

## COLOMBIA UNDER THE DUQUE GOVERNMENT

// Policy options to strengthen the peace process

The peace agreement that Colombia sealed with the FARC-EP guerrillas in late 2016 offers the country the historic opportunity to leave behind an armed conflict that has lasted for over 50 years and to initiate long-term social changes. In early August, however, Iván Duque, a conservative politician who represents critics of the agreement and who wants to change it, assumed the presidency. External actors – including Germany and the EU – must figure out how to balance respect for a democratically elected government with commitment to a peace process that they regard as right and important.



Iván Duque at his presidential inauguration ceremony in Bogotá, August 7, 2018  
(Photo: © picture alliance/Photoshot).

**By Solveig Richter and Jonas Wolff**

Colombia's new president enjoys a clear democratic mandate. When Duque defeated the left-wing candidate Gustavo Petro in a run-off election in June the result was accepted by all political forces – including the former FARC-EP guerrillas, who now sit in parliament as the political party *Fuerza Alternativa Revolucionaria del Común* (FARC). During the electoral campaign, Duque had promised to modify the peace agreement. In late August, an important member of the government specified the planned modifications for the first time (see box).

The announcements indicate modest changes, and since taking office, the new head of state has spoken quite moderately: An open breach of the peace treaty is not to be expected. Furthermore, in 2017, the Con-

stitutional Court declared the agreement binding for twelve years. However, the peace agreement could still be undermined through legislative and constitutional amendments. Duque's party, the *Centro Democrático*, is the strongest parliamentary force, even if it does not have its own majority. Party hardliners surrounding former president Álvaro Uribe who are calling for a radical change of course continue to enjoy great influence. We begin by discussing the main challenges to the peace process, before formulating potential responses for external actors.

### Three challenges

The **first challenge** concerns the core of the peace agreement concluded in 2016: fulfilling the guarantees the Colombian state made to the FARC-EP in exchange for them laying down their arms. At first, Duque announced that he would exempt drug trafficking and kidnappings from the peace agreement's conditions for amnesty so that former FARC-EP members who had committed such crimes to finance the rebellion would risk imprisonment – in violation of the peace agreement's legal guarantees. However, recent government statements have emphasized that such amendments would only apply to future acts. The peace agreement also guarantees the new FARC party five seats in each chamber of parliament for two legislative terms. Therefore, the announcement that people who have committed crimes against humanity would be denied the right to participate politically is very significant. But it is difficult to assess whether and how the government intends to implement this modification, especially in light of the Constitutional Court's anticipated resistance.

In fact, legislative and constitutional changes are not needed to undermine core guarantees made to the former guerrillas: The government can simply not satisfactorily implement the peace agreement's commitments. One regards the physical security of former combatants: According to the latest report by

### The armed conflict in Colombia

#### War and violence in Colombia

In the mid-1960s, the *Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo* (FARC-EP) formed as an armed rebel group. Based on a Marxist ideology, they particularly fought for profound land reform. Over the years, at least part of the FARC-EP became a violent criminal actor deeply involved in Colombia's drug economy. During the conflict, the Colombian military also committed serious war crimes on the civilian population, which the peace agreement's transitional justice system is also supposed to address. The armed conflict claimed the lives of more than 260,000 people, more than 80% of them civilians. According to UNHCR, in 2018 Colombia continues to have the highest share of internally displaced people in the world (7.7 million).

#### The peace process

In 2016, after four years of negotiations, the government of Juan Manuel Santos and the FARC-EP signed a peace agreement, which was rejected by a narrow majority of the population (50.2%) in a referendum held in October of that year. After further talks with the FARC-EP, changes were made and in December 2016, the Parliament ratified the agreement. Since then, around 13,000 former FARC-EP members have been demobilized, including around 7,000 former fighters. It is estimated that between 1,000 and 1,500 so-called dissidents have evaded demobilization or rearmed themselves.

#### Other violent actors

The largest remaining Marxist rebel group is the *Ejército de Liberación Nacional* (ELN) with around 2,000 members according to the International Crisis Group. Peace negotiations with the ELN that began in February 2017 have been repeatedly interrupted and are being scrutinized by Duque. Other important armed actors in Colombia are paramilitary groups who have been responsible for more than 40% of the conflict victims. Although officially demobilized between 2004 and 2006, numerous "neo-paramilitary" groups still exist that have merged with criminal gangs and drug cartels.

the UN Verification Mission to Colombia, more than 50 former FARC-EP members have been killed since August 2017. The prospects for their socioeconomic reintegration are even more uncertain. Already under Duque's predecessor, Juan Manuel Santos, demobilized fighters had started to complain of being cheated by the government, a perception that has caused more and more former fighters to rearm. By honoring the peace agreement's guarantees, the government could deprive former FARC-EP commanders of their justifications for evading the reintegration process.

The **second challenge** concerns the broader promise of the peace agreement. That goes far beyond the guarantees made to the FARC-EP: The victims of violence are promised justice, and the root causes of the conflict are to be dealt with politically and legally. Structural reforms are intended to create a politically participatory and socially inclusive peace, with priority given to the regions most affected by the armed conflict. In this respect, too, the implementation of some parts of the treaty progressed slowly under Santos. Therefore, his successor has a lot of leeway to further delay pending legislation or to cut back funding for key state institutions, such as those in charge of implementing integral rural reforms, or programs like the comprehensive transitional justice process.

For a large part of Colombia's population (especially in urban areas), depriving the peace agreement of financial and political support would have no direct consequences since they have been little affected by armed hostilities for quite a while. Such a strategy would, however, exacerbate the stark geographic, social and ethnic divisions in Colombian society and destroy the prospects of peace for those who need it most: the rural population, especially indigenous and Afro-Colombian communities, who have greatly suffered from the violence and still do.

This brings us to the **third challenge**: the ongoing and even intensified violence in some regions of the country. The FARC-EP demobilization created a power vacuum that was not properly filled by state institutions. On the contrary, fragmented violence is increasing in some regions, where armed groups and criminal gangs fight each other and the state for control of resources (mining, land, and drugs). Civil society activists campaigning for human and minority rights are particularly targeted – along with local partners of international organizations, especially those working on drug-substitution programs. According to the Colombian ombudsman office, since 2016, more than 340 social activists have been killed, and just this year, more than 120 (as of August 2018). Before becoming president, Duque condemned the attacks, but how



July 2017: The UN Verification Mission in Colombia clears one of 998 FARC-EP arms caches (Photo: © UN Photo/Hector Latorre).

much he will back his rhetorical commitment with political action remains to be seen. The hate speech of right-wing politicians appears to be emboldening paramilitary groups to attack their opponents. Even worse, under Duque, a peace agreement with the ELN guerrillas has become less likely (see boxes).

#### **For critical but committed cooperation with Duque**

Under the Santos government, Germany and the EU promoted the peace process with a variety of diplomatic and development initiatives. With a declared critic of this process now as Colombia's president, external actors must adapt their strategies for supporting the peace. It would not be helpful – and given Duque's democratic legitimacy, not appropriate – to try to show the new government the right path and to interfere with domestic decision-making. At the same time, the peace treaty explicitly provides for "the international community" to "help to guarantee the implementation" of the agreement. With this in mind, we propose embedding focused political pressure in a cooperation strategy that prioritizes strengthening local potentials for peace.

#### **1. Define red lines**

In laying down their arms, the FARC-EP surrendered the possibility of more than symbolically pressuring the government to keep its promises. Therefore, external actors are needed as guarantors to demand that the Colombian state fulfills its core commitments to the former guerrillas. External actors should closely coordinate (e.g. within the EU) to clearly define flouting guarantees as "red lines" and communicate this to the Colombian government as soon as possible. If there

#### **The Duque government's proposals for modifying the peace agreement**

In an interview with the daily newspaper *El Tiempo* on August 27, 2018, Duque's High Commissioner for Peace Miguel Ceballos outlined four planned changes to the peace agreement:

1. Kidnapping and drug trafficking would no longer be considered as means of rebellion but would be treated like ordinary crimes. *This contradicts the rules of amnesty in the peace agreement though it would not be applied retroactively. It would, however, apply to a future peace treaty with the ELN.*
2. Anyone involved in crime after the conclusion of the peace agreement is not entitled to protection by the agreement's procedures and terms of amnesty. *This is in line with the norms established by the peace agreement.*
3. Anyone who committed crimes against humanity during the armed conflict is not allowed to run for political office. *This would run counter to the spirit of the peace agreement and the Constitutional Court's ruling that former FARC-EP members can hold political office provided they fully submit to the mechanisms of transitional justice.*
4. Henceforth, the eradication of coca crops will be mandatory although existing pacts of voluntary eradication signed with coca farmers will be respected. *In principle, coca eradication has always been mandatory. However, the peace agreement's promise to support coca growers who engage in voluntary substitution programs would not be extended to new participants.*

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are breaches, political pressure must be increased – through public blaming and shaming, or by reducing cooperation. Such a strategy requires credible and systematic monitoring of the agreement's implementation. The UN Mission and Colombian NGOs are competent, but may need some diplomatic and material backing.

## 2. Strengthen local capacities

Numerous state agencies and programs have already been established in conjunction with implementing the peace agreement. External actors could help them to survive through both political dialogue and continued project funding should the new government seek to undermine the agreement by reducing financial support and political backing. In addition, despite all the hindrances, the peace process has engendered broad and diverse social engagement at the community level. Many opportunities exist for external actors to support local economic structures, social dialogue processes and political self-organization. Not only does this help the long-term reintegration of former FARC-EP fighters, it also nurtures the still tender shoots of a socially inclusive and politically participatory peace and strengthens the local population's capacity to resist armed groups and the incentives of the illicit war economy.

## 3. Provide impetus for a new security agenda

Duque's declared priority is to increase security in the country. Even if his party primarily favors a military-based, confrontational approach, political dialogue can be used to explore the space for a political solution to the security problems. External actors

should take Duque at his word and push for a rapid reduction of violence in the country's conflict regions – particularly to protect social activists. It is up to the government to continue negotiating with the ELN and to attempt to demobilize the remaining paramilitary groups. The use of military force to solve social problems such as coca cultivation, or as a response to social protests only triggers vicious circles of violence. External actors should therefore try to persuade the government to reform the security sector to redefine the security forces' role in the face of changing patterns of violence.

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