

Agreement No. 12

POLITICAL AND CONCEPTUAL FRAMEWORK FOR HUMANITARIAN ACTIONS AND DYNAMICS

FIRST CARACAS AGREEMENT

1. Background

On March 30, 2016, in Caracas, Bolivarian Republic of Venezuela, an Agreement was signed that initiated the public phase of dialogue between the Colombian State and the National Liberation Army (ELN), establishing an agenda for this purpose. Subpoint 5f of the aforementioned agreement establishes the humanitarian actions and dynamics.

Meanwhile, in Quito, Republic of Ecuador, the Parties agreed on the Common Framework of Reference, included in Public Communiqué No.2 of April 6, 2017, which states the following: *“protect non-combatants and the civilian population from the effects of the armed conflict, through humanitarian actions or agreements, in accordance with International Humanitarian Law, and consequently reduce the intensity of the conflict”*.

2. Preamble

The foregoing was reflected in Agreement No.3, “Humanitarian Actions and Dynamics”, signed by the Parties in Caracas, Bolivarian Republic of Venezuela, on November 23, 2022.

The “Partial Agreement on Emergency Response within the Framework of Humanitarian Actions and Dynamics”, signed on December 12, 2022, established the path to continue the efforts defined by the Parties, aimed at providing assistance to the communities of Bajo Calima and San Juan and humanitarian assistance to political prisoners and persons deprived of liberty recognised as members of the ELN.

The “Mexico Agreement”, which incorporates the New Agenda for Peace Dialogues, recognises the structural political, economic, and socio-environmental crisis in which the population affected by the armed conflict is immersed in their lives and in their territories.

3. Humanitarian Principles

The Parties have agreed to respect the following principles of IHL.

- 3.1. Mandatory nature of humanitarian rules governing means, methods, practices, and orders in armed conflict.
- 3.2. Non-reciprocity: commitment to abide by the rules of IHL, regardless of their compliance by the other party.

3.3. Distinction between civilian objects and military objectives.

4. Concepts

Humanitarian actions and dynamics are based on recognition and respect of human dignity, the comprehensiveness of rights, freedoms, and the protection of the civilian population, non-combatants, and other protected persons – in accordance with the provisions of IHL – in the context of armed conflict.

Humanitarian actions and dynamics are aimed at mitigating suffering, restoring rights, reducing the intensity of the conflict, strengthening the social, organisational, and cultural network of towns and communities, protecting territories, caring for Mother Earth, creating conditions for participation and transformation in peacebuilding, and paving the way for a definitive solution to the conflict, in accordance with the principles of humanity, protection, and distinction.

The humanitarian actions and dynamics arising from the agreements within the framework of this peace process will be carried out in good faith, contributing to deepening political dialogue and participation, and generating favourable scenarios towards a definitive peace agreement.

The humanitarian actions and dynamics are designed and implemented in response to the needs of the population and the realities of the context, recognising their initiatives and in consultation with them. They may not be exploited for the benefit or advantage of any of the Parties.

Humanitarian actions and dynamics, as part of the practical developments of International Humanitarian Law, place human dignity at the centre, from which the obligation for the Parties derives.

5. Purposes

In Agreement No. 8, “Initial elements for addressing the ceasefire”, and, once the Temporary Bilateral Ceasefire is fully implemented, the Parties undertake to comply with IHL and the signed agreements, which entail the regulation of armed confrontation, respect for the civilian population, and those left hors de combat.

For the purposes of the agreements on humanitarian actions and dynamics, the following objectives are highlighted:

- Safeguard the lives of individuals, communities, and towns in territories where the armed conflict is taking place.
- Contribute to resolving the humanitarian and human rights crisis affecting the population in their territories and displaced populations in the context of armed conflict and state abandonment.

- Contribute to overcoming the humanitarian crisis affecting prisoners and develop specific actions for the differentiated humanitarian treatment of political prisoners and prisoners recognised as members of the ELN, in accordance with IHL and within the framework of the ongoing peace process.
- Create conditions for individuals, communities, and towns to participate with greater security, freedom, and autonomy in the construction and implementation of transformative programmes and projects for peace.
- Improve the conditions and guarantees of well-being and security so that individuals, communities, and towns can freely participate in the processes of social participation and social monitoring of the Ceasefire within the ongoing peace process.
- Create conditions for the restoration of the rights of individuals, towns, and communities affected by the armed conflict, enabling them to rebuild their social and economic networks.
- Guarantee basic conditions for the exercise of the political rights of individuals, communities, and towns.

6. Approaches to the humanitarian actions and dynamics

The scope of humanitarian law is limited to the parties' obligations and does not replace the definition and implementation of socioeconomic programmes, infrastructure or services, development or investment plans, or emergency assistance and relief activities, which are the responsibility of the State. However, such a scope can contribute to the development of public policies agreed upon with communities and to the generation of urgent, fundamental changes that provide them with the conditions for guaranteeing comprehensively conceived human rights.

The approaches defined by the Parties are as follows:

- The Parties will fulfil their commitments and participate in the implementation of joint actions in the humanitarian action and dynamics agreements.
- The formulation and implementation of humanitarian actions and dynamics will be agreed upon, arranged, and coordinated with the communities and towns of the locations where they will be carried out.
- It is recognised that people have particular characteristics based on their age, gender, sexual orientation, disability, ethnicity, territory, rights, and conditions of vulnerability, which will be taken into account in the implementation of humanitarian actions and dynamics.
- Contribute to the eradication of any type of paramilitarism in the territories where humanitarian actions and dynamics are carried out.
- Minimise as much as possible the potential negative effects of humanitarian action on the population, the territory, and the environment; to achieve this, communities must be involved on an ongoing basis.

7. Scope of application

The purpose of these agreements is to prioritise the communities, towns, and territories with the most severe humanitarian crises, as defined by the Peace Dialogue Table between the Government of Colombia and the National Liberation Army (ELN).

The development of humanitarian actions and dynamics is an essential element of point 5 of the Peace Dialogue Agenda, in order to achieve substantial improvements in the living conditions of the prison population and those in the territories. Similarly, in point 4 of the Second Cuba Agreement, on the Bilateral, National, and Temporary Ceasefire (CFBNT), “*The objectives of this CFBNT Agreement are: to reduce the intensity of the conflict, develop humanitarian actions and dynamics, encourage the participation of society in the peace process, and finalise humanitarian agreements for the areas with the greatest humanitarian crisis, as defined by the Peace Dialogue Table (...)*”.

For the execution of humanitarian actions and dynamics, the humanitarian agendas of the communities will be taken into account, and their fulfilment and implementation will be pursued in a concerted and coordinated manner with them. In addition, the presence, action, and movement of social and human rights organisations and national and international humanitarian agencies will be specially guaranteed.

Caracas, Bolivarian Republic of Venezuela, September 4, 2023.

Signed by,

Delegation of the Government of the Republic of Colombia

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