

LAW NO. 975, 25 JULY 2005

ISSUING PROVISIONS FOR THE REINCORPORATION OF MEMBERS OF ILLEGAL ARMED GROUPS WHO EFFECTIVELY CONTRIBUTE TO THE ATTAINMENT OF NATIONAL PEACE, AND OTHER PROVISIONS FOR HUMANITARIAN ACCORDS ARE ISSUED.

THE CONGRESS OF COLOMBIA

DECREES:

CHAPTER I

Principles and definitions

Article 1. *Purpose of this law.* The purpose of this law is to facilitate the processes of peace and individual or collective reincorporation into civilian life of the members of illegal armed groups, guaranteeing the victims' rights to truth, justice, and reparation.

An illegal armed group is understood to be a guerrilla or self-defense group, or a significant and integral part of them such as *blocks*, fronts, or other modalities of these same organizations, which are the subject of Law 782 of 2002.

Article 2. *Scope of the law, interpretation, and normative application.* This law regulates matters of investigation, prosecution, punishment, and judicial benefits with respect to those persons linked to illegal armed groups as perpetrators or participants in criminal acts committed during and on occasion of their membership in those groups, who have decided to demobilize and contribute decisively to national reconciliation.

The provisions of this law shall be interpreted and applied in keeping with the Constitution and the international treaties ratified by Colombia. The incorporation of some international provisions in this law should not be understood as negating other international provisions that regulate this same subject matter.

The reinsertion into civilian life of those persons who may be able to benefit from an amnesty, pardon, or any other benefit established in Law 782 of 2002 shall be governed by the provisions of that law.

Article 3. *Alternative sentencing.* Alternative sentencing is a benefit consisting of suspending execution of the sentence determined in the respective judgment, replacing it with an alternative sentence that is granted for the beneficiary's contribution to the attainment of national peace, collaboration with the justice system, reparation for the victims, and the person's adequate re-socialization. This benefit is granted in accordance with the conditions established in this law.

Article 4. *Right to truth, justice, and reparations and due process.* The process of national reconciliation made possible by this law should promote, in every case, the right of the victims to the truth, justice, and reparations, and respect the rights to due process and judicial guarantees of those persons who are prosecuted.

Article 5. *Definition of victim.* For the purposes of this law, the victim is understood to be a person

who individually or collectively has suffered direct harm such as temporary or permanent injuries that cause some type of physical, psychological, or sensory disability (visual and/or hearing), emotional suffering, financial loss, or infringement of his or her fundamental rights. The harm must be the consequence of actions that were in violation of the criminal law, by illegal armed groups.

In addition, the victim shall be understood to refer to the spouse, or common-law spouse, and relatives in the first degree of consanguinity, or first civil, of the direct victim, when the victim was killed or is disappeared.

The status of victim is acquired independent of whether the perpetrator of the criminal conduct has been identified, apprehended, prosecuted, or convicted, and without consideration of any family relationship between the perpetrator and the victim.

In addition, victims shall also include the members of the armed forces and National Police who have suffered temporary or permanent injuries that cause some type of physical, psychological and/or sensory disability (visual or hearing), or infringement of his or her fundamental rights, as a consequence of the actions of a member or members of the illegal armed groups.

In addition, victims shall include the spouse, common-law spouse, and relatives within the first degree of consanguinity, of the members of the armed forces and National Police who have lost their lives in undertaking acts in service, that were service-related, or outside of service, as a result of the acts carried out by a member or members of the illegal groups.

Article 6. Right to Justice. Under existing legal provisions, the State has the duty to undertake an effective investigation that leads to the identification, capture, and punishment of persons responsible for crimes committed by the members of illegal armed groups; to ensure the victims of such conduct access to effective remedies to make reparation for the harm inflicted; and to adopt measures aimed at preventing the recurrence of such violations.

The public authorities who are involved in the proceedings that take place pursuant to this law should give special attention to the duty addressed in this article.

Article 7. Right to the truth. The society, and especially the victims, have the inalienable, full, and effective right to learn the truth about the crimes committed by illegal armed groups, and to know the whereabouts of the victims of kidnapping and forced disappearance.

The investigations and judicial proceedings to which this law applies should promote an investigation into what happened to the victims of such conduct, and inform the family members of the relevant findings.

The judicial proceedings instituted as of the entry into force of this law shall not preclude the future application of other non-judicial mechanisms for reconstructing the truth.

Article 8. Right to reparation. The victims' right to reparation includes the actions taken for restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition.

Restitution is defined as actions that seek to return the victim to the situation prior to the crime.

Indemnity is defined as compensation for the damages caused by the crime.

Rehabilitation is defined as actions aimed at the recovery of victims who suffer physical and psychological traumas as a result of the crime.

Satisfaction or moral compensation is defined as actions aimed at reestablishing the dignity of the victim and disseminating the truth about what happened.

Guarantees of non-repetition include, among others, the demobilization and dismantling of the illegal armed groups.

Symbolic reparation is understood to mean any benefit granted the victims or the community in general aimed at ensuring the preservation of the historical memory, the non-repetition of the victimizing acts, the public acceptance of the acts, public forgiveness, and reestablishing the victims' dignity.

Collective reparation should be geared to the psychosocial rebuilding of the populations affected by the violence. This mechanism is established especially for the communities affected by the occurrence of acts of systematic violence.

The competent judicial authorities shall set the individual, collective, or symbolic reparations as appropriate, in the terms of this law.

Article 9. *Demobilization.* Demobilization is understood to be the individual or collective act of laying down arms and abandoning the illegal armed group, before the competent authority.

The demobilization of the illegal armed group shall be carried out in keeping with the provisions of Law 782 of 2002.

CHAPTER II

Preliminary aspects

Article 10. *Eligibility requirements for collective demobilization.* Members of an illegal armed group who have been or may be indicted, accused, or convicted as perpetrators of or participants in criminal acts committed during and on occasion of their membership in those groups may accede to the benefits established in this law, when they cannot be beneficiaries of any of the mechanisms established in Law 782 of 2002, so long as they are included in the list that the National Government provides to the Office of the Attorney General, and also meet the following conditions:

10.1: That the organized armed group in question has demobilized and dismantled, in accordance with an agreement with the National Government.

10.2: That the assets obtained as a result of the illegal activity be surrendered.

10.3: That the group place at the disposal of the *Instituto Colombiano de Bienestar Familiar* (Colombian Family Welfare Institute) all minors who have been recruited.

10.4: That the group cease all interference with the free exercise of political rights and public freedoms and any other illegal activity.

10.5: That the group was not organized for the purposes of drugs trafficking or illicit enrichment.

10.6: That the persons kidnapped who are under their control be released.

Paragraph. The members of the illegal armed group who are deprived of liberty may accede to the benefits contained in this law and those established in Law 782 of 2002, so long as their membership in the respective group is determined in the respective judicial rulings.

Article 11. *Eligibility requirements for individual demobilization.* Those members of the illegal armed groups who have demobilized individually and who contribute to the attainment of national peace may accede to the benefits established in this law, so long as they meet the following requirements:

11.1 That they provide information or collaborate in the dismantling of the group to which they belonged.

11.2 That they have signed an act of commitment with the National Government.

11.3 That they have demobilized and laid down their arms in the terms established by the National Government to that end.

11.4 That they cease all illegal activity.

11.5 That the assets obtained as a result of illegal activities be surrendered, so as to make reparation to the victim, when these become available.

11.6 That their activity not have had as its purpose narcotics trafficking or illicit enrichment.

Only those persons whose names and identities are presented by the National Government to the Office of the Attorney General may accede to the benefits provided for in this law.

CHAPTER III

Procedural principles

Article 12. *Oral procedure.* The procedure shall be oral, and suitable technical means shall be used to ensure it is faithfully reproduced.

It shall be up to the Secretary of the National Prosecutorial Unit for Justice and Peace, (*Unidad Nacional de Fiscalía para la Justicia y la Paz*) created by this law, and the Chamber of the Superior Judicial District Court that sits in judgment, as the case may be, to keep the records.

Article 13. *Speedy process.* The matters debated in the hearing shall be resolved within the same hearing. Notice of the decisions shall be considered made when posted on the court notice board.

The preliminary hearings shall take place before the Judge for Control of Guarantees (*Magistrado de Control de Garantías*) designated by the respective Court.

The following matters shall be addressed in the preliminary hearing:

1. The early collection of evidence which for well-founded reasons and extreme necessity is required to prevent the loss or alteration of the evidence in question.

2. The adoption of means to protect victims and witnesses.

3. The request for and decision to impose a measure to ensure appearance of the accused.

4. The request for and decision to impose precautionary measures on illegally-obtained assets.

5. The arraignment

6. The indictment.

7. Those that resolve situations similar to the foregoing.

The decisions that resolve substantive matters and the judgments should set forth the factual, evidentiary, and legal grounds, and indicate the motives for accepting or rejecting the parties' claims.

The assignment of the matters referred to by this law should be done the same day as the record is received in the corresponding judicial office.

Article 14. *Defense.* The defense shall be entrusted to the defense counsel of trust freely designated by the indicted or accused person, or, alternatively, to the one assigned by the National System of Public Defenders.

Article 15. *Clarification of the truth.* Within the procedure established by this law, public servants shall rule as necessary to ensure clarification of the truth as to the facts subject of investigation, and to guarantee the defense of those who are prosecuted.

The National Prosecutorial Unit for Justice and Peace established by this law shall investigate, through the prosecutor delegate for the case, with the support of the specialized judicial police group, the circumstances of time, manner, and place in which the criminal conduct was committed; the living conditions, social conditions, and family and individual situation of the indicted or accused person and his or her prior conduct; the judicial and police records; and the harm that he or she, individually or collectively, may have directly caused the victims, such as physical or psychological injuries, emotional suffering, financial loss or substantial infringement of fundamental rights.

With the collaboration of the demobilized persons, the judicial police shall investigate the whereabouts of persons kidnapped or disappeared, and shall report the results of such investigations to the next-of-kin in timely fashion.

The Office of the Attorney General shall see to the protection of the victims, witnesses, and expert witnesses it intends to present at trial. Protecting the witnesses and expert witnesses the defense intends to present shall be entrusted to the Office of the Human Rights Ombudsperson. Protecting the judges who sit on the Superior Judicial District Courts that are to preside over the trials shall be a responsibility of the Superior Council of the Judiciary.

CHAPTER IV

Investigation and prosecution

Article 16. *Jurisdiction.* Once the name or names of the members of illegal armed groups willing to make an effective contribution to the attainment of national peace has or have been received by the National Prosecutorial Unit for Justice and Peace, the corresponding prosecutor delegate shall immediately assume jurisdiction to:

16.1 Take cognizance of the investigations of the criminal acts committed during and on occasion of their membership in the illegal armed group.

16.2 Take cognizance of the investigations under way against their members.

16.3 Take cognizance of the investigations that are to be initiated and those of which there is knowledge at the time of or subsequent to demobilization.

The Superior Judicial District Court determined by the Superior Council of the Judiciary, by decision issued prior to initiating any proceeding, shall have jurisdiction to sit in judgment of the criminal conduct referred to in this law.

There may not be any conflict or clash of jurisdiction between the Superior Judicial District Courts that hear the cases referred to in this law and any other judicial authority.

Article 17. *Spontaneous declaration and confession.* The members of the illegal armed group whose names are submitted by the National Government for the consideration of the Office of the Attorney General, who expressly avail themselves of the procedure and benefits of this law, shall make a spontaneous declaration before the prosecutor delegate assigned to the process of demobilization, who will question them about all the facts of which they have knowledge.

In the presence of their defense counsel they shall describe the circumstances of time, manner, and place in which they have participated in the criminal acts committed on occasion of their membership in these groups, prior to their demobilizing, and in respect of which they avail themselves of this law. In that procedure they shall indicate the assets that are surrendered for

making reparation to the victims, if they have any, and the date of their entry in the group.

The declaration given by the demobilized person and all other records produced in the demobilization process shall be placed immediately at the disposition of the National Prosecutorial Unit for Justice and Peace so that the prosecutor delegate and the Judicial Police assigned to the case may prepare and develop the methodological program for initiating the investigation, verifying the truthfulness of the information provided, and clarifying those facts and all those that come to its attention within the scope of its authority.

The demobilized person shall immediately be placed at the disposal of the judge who performs the function of controlling guarantees in one of the places of detention determined by the National Government pursuant to Article 31 of this law, who within the subsequent thirty-six (36) hours shall schedule and hold an arraignment hearing, pending a prior request by the prosecutor handling the case.

Article 18. Arraignment. When, based on the material evidence, physical evidence, information lawfully obtained, or the spontaneous declaration, one may reasonably infer that the demobilized person is a perpetrator of or participant in one or several crimes being investigated, the prosecutor delegate for the case shall ask the judge who performs the function of controlling guarantees to schedule a preliminary arraignment hearing.

At this hearing, the prosecutor shall make the factual indictment of the charges investigated and shall ask the judge to order the pre-trial detention of the accused in the appropriate detention center as provided for in this law. In addition, the prosecutor shall ask that precautionary measures be adopted with respect to illegally obtained assets that have been surrendered for the purpose of making reparation to the victims.

Within sixty (60) days of this hearing, the National Prosecutorial Unit for Justice and Peace, with the support of its group of judicial police, will undertake the investigation and verification of the facts admitted by the accused, and all those that may come to its attention within the scope of its jurisdiction. Upon the conclusion of this term, or earlier if possible, the prosecutor assigned to the case shall ask the judge who performs the function of controlling guarantees to schedule an indictment hearing, within ten (10) days following the request, if there is to be one.

The statute of limitations on the criminal action is interrupted by the arraignment.

Article 19. Acceptance of charges. In the indictment hearing the accused may accept the charges presented by the Office of the Attorney General, as a result of the spontaneous declaration or the investigations under way at the time of the demobilization.

In order for it to be valid, he or she must do so freely, voluntarily, spontaneously, and with the assistance of defense counsel. In this case the judge who performs the function of controlling guarantees shall immediately send the record to the Office of the Clerk of the Chamber of the Superior Judicial District Court that is to hear the matter.

Once the record is received, the corresponding Chamber shall schedule a public hearing, within ten (10) days, to determine whether the acceptance of charges was free, voluntary, spontaneous, and with the assistance of defense counsel. If it is found to be according to law, within the following ten (10) days it will schedule a hearing for sentencing and imposition of the individual penalty.

Paragraph 1. If in this hearing the accused does not accept the charges, or retracts those admitted to in the spontaneous declaration, the National Prosecutorial Unit for Justice and Peace shall refer the record to the government officer with jurisdiction, pursuant to the law in force at the time the conduct investigated was committed.

Paragraph 2. When there is a request for comprehensive reparation, the provisions of Article 23 of this law shall be implemented first.

Article 20. *Joinder of proceedings and accumulation of sentences.* For the procedural purposes of this law, any proceedings already under way for criminal acts committed during and on occasion of membership of the demobilized person in an illegal armed group shall be joined. In no case shall there be joinder for criminal conduct committed prior to membership of the demobilized person in an illegal armed group.

When the demobilized person has been previously convicted of criminal conduct committed during and on occasion of his or her membership in an illegal armed group, the provisions of the Criminal Code on serving sentences concurrently (*acumulación jurídica de penas*) shall be taken into account, but in no case may the alternative sentence be greater than that provided for in this law.

Article 21. *Rupture of procedural unity.* If the indicted or accused person accepts the charges in part, the procedural unity will be broken with respect to those not admitted to. In that case, the investigation and prosecution of the charges not accepted shall be handled by the competent authorities and pursuant to the procedural laws in force at the time they were committed. With respect to the charges accepted, the benefits that are addressed in this law shall be granted.

Article 22. *Investigations and indictments prior to the demobilization.* If at the time a demobilized person avails himself or herself of this law, the Office of the Attorney General is undertaking investigations or has formally indicted him or her, the indicted or accused person, with the assistance of defense counsel, may orally or in writing accept the charges set forth in the order that imposed the measure to ensure appearance, or in the arraignment, or in the resolution or brief of accusation, as the case may be. Such acceptance shall be before the judge who is performing the function of control of guarantees in the conditions provided for by this law.

Article 23. *Interlocutory proceeding for comprehensive reparation.* In the same hearing in which the respective Chamber of the Superior Judicial District Court finds that the acceptance of the charges is lawful, after an express request made by the victim, or by the prosecutor handling the case or by the Public Ministry upon request of the victim, the judge writing for the court shall immediately open the interlocutory proceeding for comprehensive reparation of the harm caused by the criminal conduct, and shall call a public hearing within five (5) days.

That hearing shall begin with a statement by the victim or his or her legal representative or public defender, to state specifically the type of reparation sought, and to indicate the evidence that he or she will introduce to support his or her claims.

The Chamber shall examine the claim, and shall dismiss it if the person filing it is not the victim or if actual payment of the damages is shown and if this were the only claim made; said decision may be challenged in the terms of this law.

Once the claim is admitted, the Chamber shall inform the accused that it has accepted the charges, and will then invite the parties involved to conciliate. If they reach agreement, it shall be incorporated in the ruling in the interlocutory proceeding; otherwise, it shall order that the evidence offered by the parties be produced, it shall hear the arguments in support of their respective claims, and in the same act it shall rule on the interlocutory proceeding. A decision either way shall be incorporated into the guilty verdict.

Paragraph 1. Exclusively for the purposes of the conciliation provided for in this article,

the victim, the accused or defense counsel, the prosecutor handling the case, or the Public Ministry may ask that the Director of the Social Solidarity Network (*Red de Solidaridad Social*) be subpoenaed in his capacity as controller of expenditures of the Fund for the Reparation of Victims.

Paragraph 2. The granting of an alternative penalty may not be denied if the victim fails to exercise his or her right in the interlocutory proceeding for comprehensive reparation.

Article 24. *Content of the verdict.* In keeping with the criteria established in the law, the guilty verdict shall set the principal sentence and the accessory penalties. It shall also include the alternative sentence provided for in this law, the commitments with respect to conduct for the term ordered by the Court, the obligations with respect to moral and economic reparation to the victims, and forfeiture of the assets that are to be earmarked for reparation.

The respective Chamber shall be responsible for evaluating compliance with the requirements provided for in this law to be eligible for the alternative penalty.

Article 25. *Facts that come to be known after the verdict or the pardon.* If the members of illegal armed groups who received the benefits of Law 782 of 2002, or who benefitted from the alternative sentence under this law, subsequently come to be accused of crimes committed during and on occasion of their membership in these groups and prior to their demobilization, that conduct shall be investigated and judged by the competent authorities and the laws in force at the time of such conduct, without prejudice to the granting of the alternative sentence in the event that they collaborate effectively in clarifying or accept, orally or in writing, freely, voluntarily, expressly, and spontaneously, having been duly advised by their defense counsel, their participation in their commission, and so long as the omission was not intentional. In this case, the convicted person may benefit from the alternative sentence. The alternative sentences shall be served concurrently, without exceeding the maximum terms established in this law.

Taking into account the seriousness of the new facts judged, the judicial authority shall impose an increase of twenty percent of the alternative penalty imposed, and a similar increase of the time on probation.

Article 26. *Remedies.* Except for the judgment, a motion for annulment may be brought against all the decisions, and it is argued and resolved orally and immediately in the respective hearing.

Appeals may be brought against those orders that resolve merits issues that are adopted in the course of the hearings, and against the verdicts. They are to be raised in the same hearing in which the decision is handed down, and when granted have the effect of staying the decision challenged pending decision by the Criminal Chamber of the Supreme Court of Justice.

The judge writing the decision shall summon the parties and participants to a hearing for oral arguments that shall be held within ten (10) days once the record is received at the Office of the Clerk of Criminal Cassation. Once the appellant has argued the grounds for the appeal, and all other parties and participants have been heard from, the Chamber may decree a recess of up to two (2) hours to issue its decision.

If the appellant is not present or no argument is presented in support of the appeal, it shall be declared to have been abandoned.

Paragraph 1. The processing of the remedies of appeal addressed in this law shall have priority over all other matters under the jurisdiction of the Criminal Chamber of the Supreme Court of Justice, except matters relating to writs of protection of fundamental rights (*acciones de tutela*).

Paragraph 2. The Plenary Chamber of the Supreme Court of Justice shall hear special motions for reconsideration provided for in the Code of Criminal Procedure in force.

Paragraph 3. No motion for cassation may be brought against the judgment on appeal.

Article 27. *Archive of the proceedings.* If, in relation to the facts admitted or not admitted by the demobilized person in his spontaneous declaration or in a later procedure, as the case may be, before the arraignment hearing, the prosecutor delegate should come to find that there are no motives or factual circumstances that allow them to be characterized as a crime, or that indicate their possible existence, he or she shall immediately archive the record. Nonetheless, if new evidence arises the inquiry will be reopened in keeping with the procedure established in this law, so long as the criminal action has not extinguished.

Article 28. *Intervention of the Public Ministry.* In the terms of Article 277 of the Constitution, the Public Ministry shall intervene as necessary in the defense of the legal order, public property, and fundamental rights and guarantees.

CHAPTER V

Alternative Sentence

Article 29. *Alternative sentence.* The Chamber with jurisdiction of the Superior Judicial District Court shall determine the sentence that corresponds to the crimes committed, in keeping with the rules of the Criminal Code.

In the event that the convicted person has met the conditions provided for in this law, the Chamber shall impose an alternative sentence that consists of deprivation of liberty for a term of at least five (5) years and not greater than eight (8) years, to be set based on the seriousness of the crimes and his or her effective collaboration in their clarification.

To have the right to an alternative sentence, the beneficiary will be required to commit himself or herself to contribute to his or her re-socialization through work, study, or teaching during the time that he or she is deprived of liberty, and to promote activities geared to the demobilization of the illegal armed group of which he or she was a member.

Once the alternative sentence has been served and the conditions imposed in the judgment have been met, the beneficiary shall be released on probation for a term equal to half the alternative sentence imposed, during which time the beneficiary undertakes not to commit the crimes for which he was convicted in the framework of this law, to come before the corresponding Superior Judicial District Court periodically, and to report any change in residence.

Once these obligations have been met and after the probation period has lapsed, the principal penalty shall be declared to have extinguished. Otherwise, the probation shall be revoked and the penalty initially determined shall be served, without prejudice to any of the benefits for the reduction of penalties provided for in the Criminal Code that may apply.

Paragraph. In no case shall benefits for the reduction of penalties, additional benefits, or reductions complementary to the alternative sentence be applied.

CHAPTER VI

Regime for the deprivation of liberty

Article 30. *Place of detention.* The National Government shall determine the place of

detention where the effective sentence should be served.

The places of detention should meet the conditions of security and austerity typical of the centers run by the INPEC (Instituto Nacional Penitenciario y Carcelario, National Penitentiary and Prison Institute).

The penalty may be served abroad.

Article 31. *Time spent in the zones of concentration.* The time that the members of illegal armed groups linked to processes for collective reincorporation into civilian life have remained in a zone of concentration decreed by the National Government pursuant to Law 782 of 2002 shall be computed as time served on the alternative sentence, without this period exceeding eighteen (18) months.

The official designated by the National Government, in collaboration with the local authorities when appropriate, shall be responsible for certifying the time that the members of the armed groups addressed in this law have been in the zone of concentration.

CHAPTER VII

Institutions for the execution of this law

Article 32. *Scope of jurisdiction of the Superior Judicial District Courts for Justice and Peace Matters.* In addition to the jurisdiction established in other laws, the Superior Judicial District Courts designated by the Superior Council of the Judiciary shall have jurisdiction to judge the proceedings addressed in this law, and oversee compliance with the penalties and with the obligations imposed on the convicted persons.

It shall be up to the Office of the Clerk of the respective Court to organize, systematize, and conserve the files on the facts and circumstances related to the conduct of the persons subject to any of the measures addressed in this law, in order to guarantee the rights of the victims to the truth and to preserve the collective memory. In addition, it should guarantee public access to the records of the cases in which there has been final judgment, and have a Communications Office to disseminate the truth of what happened.

Article 33. *National Prosecutorial Unit for Justice and Peace.* The National Prosecutorial Unit for Justice and Peace, delegated before the Superior Judicial District Courts, with national scope of authority and made up as indicated in this law, is hereby created.

This unit shall be responsible for performing those acts which by reason of its jurisdiction, are to be undertaken by the Office of the Attorney General in the proceedings established in this law.

The National Prosecutorial Unit for Justice and Peace shall have the permanent support of a special judicial police unit, made up of members of the appropriate authorities, assigned exclusively and permanently, and with jurisdiction throughout the national territory.

Add to the staff of positions in the Office of the Attorney General for 2005, established in transitory article 1 of Law 938 of 2004, the following positions:

150 criminal investigators VII

15 clerks IV

15 judicial assistants IV

20 drivers III

40 bodyguards III

15 assistant criminal investigators IV

20 prosecutors' assistants II

Paragraph. The Office of the Attorney General shall assign from its staff, to constitute the National Prosecutorial Unit for Justice and Peace, the following positions:

20 Prosecutors Delegate before the Court

Article 34. *Public Defender Service.* The State shall guarantee to those indicted, accused, and convicted the ability to exercise the right to defense through the mechanisms of the Public Defender Service, and in the terms indicated in the law.

The Office of the Human Rights Ombudsperson shall assist the victims in exercising their rights, and in the framework of this law.

Article 35. *Procurator General's Judicial Office for Justice and Peace.* The Office of the Procurator General shall create, for the purposes of this law, a Procurator General's Judicial Office for Justice and Peace (Procuraduría Judicial para la Justicia y la Paz), with national jurisdiction. To this end, the Procurator General's Judicial Office for Justice and Peace may participate in the relevant judicial and administrative proceedings.

Article 36. *Participation of social organizations that provide assistance to victims.* In order to carry out the provisions of this law, the Office of the Procurator General shall promote mechanisms for the participation of the social organizations that assist victims.

CHAPTER VIII

Rights of victims with respect to the Administration of Justice

Article 37. *Rights of the victims.* The State shall guarantee victims' access to the administration of justice. In developing the foregoing, the victims shall have the right:

37.1 To receive dignified human treatment throughout the procedure.

37.2 To the protection of their privacy and guarantee of their security and that of their family members and witnesses, whenever they are threatened.

37.3 To prompt and comprehensive reparation for the harm suffered; the perpetrator or participant in the crime shall be responsible for making such reparation.

37.4 To be heard and to receive facilitation for contributing evidence.

37.5 To receive information relevant to protecting their interests from the first contact with the authorities and in the terms established in the Code of Criminal Procedure; and to know the truth of the facts that constitute the circumstances of the crime of which they have been the victims.

37.6 To be informed of the final decision in the criminal prosecution and to pursue remedies when they are available.

37.7 To be assisted during the trial by an attorney of one's trust, or by the Procurator General's Judicial Office addressed in this law.

37.8 To receive comprehensive assistance for their recovery.

37.9 To be assisted at no cost by a translator or interpreter, in the event of not knowing the language, or not being able to perceive language through the sensory organs.

Article 38. *Protection of victims and witnesses.* The government officers to which this law

refers shall adopt the appropriate measures and all relevant actions for protecting the security, physical and psychological well-being, dignity, and private life of the victims and witnesses, and of all other parties in the proceeding.

To this end, all relevant factors will be borne in mind, including age, gender, and health, as well as the nature of the crime, in particular when it entails sexual violence, disrespect for gender equality, or violence against children.

Special training will be given to the government officers who work with such victims.

These measures may not redound to the detriment of the rights of the accused or the right to a fair and impartial trial, nor shall they be incompatible with such rights.

Article 39. *Exception to public trials.* As an exception to the principle that the hearings that constitute the trial should be public, the Superior Judicial District Court, in order to protect the victims, witnesses, or an accused, may order that part of the trial be held in camera. It may order that testimony be taken through an audio/video system to allow it to be controverted and confronted by the parties.

In particular, these measures shall be applied to victims of sexual assault or assault of children and adolescents who may be victims or witnesses.

Article 40. *Other measures of protection during the trial.* When public disclosure of evidentiary material elements, physical evidence, or information lawfully obtained would entail grave danger to the security of the witness or his or her family, the Prosecutor shall refrain from presenting them in any procedure prior to the trial. Instead, he or she shall prepare a summary of that information. In no case may these measures redound to the detriment of the rights of the accused or of a fair and impartial trial, nor shall they be incompatible with such rights.

Article 41. *Attention to special needs.* The judicial organs as well as the technical support agencies and the Procurator General's Judicial Office for Justice and Peace shall be mindful of the special needs of women, children, the elderly, and the disabled to ensure their participation in the proceeding.

CHAPTER IX

Right to reparation for the victims

Article 42. *General duty to make reparation.* The members of the armed groups who benefit from the provisions of this law are under a duty to make reparation to the victims of said criminal conduct for which they were convicted by judicial verdict.

In addition, when the perpetrator is not identified, but the harm and causal nexus with the activities of the Illegal Armed Group Beneficiary of the provisions of this law are proven, the Court, directly or by referral to the Prosecutorial Unit, shall order reparations, to be paid from the Fund for Reparations.

Article 43. *Reparation.* The Superior Judicial District Court, on proffering its verdict, shall order reparation for the victims and shall set the pertinent measures.

Article 44. *Acts of reparation.* The reparation for the victims addressed in this law entails the duties of restitution, compensation, rehabilitation, and satisfaction.

To have a right to enjoy the benefit of release on probation, the convicted person must provide to the Fund for the Reparation of Victims the assets, if he or she has any, earmarked for that purpose; satisfactorily undertake the actions of reparation that have been imposed on him or her; collaborate with the National Committee for Reparation and Reconciliation, or sign an agreement with the Superior Judicial District Court that ensures the performance of his or her duties of reparation.

The following are acts of comprehensive reparation:

44.1 Surrendering to the State illegally obtained assets for making reparation to the victims.

44.2 A public statement that reestablishes the dignity of the victim and of the persons closest to him or her.

44.3 Public recognition of having caused harm to the victims, the public statement of repentance, the request for forgiveness directed to the victims, and the promise not to repeat such criminal conduct.

44.4 Effective collaboration in locating persons kidnapped or disappeared and in locating the victims' remains.

44.5 The search for the disappeared and for the remains of dead persons, and help in identifying them and burying them again, in keeping with family and community traditions.

Article 45. *Request for reparation.* The victims of the illegal armed groups may obtain reparation by petitioning the Superior Judicial District Court in relation to the facts of which they have knowledge.

No one may receive reparation twice for the same harm.

Article 46. *Restitution.* Restitution implies undertaking acts that aim to return the victim to the situation prior to the violation of his or her rights. It includes releasing the person if deprived of liberty, return to one's place of residence, and the return of his or her property, if possible.

Article 47. *Rehabilitation.* Rehabilitation should include medical and psychological care for the victims or their relatives within the first degree of consanguinity in keeping with the Budget of the Fund for the Reparation of Victims.

The social services provided by the government to the victims, in keeping with the provisions and laws in force, are part of reparation and rehabilitation.

Article 48. *Measures of satisfaction and guarantees of non-repetition.* The measures of satisfaction and guarantees of non-repetition adopted by the various authorities directly involved in the process of national reconciliation should include:

48.1 Verification of the facts and the public and complete dissemination of the judicial truth, to the extent that it will not provoke more unnecessary harm to the victim, witnesses, or other persons, or create a danger to security.

48.2 The search for persons who were disappeared or killed, and assistance in identifying them and burying them anew in keeping with family and community traditions. This task is mainly entrusted to the National Prosecutorial Unit for Justice and Peace.

48.3 The judicial decision that reestablishes the dignity, reputation, and rights of the victim, and those of the victim's relatives within the first degree of consanguinity.

48.4 The apology, which includes public recognition of the facts and acceptance of responsibilities.

48.5 The application of sanctions to those responsible for the violations, all of which will be entrusted to the judicial organs that are involved in the proceedings addressed in this law.

48.6 The competent chamber of the Superior Judicial District Court may order commemorations, tributes, and acts of recognition of the victims of the illegal armed groups. In addition, the National Commission on Reconciliation and Reparations may recommend to the political or government bodies at the various levels that they adopt such measures.

48.7 Preventing human rights violations.

48.8 Attendance by the persons responsible for violations at training courses on human rights. This measure may be imposed on the convicted persons by the competent chamber of the Superior Judicial District Court.

Article 49. *Programs for Collective Reparations.* The Government, following the recommendations of the National Commission on Reconciliation and Reparations, should implement an institutional program of collective reparations that includes actions directly aimed at recovering the institutional framework intrinsic to the Social State under the Rule of Law, particularly in the areas hardest hit by the violence; to recover and promote the rights of the citizens negatively affected by the acts of violence, and to recognize and dignify the victims of the violence.

Article 50. *National Commission on Reparation and Reconciliation.* The National Commission on Reparation and Reconciliation is hereby established, made up of the Vice-President of the Republic or his delegate, who shall chair its sessions; the Procurator General or his delegate; the Minister of Interior and Justice or his delegate; the Minister of Finance or his delegate; the Human Rights Ombudsperson, two Representatives of Victims' Organizations, and the Director of the Social Solidarity Network, which shall serve as the Technical Secretariat.

The President of the Republic shall designate five notables to serve as members of this Commission; of least two of them must be women.

This Commission shall have a duration of eight years.

Article 51. *Functions of the National Commission on Reparation and Reconciliation.* The National Commission on Reparation and Reconciliation shall perform the following functions:

51.1 Guaranteeing the victims their participation in proceedings for judicial clarification and the realization of their rights.

51.2 Submitting a public report on the reasons for the rise and development of the illegal armed groups.

51.3 Monitoring and verifying the processes of reincorporation, and the work of the local authorities to ensure the full demobilization of the members of illegal armed groups, and the proper functioning of the institutions in those territories. For those purposes, the National Commission on Reparation and Reconciliation may invite the participation of foreign entities and notables.

51.4 Monitoring and periodically evaluating the reparations provided for in this law, and making recommendations to ensure they are made properly.

51.5 Submitting, within two years of the date of the entry into force of this law, to the National Government and the Committees on Peace of the Senate and the House of Representatives, a report on the process of making reparation to the victims of the illegal armed groups.

51.6 Recommending the criteria for reparations addressed by this law, charged to the

Fund for the Reparation of Victims.

51.7 Coordinating the activity of the Regional Commissions for the Restitution of Assets.

51.8 Carrying out national actions of reconciliation that seek to impede the recurrence of new acts of violence that disturb the national peace.

51.9 Adopting its own rules.

Article 52. *Regional commissions for the restitution of assets.* The regional commissions shall be responsible for giving impetus to the procedures related to claims over property and possession of goods in the framework of the process established in this law.

Article 53. *Composition.* The Regional Commissions shall be made up of one (1) representative of the National Commission on Reparation and Reconciliation, who shall chair it; one delegate of the Procurator General's Judicial Office for Justice and Peace; one (1) delegate of the Office of the Municipal or District Ombudsperson (*personería*); one (1) delegate of the Human Rights Ombudsperson (*Defensoría del Pueblo*); and one delegate of the Ministry of Interior and Justice.

The National Government shall have the authority to designate a representative of the religious communities and shall determine the functioning and territorial distribution of the commissions based on the needs of the process.

Article 54. *Fund for the Reparation of Victims.* The Fund for the Reparation of Victims is hereby created as a special account without juridical personality whose controller of expenditure shall be the Director of the Social Solidarity Network. The resources of the Fund shall be executed in keeping with the rules of private law.

The Fund shall be made up of all the assets or resources that under any guise may be surrendered by the persons or illegal armed groups to which this law refers, resources from the national budget, and donations in cash and in kind, both national and foreign.

The resources administered by this Fund shall be under the oversight of the Office of the Comptroller-General of the Republic.

Paragraph. The assets to which reference is made in Articles 10 and 11 shall be surrendered directly to the Fund for the Reparation of Victims created by this law. The same procedure shall be observed with respect to the assets linked to criminal investigations and forfeiture proceedings in course at the time of the demobilization, as long as the conduct was carried out on occasion of their membership in the illegal armed group and before the entry into force of this law.

The Government shall regulate the functioning of this Fund and, in particular, everything concerning the claims for and surrender of assets with respect to good-faith third party holders.

Article 55. *Functions of the Social Solidarity Network.* The Social Solidarity Network, through the Fund addressed in this law, shall be in charge, in keeping with the budget allocated to the Fund, of the following functions:

55.1 Liquidating and paying the judicial compensation addressed in this law within the limits authorized in the national budget.

55.2 Administering the Fund for the Reparation of Victims.

55.3 Undertaking other actions for reparation, when appropriate.

55.4 All others indicated in the regulations.

CHAPTER X

Conservation of archives

Article 56. *Duty of memory.* The knowledge of the history of the causes, developments, and consequences of the actions of the illegal armed group should be maintained by the use of adequate procedures, pursuant to the State's duty to preserve the historical memory.

Article 57. *Measures for preserving the archives.* The right to the truth implies that the archives must be preserved. To this end, the judicial organs that are in charge of them, and the Office of the Procurator General, shall adopt measures to prevent any removal, destruction, or falsification of the archives aimed at imposing impunity. The foregoing is without prejudice to the application of the relevant criminal statutes.

Article 58. *Measures for facilitating access to the archives.* Access to the archives should be facilitated in the interest of ensuring that the victims and their next-of-kin are able to assert their rights.

When access is requested in the interest of historical research, the formal requirements for authorization shall be aimed merely at controlling access, custody, and adequate maintenance of the materials, and shall not be used for censorship.

In any event, the necessary measures should be adopted to safeguard the right to privacy of the victims of sexual violence and of children and adolescents who are victims of the illegal armed groups, and so as not to provoke more unnecessary harm to the victim, the witnesses, or other persons, or endanger their security.

CHAPTER XI

Humanitarian Accords

Article 59. It is an obligation of the Government to guarantee the right to peace pursuant to Articles 2, 22, 93, and 189 of the Constitution, in view of the public order situation in the country and the threat to the civilian population and the legally constituted institutions.

Article 60. To carry out the provisions of Article 60 of this law, the President of the Republic may authorize his representatives or spokespersons to pursue contacts that make it possible to reach humanitarian accords with the illegal armed groups.

Article 61. The President of the Republic shall have the power to request of the competent authority, for the purposes and in the terms of this law, that it conditionally suspend the sentence and bestow the benefit of the alternative sentence on the members of illegal armed groups with whom humanitarian accords are reached.

The National Government may demand such conditions as it deems pertinent for these decisions to contribute effectively to the search for and attainment of peace.

CHAPTER XII

Entry into force and complementary provisions

Article 62. *Complementarity*. For all matters not provided for in this law, Law 782 of 2002 and the Code of Criminal Procedure shall apply.

Article 63. *More favorable future law*. If subsequent to the promulgation of this law, laws are issued that grant members of illegal armed groups benefits more favorable than those established in this one, the persons who have been subject to the alternative mechanism may avail themselves of the conditions established in such subsequent laws.

Article 64. *Surrender of minors*. The surrender of minors by members of illegal armed groups shall not be grounds for the loss of the benefits referred to by this law and Law 782 of 2002.

Article 65. The National Government, the Superior Council of the Judiciary, and the Office of the Attorney General shall appropriate sufficient resources essential to the proper and timely application of the asset forfeiture law.

Article 66. In keeping with the Program on Reincorporation into Civilian Life, the National Government shall seek to link the demobilized persons to productive projects or training or education programs so as to facilitate their access to productive employment.

Simultaneously, and in keeping with the same program, it shall seek their support for entering adequate psychological care programs that facilitate their social reinsertion and their adaptation to normal day-to-day life.

Article 67. The Judges of the Superior Judicial District Courts that are created pursuant to this law shall be elected by the Plenary Chamber of the Supreme Court of Justice from lists forwarded by the Administrative Chamber of the Superior Council of the Judiciary.

The requirements to serve as a member of these courts shall be the same as those required for serving as a judge on the current Superior Judicial District Courts.

The Administrative Chamber of the National Council of the Judiciary may establish the administrative and social support groups for these Courts. The appointment of employees shall be up to the judges of the Courts created by this law.

Article 68. The motions addressed in this law and which are processed before the Supreme Court of Justice shall have priority over all other matters under that Court's jurisdiction, and shall be resolved within thirty days.

Article 69. The persons who have demobilized under the framework of Law 782 of 2002 and who have been certified by the National Government may be beneficiaries of a motion to dismiss (*resolución inhibitoria*), preclusion of the investigation, or cessation of proceedings, as the case may be, for the crimes of conspiracy to engage in criminal conduct in the terms of section 1 of article 340 of the Criminal Code; illegal use of uniforms and insignia; instigation to criminal conduct in the terms of section 1 of article 348 of the Criminal Code, manufacturing, trafficking, and bearing arms and munitions.

The persons convicted of the same crimes and who meet the conditions established in this article may also access the legal benefits for them enshrined in Law 782 of 2002.

Article 70. *Reduction of sentences.* The persons who at the time of the entry into force of this law are serving sentences after final judgments shall have the right to a reduction in the sentence imposed by one-tenth, except for those convicted of sexual offenses, crimes against humanity, and drug-trafficking.

For the granting and setting of the benefit, the judge of enforcement of sentences and security measures shall take into account the convict's good conduct, his or her commitment not to repeat the criminal acts, his or her cooperation with the justice system and actions to make reparation to the victims.

Article 71. *Sedition.* Add to Article 468 of the Criminal Code a section that reads as follows: "Those who form or are a part of guerrilla or self-defense groups whose action interferes with the normal operations of the constitution and legal order shall have committed the crime of sedition. In that case, the sentence shall be the same as provided for the crime of rebellion.

Article 3(10) of the United Nations Convention Against Illicit Trafficking in Narcotic and Psychotropic Substances, signed in Vienna on December 20, 1988, and incorporated into the national legislation by Law 67 of 1993 shall remain in full force."

Article 72. *Entry into force and repeals.* The present law repeals all provisions contrary to it. It shall only be applied to acts that occurred prior to its entry into force, and it governs as of the date of its promulgation.