

# AMNESTY INTERNATIONAL

## PUBLIC STATEMENT

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### **Colombia: Reform of Article 221 of the Political Constitution on jurisdiction of military courts threatens to exacerbate impunity**

The reform of Article 221 of the Political Constitution, approved by Congress on 10 June, threatens to exacerbate the already high levels of impunity in cases of human rights violations in Colombia.

The reform means that members of the security forces involved in acts committed in the context of the armed conflict or confrontation remain subject to the jurisdiction of military courts. This jurisdiction does not guarantee justice for the victims of human rights violations. The reform has been presented as necessary in order to apply international humanitarian law (IHL) standards but it risks having the opposite effect.

Over the more than 50 years of armed conflict in Colombia, military courts have systematically protected members of the security forces implicated in violations of human rights and IHL standards.

The first section of Article 221 states that “actions committed by members of the security forces on active duty, and in relation to that duty, will be heard by martial or military courts” and this has not, unfortunately, been reformed or revoked by the proposed amendment. In fact, the reform adds a second section stipulating that the ordinary and military or police justice systems shall apply IHL when investigating and prosecuting cases relating to the conduct of members of the security forces during armed conflict.

This reform overlooks the fact that the intention of IHL is to mitigate the horrors specific to armed conflicts and to protect those affected. It is not, as this reform seems to imply, a set of standards that seeks to lessen or avoid the individual criminal responsibility of members of the security forces when they commit crimes of international law.

Amnesty International has stated on many occasions that the criminal jurisdiction of military courts must be limited solely to trials of members of the security forces for infractions of military or police discipline and must not, under any circumstances, be extended to violations of human rights or IHL standards, nor to crimes of international law, as Article 221 erroneously implies. The Inter-American Court of Human Rights has repeatedly informed the Colombian state of its concerns in this regard and yet this reform demonstrates that these concerns have been ignored. For its part, the UN Office of the High Commissioner for Human Rights has stated that cases of human rights violations involving members of the security forces should be excluded from military courts.

This reform of Article 221 is not in keeping with Colombia’s obligations under international law and comes alongside other legislative attempts by the Colombian government to

strengthen the role of the military justice system. This will only serve to further deny the right of victims of serious human rights violations to justice, truth and reparation.