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Institutional architecture of Total Peace

A normative review studied
in practice

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Acronyms and abbreviations

AUC	United Self-Defence Forces of Colombia (Autodefensas Unidas de Colombia)
COCE	Central Command (Comando Central)
EGC	Gaitanist Army of Colombia (Ejército Gaitanista de Colombia)
ELN	National Liberation Army (Ejército de Liberación Nacional)
EMC	Estado Mayor Central
FARC-EP	Revolutionary Armed Forces of Colombia – Army of the People (Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo)
JEP	Special Jurisdiction for Peace (Jurisdicción Especial para la Paz)
MAPP/OAS	Mission to Support the Peace Process in Colombia of the Organization of American States
OACP	Office of the High Commissioner for Peace
SM	Segunda Marquetalia

Summary

This research answers two questions: what constitutes the institutional context of 'Total Peace' ('Paz Total') in Colombia; and how is it being implemented by negotiating groups locally in cities with significant criminal governance? The relevance of these questions stems from the novelty of the Total Peace policy, characterised by its ambitious scope, with six simultaneous negotiation teams engaging with different groups, including apolitical criminal organisations legally termed 'high-impact organised crime structures' as well with rebel groups.

The paper provides a normative review of the Total Peace policy's institutional architecture, scrutinising the absence of a comprehensive legal framework that could guide its implementation. While it acknowledges the government's efforts to enhance negotiation tools, it emphasizes significant gaps in the legal framework concerning the justice tools required for the transition to peace. These gaps have hindered the government's ability to successfully conclude negotiation tables with agreements. The paper also underscores the policy's centralisation within the national government, which poses challenges in terms of coordination with other national authorities at local level. This centralisation is seen as a hindrance to the effective operationalisation of the policy, as it does not adequately account for the complexities and nuances of local governance structures.

The research sheds light on the expectations and aspirations of local authorities to influence and participate in the negotiation process. It notes that while local authorities expect to be able to exercise some form of articulation or coordination, their ability to do so and the specificity of this coordination vary significantly from one locality to another. This variance is attributed to the differing levels of criminal governance and unique socio-political landscapes that characterise each city.

In conclusion, the research highlights the necessity of a more cohesive and legally robust framework for the Total Peace policy. It emphasizes the importance of defining legal tools to facilitate the transition to peace through justice, thereby enabling the successful conclusion of negotiation processes. It also calls for greater decentralisation and involvement of local authorities to ensure that the policy responds to diverse local realities; and suggests a more collaborative approach that bridges the gap between national ambitions and local capabilities, thereby enhancing the prospects for a sustainable and inclusive peace.

1. Introduction

This research seeks to answer two questions: what is the institutional context of ‘Total Peace’ (‘Paz Total’); and how is it being implemented by negotiating groups locally in cities with significant criminal governance? The term Total Peace, as used in this paper, refers to the current Colombian government’s negotiation policy, which includes groups with a political background, as well as those that are involved in organised crime.

There are at least two reasons these questions are relevant. First, although Colombia has engaged in several peace processes with different groups to varying degrees of success, the Total Peace policy is a novel idea. This is not only because of its ambition, as there are – so far – six simultaneous negotiation teams working with different groups, but also because the process includes apolitical criminal organisations, legally referred to as ‘high-impact organised crime structures’. Second, unlike other peace processes – especially the negotiation process and agreement reached with the Revolutionary Armed Forces of Colombia-People’s Army (FARC-EP) guerrilla group – Total Peace lacks specific planning tools, an integral legal framework and a clear strategy to communicate its results. Therefore, the purpose of this document is to reconstruct the legal institutional framework of the Total Peace policy.

The paper draws three main conclusions based on normative analysis and fieldwork. First, Total Peace lacks a comprehensive legal framework that encompasses all elements of negotiation and the transition to legality via the justice system. The latter relies on fragments from previous peace processes that do not completely meet current needs and are subject to several legal disputes and interpretations regarding their applicability. In practice, even though there have been partial agreements that show the will for peace (ceasefires and early violence reduction agreements), the lack of a legal framework that includes justice has affected the construction of definitive solutions to armed conflict and a reduction in violence.

Second, much of the Total Peace policy is centralised within national government authorities. This includes various dialogues with groups with national influence and representation, such as the National Liberation Army (ELN), but also talks with local organisations that cover specific areas of urban centres, such as in Buenaventura with Los Shottas and Los Espartanos. The three case studies detailed in the methodology section describe how local authorities – and, to a large extent, social organisations and other actors such as entrepreneurs – have no role in the negotiations and do not receive information on their progress. However, these actors have visions for and expectations about what their role in the Total Peace process should be, which might be critical to implementing agreements in the territories of the case studies: Arauca, Buenaventura and Tumaco.

Furthermore, we found there is little coordination with other national authorities present at the local level, principally armed forces, both police and military. We found

that these actors are significantly isolated from the negotiation process and that there is no coordination on operational issues, including ensuring the safety of the negotiating teams, sharing information brought to negotiating tables, and defining a security policy that supports the negotiations.¹ According to Colombian norms and previous negotiation experiences, numerous institutions should participate in or coordinate the peace process in some manner, though in practice they do not participate and have limited knowledge of it.²

Third, although local authorities seek to influence negotiation processes to some extent, this expectation varies in each case. In municipalities such as Buenaventura, where the peace process is unfolding amid organised crime structures that lack specific political goals, and where the local government's interaction with these groups has been adversarial, local authorities have a specific desire to participate in the negotiation process rather than just implement what is agreed upon. Conversely, in Arauca, an area under the influence and governance of the ELN, a group with distinct political objectives that has wielded substantial influence over local politics for many years, the authorities have shown no interest in participating directly in the negotiation process. Instead, they seek an active role in implementing post-negotiation agreements and maintaining ongoing coordination and communication with the peace process.

This report is divided into five sections. Section 2 describes the core elements of our research methodology; section 3 outlines key elements of the legal and institutional framework of Total Peace; and section 4 addresses the practical implementation of Total Peace at territorial level. Finally, the main findings are presented in section 5.

¹ Interview with security sector personnel (Buenaventura, 26–27 September 2023); Interview with security sector personnel (Tumaco, 23 October 2023); Interview with security sector personnel (Arauca, 28 February 2024).

² One of the clearest examples is art. 8A of Law 2272 of 2022, which established that the 18 ministries of the national cabinet have responsibilities related to Total Peace. In practice, the peace cabinet has not operated beyond its regulation. In fact, the media have reported tensions between the Office of the High Commissioner for Peace and some ministries critical to the policy such as: justice – for example: Infobae. (2024, 2 October). *Ministra de Justicia enfrentó al comisionado Otty Patiño y se opuso al cierre de la JEP: 'Es una apuesta a la paz'*. <https://www.infobae.com/colombia/2024/10/02/la-ministra-de-justicia-hablo-del-cierre-de-la-jep-tras-las-declaraciones-del-comisionado-de-paz-es-una-apuesta-a-la-paz/>); political affairs (interior) – for example: La Silla Vacía. (2024, 28 September). *MinInterior respalda a la JEP tras sugerencia de cierre de Otty Patiño*. <https://www.lasillavacia.com/en-vivo/mininterior-respalda-a-la-jep-tras-sugerencia-de-cierre-de-otty-patino/>; and defence – for example: El Espectador (2024, 29 November). *Ministro de Defensa y el Comisionado de paz hablarán sobre seguridad y paz total*. <https://www.elespectador.com/colombia-20/paz-y-memoria/foro-seguridad-y-paz-total-charla-del-ministro-de-defensa-ivan-velasquez-y-el-comisionado-de-paz-otty-patino/>.

2. Methodology

This study employs two methodological approaches to answer the research questions. The first involves a normative legal analysis³ that investigates and conceptually evaluates the extent of legal norms, such as laws, judgments and texts, to ascertain the implications and repercussions of the obligations and entitlements derived from them. The second is a qualitative approach that assesses the viability of the institutional frameworks of the case studies.

The legal analysis provided in this report focuses on delineating the institutions, obligations and rights that govern peace in Colombia, encompassing both negotiation processes and the transition to legality through justice – including the specific instruments devised to achieve Total Peace. This methodological choice was made partly because the research questions focused on concerns where the solutions were legal rather than academic in nature.

The legal analysis includes that of the Total Peace legal framework's decrees, bills and high court rulings related to peacebuilding in Colombia. This review considers two types of laws. First are the laws the national government has recently promulgated that seek to make Total Peace viable, particularly the Plan Nacional de Desarrollo 2022–2026: 'Colombia, potencia mundial de la vida' ('National Development Plan 2022–2026: "Colombia, world power of life"'), and Law 2272 of 2022, also known as the Total Peace Law, hereafter referred to as Law 2272. Second are the laws that have applicable legal elements, such as Law 418 of 1997 (Public Order Law), Law 975 of 2005 (Justice and Peace Law) and the Law of Submission of 2018 (Law 1809). For both types of laws, relevant judicial rulings were reviewed to assess their constitutionality and scope. This analysis is a key factor in the third section.

In addition to the legal analysis, semi-structured interviews were conducted in three case studies. The qualitative component of this report complements the analysis by exploring how laws and entities related to Total Peace operate locally.

The first of the selected cases is the city of Buenaventura, where a socio-legal dialogue is being developed with two high-impact criminal groups, Los Shottas and Los Esparteros. The second is the city of Arauca, one of the ELN's strongholds and an example of negotiations with a subversive group. Finally, the city of Tumaco is used as a reference point for dialogue with the FARC-EP dissident groups known as the Estado Mayor Central (EMC) and Segunda Marquetalia (SM).

³ Nolasco, C. A. R. I., Vaughn, M. S., & del Carmen, R. V. (2010). Toward a new methodology for legal research in criminal justice. *Journal of Criminal Justice Education* 21(1), 1–23; Himma, K. E. (2015). Conceptual jurisprudence. *Revus* 26.

We conducted interviews in these three cities with individuals involved in the Total Peace policy. As part of this process, we designed a semi-structured interview instrument based on ten guiding questions that were then divided into four categories – roles, capacity building, normative change and extra-legal advocacy – and addressed to ten sets of groups or entities involved in the peace agenda: the Municipal Mayor’s Office, Municipal Council, National Police, armed forces, civil society (territorial leaders and organised political initiatives), non-governmental organisations, the UN Office of the High Commissioner for Human Rights, international cooperation and the Attorney General’s Office (Fiscalía General de la Nación). The interviews were recorded on systematisation sheets that allowed us to group and compare interviewees’ perceptions. The findings of this systematisation are included in the text as examples and are not directly attributed to the interviewees.

It is important to note that of the three case studies, Tumaco presented the most challenges to accessing sources. Interviewees’ reluctance to provide information limited the research and impacted the study’s findings. To compensate for these limitations, we conducted additional interviews in the city of Bogotá, reviewed media coverage of the negotiations relevant to this territory, and expanded one of the interviews with a person we considered to have reliable insider information on the situation in Tumaco. For most of the topics covered in the research, we deemed the information to be sufficient and reliable. In cases where we considered it insufficient, we specify this in the text. In any event, we considered the interviewees’ reticence itself to be an interesting finding about the way the Total Peace process has impacted this territory.

3. Institutions and the legal framework for Total Peace negotiations

This section describes the central elements of the Total Peace legal framework. This framework is fundamental to understanding the various negotiating tables as it defines the different tools available to help develop negotiations with both organised armed groups and high-impact organised crime structures. The section is divided into three parts. The first describes the main elements of Total Peace as it is defined by the Colombian government. The second describes the elements of the legal framework used for negotiations that are part of the Total Peace policy. Finally, the third describes the elements of the legal framework, beyond Total Peace, that are available in the judicial transition to peace.

3.1. The concept of Total Peace

Total Peace is the name of the peace policy created by the current Colombian government led by President Gustavo Petro. The concept, which Petro introduced during his presidential campaign,⁴ is defined in the National Development Plan as a ‘commitment’ that involves all public policy decisions to ‘promote territorial transformations, overcome the deficit of economic, social, cultural and environmental rights, and put an end to armed violence, both those of socio-political origin and those marked by profit, accumulation and the securing of wealth.’⁵

Total Peace includes at least three central and novel elements. First, it recognises that high-impact organised crime structures are among the relevant actors in the peacebuilding process, including those that are primarily involved in drug trafficking and are perpetrators of violence. This is a new perspective that contrasts with the traditional approach to peacebuilding, which mostly concentrates on engaging with organised armed groups that have a political character. Second, Total Peace promotes the notion that safeguarding life is a core objective of the state. Consequently, it prioritises the reduction of homicidal violence by forging agreements early in the peacebuilding process that seek to curb violence. Furthermore, the concept of Total Peace emphasises that peacebuilding should permeate all state

⁴ Gustavo Petro. *Programa de gobierno 2022–2026: Colombia, potencia mundial de la vida* (p. 50). https://observatorioplanificacion.cepal.org/sites/default/files/plan/files/Programa%20de%20Gobierno%20Gustavo%20Petro_.pdf

⁵ Departamento Nacional de Planeación. (n.d.). *Plan nacional de desarrollo 2022–2026: Colombia, potencia mundial de la vida* (p. 207). <https://colaboracion.dnp.gov.co/CDT/portalDNP/PND-2023/2023-05-04-bases-plan-nacional-de-inversiones-2022-2026.pdf>

actions. Therefore, policies that span various sectors – such as development and social well-being – should be considered integral to peacebuilding efforts.⁶

Finally, Total Peace includes the consolidation of previous peace processes in which there are still unsatisfied demands or non-compliance.⁷

3.2. The Total Peace legal framework for negotiations

The Total Peace legal framework for negotiations includes Law 2272, which allows for rapprochements and talks with high-impact crime organisations, and negotiations with armed rebels and political actors (organised armed groups). With regard to Law 2272's modifications, the Constitutional Court studied if they were aligned to the Constitution.⁸ It determined that while the national government has the power to advance rapprochements and talks with high-impact organised crime structures, to establish processes for groups to submit to justice, it is the responsibility of Congress to define the conditions for the submission to justice of high-impact organised crime structures. These conditions include considering possible benefits, the procedures for freezing arrest warrants, security guarantees and the rights of victims, among others.

Law 2272 established two types of processes that the government can pursue.⁹ One is negotiations with organised armed groups or rebel groups that are outside the law¹⁰ and with whom political dialogues may result in peace agreements. The second is establishing rapprochements and talks with high-impact organised crime structures, also known as socio-legal dialogues, with the aim of bringing criminal

⁶ Departamento Nacional de Planeación (n.d., p. 207). According to the foundations of the National Development Plan: 'Total Peace is the commitment to place dignified life at the centre of all public policy decisions, in such a way that humans and ecosystems are respected and protected.'

⁷ For example, the National Development Plan states: 'Defining peace as a state policy and fully complying with the Teatro Colón Peace Agreement requires an articulated and coordinated institutional framework at the national and territorial levels, under the strategic leadership of the Peace Cabinet. This body will guide the government's concurrence with territorial entities and other international, national and local actors in order to contribute to making peace a reality in the communities. The Cabinet will establish guidelines to identify opportunities to adapt and optimise the existing bodies and mechanisms for the implementation of the agreement, or those required for the new negotiations' (Departamento Nacional de Planeación n.d., p. 216).

⁸ Ruling C-525 of 2023. <https://www.corteconstitucional.gov.co/comunicados/Comunicado%2050%20-%20Noviembre%2029%20de%202023.pdf>. Although the number of the ruling is already known, it has not been published. To date, only press release no. 50, in which the Constitutional Court announced its analysis and decision on the provisions in question, has been made available.

⁹ Law 2272 of 2022, art. 2, para. c.

¹⁰ In Colombia, a legal tradition has linked the possibility of political negotiations to the political nature of the organisations and, in some cases, to political crime. This character of an organisation being treated as a 'political criminal' is in turn closely associated with the idea that groups of this nature have the core objective of subverting the constitutional and legal regime in search of an altruistic end. One of the first judgments in which this view was put forward was Judgment C-052 of 1993: 'Crimes that are truly political tend to achieve an abstract end, the improvement of society, of the government, which is very distant from crimes that have the character of personal or common crimes.'

groups to justice and dismantling them. The difference between the two options is that while negotiations are more political, and therefore involve the possibility of broadly rethinking elements of the state model, socio-legal dialogues are a way to exclusively discuss logistical elements of submitting to justice.

Law 2272 also establishes which types of groups can opt for negotiation or submission. The path of political dialogue can be pursued exclusively with organised armed groups, specifically, ‘those that, under the direction of a responsible command, exercise control over a part of the territory, which allows them to carry out sustained and concerted military operations.’¹¹ As the Constitutional Court explains, these groups are political criminals, whose central objective is to ‘undermine or disrupt the current institutional framework in order to propose or promote a new order that it considers more just in order to direct public interests.’¹²

At the opposite end of the spectrum are high-impact crime organisations or structures. These are defined as groups ‘that are made up of a plural number of persons, with a hierarchical structure and/or a network, and that are dedicated to the permanent or continuous execution of punishable conducts that are framed in criminal patterns.’¹³ Punishable conduct involves the violent subjugation of the civilian population and relates to one or more illicit economies. This second type of group refers to high-impact organised crime structures that seek to ‘obtain particular benefits through crime’¹⁴ without rebellious intent; therefore, the path that offers Total Peace is that of their submission to justice.

The aforementioned definition is consistent with Law 2272, which provides for the creation of a high-level body whose function is to study, characterise and classify high-impact organised crime structures in accordance with the definitions already provided.¹⁵ The Ministry of National Defence is the government entity in charge of coordinating this body; the National Intelligence Directorate and Office of the High Commissioner for Peace (OACP) are also expected to participate. To date, President Petro has classified the groups through the OACP, though the high-level body has not yet been set up.¹⁶

Law 2272 specifically defines some aspects of the president’s discretion in the context of Total Peace. For example, the president can expressly authorise representatives of the national government to carry out ‘all acts tending to establish rapprochements and conversations with organised armed structures of high-impact

¹¹ Law 2272 of 2022, art. 2, para. c.

¹² Supreme Court of Justice. Judgment of 5 December 2007, case 27955. This is one of the central rulings in which the Supreme Court denied the political character of paramilitary groups, so they could obtain benefits such as the cessation of criminal proceedings. Among others, it is based on the precedent of Constitutional Court. Ruling C-052 of 1993.

¹³ Law 2272 of 2022, art. 2, para. c.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ As of July 2024, the high-level body had not met, even though it was regulated by decree 2655 of 2022.

crime that demonstrate a willingness to move towards the rule of law.¹⁷ These representatives will also have the power to carry out ‘all acts tending to establish and advance dialogues, as well as negotiations, and reach agreements with spokespersons or representative members of organised armed groups outside the law’¹⁸ The Constitutional Court has challenged these powers and made clear that they must be regulated and must not interfere with the powers of other branches of government.¹⁹

For the purposes of dialogue, Law 2272 defines the ‘representative members’ of organised armed groups or high-impact organised crime structures as those persons designated by the group itself. The law also establishes a ‘spokesperson’ as a person from civil society who, with the consent of the groups or structures, can participate on their behalf.²⁰ Both representative members and spokespersons will be certified by the national government to be able to access guarantees, and negotiation or conversation tools.

In addition to those mentioned above, Law 2272 regulates some specific tools for negotiation, including:

- 1 **Suspension of arrest warrants** – Law 2272 extends the power to suspend arrest warrants to members of ‘political’ armed organisations, members representing high-impact organised crime structures and their spokespersons.²¹ The Constitutional Court defined several limits for cases involving members of high-impact organised crime structures, given that the government must justify and motivate the suspension request, so the request is in line with the purposes of the process and its necessity can be verified, ensuring that judicial authorities can make decisions in accordance with the powers reserved for the judiciary. In addition, the temporality and territorial scope of the suspension must be included.²²
- 2 **Temporary location** – When the process has advanced and it is considered convenient,²³ Law 2272 says that the national government and the spokespersons and representative members of the armed groups and high-impact organised crime structures may agree on a temporary location in certain areas of the national territory where arrest warrants would be suspended, including those for extradition purposes, as well as during the transfer process to and from the location agreed on. These temporary zones cannot be in urban areas, and it must be clearly laid out how the institutions will function within these zones to guarantee the rights of the local population. However, the Constitutional Court

¹⁷ Law 2272 of 2022, art. 8.

¹⁸ Ibid.

¹⁹ Constitutional Court. Press release No. 50, ruling C-525 of 2023.

²⁰ Law 2272 of 2022, art. 8.

²¹ Ibid., para. 2.

²² Constitutional Court. Press release No. 50, ruling C-525 of 2023.

²³ Law 2272 of 2022, art. 8, para. 3.

ruled that it is fundamental that there should be a legal framework that determines the guidelines and limits for the creation of these zones for organised crime.

In the court's opinion, it is not clear how these zones should operate to make the submission of organised crime visible. However, there are precedents on how such temporary locations have been used to make organised armed groups' transition to civilian life visible. What is clear, according to the Constitutional Court's analysis, is that these location zones should materialise in 'a mature stage of the process' as is foreseen for organised armed groups in the framework of possible peace processes.²⁴

- 3 **Security guarantees** – Within the framework of Law 2272, security measures applicable to spokespersons and representative members are foreseen, though not specified.²⁵ The Constitutional Court, through its analysis, mentioned that although security measures are appropriate, they must be applied to those who are participating in the processes of rapprochement and conversation for the purposes of submission, and only for this purpose. In the event that the high-impact organised crime structures continue to carry out criminal activities, and to protect the fundamental rights of society, the government would be obligated to enforce judicial decisions against the spokespersons or representative members and activate powers of prosecution.
- 4 **Verification mechanisms** – Law 2272 establishes that government representatives and members representing armed groups and high-impact organised crime structures will agree on joint verification mechanisms for agreements, negotiations and dialogues. In addition, national and international institutions or personnel can be called upon to carry out the required verification processes.²⁶

Finally, Law 2272 stipulates that organised armed structures and armed groups must fulfil certain obligations to access agreed upon legal and socioeconomic incentives and/or political benefits. These obligations include disarmament, demobilisation, collaboration with the justice system and a demonstrated willingness to reincorporate into society.

Based on the aforementioned conditions, it is evident that there is a legal framework for Total Peace. However, this framework is not integral and comprehensive in several respects. Most notably, its central focus is on negotiation tools, but there are no tools for a judicial transition to peace, which are crucial for closing and concluding negotiations and talks. A less critical gap is that many of these tools require administrative regulation and implementation, which could potentially be addressed by the government but are still pending. An example previously mentioned is the high-level body to characterise and classify high-impact organised crime structures, which was created by law but is not functioning in practice.

²⁴ Constitutional Court. Press release No. 50, ruling C-525 of 2023.

²⁵ Law 2272 of 2022, article 8, para. 2.

²⁶ Ibid.

Finally, there are gaps that relate more to the government's strategic perspective. For example, one of the major gaps in existing legislation is a lack of institutional articulation and defined competencies for local authorities engaging in peace negotiations. Even if ordinary tools are contemplated in the law to promote this coordination (Law 418 of 1997), it does not contain any perspective on coordination with local authorities in the context of peace negotiations. Nor does Law 2272, but it stipulates that Local Development Plans of territorial entities must include policies and projects that aim to fulfil the established peace agreements, although their implementation is subject to budget availability.²⁷

3.3. Legal framework for the judicial transition to peace

One of the critical elements of peace processes is defining the rules of transition to legality in the context of justice. As explained above, the most important gap in the legal framework for Total Peace is that there are no clear rules in this area. Because Total Peace involves negotiating with different types of groups, a transitional justice framework would, at a minimum, be required for organised armed groups that are political criminals, while rules of submission to justice would be required for high-impact organised crime structures. In the case of political negotiations, this is likely to be constructed as part of the agreements, whereas in the case of armed high-impact crime structures, it must be defined by law.

This legal gap arises partly from the fact that the second law the government intended to include in the legal framework for Total Peace, the so-called Law of Submission, could not be adopted after two attempts to advance it in Congress in 2022 and 2023, due to the partial rupture of the national government with its legislative coalitions.²⁸ This law defined the set of rules and incentives for armed high-impact organised crime structures to submit to justice.²⁹ To date, the national government has not made any additional attempts to approve this bill.

This section will focus on the various legal frameworks for transitional justice and submission to law that exist in Colombia. However, none of them can be used for the groups with which negotiations are currently underway without at least minimal modifications, as the existing frameworks have emerged and been adopted for specific negotiation processes, with clear limitations on the beneficiary groups and types of crime.

²⁷ Law 2272 of 2022, article 6.

²⁸ The rupture of the 'national coalition' was widely covered by the media – for example: Ramos, F. (2023, 26 April). *¿Cómo se llegó a la ruptura entre Petro y su coalición política en el Congreso de Colombia?* CNN Colombia. <https://cnnespanol.cnn.com/2023/04/26/como-se-llego-ruptura-petro-coalicion-acolombia-orix/>; Portafolio. (2023, 17 April). *Efectos en las reformas de posible ruptura en la coalición de gobierno.* <https://www.portafolio.co/economia/gobierno/reformas-del-gobierno-posibles-efectos-de-una-ruptura-en-la-coalicion-581512>

²⁹ To consult the original draft of the bill, see: La Silla Vacía. (2023, 15 February). *Publican el borrador de la ley de sometimiento.* <https://www.lasillavacia.com/en-vivo/publican-el-borrador-de-la-ley-de-sometimiento/>

3.3.1. Legal framework for justice and peace

Law 975 of 2005, commonly referred to as the Justice and Peace Law, was issued as a result of an agreement for the demobilisation of the United Self-Defence Forces of Colombia (AUC), a paramilitary group that operated in Colombia until 2004. This regime has the particularity of being a transitional justice solution for a group that is part of the conflict, even if its members are not recognised as political criminals. It is a legal framework that not only proposes ways for the disarmament and demobilisation of armed groups, individually or collectively, but also offers judicial treatment with penal alternatives that go beyond deprivation of liberty in prison.

The main limitation of the legal framework for justice and peace is that it was designed in the context of negotiations with paramilitaries, which is why Article 1 specifies that it is only applicable to 'guerrilla' or 'paramilitary' groups.³⁰ At the very least, to apply it, it is necessary to broaden the scope of competence without taking into account political resistance by other groups.

3.3.2. Legal framework for the Special Jurisdiction for Peace

The Special Jurisdiction for Peace (JEP) is an independent transitional justice system that was created as part of the 2016 peace agreement signed between the Colombian government and FARC-EP.³¹ It was born of the principle of strict temporality, according to which it can last for a maximum of 20 years.³² Its objective is to satisfy and protect the rights of victims, offer truth to Colombian society, and provide legal security to those who took part in the armed conflict for acts committed during the conflict that constitute grave breaches of international humanitarian law and serious violations of human rights. The JEP was developed in part through a change in the Constitution, making any modifications of that legal framework more demanding of parliamentary majorities.³³

Similar to the Justice and Peace Law, full peace was expressly designed for the signatories to the 2016 Peace Agreement, therefore the inclusion of additional groups would require constitutional and legal reforms.

3.3.3. Tools of submission

Colombian legislation has a few tools that could be considered for the submission of high-impact organised crime structures. The first tool is the principle of opportunity, which allows the state to waive criminal prosecution under certain conditions and is part of the ordinary criminal law. Its main limitations are that it is currently designed

³⁰ Law 975 of 2005, art. 1.

³¹ Peace agreement, section 5.

³² Peace agreement, section 5, para. 5.1.2.

³³ In Colombia, amending the Constitution requires a broad consensus in Congress. First, it requires eight debates, not four as for ordinary laws. Additionally, in the first four debates, it requires a simple majority (half plus one of the members in attendance), but in the last four an absolute majority (half plus one of the members).

for individual rather than collective prosecutions, and there are serious crimes that cannot be included, such as conspiracy to commit a crime.

A second tool is Law 1908 of 2018, which defines rules for collective submission and prosecution, though it is restricted to organised armed groups, excluding high-impact organised crime structures. However, its current validity is unclear as it was originally intended for submissions occurring six months after the law was adopted (Articles 35 and 39).

3.4. Institutions involved in implementing Total Peace

This section describes the role of some of the institutions that are critical for Total Peace, especially from a normative point of view. The aim is to construct a kind of map of actors for Total Peace. However, the following describes more specifically the roles they have played in practice in each of the case studies in this document. As will be seen, and in accordance with what has been explained above, most of these actors are national entities.

Institutions involved in implementing Total Peace	
Office of the High Commissioner for Peace	The Office of the High Commissioner for Peace is a dependency attached to the Presidency. Its central function is to act as spokesperson for the president on peace policy; in other words, to lead all the processes of negotiation and implementation of peace agreements. Law 2272 of 2022, which has not yet been implemented, created the possibility of establishing regional peace commissioners.
Military forces	The military forces in Colombia are a national institution, with a presence throughout the territories of the country.
Ministry of Defence	The Ministry of Defence is a key actor in Total Peace in at least two ways. Firstly, it is where the leadership of the military forces is concentrated, so the institutional response to the conflict depends on it; and secondly, the Ministry of Defence leads the high-level body that must characterise the groups, which is not yet operational.
Attorney General's Office	The Attorney General's Office has a fundamental role in Total Peace, which is to lift arrest warrants on spokespeople and representatives at the request of the national government, so they can participate in negotiating tables.
Cabinet for Peace	Article 8A of Law 2272 of 2022 established that the 18 ministries of the national cabinet have responsibilities related to Total Peace: 'Each of the Ministries that make up the National Government shall define the components of the public policy for peace that fall within its competence. In bimonthly sessions or when so determined by the president of the republic, the Ministerial Cabinet will meet as the Peace Cabinet. At these sessions, the ministries will present reports on the matters under their responsibility in this area.'
Ministry of Justice	In practice, the Ministry of Justice has been heavily involved in the development of legal solutions that make the legal framework for the judicialisation of Total Peace and its potential regulation viable.
Local authorities	There is no regulation defining the role of local or departmental governments in peace processes, nor establishing rules for coordinating with them.
Catholic Church	The Catholic Church has no legal role in the negotiation and dialogue processes; however, it has played a relevant role in local socio-legal dialogue processes in particular.

4. Implementation of Total Peace

4.1. The legal framework in action

This section reviews the implementation of the institutional framework for Total Peace based on the fieldwork conducted. The reality of Total Peace shows there are different levels of implementation in the negotiating tables and realities that go beyond the current legal framework.

One of the characteristics of the implementation of Total Peace derives from the fact that the legal framework establishes the possibility of negotiating with organised armed groups, while at the same time seeking to shape a macro-process that brings various high-impact organised crime structures to justice. This has meant conducting a multiplicity of parallel conversations with diverse groups and different teams and negotiation dynamics at each negotiating table. It poses the challenge of seeking convergences in the needs raised at the different negotiating tables to make coherent the results of all these simultaneous processes and the eventual reforms that derive from them.

Another characteristic of the implementation of Total Peace is that the different negotiating tables have sought to define ceasefires or early violence reduction agreements as a path towards more stable negotiation processes. In addition to having a direct impact on the reduction of violence in the territories most affected by these groups' presence, these early agreements to reduce violence, allow for the strengthening of trust between the parties and progress towards partial agreements. Although this was viewed positively in all the cities where fieldwork was carried out, limitations were also noted, such as the continuation of hostilities between groups – in Arauca, for example, hostilities between the ELN and EMC continue, despite a ceasefire with the government – or the persistence of other subtle forms of violence that impact people's daily lives. In Buenaventura, it was suggested that the groups participating in the negotiating table have continued to control the opening hours of shops and businesses in some neighbourhoods, in addition to extortion.³⁴

³⁴ Interview with member of local administration (Buenaventura, 26 September 2023); Interview with member of civil society organisation (Buenaventura, 27 September 2023); Interview with member of civil society organisation (Buenaventura, 28 September 2023). The continuation of extortion in Buenaventura has also been reported in the media; see, for example: Infobae 2024 (17 February). *Desmantelan red de extorsión que delinqua desde la cárcel de Buenaventura: incautaron 90 celulares*. <https://www.infobae.com/colombia/2024/02/17/desmantelan-red-de-extorsion-que-delinqua-desde-la-carcel-de-buenaventura-incautaron-90-celulares/>; Pares (2024, 22 January). *A punta de extorsión, Shottas y Espartanos siguen mandando en Buenaventura*. In: <https://www.pares.com.co/post/a-punta-de-extorsi%C3%B3n-shottas-y-espartanos-sigurn-mandando-en-buenaventura>. In July 2024, Monsignor Darío Jaramillo, the leader of the Catholic Church in Buenaventura and a member of the negotiation table, called on both Los Shottas and Los Espartanos to suspend extortion. In his words: 'Extortions are killing the people, drowning the merchants, and preventing this region of the country from progressing.'; Semana. (2024, 16 July). 'En nombre de Dios, cesen la extorsión, nos están matando': el angustiioso llamado del Obispo de Buenaventura a bandas criminales. <https://www.semana.com/politica/articulo/en-nombre-de-dios-cesen-la-extorsion-nos-estan-matando-el-angustiioso-llamado-del-obispo-de-buenaventura-a-bandas-criminales/202453/>

A third interesting element to highlight in the implementation process is that, although the law established the high-level body for the characterisation of crime groups, which would be complemented by the security council that had already been legally created, neither of the two formal bodies has been used to support the decision on which groups to initiate processes with and which path to take. In all cases, the president has decided the type of negotiation even though the formal bodies created by law could strengthen the legitimacy of the negotiating tables. This is particularly relevant in the case of groups that operate in a grey area, such as the EMC and SM, where there are rebel elements as well as a high level of participation in the illicit drug trafficking economy and a large number of dissidents.

4.2. Political dialogues for peace agreements

Since the start of the current presidential term on 7 August 2022, the government has formally opened political negotiations with three different organised armed groups: the ELN, EMC and SM. Three socio-legal dialogues have also been set up with the high-impact crime structures of Valle de Aburrá, and the criminal organisations present in Quibdó and Buenaventura. A possible fourth socio-legal negotiating table with the Clan del Golfo (known now as Gaitanist Army of Colombia (EGC)) has not materialised as the suspension of arrest warrants is still pending.

4.2.1. Dialogue with the ELN in Arauca

Arauca was selected as one of the destinations for fieldwork because it has historically been one of the ELN's strongholds. Given that the negotiating table is national, the chance of local authorities participating is low; however, there are expectations about how the table's outcome could transform Arauca. This section explains the formal structure of the negotiating table and develops the local impacts identified in the fieldwork.

Elements of negotiation with the ELN

The Colombian government began a dialogue with the ELN on 21 November 2022. The process was organised in a national negotiating table that functions through successive cycles in which partial and progressive agreements are reached. The national scope of the table means that dialogue takes place centrally through representatives. On the government side, there is a delegation of 13 people, eight men and five women, led by Vera Grabe.³⁵ On the ELN side, negotiations are taking

³⁵ Vera Grabe was a member of the M-19 guerrilla movement, of which President Gustavo Petro was also a member. She was a signatory to the peace agreement signed by the M-19 in 1990 and was a senator.

place with the ELN's Central Command (COCE).³⁶ This delegation is composed of eight people, five men and three women, led by Pablo Beltrán.³⁷

In addition to the negotiating table, there is a special transitional body called the National Participation Committee (Comité Nacional de Participación), which is composed of members of civil society and accompanies the negotiations with the aim of designing and promoting society's active participation in the peace process.³⁸

In addition to the civilian committee, the negotiation process has a Ceasefire Monitoring and Verification Mechanism that was established in Bogotá on 4 August 2023. The mechanism is linked to a social watchdog, made up of individuals and organisations from the area whose purpose is to provide information on violations of the bilateral ceasefire. This monitoring body is coordinated with the Catholic Church and the UN Verification Mission, as established in the protocols.

Negotiation cycles and main results

The first negotiation cycle was held in Caracas, Venezuela, from 12 November to 12 December 2022. Since then, six negotiation cycles have occurred. Below are some of their results:

- On 8 June 2023, the government and the ELN agreed to a ceasefire. This agreement was formalised on 5 July 2023 with the signing of Decree 1117, which ordered a bilateral and temporary nationwide ceasefire between 3 August 2023 and 29 January 2024. It was later extended by the negotiating table for an additional six months until August 2024.
- In the fifth negotiation cycle, which began on 4 December 2023, the ELN agreed to suspend the practice of extortive detention, commonly known as kidnapping for economic purposes. Likewise, the two sides agreed to create eight critical zones where humanitarian action could be taken and a commission attached to the negotiating table to coordinate the transformation of these zones, though the scope of the commission is still unclear.

At the end of February 2024, Governor Luis Alfonso Escobar of the southern border department of Nariño proposed an initiative called the Regional Pact in the context of the Departmental Development Plan (Plan Departamental del Desarrollo), which

³⁶ COCE is the ELN's leadership body made up of five commanders. On the ELN's command structure, see: InSight Crime. (2024, 18 June). Ejército de Liberación Nacional (ELN). <https://insightcrime.org/es/noticias-crimen-organizado-colombia/eln-colombia/>

³⁷ Pablo Beltrán is a leader of the ELN. He is considered part of the most 'negotiating' wing of the organisation and has been involved in several peace processes with different governments.

³⁸ José Félix Lafaurie, a conservative politician who heads Fedegán, Colombia's main livestock association; Dayana Paola Urzola, an indigenous member of the Embera Katio people, an anthropologist and national youth coordinator of the National Indigenous Organisation of Colombia (ONIC); Olga Lilia Silva López, a human rights lawyer; Rodrigo Botero García, an environmental activist; Carlos Rosero, who leads the Black Communities Process (PCN); Horacio Guerrero García, an anthropologist and human rights defender in Putumayo; Álvaro Matallana Eslava, a former military officer in charge of representing the institution; Orlando Romero Reyes, an expert in international relations; Rosmery Quintero, who heads Acopi, the association of small industrialists; and finally, Senators María José Pizarro and Iván Cepeda, who are close to President Petro's government.

aimed to further peace talks in Nariño. His proposal generated tensions at the negotiating table primarily because the ELN's COCE interpreted the initiative as an effort by the national government to divide the group internally. Finally, the section of the ELN located in Nariño, known as the Frente Comuneros del Sur, announced its rupture with the group's national structure and its desire to continue with negotiations as an independent entity.³⁹ For its part, the ELN's national structure announced the resumption of kidnapping for economic purposes, given the failures of the Colombian government. The government rejected the announcement, though it has kept an open invitation to the ELN to return to the negotiating table, despite the table's lack of progress.⁴⁰

Impact of negotiations with the ELN in Arauca

The ELN emerged in Arauca in the 1970s and has maintained strong governance involving civil society and the political class. According to our interviews, this governance is evident in the ELN's control of public procurement, which dictates contract assignments and often executes them through its own companies or through companies that pay it a percentage of contracts.⁴¹ Other examples include the ELN's control of mayoral offices and the governorship,⁴² and the co-optation of some sectors of organised civil society. Two interviewees even mentioned cities founded by the ELN that are not recognised on Colombia's political map.⁴³

The ceasefire was highlighted in the interviews as one of the positive achievements of the peace process. However, it has had limited impact on the population of Arauca, as the ELN has continued to confront the EMC since 2022, with negative humanitarian effects on the local population. Interviews suggest that the armed forces' position in this confrontation is one of deterrence, as they have tried to maintain a strategy that cannot be interpreted as supporting either of the two groups,

³⁹ Frente Comuneros del Sur. (2024, 6 May). Press release.

⁴⁰ Alto Comisionado para la Paz. (2024, 26 June). Press release. <https://www.consejeriacomisionadadepaz.gov.co/prensa/Paginas/Comunicado-a-la-opini%C3%B3n-p%C3%BAblica26062024.aspx>

⁴¹ On ELN governance in Arauca see, among others: Comisión de la Verdad. (n.d.). Caso 65/Enfrentamientos entre ELN y FARC-EP en Arauca. <https://www.comisiondelaverdad.co/caso-65-enfrentamientos-entre-eln-y-farc-ep-en-arauca#:~:text=La%20historia%20del%20ELN%20en,y%20econ%20C3%B3mica%20en%20el%20territorio>

⁴² An example of the ELN's links with the political class are the governors captured or convicted for this reason: Gustavo Carmelo Castellanos, governor between 1998 and 2000, was convicted in 2007; José Vicente Lozano, governor of Arauca between 1995 and 1997, was convicted in 2010; José Facundo Castillo Cisneros, governor for the periods 2012–2015 and 2020–2023, was captured on 20 October 2021; Ricardo Alvarado Bestene, governor between 2016 and 2019, was captured in 2021.

⁴³ Interview with member of civil society organisation (Arauca, 28 February 2024); Interview with member of the Catholic Church (Arauca, 28 February 2024). We were not able to identify literature or media coverage to back this assertion. Some literature tracks the recent history of the development of rural cities in Arauca since 1960, with the migration of peasants (campesinos colonos) dedicated to agricultural activities, the social movement from which the ELN originated; see, for example: Moreno Romero, J. & Pérez, D. (2022). *Memorias de la fragmentación de la selva: colonización y luchas agrarias en la región del Sarare, Arauca, Colombia, 1960–1990. Jangwa Pana 21(2)* on the relevance of the peasant movement in the development of rural Arauca; and: Plazas-Díaz, L. C. (2017). Los inicios del Frente Domingo Lain del ELN en Arauca, 1970–1978. *Procesos Históricos 31*, 4–16 on the links between the peasant movement migrations and the origins of the ELN.

bearing in mind that independent negotiating tables are being held with both parties.⁴⁴ Additionally, one interviewee considered it problematic that violence reduction focuses on homicide and does not take into account broader patterns of violence, such as non-extortive kidnapping or confinement.⁴⁵

Participation in the negotiation process

As mentioned above, given the national scope of the negotiation process with the ELN, its structure does not include the participation of local authorities. However, coordination elements that would allow local authorities to anticipate agreements that are likely to be implemented in their territory, or even to adequately manage security risks, have not been established either. In our interviews with members of the local government and military forces, Arauca was the only city where we found that not only have local authorities not participated in the process, but there is no expectation they will get the chance to in the future. Still, there is said to be an expectation at the local level of better coordination with the negotiating table so local authorities have more information about the accords and, above all, can participate in implementing programmes that result from the talks.⁴⁶

For some interviewees, the question of articulation and participation did not make sense given the current co-optation of political power in the region. In other words, the level of co-optation of the local administration is so high that somehow the ELN's participation in the negotiations indirectly guarantees the participation of city

⁴⁴ Interview with security sector personnel (Arauca, 28 February 2024); Interview with member of the Catholic Church (Arauca, 28 February 2024).

⁴⁵ Interview with member of civil society organisation (Arauca, 28 February 2024). A member of the Catholic Church told us that there were currently 160 disappeared people who had not been located and 5,000 families in confinement as a direct consequence of confrontation with FARC-EP's COCE (Interview with member of the Catholic Church, Arauca, 28 February 2024). We were not able to confirm this information with another independent source, but were able to confirm that this person had a list with specific names and dates of disappearances. Even if the information on confinements might be more elusive than the information on homicides, public reports point in the same direction. For example, in September 2023 the Defensoría del Pueblo alerted the confinement and displacement of more than 1,300 people in Puerto Rondón: Defensoría del Pueblo. (2023, 2 September). *Defensoría del Pueblo alerta confinamiento y desplazamiento de 1371 personas en Puerto Rondón, Arauca, por enfrentamientos entre grupos armados ilegales*. <https://www.defensoria.gov.co/-/defensor%C3%ADa-del-pueblo-alerta-confinamiento-y-desplazamiento-de-1371-personas-en-puerto-rond%C3%B3n-arauca-por-enfrentamientos-entre-grupos-armados-ilegales>. More recently, media reported the confinement of 5,000 people in 23 small villages in Arauca – see, for example, Caicedo G., M. V. (2024, 20 September). *Alerta en Arauca por confinamiento de cinco mil personas en 23 veredas por hostigamientos del ELN*. *El Colombiano*. <https://www.elcolombiano.com/colombia/eln-la-procuraduria-alerta-confinamiento-en-arauca-KG25454385>. There have been other media reports on confinements in different cities and villages in Arauca – for example: Medina, L. M. (2024, 25 July). *Obispo de Arauca alerta y lanza SOS por confinamiento forzado de la población*. ADN Celam. <https://adn.celam.org/obispo-de-arauca-alerta-y-lanza-sos-por-confinamiento-forzado-de-la-poblacion/>; Defensoría del Pueblo. (2024, 1 November). *Persistencia del conflicto armado en Arauca requiere acciones urgentes del Estado*. <https://www.defensoria.gov.co/-/persistencia-del-conflicto-armado-en-arauca-requiere-acciones-urgentes-del-estado>; El Espectador. (2023, 2 September). *Enfrentamientos entre grupos armados dejan 1371 desplazados y confinados en Arauca*. <https://www.elespectador.com/judicial/enfrentamientos-entre-grupos-armados-dejan-1371-desplazados-y-confinados-en-arauca/>

⁴⁶ Interview with member of local administration (Arauca, 28 February 2024); Interview with security sector personnel (Arauca, 28 February 2024).

authorities.⁴⁷ We also found that, in general, the national scope of the negotiating table is seen as a positive feature. The concern instead was that even if the ELN faction the Domingo Laín Front⁴⁸ were present in the negotiating table, it could be insufficient for the structural drivers of the insurgent war in that territory to be represented there.⁴⁹ One interviewee mentioned that the vision of the guerrilla leaders in Arauca was different from that of the COCE, although they did not explain in what way it was different.⁵⁰ All interviewees considered it unlikely an agreement that included the Arauca fronts would emerge under the current negotiating conditions. This is because the Domingo Laín Front's structural demands, such as infrastructure development and support for the region's economic development, are not being considered.

The people we interviewed in Arauca, both from institutions and civil society, recognised that they have had opportunities to participate in the peace process. However, they pointed out that civil society participation has clearly privileged organisations that are close to the ELN, rather than those that are more distant.⁵¹

In Arauca, national authorities are present in the territory, mainly in the departmental capital. There is a specific delegate from the OACP who accompanies and manages peace issues, although his presence is not permanent. However, in interviews with local authorities and civil society, two limitations emerged. The first is that, in general, national institutions are present in Arauca through liaisons who do not have decision-making capacity.⁵² The second is that there was a consistent demand for national leaders to have a greater presence in the territory, including the president and the OACP.⁵³ Although they have both been present in Arauca, interviewees considered a

⁴⁷ Interview with member of civil society organisation (Arauca, 28 February 2024); Interview with researcher for international entity (Arauca, 27 February 2024).

⁴⁸ The Domingo Laín Front is one of the ELN's strongest and most military-oriented bodies. It has significant influence in the region; see, for example: Johnson, K., Botero, F., Botero, M., Aponte, A. and Asprilla, L. (2025) *Total Peace Policy: Between the light and shadow*. SOC ACE Research Paper 34. University of Birmingham.

⁴⁹ Interview with researcher for international entity (Arauca, 27 February 2024); Interview with member of local administration (Arauca, 28 February 2024); Interview with researchers for international entity (Arauca, 28 February 2024).

⁵⁰ Interview with member of the Catholic Church (Arauca, 28 February 2024).

⁵¹ Interview with member of local administration (Arauca, 28 February 2024); Interview with member of civil society organisation (Arauca, 28 February 2024).

⁵² Interview with member of an international organisation (Arauca, 27 February 2024). We were not able to confirm the capacities and limitations of the delegates from the national government present in Arauca.

⁵³ Interview with member of local administration (Arauca, 27 February 2024). These requests have been made publicly. For instance, in March 2024, the governor of Arauca made a public appeal to the president for the national government to intervene in the public order situation in the department – for example: Caballero, D. Y. A. (2024, 3 April). El Gobernador insiste ante el Presidente Gustavo Petro en una intervención de extrema urgencia en el Departamento. Gobernación de Arauca. <https://arauca.gov.co/el-gobernador-insiste-ante-el-presidente-gustavo-petro-en-una-intervencion-de-extrema-urgencia-en-el-departamento/>. Other requests have been made to the national government, but also the High Commissioner – for example: Al Aire Noticias. (2024, 19 January). *Desde Arauca piden la presencia del Alto Comisionado para la Paz, Otty Patiño*. <https://alairenoticias.com/arauca/desde-arauca-piden-la-presencia-del-alto-comisionado-para-la-paz-otty-patino/>; Caracol Radio. (2024, 24 July). *Gobernación de Arauca pide ayuda urgente al Alto Comisionado para la Paz*. <https://caracol.com.co/2024/07/24/gobernacion-de-arauca-pide-ayuda-urgente-al-alto-comisionado-para-la-paz/>

more sustained presence to be necessary to demonstrate the department's relevance on the national stage.

Essential considerations for negotiations in Arauca

While, obviously, some caution is needed when drawing conclusions on the basis of interview data alone, the discussions provide insights into where there are ongoing issues to consider. Interviewees mentioned several elements they considered central to resolving the conflict in Arauca. First is the need to address the department's historic development problems. For some interviewees, addressing the department's lack of development and its disconnection from the rest of the country is essential to achieving peace, including tackling basic issues of infrastructure, higher education and agrarian policy.⁵⁴ On this point, it was argued that, although the ELN's demands in this regard are reasonable and legitimate, the way in which they are put forward is out of touch with the country's budgetary reality.⁵⁵

Second, it was suggested that there is a need to consider how the ELN's participation in the legal economy and politics of Arauca could be 'legalised.' For interviewees, the fact that the ELN is so deeply embedded in society requires consideration of a transition that focuses not only on the combatants, but also on the entire community.

Third, it was suggested that the solution to the conflict with the ELN in Arauca must involve an agreement with neighbouring Venezuela, as the shared border has been central to the ELN's control, presence and governance in the area.⁵⁶

None of the interviewees who were part of the local administration mentioned specific preparedness actions to take to address different scenarios that could result from negotiations with the ELN, although one of the military interviewees stated there was a general level of preparedness, they did not give specific examples.⁵⁷ However, some mentioned elements they consider critical in an implementation scenario. The first is the need to strengthen local authorities' capacity to formulate investment projects and compete with other departments for national resources.⁵⁸ According to them, these capacities are currently limited, partly because human resources are scarce in some municipalities, and they have little experience with this type of process. The second is the need to build trust in institutions, which currently have little credibility with citizens because they have been co-opted by the ELN.⁵⁹ For example, most mayors and governors in Arauca have faced judicial processes for

⁵⁴ Interview with member of international organisation (Arauca, 27 February 2024); Interview with member of civil society organisation (Arauca, 28 February 2024); Interview with member of the Catholic Church (Arauca, 28 February 2024).

⁵⁵ Interview with member of local administration (Arauca, 27 February 2024).

⁵⁶ Interview with member of civil society organisation (Arauca, 28 February 2024).

⁵⁷ Interview with security sector personnel (Arauca, 28 February 2024).

⁵⁸ Interview with researchers for international entity (Arauca, 28 February 2024).

⁵⁹ Interview with member of the Catholic Church (Arauca, 28 February 2024).

their connections to armed groups.⁶⁰ However, there are no representative surveys on trust in institutions in the department of Arauca that can be used to triangulate this assertion.⁶¹

4.2.2. Socio-legal dialogue with Los Shottas and Los Espartanos in Buenaventura

The case of Buenaventura was selected because it has one of the most advanced socio-legal dialogue processes, between Los Shottas and Los Espartanos, two local gangs that emerged after the split of the La Local group in 2020. La Local, in turn, was a transformation of La Empresa, created by the Los Bustamante Clan, recidivist paramilitaries from the Calima Bloc. The negotiating table in Buenaventura has different characteristics to those in Arauca; although the government delegation is national, the groups' delegation is local and there is significant involvement of the Catholic Church.

Elements of negotiations with Los Shottas and Los Espartanos in Buenaventura

The negotiating table between Los Shottas and Los Espartanos is the pilot process of the urban dimension of Total Peace. On 1 October 2022, the Colombian government announced the 'Pact for Life' ('Pacto por la vida') with Los Shottas and Los Espartanos in Buenaventura, marking an attempt to establish agreements to reduce violence in the Valle del Cauca region. However, it was only on 18 July 2023 that a negotiating table was formally established. This negotiating table is composed of representatives of Los Shottas and Los Espartanos, the OACP team, and Congressman Jorge Alejandro Ocampo Giraldo from the House of Representatives for Valle del Cauca and a member of the Accidental Peace Commission (Comisión Accidental de Paz). The delegates are from various sectors of society, including the business community, academia and the Catholic Church. The church delegation is headed by Monsignor Rubén Darío Jaramillo, who has led the table and played a central role in preventing its disbandment.

The communiqués of Los Shottas and Los Espartanos socio-legal negotiating table have provided the public with little information about what is discussed, except perhaps with regard to agreements on violence reduction. In the interviews carried out during fieldwork, local authorities, civil society organisations and community members consistently highlighted the opacity of this space. All stated they were unaware of the dialogue agenda and the agreements reached.

⁶⁰ Carmelo Castellanos, governor from 1998 to 2000, was convicted in 2007; José Vicente Lozano, governor of Arauca from 1995 to 1997, was convicted in 2010; José Facundo Castillo Cisneros, governor from 2012 to 2015 and 2020 to 2023, was captured on 20 October 2021; Ricardo Alvarado Bestene, governor from 2016 to 2019, was captured in 2021.

⁶¹ According a survey by a local research group with a sample of 255 residents of the capital, they perceived corruption as the third most important issue in the city, after unemployment and violence, and that the national government was the main culprit; see: Al Aire Noticias. (2024, 2 September). *La inseguridad es el principal problema de Arauca capital: encuesta*. <https://alairenoticias.com/arauca/encuesta-estudiantes-de-la-esap-y-fundacion-corocoras-revelan-percepcion-que-tienen-los-ciudadanos-sobre-arauca/>

In a communiqué dated 6 March 2024, Los Esparanos announced they had withdrawn from the peace talks, saying the government was delaying the talks and that they considered Los Shottas to be in breach of the agreements reached, specifically accusing them of allying with the ELN. However, Los Esparanos said this was a temporary decision and that they would continue participating in the negotiating table under certain conditions; they also pledged not to engage in any kind of violence that would affect the public. While it is possible that the reasons for the rupture are more complex, it was not possible to obtain additional information beyond what was provided in the press release.

Impact of negotiations with Los Shottas and Los Esparanos in Buenaventura

In the context of the socio-legal dialogues, it is not possible to speak strictly of a ceasefire, though the reduction of violence has been a central part of the talks. In the case of Buenaventura, since September 2022 Los Shottas and Los Esparanos have committed not to carry out acts of torture, disappearance or homicide in the framework of the Pact for Life. These commitments have had a considerable effect on homicide and threat figures. In the case of homicides, for example, available data show a drop from 194 in 2021, to 110 in 2022, rising again to 136 in 2023.⁶² According to interviewees, the overall reduction in homicides is the main benefit of the dialogues. However, one interviewee also identified an increase in disappearances, which is not evident in the official data given the ‘prohibition’ on reporting.⁶³ In fact, mothers, sisters and wives have created an informal movement to search for their children, siblings and partners, but at a distance from authorities. Additionally, the focus on reducing homicides overshadows the fact that instances of other crimes involving violence have increased, such as extortion. Some interviewees indicated that, in many neighbourhoods, control is exerted in a similar way as it was before Total Peace, with extortion, informal rules of behaviour and drug dealing being among the crimes involving violence that continue.⁶⁴

In the case of Buenaventura, we were told there is no local coordination or participation mechanism at the socio-legal negotiating table.⁶⁵ This absence is more

⁶² Castrillon Torres, G. (2024, 17 March). *¿Cómo va el proceso de paz de Buenaventura?* Razón Pública. <https://razonpublica.com/va-proceso-paz-buenaventura/#:~:text=Esta%20disminuci%20disminuci%20de%20homicidios%20llev%20llev%20C3%B3,la%20seguridad%20en%20la%20ciudad>

⁶³ Interview with member of local administration (Buenaventura, 26 September 2023).

⁶⁴ Interview with security sector personnel (Buenaventura, 26 September 2023); Interview with member of local administration (Buenaventura, 26 September 2023); Interview with member of civil society organisation (Buenaventura, 27 September 2023). The continuation of extortion in Buenaventura has also been reported in the media – see, for example: Infobae 2024 (17 February); Pares (2024, 22 January). The media have reported on the continuation of disappearances in Buenaventura during the negotiation – see, for example: Infobae. (2023, 9 April). *Los desaparecidos de isla Calavera: fuente de vida y muerte de las mujeres buscadoras de Buenaventura*. <https://www.infobae.com/colombia/2023/04/09/los-desaparecidos-de-isla-calavera-fuente-de-vida-y-muerte-de-las-mujeres-buscadoras-de-buenaventura/>. The Interecclesiastic Commission on Justice and Peace, has also reported disappearances and other crimes; see, for example: Comisión Intereclesial de Justicia y Paz. (2024, 19 April). *Informe – Asesinatos y desapariciones en Buenaventura. El abandono de la paz total por parte del gobierno nacional*. <https://www.justiciaypazcolombia.com/informe-asesinatos-y-desapariciones-en-buenaventura/>

⁶⁵ Interview with member of local administration (Buenaventura, 26 September 2023).

noticeable as the dialogue is carried out at the local level, without the participation of city authorities and with limited civil society participation.⁶⁶ In addition, we were also told that the Office of the Mayor of Buenaventura has a Peace Advisory Office (Oficina Asesora de Paz), which has actively tried and failed to be part of the process, despite being permanently engaged with local peacebuilding initiatives.⁶⁷

In the same vein, it was suggested that there is a distance between the socio-legal dialogue and law enforcement authorities in the city. One interviewee explained that there is no communication, 'not even to guarantee the security of the national authorities present in Buenaventura.'⁶⁸ In contrast to what we found in Arauca, it was suggested there is an intention and expectation among the authorities, military and civil society in Buenaventura that they will be part of the socio-legal dialogue.⁶⁹

With the exception of the OACP, there does not appear to be a national government agency with representation in Buenaventura. National deployment is based on delegations that come to the thematic monitoring negotiating tables established by law due to political commitments or calls from the Movimiento Social Paro Cívico de Buenaventura (Buenaventura Civic Strike Social Movement). This is an element that can limit the capacity for coordination and articulation between local authorities and the national government in terms of Total Peace, as the government is only present on an ad hoc basis to attend to specific commitments and is not involved more broadly with local authorities.

Essential considerations for negotiations in Buenaventura

The local need that interviewees considered the highest priority to address in the socio-legal dialogues concerns public management capacities in the territory that would allow for the management of projects and the promotion of local development. According to interviewees, there is deep mistrust between the national and local levels of government, and among local-level agencies.⁷⁰ In other words, according to interviewees, the peace process in Buenaventura should allow for the strengthening of local government, so it can adequately manage the city's social and development needs, in addition to working to strengthen confidence in the provision of services such as health and education, and in attracting candidates who want to exercise public functions.

⁶⁶ The lack of participation of local authorities and communities can be verified through the composition of the negotiation table published in press releases. According to the press releases, the meetings, which are held in Buenaventura, have only been attended by representatives of the two groups and the national government delegation; see, for example, the most recent press release dated 2 September 2024: Ofician del Consejero Comisionado de Paz (n.d.) <https://www.consejeriacomisionadadepaz.gov.co/prensa/Paginas/02-de-septiembre-2024-Espacio-de-Conversaci%C3%B3n-Socio-Jur%C3%ADdica-de-Buenaventura-Comunicado-Conjunto.aspx>

⁶⁷ Interview with member of civil society organisation (Buenaventura, 28 September 2023).

⁶⁸ Interview with security sector personnel (Buenaventura, 27 September 2023).

⁶⁹ Interview with security sector personnel (Buenaventura, 26 September 2023).

⁷⁰ Interview with member of a civil society organisation (Buenaventura, 28 September 2023); Interview with member of a civil society organisation (Buenaventura, 27 September 2023); Interviews with security sector personnel (Buenaventura, 26–27 September 2023).

4.2.3. Dialogue with the EMC and the SM in Tumaco

There is no specific negotiating table in Tumaco; however, its territory is under the influence of two of the groups that are engaged in negotiating tables. The first is the EMC, which is present through its division the Urías Rondón mobile column of the Western Bloc; the second is the SM, which is present through its division the Ariel Aldana structure of the Alfonso Cano Western Bloc. Additionally, the groups that exercise control and exploit illicit economies in the urban zone have been joining the FARC-EP dissident groups in search of opportunities to participate in the negotiations.

Elements of negotiations with the EMC and the SM

The Colombian government signed Decree 2660 of 2022 in December 2022, enacting the Bilateral and Temporary National Ceasefire, in the framework of the rapprochement and talks between the national government and various groups, including the SM. However, no protocols or monitoring systems for the ceasefire were implemented in the course of 2023. In August 2023, the SM issued a communiqué requesting recognition as a political actor, a request the national government implicitly approved when it initiated peace talks with the group in February 2024.

In a joint declaration titled ‘A process to build peace and contribute to dignifying life’ (‘Un proceso para construir paz y contribuir a dignificar la vida’), the parties also agreed to develop agreements to de-escalate conflict and transform Tumaco’s social and environmental development, to include the definition of a negotiation agenda and protocols. Likewise, the parties asked the governments of Cuba, Norway and Venezuela to be guarantors of the process, and the Special Representative of the Secretary General of the United Nations in Colombia and the Colombian Episcopal Conference (Conferencia Episcopal de Colombia) to accompany the process. They are currently awaiting the lifting of arrest warrants requested by the Office of the Attorney General to establish a negotiating table.⁷¹

In September 2022, the first meeting between the Colombian government and the EMC took place, marking the start of negotiations. This was followed by the EMC’s announcement of a unilateral ceasefire and the government’s passing in December 2022 of Decree 2656, which declared a ‘Bilateral and Temporary National Ceasefire, within the framework of the political dialogue between the national government and the EMC FARC-EP’. During the first quarter of 2023, the government signed ceasefire protocols with the EMC and installed an Oversight, Monitoring and Verification mechanism. However, on 29 May, the ceasefire was suspended in the departments of Caquetá, Guaviare, Meta and Putumayo due to the murder of indigenous minors. On 13 June, the Office of the Attorney General lifted arrest warrants for 19 members of the EMC so they could participate in the negotiating table. Finally, on 8 October, the negotiating table between the national government and the EMC was established in the municipality of Tibú, Norte de Santander.

⁷¹ Warrants were lifted after the drafting of this report.

Current status of negotiations with the EMC

Negotiations between the Colombian government and the EMC continue despite allegations from both sides of non-compliance with the ceasefire; the government's decision to suspend the ceasefire in the departments of Nariño, Cauca and Valle del Cauca; and offensive actions by both sides in those departments.

The main point of debate regarding these negotiations concerns the decision to follow a political dialogue, primarily because several SM members are dissident signatories of the FARC-EP peace process. The rules of that peace process stipulate that dissidents must be investigated by the ordinary justice system and that they lose the possibility of accessing transitional justice in the future. The second point of debate is that many of the organisations the SM has absorbed are criminal networks linked to drug trafficking that lack political goals.⁷²

The impact of negotiations in Tumaco

Tumaco is one of the locations where the SM and the EMC have grouped together other smaller structures, especially in urban areas, most of them closely related to drug trafficking. Prior to the establishment of the negotiating table, interviewees expected a local socio-legal dialogue with urban criminal gangs, or at least a local dialogue that would feed into the national tables.⁷³

In fact, one interviewee explained that a group of local authorities, alongside the Catholic Church and the Mission to Support the Peace Process in Colombia of the Organization of American States (MAPP/OAS), held weekly meetings where they reflected on progress and possibilities in this space, though no formal minutes were ever kept. Among the three cases, Tumaco was the least open to the development of fieldwork, as interviewees preferred not to go into detail and many of the scheduled interviews were cancelled or the interviewees did not keep agreed appointments.

An interesting suggestion made in Tumaco is that the OACP made an effort at the beginning of the process for the local Catholic Church to develop a leadership role in the dialogues similar to that in Buenaventura. This has an important precedent in the truce that urban groups agreed on in 2018, which was managed by the Church. However, in Tumaco, we were told that local officials of the Catholic Church have insisted that any process needs to be led by the national government, notwithstanding the Church's willingness to participate in and support the process.⁷⁴

In the case of Tumaco, the information available to us on the specific needs to be addressed in the dialogue processes to transform the structural causes of the conflict was more limited. However, interviewees considered that the processes should

⁷² Ideas for Peace Foundation. (2023). The 'Central General Staff' project: An attempt at dissident unification. Report Series No. 38/October.

⁷³ Interview with member of the Catholic Church (Tumaco, 6 September 2023); Interview with member of civil society (Tumaco, 6 September 2023).

⁷⁴ Interview with member of the Catholic Church (Tumaco, 6 September 2023).

address the tension between the profitability of illegal economies, primarily drug trafficking and illegal mining, and the local institutional incapacity of Tumaco to offer labour and educational and social alternatives to compensate for the opportunities offered by the organised armed groups present in the region.⁷⁵

⁷⁵ Interview with member of the Catholic Church (Tumaco, 6 September 2023); Interview with security sector personnel (Tumaco, 6 September 2023).

5. Conclusions

The Total Peace policy is, without doubt, an innovative approach that is still in its early stages, so much remains to be seen. Despite this, our research has shown some initial interesting dynamics that could be useful for early negotiations and engagement with armed and criminal groups beyond Colombia, as well as specific observations that warrant further discussion.

5.1. Legal framework

Total Peace is a novel paradigm that seeks negotiated solutions, emphasising the need for comprehensive strategies to mitigate violence and prioritising the protection of human life. While many Latin American cities and urban centres grapple with violence, Colombia's Total Peace plan underscores a critical challenge in the lack of a robust, consolidated legal framework specifically tailored to Total Peace initiatives.

Existing regulations, while relevant, have gaps and limitations that render the regulatory framework fragile. Notably, these gaps are less conspicuous in negotiation aspects, but they become pronounced regarding judicialisation processes. To ensure Total Peace policies are successful, future efforts should, among other things, prioritise the consolidation of a legally sound framework – one that balances political feasibility with the legal security requirements of all parties involved.

Specifically, the Total Peace policy laid out in Law 2272 focuses on creating tools for negotiation rather than defining the judicial treatment of those who adhere to the processes. In the case of rebel groups, this could be expected to be part of the negotiations. In the case of socio-legal dialogues, the Constitutional Court requires the creation of specific legislation or, failing that, the modification of existing legislation.

In both scenarios, the absence of a legal framework for the judicial transition to peace has been and obstacle to wrapping up and closing negotiations, having created a sort of vacuum, as both the rules of the game and what is being discussed in the negotiating tables are often unclear.

5.2. Total Peace at the local level

Addressing multiple peace processes at the same time clearly requires a delicate strategy to manage the interests, capacities and expectations of a wide range of legal and stakeholders involved in illegal activities at the local and national levels. This needs a thorough understanding of the complexity of local dynamics to implement differentiated actions tailored to each context and a wider strategy capable of bringing everything together. So far, the research suggests that the implementation of Total Peace has failed to do this. It is unclear how this policy aims to align the different stakeholders' incentives and bring them together at the national level.

In theory, several institutions are pertinent to Total Peace. But in practice, the research suggests that participation of local authorities in Total Peace negotiation processes is limited, at best, both in national processes and in local socio-legal dialogues.

This could be problematic because the OACP might not have the resources to deal with simultaneous negotiation processes and coordinate with the rest of the state apparatus at the national and local levels, bearing in mind territorial differences. As previously explained, our research identifies different expectations for engagement with the negotiation process. Some interviewees anticipate active participation, whereas others foresee a more passive role limited to receiving information and contributing to the implementation of agreements.

In municipalities such as Buenaventura, where the peace process is unfolding amid an organised crime structure devoid of specific political goals, and where interaction between local government and these groups has been notably adversarial, authorities express a specific desire to participate directly in the negotiation process rather than solely in the subsequent implementation of any agreement. Conversely, in Arauca – an area under the influence and governance of a group with clear political objectives (the ELN), which has significantly shaped local politics for many years – the authorities appear to exhibit minimal interest in participating directly in negotiations. However, the research suggests there is interest in playing an active role during the implementation phase, maintaining ongoing coordination and facilitating communication with the process.

Understanding these differences is likely to be important for addressing the lack of coordination among parties, which is not strategic and could be detrimental to the process as it risks wasting the local knowledge of authorities and other actors – including the Catholic Church – and prevents them from planning and preparing for changes in local dynamics, according to their interests and capacities.

5.3. Measuring success

The dialogues and negotiating tables have helped reduce violence, but their impact on the territories featured in the case studies has important limitations. A clear priority of all the tables has been to reach agreements to reduce violence, specifically homicides – this has generated positive effects at the territorial level. However, the research suggests that these agreements fall short as the ceasefires operate only between certain actors, whereas other sources of violence remain active.

Furthermore, the violence reduction pacts have concentrated primarily on homicidal violence – although in some cases they have included other behaviours such as kidnapping for economic purposes and extortion – but have not incorporated the more complex patterns of violence that the population experiences, which are associated with territorial control. In Buenaventura, for example, one interviewee

mentioned that the focus on homicides and their reduction has overshadowed an increase in the number of disappearances.⁷⁶

5.4. Public perception of the dialogues

For the public and local authorities, progress in the socio-legal dialogues is not clear, as they are closed talks with national authorities. At the same time, progress in the national political dialogues is partially perceived negatively. In a national, representative survey conducted in November 2024, 65% of respondents stated that the Total Peace process has made them feel less secure, and 61% believe that the peace process is on the wrong track. Paradoxically, 60% of respondents believe that efforts towards a negotiated solution to achieve peace should continue.⁷⁷

The research suggests that implementation of Total Peace lacks an effective communication strategy both to the public and to local authorities. This is especially important as public opinion can become a spoiler in negotiations with criminal groups,⁷⁸ and could become an unsurmountable challenge for the sustainability of an already difficult process, especially given the weakening political support of the government.

⁷⁶ Interview with member of local administration (Buenaventura, 26 September 2023).

⁷⁷ The survey can be consulted at: <https://es.scribd.com/document/755515512/2024-07-Invamer-Colombia-Opina-No15>. Analysis of the survey can be consulted at: <https://www.elcolombiano.com/colombia/encuesta-invamer-noviembre-2024-sobre-seguridad-y-paz-total-CK25948695>; and <https://www.infobae.com/colombia/2024/11/29/crece-el-rechazo-hacia-la-paz-total-de-gustavo-petro-y-a-los-dialogos-con-grupos-armados-segun-encuesta-invamer/>

⁷⁸ Freeman, M. and Felbab-Brown, V. (2001). *Negociando con grupos criminales violentos: Lecciones y recomendaciones de la práctica global*. Institute for Integrated Transitions.