



**Cour
Pénale
Internationale**
**International
Criminal
Court**

Le Bureau du Procureur
The Office of the Prosecutor



**COOPERATION AGREEMENT BETWEEN
THE OFFICE OF THE PROSECUTOR OF THE
INTERNATIONAL CRIMINAL COURT AND
THE GOVERNMENT OF COLOMBIA**

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The Office of the Prosecutor of the International Criminal Court (hereinafter referred as “the Office of the Prosecutor” and “the Court”), and the Government of the Republic of Colombia (hereinafter referred as “the Government”), hereinafter referred to as the “Parties”;

Based on the Rome Statute of the International Criminal Court and the obligations arising under this instrument for the Colombian State;

Inspired by the principle of complementarity, which constitutes the cornerstone for the exercise of the jurisdiction of the International Criminal Court;

Recalling that, in 2004, the Office of the Prosecutor opened a preliminary examination into the situation in Colombia;

Highlighting that over the last 17 years, Colombia and the Office of the Prosecutor have developed a cooperative relationship that has effectively strengthened the country’s capacity to administer justice for the most serious crimes of concern to the international community as a whole, which constitutes a valuable experience that may be replicated in other situations around the world;

Emphasizing the commitment of the Colombian State to allow international scrutiny of its progress in the administration of justice, as part of its efforts to combat impunity;

Recognizing the strength and resilience of the institutions in Colombia, its people, its Governments and civil society, as well as the progress achieved by judicial authorities in accountability, both through ordinary justice and transitional justice systems, including the Justice and Peace Law and the Special Jurisdiction for Peace, noting in particular its positive role; as well as successive voluntary reports presented by the Office of the Vice-president of the Republic, the Ministry of Foreign Affairs and the National Agency for the Legal Defense of the State;

Recalling that the Comprehensive System of Truth, Justice, Reparation and Non-Repetition created by the 2016 Peace Agreement, enjoys constitutional status under Colombian law;

Noting with appreciation the steadfast commitment of the Government of Colombia towards different but inter-connected jurisdictions comprising the ordinary justice system, the Justice and Peace Law mechanism and the Special Jurisdiction for Peace, and in particular in safeguarding the established legislative framework and the budgetary allocations required for their implementation;

Taking into consideration the challenges and obstacles that have arisen throughout the process and *recalling in particular* the recent achievements of the transitional justice in Colombia in pursuing the objectives of retribution, rehabilitation, restoration and deterrence;

Bearing in mind that domestic accountability processes are not completed yet, nor all sentences enforced, and proceedings are likely to continue to evolve over a significant period of time, as well as the permanent nature of the International Criminal Court;

Recalling the invitation extended by the Office of the Prosecutor to all stakeholders to provide their views on the role the Office should play in a preliminary examination that faces a long-term, multi-layered domestic accountability processes, in the context of its recent benchmarking consultation concerning the situation in Colombia, and *considering* the responses received;

Noting the demonstrated ability and willingness of Colombia to date to genuinely administer justice related to crimes under the jurisdiction of the International Criminal Court, and *noting* the requirement for the Office of the Prosecutor to determine, in the context of its preliminary examination, admissibility against the applicable legal test set out in article 17 of the Rome Statute on the basis of the facts as they presently exist;

Emphasising the commitment of the Office of the Prosecutor to engage in a long term process of both supporting and learning from national accountability processes in Colombia;

Noting the possibility for the Office of the Prosecutor to close the preliminary examination, subject to possible later reconsideration, while also entering into a new and fruitful stage of cooperation between the Colombian authorities and the Office of the Prosecutor;

Highlighting the genuine ability and willingness of the Colombian State to continue cooperating with the Office of the Prosecutor, in particular in issues related to transitional justice, pursuant to the Rome Statute; and the commitment of the Office of the Prosecutor to continue to encourage genuine judicial proceedings in Colombia.

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Without prejudice to the separation of powers, the Government commits to continue supporting relevant proceedings falling under the competence of the different but inter-connected jurisdictions, comprising the ordinary justice system, the Justice and Peace Law mechanism and the Special Jurisdiction for Peace, following anticipated procedural timelines. In particular, the Government will continue: (i) safeguarding their established constitutional and legislative framework and structure; (ii) allocating the budget required for their implementation; and (iii) preventing any interference with their functions. The Government further commits to: (iv) ensuring the safety and security of judicial and prosecutorial personnel as well as participants appearing before the different accountability mechanisms, and (v) promoting full cooperation and coordination between the different State entities assigned with discharging duties with respect to accountability, in particular between the Attorney General's Office and the Special Jurisdiction for Peace.

ARTICLE 2

The Government will continue to keep the Office of the Prosecutor informed of the progress of the investigations and prosecutions undertaken in Colombia and will facilitate access to relevant records and documentation, as requested, subject to the requirements of Colombian law and the Rome Statute.

ARTICLE 3

The Office of the Prosecutor commits to continue supporting Colombia's accountability efforts within its mandate and means.

ARTICLE 4

With a view that the Parties may mutually benefit from the experience of Colombia's transitional justice mechanisms and the experience of the Court, the Parties will encourage exchanges of lessons learned and best practices between the Office of the Prosecutor and the relevant national institutions. To this end, with the support of the Government, annual visits and exchanges will be organized between the Office of the Prosecutor and national justice mechanisms.

ARTICLE 5

The Office of the Prosecutor commits, within its mandate and means, to participate in projects and programmes aimed at Colombian legal professionals, to promote awareness raising and familiarisation with the latest developments before the International Criminal Court, and in particular the decisions issued by different Chambers of the Court that contain authoritative interpretations of the Rome Statute including its complementary provisions.

ARTICLE 6

In line with the Rome Statute, the Office of the Prosecutor may reconsider its assessment of complementarity in light of any significant change in circumstances, including any measures that might significantly hamper the progress and/or

genuineness of relevant proceedings and the enforcement of effective and proportionate penal sanctions of a retributive and restorative nature; initiatives resulting in major obstructions to the mandate and/or proper functioning of relevant jurisdictions; or any suspension or revision of the judicial scheme set forth in the peace agreement in a manner that might delay or obstruct the conduct of genuine national proceedings. In this context, and to ensure information flows about these and other related matters, lines of communication between the Office of the Prosecutor and the Government of Colombia and judicial actors, including with the Special Jurisdiction for Peace, will be maintained and reinforced.

ARTICLE 7

This Agreement will enter into force on the date of its signature and will have an indefinite duration. It may be denounced by either party giving three (3) months prior notice to the other.

The present Agreement is concluded in the English and Spanish languages, it being understood that in case of discrepancy the English version will prevail.

Signed in the city of Bogotá, D.C., on the 28th day of October 2021.

KARIM A.A. KHAN QC
Prosecutor of the International
Criminal Court

IVÁN DUQUE MÁRQUEZ
President of the Republic of Colombia