

INFORMATIVE CAPSULE

23 march 2021

INTERNAL PRIORITIZATION OF CASE 003: WHAT IS IT AND WHAT ARE THE IMPLICATIONS THEREOF?

On February 12th, 2021, the Chamber of Recognition of Truth, Accountability and Determination of Facts and Conducts (hereinafter, “the Chamber” or “the Chamber of Recognition”) issued its Judgment No. 033 of 2021, in which it decided to publicize the internal prioritization procedure regarding general case 003 that deals with “illegitimate killings presented as casualties of war perpetrated by State agents.” In this informative capsule we will detail the key points of said Judgment.

1 Background information: When was Case 003 prioritized - illegitimate killings presented as casualties of war?

In Judgment 005 of 2018, the Chamber of Recognition prioritized general case 003 regarding illegitimate killings presented as casualties of war perpetrated by State agents. This case’s prioritization was based on various reports prepared by civil society, and report No. 5 issued by the Nation’s Attorney General (in order to learn in depth about the basis for the prioritization of this case, one can consult the summary regarding that judgment here). Moreover, reports from more than 20 victims’ organizations were presented with regard to this general case. Case 003 has a nationwide scope, and investigates events which took place between 1984 and 2014.



What is an illegitimate killing presented as casualties of war?

JEP (Special Jurisdiction for Peace – “JEP”, by its Spanish acronym) does not officially define what should be understood by illegitimate killings presented as casualties of war. However, ObservaJEP considers that those consist of a type of extrajudicial execution, in which a person who is not a combatant is executed, and its death is subsequently presented as if it took place during hostilities.

2 What is the investigative strategy adopted in Case 003?

The Chamber has adopted a “from the bottom up” investigative strategy in order to determine what took place and the related individual responsibilities.

- 1 It shall identify the crucial participants and the main perpetrators at both the local and regional levels.
- 2 It shall determine whether there are main perpetrators at the national level and, if so, it shall identify them.

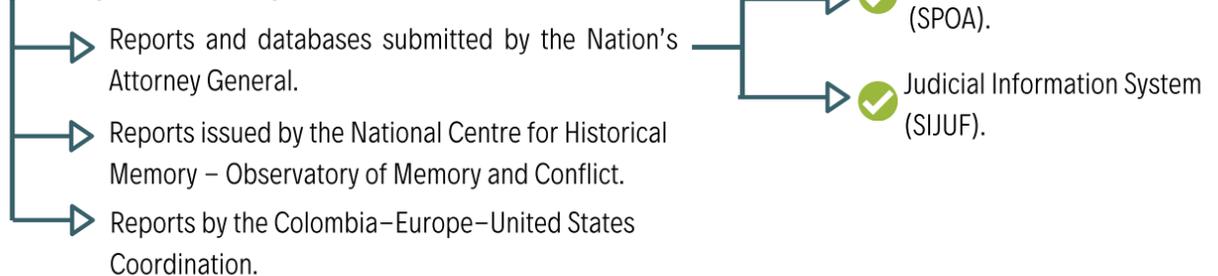
3 Which are the sources being considered by the Chamber in order to adjust the approximate sum of victims presented as casualties of war?

The Chamber claimed its jurisdiction over general case 003 by means of Judgment No. 005 of 2018 and, in doing so, it calculated that, between 1988 and 2014, there were approximately 2,248 victims of illegitimate killings presented as casualties of war in Colombia. In Judgment No. 033 of 2021, however, the Chamber established that, upon juxtaposing relevant information, there could be 6,402 victims of the type of extrajudicial execution included in this general case during the period between 2002 and 2008.

This estimated sum of victims came as a result of the following measures:

1 Systematization of the information

According to the following sources:



2 Elimination of duplications

Disaggregation of data coming from multiple sources of information. In this context, duplicate records were identified in various databases, and were later merged.



In any case, it is not possible to determine an exact sum of victims to date.

The Chamber will continue contrasting sources of information, and it will update the sum according to the findings arising from the voluntary testimonies and the data from the Military Criminal Justice System.

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4 What are the main findings of Case 003 up until now?

Upon comparing the information, the Chamber published the following findings:

1 Chronological features of the victimization:

- 78% of the historical victimization was reported between 2000 and 2008.
- The victimizing events regarding the crime in question increased from 74 victims in 2001 to 1,634 victims in 2007.
- Victimization decreased by 92% from 2007 to 2009, going from 1,634 to 122 cases.

2 Regional features of the victimization from 2002 to 2008:

Sixty-six percent of the victimizing facts were concentrated in the following departments:

- ✓ Antioquia: 25%
- ✓ Meta: 6%
- ✓ Caqueta
- ✓ Cesar
- ✓ Norte de Santander
- ✓ Tolima
- ✓ Huila
- ✓ Casanare
- ✓ La Guajira
- ✓ Cauca

5 What does the internal prioritization of Case 003 mean, and how is it different from the prioritization of general cases?

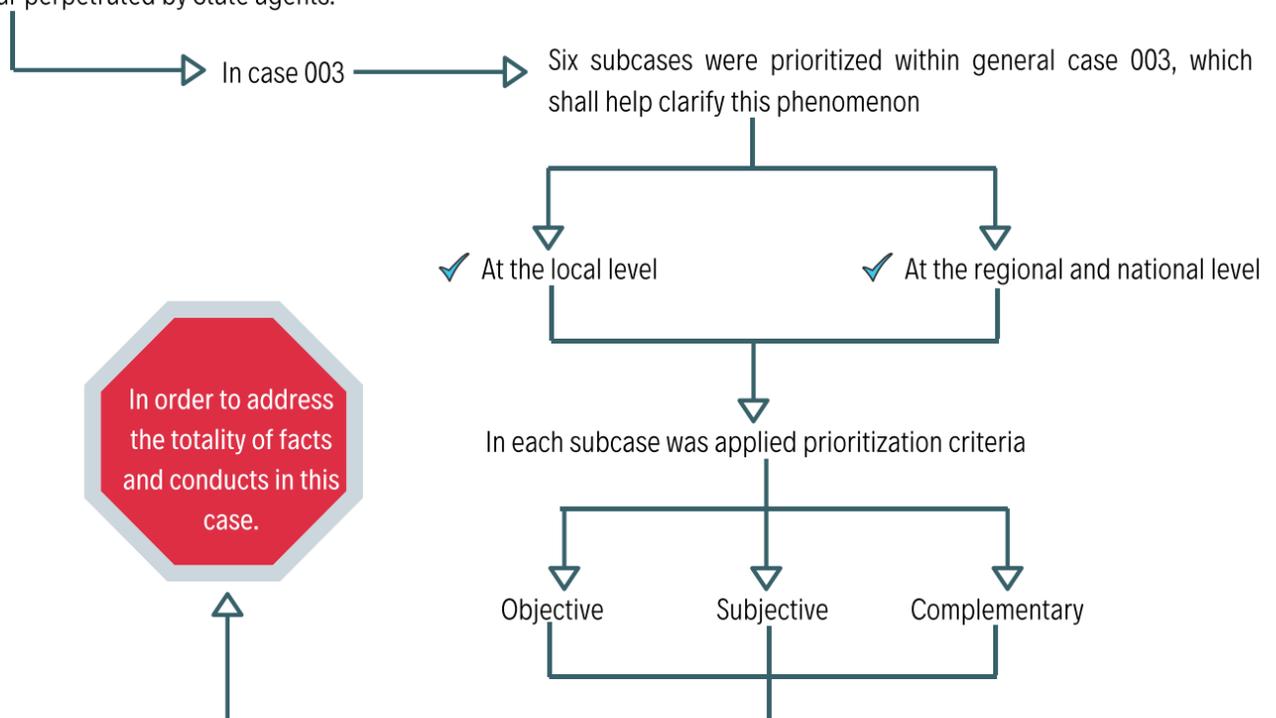
- ✓ The prioritization of cases is an instrument that aims at establishing a strategic order according to which some cases and situations of violations and abuses are focused on, in order to be investigated and prosecuted. In the context of transitional justice, prioritization allows for the opening of general cases in order to provide more efficiency to the administration of justice regarding numerous and complex cases.
- ✓ Prioritization may occur at all levels or phases of the investigation carried out by the Chamber of Recognition. Thus, the Chamber may prioritize general cases or subcases within an already prioritized general case.



Within the framework of Case 003, the Chamber considered that the application of prioritization criteria was useful and necessary, in order to identify time periods and places where the facts took place, as well as the military units to which the alleged perpetrators belonged. Accordingly, the investigation was divided into six subcases in order to ultimately strengthen the clarification of the truth, attribute responsibility to the main perpetrators, and contribute towards non-repetition.

6 What is a subcase and which subcases were prioritized?

- ✓ A subcase is an investigative strategy within a general case, for instance, Case 003, which can help establish patterns, plans or criminal policies arising from the prioritized facts. These may be distinct, but they can help clarify a particular phenomenon, as it happens in this instance with regard to illegitimate killings presented as casualties of war perpetrated by State agents.



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1 What is subcase Antioquia about?

The Chamber determined that the Department of Antioquia is the one with the most victims associated with this phenomenon.

- ✓ This Department concentrates 29,4% of reported cases, which makes it the region with the most cases, including 662 suspected deaths.
- ✓ The municipalities in Antioquia with the most victims are Granada and Medellín.
- ✓ Most cases took place in Eastern Antioquia.
- ✓ Among the eight units of the National Army, the First, the Second, the Fourth and the Seventh are the ones allegedly responsible for 60% of the cases (the First and the Seventh units are located in Antioquia).
- ✓ The Fourth Brigade might be responsible for 73% of the deaths reported in the Department between 2000 and 2013. It has been established that most victimizing facts took place between 2002 and 2007; while in 2003, 2004 and 2005, most of the reported victims were associated with acts perpetrated by said Brigade.



Emblematic case: “El Cementerio Las Mercedes de Dabeiba”

Within the framework of this subcase, JEP also found the emblematic case regarding “El Cementerio Las Mercedes de Dabeiba” [The “Las Mercedes de Dabeiba” Cemetery]. It is considered a symbolic case since it portrays these large-scale criminal phenomena, and additionally, reveals elements of seriousness, vulnerability of the victims, the power of the perpetrators, and victimizing facts affecting the same population group. The Chamber applied the prioritization criteria in this emblematic case as follows:

- ✓ **Objective criteria of impact:**
According to the preliminary facts associated with the reported victims, who were unidentified persons buried at the aforementioned cemetery under peculiar conditions, the evidence shows the alleged participation of members of three military units: Mobile Brigade No. 11, Counter guerrilla Battalion No. 79, and Counter guerrilla Battalion No. 26 “Arhuacos”.
- ✓ **Subjective criterium of impact:**
The Chamber stresses that there are elements which tend to infer that there were victimizing events affecting members of ethnic groups.
- ✓ **Criterium of availability of information:**
The information obtained in this case has shown common elements to those in case 004, which identified Dabeiba as a prioritized territory within the Urabá region. Based on the foregoing, a series of complementary measures were taken in both cases, and to date, 15 members of the security forces, of various ranks, including Battalion and Brigade Commanders, have provided their voluntary testimonies before JEP.

2 What is subcase Costa Caribe about?

This subcase prioritizes the Departments of Cesar and La Guajira, within a time period between 2002 and 2005.

- ✓ The Department of Cesar reports the third largest number of victimizing facts related to this phenomenon, which amount to 7,7% of the cases being examined by the Attorney General’s Office.
- ✓ The Department of La Guajira reports the ninth largest number of events, which amount to 4% of the victimizing facts related to this phenomenon.



The Chamber applied the following prioritization criteria:

- ✓ **Objective criterium of impact:**
Artillery Battalion No. 2 “La Popa”, which had jurisdiction over various municipalities in Northern Cesar and is allegedly involved in these facts, is an illustrative unit to comprehend this phenomenon, due to the quantity of testimonies provided by its members before JEP, and the magnitude of the victimization, including ethnic victimization. The same can be said about Mechanized Group “Juan José Rondón” from the Department of La Guajira.
- ✓ **Subjective criterium of impact:**
The Chamber emphasizes the identification of 41 indigenous victims nationwide, which amount to 2% of the totality of victims. Out of those, 22 persons belonging to the Kankuama, Wiwa and Wayuu ethnic groups were presented as casualties of war mainly by members of Battalion “La Popa” and Mechanized Group “Juan José Rondón” (Gmron).
- ✓ **Complementary criteria:**
Various organizations underscored the great number of victims presented as unidentified persons, given that in several facts that were investigated, evidence showed the intervention of recruiters, tampering with intelligence information, as well as tampering with crime scenes, and the guidelines to prevent these practices were ignored.

At first, the Chamber shall prioritize the investigation of facts which took place between 2002 and 2005, in Northern Cesar and Southern La Guajira. These allegedly correspond to illegitimate killings presented as casualties of war by members of Artillery Battalion No.2 “La Popa.” Then, it shall investigate other units, such as “Bapop” and “Gmron”, among others, regarding events which took place between July 2005 and 2008.

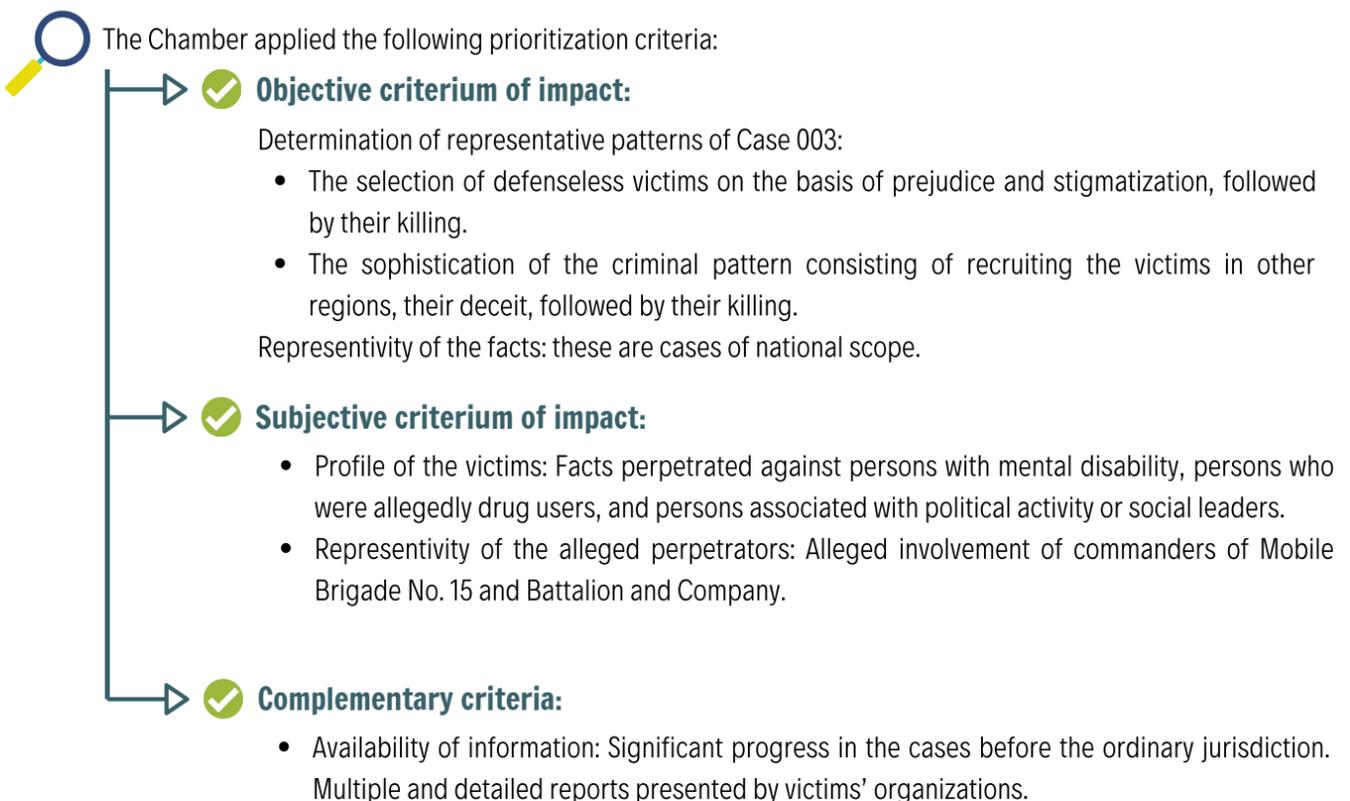
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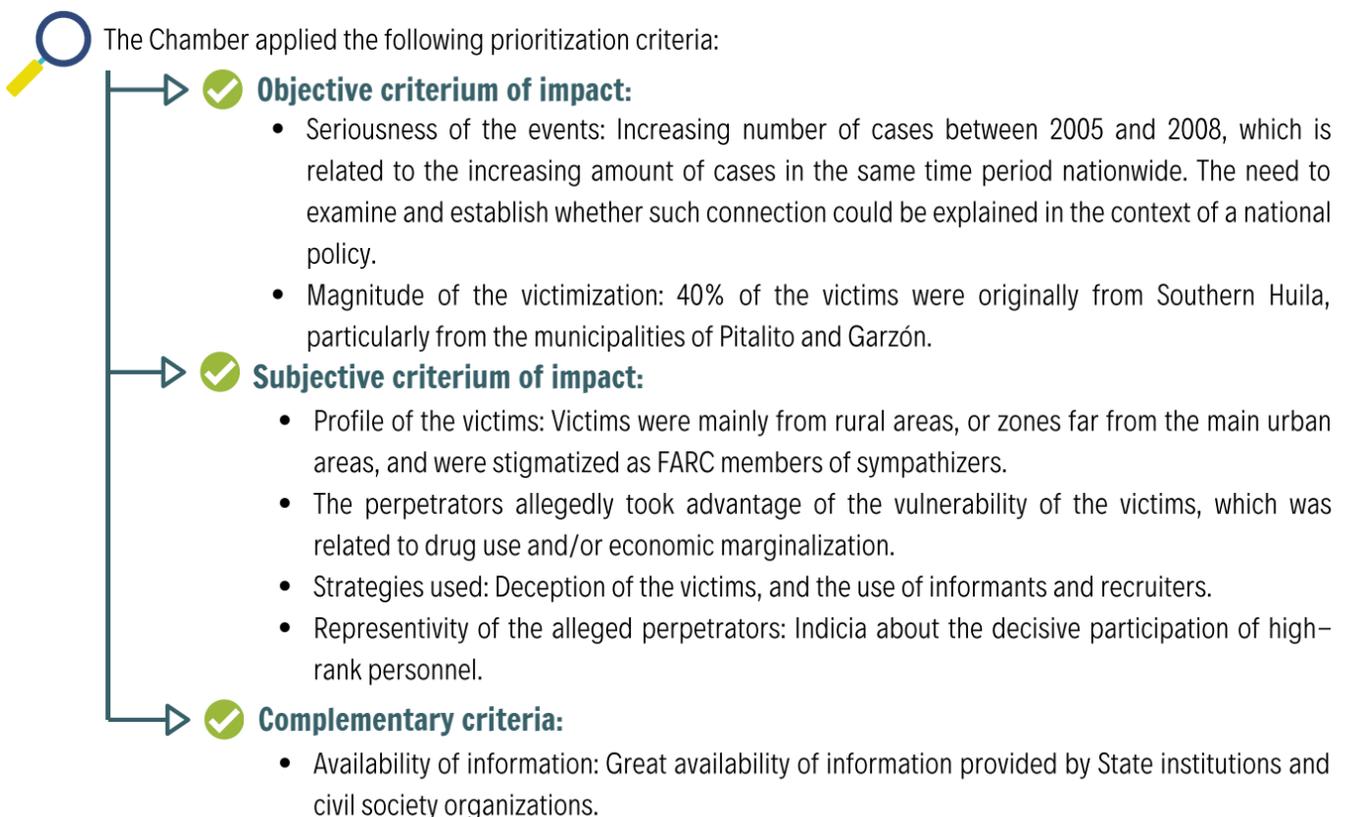
3 What is subcase Norte de Santander about?

This subcase shall prioritize the illegitimate killings presented as casualties of war, which were allegedly committed by members of Mobile Brigade No. 15 and Infantry Battalion No. 15 “Francisco de Paula Santander” (Second division of the National Army), and took place between 2007 and 2008, particularly in the sub-region of Catatumbo, on the basis of the following criteria:



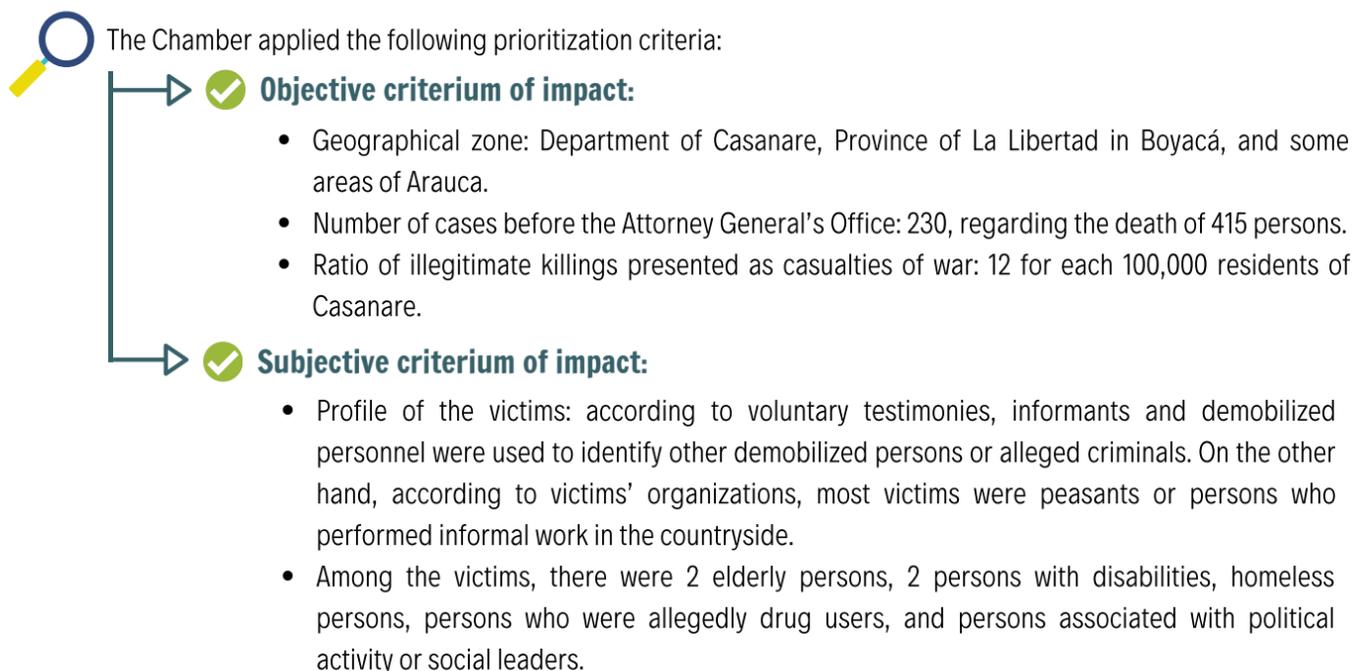
4 What is subcase Huila about?

This subcase shall prioritize the investigation of illegitimate killings presented as casualties of war, which took place between 2005 and 2008 in the Department of Huila, and were allegedly perpetrated by the Army's Fifth Division.



5 What is subcase Casanare about?

This subcase shall prioritize the investigation of events which took place between 2005 and 2008, regarding illegitimate killings presented as casualties of war allegedly perpetrated by members of Brigade XVI, according to the following criteria:



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6 What is subcase Meta about?

This subcase shall prioritize the investigation of events which took place between 2002 and 2005, regarding illegitimate killings presented as casualties of war allegedly perpetrated by members of Infantry Battalion No. 21 “Batalla Pantano de Vargas”, according to the following criteria:

The Chamber applied the following prioritization criteria:

Objective criterium of impact:

- Alleged military unit with the highest escalation of illegitimate killings presented as casualties of war: Infantry Battalion No. 21 “Batalla Pantano de Vargas”.
- The military units belonging to the Fourth Division were allegedly among the most lethal nationwide with regard to reported and suspected killings.

Subjective criterium of impact:

- Number of cases before the ordinary justice system: 47 events involving at least 104 victims.
- Number of military officers involved: 153 military officers. Within the Department of Meta, members of Infantry Battalion No. 21 account for the highest number of officers who are being investigated or appeared before JEP.

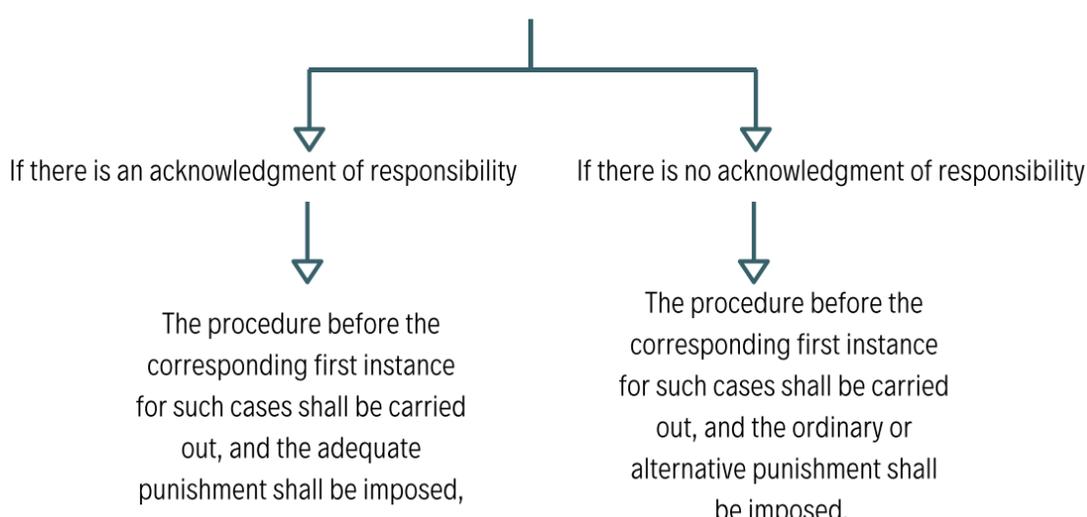
7 What happens after this internal prioritization?

- ✓ Accredited victims in Case 003 and the Public Prosecutor’s Office may present observations regarding the prioritization strategy and the related judgment.
- ✓ Regarding the investigative strategy:
 - ✓ The Chamber continues receiving voluntary testimonies and contrasting information in each one of the six prioritized subcases.
 - ✓ This prioritization strategy aims at identifying patterns, plans and/or policies which motivated the most serious and symbolic crimes. Therefore, it does not entail a case-by-case investigation within the 6 subcases.
 - ✓ The Chamber could, if it found relevant information, prioritize new regions, periods of time and military units. Information about other regions is currently being analyzed and systematized, such as Arauca, Boyacá, Caquetá, Guainía, Guaviare, Putumayo and Sucre.
- ✓ With regard to JEP’s procedure: this prioritization is an internal strategy of investigation, which shall absolutely not affect JEP’s procedure.



The following measures could be expected:

- The Chamber shall issue one or several judgments regarding the determination of facts and conducts.
- The suspects shall voluntarily express whether they will acknowledge their responsibility or not.
- The Chamber shall issue a resolution/s with its conclusions about the case.



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