

REPUBLIC OF COLOMBIA
[Coat of Arms of Colombia]

PRESIDENCY OF THE REPUBLIC
RESOLUTION NUMBER 065 OF 2024

28 FEB 2024

Whereby members representing the armed group organised outside the law self-designated as Segunda Marquetalia are recognised for the development of the Peace Dialogue Table with the National Government and other provisions are issued.

THE PRESIDENT OF THE REPUBLIC OF COLOMBIA

In exercise of its constitutional and legal attributions, in particular those conferred in the numeral 11 of article 189 of the Political Constitution, the Law 418 of 1997, as amended and extended by laws 548 of 1999, 782 of 2002, 1106 of 2006, 1421 of 2010, 1738 of 2014, 1779 of 2016, 1941 of 2018 and 2272 of 2022, and

WHEREAS

That article 22 of the Political Constitution provides that peace is a right and a duty of obligatory compliance, and it is the obligation of the National Government to guarantee the right to peace in accordance with articles 2, 22, 93 and 189 of the Constitution.

That article 188 of the Constitution states that the President of the Republic symbolizes the national unity and upon swearing an oath to comply with the Constitution and the laws, undertakes to guarantee the rights and liberties of all Colombians.

That in accordance to numeral 4 of article 189 of the Political Constitution, is responsibility of the President of the Republic, as head of State, head of Government and supreme administrative authority, to maintain public order throughout the territory and re-establish it where it has been disrupted.

That the article 10 of Law 418 of 1997, as amended, supplemented and extended by Law 2272 of 2022, establishes that the direction of any peace process is the responsibility of the President of the Republic as the person responsible for the preservation of public order throughout the Nation.

That the Constitutional Court, in Sentence C-630 of 2017, stated: "(...) *the political bodies have a wide margin of discretion to design mechanisms for the peaceful resolution of conflicts, such as negotiation to achieve the subjection of illegal actors to the rule of Law, in order to achieve peace, which serves to address extreme or anomalous situations, such as the internal armed conflict suffered by the country for more than fifty years, in the context of which fundamental rights such as life, liberty and security of persons and in general the fundamental rights enshrined in the 1991 Constitution, have been seriously affected*".

That article 8 of Law 418 of 1997, modified by article 5 of Law 2272 of 2022, establishes that the representatives expressly authorised by the National Government, in order to promote reconciliation among Colombians, peaceful coexistence and achieve peace, following the guidelines of the President of the Republic, may: "(...) *carry out all acts tending to initiate and advance dialogues, as well as negotiations and reach agreements with the spokespersons or representative members of the armed groups organised outside the law, aimed at: to obtain solutions to the*

armed conflict, to achieve the effective application of International Humanitarian Law, the respect of Human Rights, the cessation of hostilities or their decrease, the reincorporation to civilian life of the members of

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these organisations or their transition to legality and the creation of conditions conducive to a just political, social and economic order (...)".

That subsection 4 of the same article cited establishes that the agreements and their content shall be those that in the judgment of the National Government are necessary to advance the peace process, and their compliance shall be verified by the national or international bodies designated by the parties by mutual agreement for this purpose. Likewise, the following subsection stipulates that these agreements must guarantee the normal and full functioning of the civilian institutions of the region where the armed group outside the law that subscribes the agreement exercises influence.

That in accordance with paragraph 2 of article 8 of Law 418 of 1997, extended and modified by Law 2272 of 2022, *"once a process of dialogue, negotiation or signing of agreements has begun, and in order to facilitate the development of the same, the corresponding judicial authorities shall suspend the arrest warrants that have been issued or may be issued against the members representing the illegal armed organisations with which dialogues, negotiations or peace agreements are being carried out (...)"*.

That in accordance with article 2.1.6.3. of Decree 1081 of 2015, *"the Attorney General of the Nation, acting as the competent authority, shall suspend outright the arrest warrants that have been issued or may be issued against the members representing the armed organisations outside the law with which dialogues, negotiations or peace agreements are being carried out, for the strict term requested by the National Government"*.

That, through Resolution No. 176 of August 10, 2022, the High Commissioner for Peace, today Peace Commissioner Counsellor, was authorised to advance exploratory approaches and contacts with representatives of armed groups organised outside the law, in order to verify their real will for peace, to advance in the formalisation of dialogues, and to enter into agreements, according to the objectives indicated by the President of the Republic. That the honourable Constitutional Court, in sentence C-069 of 2020, concluded:

"Peace, as an end of the State and as an individual and collective right requires that the authorities in charge of maintaining public order preferentially seek a negotiated solution to conflicts with the illegal organisations. This duty presupposes that the legislator does not unjustifiably restrict the presidential powers to seek dialogue. However, despite the above, the duty to seek a negotiated solution does not mean that the president does not retain broad discretion to determine how, when and with whom he seeks to establish dialogues, and when he must use the coercive apparatus of the State to protect the rights of the people;

However, the exercise of presidential discretion to maintain public order presupposes that the head of government has all the necessary and sufficient tools to initiate peace dialogues when, and with whom, he deems appropriate, without the need for the prior and favourable opinion of his subordinates. They can and should advise the president, and provide him with all the necessary elements of judgment to make a decision. However, ultimately, the decision regarding the initiation of peace talks with an organisation outside the law corresponds solely and exclusively to the president as head of State and government. Therefore, by restricting

the power of the president to seek a negotiated solution to internal conflicts, the challenged provision also violates articles 2 and 22 of the Constitution".

(...)

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[I]t is necessary to conclude that, if no public authority can conduct peace talks without the president's authorisation, a fortiori such authorities, being subject to the president's orders on the matter, neither can they condition the president's power to decide how, when and with whom he can carry out such dialogues. These decisions are eminently political in nature, and therefore it is the president, as the representative of the national unity and elected by popular vote, who must take them".

That, to this extent, it is the constitutional power of the President of the Republic to decide how, when and with whom he will conduct dialogues and negotiations as the person responsible for the preservation of public order throughout the Nation and, therefore, for the achievement of peaceful coexistence.

That after a phase of exploratory and confidential approaches occurred in 2023, the National Government, through the Office of the High Commissioner for Peace, and the armed group organised outside the law and self-designated Segunda Marquetalia announced, on 9 February 2024, the installation of a Peace Dialogues Table to carry out a peace process that is *"orderly, agile, rigorous and respectful, which provides tranquility and certainty to Colombian society in a genuine commitment to a political solution and the building of peace"*, that will lead to the signing of agreements that *"contribute to overcome violence and the armed conflict and to transform the lives of the populations and communities in the territories"*.

That on 16 February 2024, the Office of the High Commissioner for Peace received from the armed group organised outside the law self-designated Segunda Marquetalia a list of representative members to participate, on their behalf, in the Peace Dialogues Tables with the National Government. In this regard, the National Government, under the constitutional and legal provisions of good faith and the legitimate confidence referred to in article 83 of the Political Constitution, will recognise their status as representative members.

RESOLVES:

ARTICLE 1º. To recognise as representative members of the organised armed group outside the law, self-designated Segunda Marquetalia José Aldínever Sierra Sabogal (C.C. 1.122.655.312), José Vicente Lesmes (C.C. 17.285.271), Willian Danilo Malaver López (C.C. 7.061.456), Alberto Cruz Lobo (C.C. 98.283.265), Geovanny Andrés Rojas (C.C. 18.188.904), Luis André Figueroa Marín (C.C. 18.144.961), Allende Perilla Sandoval (C.C. 1.061.741.639), José Darley Malagón Jiménez (C.C. 1.117.820.746) Henry Quiñones Angulo (C.C. 94.062.390), to participate in the Peace Dialogues Table with the National Government.

ARTICLE 2º. Through the Office of the High Commissioner for Peace, communicate this Resolution to the corresponding authorities for their competence within the framework of what is established in Law 2272 and Decree 1081 of 2015.

ARTICLE 3º. This Resolution comes into force from the date of its issuance.

28 FEB 2024 [signature]

BE PUBLISHED, COMMUNICATED AND COMPLIED WITH.
Given to the