



## MONITORING AND VERIFICATION OF PEACE AGREEMENTS: CASE ANALYSIS

### INTRODUCTION

As the Government of Colombia (GOC) moves towards a peace agreement with the Revolutionary Armed Forces of Colombia (FARC), the question of what mechanism(s) will be used to verify implementation of and compliance with the terms of a final accord is becoming ever more frequently examined by analysts and politicians alike. Verification is key in ensuring that all parts are fulfilling the responsibilities they have been assigned, and that the initial implementation of the agreement thereby lays the foundation for stable and lasting peace. This spotlight first explains the meaning and implications of peace agreement verification, and then examines international cases and their lessons for Colombia.

### MONITORING & VERIFICATION

Although each case is different and neutral third party monitoring and verification entities can be independently formed according to the specific country's needs, the United Nations is the most commonly employed entity to coordinate these activities. Effective monitoring and verification processes require clearly defined terms and conditions for implementation of a peace agreement.

Analyst Jane Boulden defines the two terms as follows:

- 1) **Monitoring** is either generalized or targeted actions that gather information about agreement implementation.
- 2) **Verification** is the "process by which compliance of the parties to the terms of [the peace] accords is judged."<sup>i</sup>

Other experts define additional activities under the same purpose, which are sometimes considered part of the two mentioned above. The first implies less involvement by the third party, and the second implies much more:

- 3) **Observation** is purely passive watching and inspecting, with little actual gathering of information.
- 4) **Enforcement** is ensuring implementation of the peace agreement through positive and negative incentives.<sup>ii</sup>

General rules and expectations for the activities include:<sup>iii</sup>

- Transparency and clear involvement by all parties
- Access to and verification of compliance-related information by the verification body
- Compliance measures, terms, and conditions are standardized and previously ratified
- Allowances and flexibility are included for transitions between observation, verification, and enforcement roles

Each verification area has specific activities and guidelines. For example, verification of compliance with DDR terms includes data cross-checking, non-compliance reporting, disincentives for spoilers, and in many cases a mixture of military and civilian observation and monitoring.<sup>iv</sup>

### GUATEMALA

The framework for peace in Guatemala was defined in the Agreement on a Firm and Lasting Peace (AFLP), signed on December 29<sup>th</sup> 1996.<sup>v</sup> This document incorporates the ten substantive and operational agreements reached under UN mediation in the three years prior. One of these was the Comprehensive Agreement on Human Rights (CAHR)<sup>vi</sup>, which came into effect two years before the final agreement and called for creation of a UN verification mechanism, MINUGUA, whose mandate focused on verifying fulfillment of CAHR human rights commitments.<sup>vii</sup>

MINUGUA's initial verification activities included:

- *Receiving and following up on reports of possible human rights violations;*
- *Judging whether national entities are investigating human rights violations effectively according to the Constitution;*
- *Establishing whether a human rights violation occurred.*

Upon the signature of the AFLP, MINUGUA's mandate was expanded to include verification of all agreements, although this expansion was not accompanied by clear benchmarks and targets, making the Mission's role unclear to internal and external verification participants. The entity confronted a range of additional challenges. First, its human rights verification mandate only applied to events after the signature of the CAHR, aiming to verify whether recommended reforms were being implemented and human rights violations were thereby decreasing. MINUGUA circumvented this challenge by focusing on judicial investigation and processing of past crimes, aiming to ensure that violations that occurred during the conflict would be effectively investigated and prosecuted. Other challenges related to MINUGUA's institutional strengthening role, as many national institutions opposed third-party verification of the peace agreements, in some cases stating that the Mission's presence de-legitimized national institutions. This prevented the establishment of strong and productive working relationships, and limited MINUGUA's impact in some areas.<sup>viii</sup>

### EL SALVADOR

UN Mission ONUSAL was present in El Salvador during and after peace negotiations with the FMLN, first as observer, then as mediator, and finally as verifier after the Chapultepec Accord was signed on January 16<sup>th</sup> 1992. By April of 1992, implementation had slowed down so much that its pace threatened the ceasefire and the success of peace overall. ONUSAL's mandate was therefore expanded from human rights verification to a range of other areas, including DDR. This resulted in a high level of moral authority on the part of the UN, which encouraged compliance with the accords on the part of those

responsible for previous delays in implementation, mostly the government. The Mission's broad scope and presence in the country also deterred non-compliance.<sup>ix</sup>

However, ONUSAL was perceived to squander opportunities to leverage its authority and presence as it failed to publically denounce human rights violations by the government and criticize national institutions, and did not encourage adequate investigations of reported infractions. In addition, the peace accords did not contain clearly defined guidelines for the Mission's mandate, so even though its immediate impact on human rights abuses after signature of the final agreement was positive, its verification activities and overall operations were delayed, curtailing its impact on institutional strengthening and agreement implementation in the long term.<sup>x</sup>

### KOSOVO

The Kosovo Verification Mission (KVM) reported to the UNSC, the Organization for Security and Co-operation in Europe, and the Yugoslav government, and operated from December 1998 to March 1999. Its purpose was to verify Serb compliance with the October 1998 agreement to end atrocities in Kosovo, withdraw, and maintain a ceasefire. The KVM was limited by its inability to threaten sanctions other than NATO military intervention and reports of violations to the International Criminal Tribunal for the former Yugoslavia, which was a long and drawn-out process. The KVM had to withdraw after less than five months of operations because fighting had escalated to inoperable levels.<sup>xi</sup> International Crisis Group cites three main reasons for the Mission's failure, all of which relate to it not being considered an important and authoritative presence in Kosovo's political and peacekeeping context:

- 1) *The Kosovo Liberation Army never agreed to the KVM and was not involved in the discussions that led to its creation. This de-legitimized the KVM and decreased interest in complying with the October 1998 agreement.*
- 2) *The ceasefire was never really implemented, as both Yugoslav and Serb forces continued their attacks after the initiation of the KVM's mandate, and the KLA continued to respond and operate across the region.*
- 3) *The verifiers were unarmed and had no armed back-up, so were unable to build a credible presence, effectively enforce their mandate, or prevent violations.*<sup>xii</sup>

### COLOMBIA

The OAS' Mission to Support the Peace Process (OAS/MAPP) is the principal example of monitoring and verification activities that have taken place in Colombia. The Mission was initially mandated to verify DDR during dismantling of the United Self-Defense Forces of Colombia (AUC), but its responsibilities since 2004 have been expanded to include monitoring of the implementation of the Justice and Peace Law, land restitution and reparation processes, the Colombian Reintegration Agency (ACR) reintegration route, and other relevant efforts.<sup>xiii</sup>

During the AUC demobilizations, challenges surrounded the fact that there was no mechanism to verify the information about the names and composition of the group, so lists handed over by commanders were accepted at face value. In addition, OAS/MAPP later identified the continuation or re-constitution of some of the paramilitary groups, and the Mission required additional support in verifying this infraction given its scale and geographical breadth. Finally, the OAS/MAPP encountered challenges over differences in information held by itself and certain government agencies, for example when the High Commissioner for Peace's Office granted judicial benefits to an AUC commander who the OAS/MAPP had not verified in the demobilizations.<sup>xiv</sup>

### LESSONS FOR FUTURE MONITORING & VERIFICATION

#### GUATEMALA:

- Clear benchmarks and targets must be defined from the beginning of the verification process.
- The timeframe of events to be included in verification must be realistic and support peace agreement implementation.
- Actions must be taken to legitimize the verification body's presence and strengthen the working relationship between the body and national government and civil society entities.

#### EL SALVADOR:

- The positive perception and moral authority of the verification entity as an independent body is essential to its effectiveness.
- The verification body's capacity and will to implement verification is key to ensuring compliance.
- The verification mandate must be clearly defined within the agreement and implementation framework from the outset.

#### KOSOVO:

- All parties must agree to the terms and conditions of the verification body's presence and operations.
- Suitable measures must be taken to ensure that the verifiers have the authority and means to implement verification.

#### COLOMBIA:

- Verification of ex-combatant information must be supported by strong information collection and management processes.
- Preparations must be made so that entities can confront organized non-compliance.

<sup>i</sup> Boulden, J. *The Verification and Monitoring of Peace Accords*. United Nations Institute for Disarmament Research. <http://bit.ly/182L2RC>

<sup>ii</sup> Ouellet, J. *Monitoring of Agreements*. Beyond Intractability. <http://bit.ly/1vDb8WC>

<sup>iii</sup> Ibid.

<sup>iv</sup> Ibid.

<sup>v</sup> The Agreement on a Firm and Lasting Peace. Guatemala, December 29<sup>th</sup> 1996. <http://bit.ly/1ziRfz7>

<sup>vi</sup> Comprehensive Agreement on Human Rights, Mexico, March 29<sup>th</sup>, 1994. <http://bit.ly/1Fzkk11>

<sup>vii</sup> Mersky, M. *Human Rights In Negotiating Peace Agreements: Guatemala*. 2005, International Council on Human Rights Policy

<sup>viii</sup> Ibid.

<sup>ix</sup> Holiday, D., and Stanley, W. *Building The Peace: Preliminary Lessons From El Salvador*. Journal of International Affairs Winter93, Vol. 46 Issue 2. <http://bit.ly/18NLTiG>

<sup>x</sup> Ibid.

<sup>xi</sup> International Crisis Group. *Monitoring The Northern Ireland Ceasefires: Lessons From The Balkans*. January 23<sup>rd</sup> 2004. <http://bit.ly/1FzkBQI>

<sup>xii</sup> Ibid.

<sup>xiii</sup> OAS/MAPP Website <http://www.mapp-oea.net/>

<sup>xiv</sup> Jaramillo, S., Giha, Y., & Torres, P. *Transitional Justice and DDR: The Case of Colombia*. June 2009, ICTJ. <http://bit.ly/1BCdNIW>