds of illegal activities and answer in this connection with all their assets,⁴¹ so as to compensate each victim of the crimes for which they were convicted. In addition, they are to be jointly liable for civil damages to the victims caused by other members of the armed group to which they belong, inasmuch as civil liability, when based on a punishable offense, gives rise to joint responsibility.⁴² The Court held that beneficiaries must make every effort to undo the deals that enabled them to hide their real assets, or find clearly identified illegal proceeds that may not be in their possession.⁴³ This interpretation of Law 975 supports the victims' expectation of being compensated.

46. However, as regards the surrender of real estate, the IACHR notes with concern that there is no coordination in Colombia between the systems of notary certification, registration and land records,⁴⁴ which will raise difficulties in returning land to victims of forced displacement. In

³⁷ *Elementos para la construcción de una Hoja de Ruta*. Materials delivered by the Chair of the National Commission on Reconciliation and Reparation, Eduardo Pizarro, to the IACHR on March 13, 2006, during the IACHR's 124th session.

³⁸ Law 975 of 2005, Article 52.

³⁹ *Ibidem*, Chapter IX, Articles 42 to 56.4.

⁴⁰ *Ibidem*, Articles 10.2; 11.5; 13.4; 44; 46; and 54.

⁴¹ *Ibidem*, Article 11.5, and Constitutional Court Decision C-370/06 (Dossier D-6032), ruling No. 9, No. 12, and No. 27, pp. 211 – 212. See also para. 6.2.4.1 – 6.2.4.1.24.

⁴² Law 975 of 2005, Article 54 and Constitutional Court Decision C-370/06 (Dossier D-6032), ruling No. 31, p. 212; see also para. 6.2.4.4.7.

⁴³ Constitutional Court Decision C-370/06 (Dossier D-6032), ruling No. 9, No. 12, and No. 28, pp. 211 – 212; see also para. 6.2.4.1.23.

⁴⁴ *Proandecto "Control Preventivo y Seguimiento a las Políticas Públicas en materia de Reinserción and Desmovilización"*, Procuraduría General de la Nación, Volume I, p. 208, note 334. Available at Internet portal: <http://www.procuraduria.gov.co/>. The report by the Attorney General notes that "real estate records are essential to management of land. Land records provide the data needed to define the socioeconomic structure, territory distribution, title, property taxes, and the information needed to make restitution of property to the victims of violence".

addition, the IACHR is concerned about the lack of information on the properties that the heads of demobilized AUC groups might surrender to meet one of the eligibility requirements of the Law, namely, Article 10.2.⁴⁵ The lack of information on property includes matters such as its location, the names of the alleged owners, the condition of lands, and the methods used to acquire them.⁴⁶ Moreover, it is unknown whether such property will be earmarked for the Victims Reparations Fund or for productive projects benefiting persons reinserted or displaced or farmers, or what actions will be taken to trace the legitimate owners.⁴⁷

47. The IACHR is concerned that there is still lack of determination regarding the time frame to redress victims and how this will be done. The Law establishes certain agencies to handle the process and facilitate restitution to the victims. These agencies, however, have a few means available to them to interact. Thus, the Law establishes a National Commission on Reconciliation and Reparation that will help implement an institutional program of collective compensation, to reinstate and support the rights of citizens affected by violence and to recognize and honor victims of violence.⁴⁸ In addition, it establishes Regional Commissions on Restitution of Property to ease the processing of claims on ownership and possession of property contemplated by the Law.⁴⁹ Lastly, it creates the Victims Reparations Fund as a special account, not a legal entity, to be governed by private-law rules. Its resources are to be managed by the Office of the Auditor General of the Republic.⁵⁰ Moreover, it is through resources from this fund that the Social Solidarity Network will be charged with settling and paying court-ordered compensation under the Law, administering the fund and taking other compensation steps, as appropriate.⁵¹

48. Under the United Nations "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims," victims are entitled to adequate, effective and swift reparation of the injuries suffered.⁵² The case law of the inter-American system has repeatedly held that victims of crimes perpetrated during the armed conflict have a right to adequate reparations for the injury suffered, which must take the form of individual steps designed to offer restitution, compensation and rehabilitation to the victims, as well as broader redress measures and guarantees against repetition.⁵³ Reparations must consist of measures designed to undo the effects of the violations;

⁴⁵ Law 975 of 2005, Article 10. Eligibility requirements for collective demobilization. Benefits established by this law may be applied for by members of an illegal organized armed group who have been or may be charged, accused or convicted as perpetrators or participants in crimes committed during or on the occasion of their membership in those groups, if they are not eligible for the benefits prescribed by Law 782 of 2002, provided they are included in the list that the National Government will deliver to the National Prosecutor's Office and they meet, in addition, the following requirements: (...) 10.2 Surrender the proceeds of their illegal activity.

⁴⁶ *Proandecto "Control Preventivo y Seguimiento a las Políticas Públicas en materia de Reinserción and Desmovilización"*, Procuraduría General de la Nación, Volume I, p. 225. Available at Internet portal: <http://www.procuraduria.gov.co/>.

⁴⁷ *Ibidem*. See also Articles published by Revista Semana on March 30 and 31, 2006, "*¿Oferta de reparación, lavado o mero deseo?*", and "*Ministro del Interior aclara supuesta oferta de tierra de los paramilitares*," respectively.

⁴⁸ Law 975 of 2005, Article 49.

⁴⁹ *Ibidem*, Article 52.

⁵⁰ *Ibidem*, Article 54.

⁵¹ *Ibidem*, Articles 55, 56.1, 56.2 and 56.3.

⁵² General Assembly A/RES/60/147, March 21, 2006. Resolution approving the "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law," basic principle and guideline No. VII. See also U.N. Economic and Social Council, Report by Diane Orentlicher, independent expert responsible for updating the set of principles to combat impunity, E/CN.4/2005/102, February 18, 2005.

⁵³ See Inter-American Court, *Mack Chang*, Decision of November 25, 2003, para. 236-237; *Carachazo*, Reparations (Article 63.1 American Convention on Human Rights), Decision of August 29, 2002, Series C N° 95, para. 77-78; *Blake*, Reparations (Article 63.1 American Convention on Human Rights), Decision of January 22, 1999, Series C N° 48, para. 31-

consequently their nature and amount will depend on the injury inflicted, both material and intangible. Reparations may neither enrich nor impoverish the victims or their heirs.⁵⁴

49. In light of the above, the IACHR urges the State to determine the interaction mechanisms between the various agencies charged with facilitating reparations for the victims and to improve the real estate registration and recording systems in Colombia.

III. CHALLENGES FOR COLOMBIA ON ACCOMPLISHING INTERNATIONAL STANDARDS ON TRUTH, JUSTICE AND REPARATIONS

50. Under the case law of the inter-American system, States have the duty to prevent and combat impunity, which is defined as “an absence, on the whole, of investigation, prosecution, arrest, trial and conviction of those responsible for violating rights protected by the American Convention”.⁵⁵ In the opening phase of this stage, following demobilization of more than 30 thousand members of illegal armed groups⁵⁶ involved in crimes against the civilian population, the State faces the challenge of applying the legal provisions designed to prosecute these crimes under domestic law and its international human rights obligations.

51. The Constitutional Court's decision on the legal and institutional framework established by Law 975 of 2005 instruct guidelines to meet these challenges and must become a cornerstone of the legal framework governing demobilization of illegal armed groups that took part in the conflict.

52. The agencies in charged with implementing the Law –the Justice and Peace Unit of the National Prosecutor's Office, the Justice and Peace Tribunals, the Office of the Prosecutor General of the Nation and the National Commission on Reconciliation and Reparation – have a vital role to play in interpreting Law 975 of 2005 and its implementing provisions and ensuring the proper administration of justice as a guarantee against repetition of the serious crimes perpetrated during the armed conflict.

53. These agencies must first make certain that persons demobilized who wish to receive the benefits of Law 975 meet each and every eligibility requirement as interpreted by the Constitutional Court. In addition, all agencies involved in the application of that law must cooperate by delivering all available information, so as to support the judiciary in the verification of those requirements.⁵⁷ Second, the Justice and Peace Unit of the National Prosecutor's Office should issue

...continuation

32; *Suárez Rosero*, Reparations (Article 63.1 American Convention on Human Rights), Decision of January 20, 1999, Series C No. 44, para. 41; *Castillo Páez*, Reparations (Article 63.1 American Convention on Human Rights), Decision of November 27, 1998, Series C No. 43, para. 53.

⁵⁴ Inter-American Court, *Masacre de Pueblo Bello [Pueblo Bello massacre]*, Decision of January 31, 2006. Series C No. 140, para. 228; *Masacre de Mapiripán [Mapiripán massacre]*, Decision of September 15, 2005. Series C No. 134, para. 245; *Acosta Calderón*, Decision of June 24, 2005. Series C No. 129, para. 148; *caso de la Comunidad Indígena Yakye Axa [Yakye Axa Indigenous Community]*, Decision of June 17, 2005. Series C No. 125, para. 182; and *Caesar*, Decision of March 11, 2005. Series C No. 123, para. 123.

⁵⁵ Inter-American Court, *Masacre de Mapiripán [Mapiripán massacre]*, Decision of September 15, 2005. Series C No. 134, para. 236-237; *caso de la Comunidad Moiwana [Moiwana Community]*, Decision of June 15, 2005. Series C No. 124, para. 203; *caso de las Hermanas Serrano Cruz [Serrano Cruz sisters]*, Decision of March 1, 2005. Series C No. 120, para. 170; and *caso de los Hermanos Gómez Paquiandaur [Gómez Paquiandaur brothers]*, Decision of July 8, 2004. Series C No. 110, para. 148.

⁵⁶ Figure estimated by the Office of the High Commissioner for Peace in May 2006, available at Internet portal <http://www.altocomisionadoparalapaz.gov.co/>

⁵⁷ Republic of Colombia, Ministry of the Interior and Justice, Decree No.4760 of December 30, 2005, Article 3, para. 6.

guidelines to encourage proper and full investigation by the designated prosecutors of the actions of persons demobilized, and to standardize the criteria used by prosecutors when implementing the legal framework in each particular case. Third, the notary certification, registration and the official record of real estate systems must be strengthened, so that the agencies involved will be able to ensure proper restitution of real estate to victims of the conflict, mostly displaced persons who were forced to abandon their lands because of violence.

54. A fourth challenge is to ensure that victims will be able to have a real and effective participation in the investigation, prosecution and reparation proceedings. The State, through its institutions, must guarantee the victims access to adequate legal representation and participation in every procedural stage, as established by the Constitutional Court.⁵⁸ In addition, the IACHR stresses the need for adequate steps to protect the victims and witnesses, looking after their physical and psychological well-being as well as their dignity, and respecting their privacy.⁵⁹

55. Lastly, the IACHR notes that officials must not lose sight of their duties under the case law of the Inter-American Court of Human Rights concerning the massacres of Mapiripan,⁶⁰ Pueblo Bello⁶¹ and Ituango.⁶² These decisions established the responsibility of Colombia for actions or omissions of its agents in abetting or acquiescing serious crimes that resulted in the death or physical injury of civilians, perpetrated by members of the AUC who took part in the Santa Fe de Ralito agreement and surrendered their weapons within the framework of demobilization between 2004 and May 2006.

56. The IACHR emphasizes that, in light of these challenges, the State must publicize the results of negotiations with armed groups, the procedures for identifying combatants and the surrender of weapons, as well as the implementation of the Justice and Peace Law, so that Colombian society as a whole may follow and monitor events during this important stage of the country's life.

IV. CONCLUSIONS

57. The Constitutional Court decision substantially improves the balance originally established in the Justice and Peace Law between the system of reduced sentencing incentives for demobilization and the principles of truth, justice and reparation that are part of the State's international obligations. This decision specifies the requirements for gaining access to the alternative penalty and for preserving it in the future without risking revocation. It discourages concealment of information and promotes truthful and full confessions. It also improves conditions for prosecutors to adequately investigate events and expands the victims' prospects of participating in proceedings and obtaining reparations. Consequently, the decision of the Court is an essential tool for the legal framework, to be implemented consistently with the State's international obligations.

58. Among the key aspects of the Constitutional Court's decision that must be strictly complied with by government agencies involved in implementing Law 975, are the following.

⁵⁸ Constitutional Court Decision C-370/06 (Dossier D-6032), ruling No. 26, p. 212; see also para. 6.2.3.2.2.8.

⁵⁹ Law 975 of 2005, Article 38, first paragraph.

⁶⁰ Inter-American Court, *Masacre de Mapiripá [Mapiripá Massacre]*, Decision of September 15, 2005. Series C No. 134.

⁶¹ Inter-American Court, *Masacre de Pueblo Bello [Pueblo Bello massacre]*, Decision of January 31, 2006. Series C No. 140.

⁶² Inter-American Court, *Masacres de Ituango [Ituango massacres]*, Decision of July 1, 2006, Series C No. 148.

1. The deposition given by those applying for benefits under this law must be complete and truthful and must include the right to learn the causes and circumstances of time, manner and place in which the crimes were committed, thereby enforcing the right to the truth.
2. The right of victims to participate in all judicial procedures established by the Peace and Justice Law.
3. The obligation of those applying for benefits under the Peace and Justice Law to reveal the whereabouts of missing persons; and redress victims with their own assets, including legal assets that may be subject to preventive measures.
4. Members of the demobilized armed group are jointly liable for compensating the victims of crimes, when the courts so decide.
5. Those that benefit from the alternative penalties provided in Law 975 will lose the benefit if they commit new offenses or fail to comply with obligations imposed during their sentence.
6. The designated prosecutors of the Justice and Peace Unit of the National Prosecutor's Office will have a reasonable time to investigate crimes, and once they have completed the methodological program will ask the Peace and Justice Judge to schedule a hearing in order to bring charges.

59. In addition, the IACHR continues to be concerned over the number of issues connected with uniform application and implementation of the Justice and Peace Law and reparations for victims of the conflict, including the return of lands, in regard to which it recommends that the State take the following measures:

1. Issue guidelines to unify and standardize criteria to be used by designated prosecutors of the Justice and Peace Unit of the National Prosecutor's Office in implementing legal provisions in each case, so as to ensure uniform interpretation of Law 975, guaranteeing: a) strict verification of compliance with eligibility for alternative penalties; b) minimal guidelines on conducting a full and diligent criminal investigation that does not rely solely on the confession of defendants; c) measures to be implemented and the criteria to be followed in the future in order to actively ascertain whether requirements are met for preserving the benefits granted or, when appropriate, call for revocation of those benefits. The State must ensure adequate dissemination of these guidelines, as appropriate, so as to facilitate citizen oversight of compliance with the Justice and Peace Law.
2. Establish time frames and mechanisms to implement the process of reparation for the victims and ensuring interaction between the agencies involved.
3. Strengthen the notary certification, registration and official record of real estate system, so that the agencies involved will be able to properly return real estate to victims of the conflict.