

# NEWSLETTER NO 5. OBSERVATORY ON THE SJP

January 6<sup>th</sup>, 2020

## Colombian Commission of Jurists

### Editorial Board

Gustavo Gallón, Director

Ana María Rodríguez, International Advocacy Coordinator

Julián González, National Advocacy Coordinator

Javier Galindo, International Litigation Coordinator

Juan Carlos Niño, National Litigation Coordinator

Judith Maldonado, Subcoordinator of victims' representation before the SJP

Juan Carlos Ospina, Legal Advisor

Sebastián Bojacá, National Litigation Lawyer

Paola Sánchez, Communicator

### Rapporteur

Enith Bula, Lawyer and Political Scientist in the Area of National Advocacy

## **Newsletter # 5. Methodology for the submission of observations to the voluntary versions of those appearing before the Recognition Panel in Case 001**

*Translated with the support of United Nations Online Volunteering and the volunteers Lilian Kassin, María Alejandra Saldarriaga and Alejandro Gallegos*

This newsletter focuses on the methodology for submitting observations to the voluntary statements of the people appearing before the Judicial Panel for Acknowledgement of Truth and Responsibility and Determination of Facts and Conducts (SRVR) in Case 001 - Illegal Detention of People by the FARC-EP. In the first part, the presentation of observations to the voluntary statements by the victims is explained. The second part deals with the conditions and methodology for the presentation of observations to the statements in the Case, as established in the SRVR's [Order of November 22, 2019](#). Finally, some practical difficulties encountered by accredited victims in Case 001 in presenting their observations to the voluntary versions are raised.

### **1. The submission of observations to the voluntary statements of those appearing before the SRVR**

The voluntary versions of the appearing parties, as contributions to the search for the truth, are intended to enable the collection of information by the SRVR for analysis and comparison. These occur after the SRVR makes available to the appellants the reports presented to the SJP by victims, social organizations and state entities on facts or conducts that relate to them, in order to hear their versions of the facts and obtain their contributions to the truth for the broad and sufficient clarification of the facts of which they have knowledge, which does not imply that they must accept their authorship or participation in them (Law 1922 of 2018, [Art. 27A](#)). The SRVR must send the victims the calendar of the voluntary statements previously so that they can suggest questions to the appearing parties and suggest people who should be called to render voluntary statement. Likewise, in some cases or prioritized situations, such as Case 003 –Deaths illegitimately presented as casualties in combat by State agents– and Case 004 –Territorial situation of the Urabá region–, the SRVR has allowed the direct participation of the victims and their judicial representatives in the hearings where the voluntary statements take place (see [Newsletter 4](#)).

Subsequently, the SRVR sends the voluntary versions to the victims and their judicial representatives so that they can present their observations on the statements made by those appearing (Law 1922 of 2018, [art. 27D](#)), either orally or in writing ([art. 9](#)). According to the SRVR, the observations on the voluntary statements are “a mechanism for the Panel to analytically reconstruct the cases it has heard, for *‘the collection of information to contribute to the search for truth’*” ([Order of November 22, 2019](#)). In the process of transferring voluntary statements and presenting observations on them, victims have the right to psychosocial accompaniment ([Order of November 22, 2019](#)).

### **2. The methodology for victims’ submission of observations on voluntary statements of appearing parts to the SRVR in Case 001**

The SRVR established a methodology for the transfer and submission of observations to the

voluntary statements in Case 001, in accordance with the framework established by Law 1922 of 2018, through the Order of November 22, 2019. This methodology can be seen in the following chart:

**Graph 1. Methodology for the submission of observations to the voluntary statements in Case 001 ([Order of November 22, 2019](#))**

**Opening of the procedure for submitting observations to the voluntary statements through the expression of preference, that is, the choice by the accredited victims of the mechanism through which they wish to receive or made aware of the versions.**

- An Order requires the Preference Survey, which is an online form sent to accredited victims so they can indicate, within 5 working days of notification of the Order, which mechanism they prefer for the transfer of the voluntary statements.

**Carrying out the transfer of the voluntary versions.** It can be done through one of the following three mechanisms, selected in the Preference Survey:

- **a) Voluntary Versions Transfer Conferences.** When you choose this option in the Preference Survey, you must select the place of preference to attend the on-site Conferences, among the options provided by the SJP. Subsequently, the SRVR makes the **summons to the Voluntary Statements Transfer Conference** to the victims who have chosen this mechanism through the Preference Survey. At the **Transfer Conferences** - using a methodology with a territorial and psychosocial approach, and psychosocial and legal accompaniment - the victims receive copies of the voluntary versions. The aim is to facilitate their understanding and processing in order to prepare them to present their observations. The victims also receive a Preliminary Document of Contrasting Reports and Voluntary Statements, and the online Form for the Presentation of Observations to the Voluntary Statements is made available to them (with advice on how to fill it in).
- **(b) Personal transfer at the SJP headquarters in Bogotá.** When choosing this option in the Preference Survey, the online Form to request a transfer of Voluntary Statements rendered in the framework of Case No. 01, submitted with the Order to conduct the Survey, must be filled out, indicating the date when the SJP will receive the versions. Subsequently, the victim must go to the SRVR's Judicial Secretary, on the date indicated on the online Form for the transfer of Voluntary Statements submitted in the framework of Case No. 01, to receive the personal transfer of the versions, by signing the respective confidentiality forms.
- **(c) Referral by e-mail.** When filling out the Preference Survey and choosing this option, the reason for not being able to attend the Transfer Conferences or the SJP's headquarters in Bogotá must be supported. Subsequently, security protocols are defined to ensure that the victim can access the information in a confidential, personal, and reserved manner. Finally, the transfer is carried out by electronic means.

**Submission of observations to the voluntary statements within the framework of the Conferences or within 20 working days from the date of the transfer.**

- Victims have 20 working days to submit their observations from receipt of the transfer, through the Form for Submission of Observations on Voluntary Statements of Case No. 01. This form can be filled out online or in-person and can be submitted to the SJP in person, by e-mail, or in a paper form.

*(Prepared by the authors based on the Order of November 22, 2019)*

### 3. Diversification of options in the form of transfer of information from the voluntary versions: difficulties in presenting the observations

The SRVR made a significant effort to offer the accredited victims in Case 001 different opportunities for transfer: the Territorial Transfer of Observations Conferences that took place in the cities of Cartagena, Medellín, Florencia, and Villavicencio; personal transfer at the SJP headquarters in Bogotá, which will take place until February 3, 2020, according to the recent Order of January 13, 2020; and access to digital information. However, from the perception of victims and judicial representatives acting in this Case, the following difficulties can be pointed out:

#### a. Limited Victims Participation.

While an effort was made to make a territorial deployment to cater to the large number of victims, this was not enough, and victims participation was limited. For example, the Transfer Conferences were attended by approximately 200 people, representing only 10% of the accredited victims. At the same time, the choice of the city of Cartagena as the epicenter for the victims of the Caribbean and Magdalena Medio Bloc to attend was not fortunate, as only 12 people attended. Considering the distance to the territories where these victims reside, it might have been more appropriate to make an additional transfer in the mediated cities of Valledupar, Cucuta, Bucaramanga, or Barrancabermeja.

#### b. Limited information.

Likewise, the information conveyed at the Conferences was limited. The information was transferred in two stages: (i) a group reading of some paragraphs of the national written version presented by the FARC-EP on September 23, 2019, and (ii) the showing of videos of some moments of the expansion of that version in the territory. Therefore, it is possible to point out that the objective of transferring the voluntary versions on these Conferences was not fulfilled.

#### c. Difficulties in accessing information / Digital divide.

The Order of November 22, 2019, provided that the representatives would have access to the information from December 14. However, due to technical difficulties and security protocols in the delivery of videos and virtual access, the information was transferred in installments from December 26 to date.

Also, several victims have reported difficulties in using the digital media established in the Order, both to access the voluntary statements and to present the observations, and many of them do not have use and handling of e-mail and computer equipment. In many cases, the victims provided the SJP with an e-mail address as eventual contact information through their relatives, and not as a direct, effective and adequate participation channel.

#### d. Transferred Information.

In general terms, the information conveyed to victims and their representatives is quite extensive (collective national written version, 33 individual written versions, videos of the

expansion of the collective version by blocks). Although in some cases this information was systematized, specifying the alleged responsibility for the facts in order to only transfer the relevant information, it continues to be a large amount of information to read and watch, and therefore many victims face difficulties in getting to know the full content of the appearing parties' versions in the estimated time for the presentation of observations.

In view of the above, the SRVR, through the Order of January 13, 2020, has informed that the deadline for the submission of observations is extended until February 28, 2020. However, considering the large number of accredited victims, and the difficulties, limitations, and obstacles identified, it is very likely that only some victims will be able to know the voluntary statements and submit their observations in a timely manner.