



**International Convention on the  
Protection of the Rights of  
All Migrant Workers and  
Members of Their Families**

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**Committee on the Protection of the Rights of All  
Migrant Workers and Members of Their Families**

**Thirty-first session**

2 to 11 September 2019

**Consideration of reports submitted by States parties under article 73 of the Convention**

**List of issues in relation to the third periodic report of  
Colombia**

**Addendum**

**Replies of Colombia to the list of issues\*, \*\***

[Date received: 8 March 2019]

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\* The present document is being issued without formal editing.  
\*\* The annexes may be consulted in the files of the secretariat.



## **I. Introduction**

1. Colombia submitted its third periodic report to the Committee on 1 May 2018 in accordance with the timetable established for this purpose.
2. The Ministry of Foreign Affairs coordinated the process of replying to the list of issues submitted on 24 September 2018 by the Committee, in conjunction with the national institutions concerned.<sup>1</sup>
3. The State hereby renews its commitment to the protection of migrant workers and members of their families and, to this end, provides below its responses to the issues raised by the Committee.

## **II. Legal framework**

### **National legal framework**

4. The Colombian State ratified the Convention through Act No. 146 of 1994 and has issued a series of norms and provisions aimed at establishing and guaranteeing the rights and duties of migrant workers and their families (issues raised in paras. 1 and 23).
5. Colombia protects the rights of all workers, on an equal basis, in accordance with the Constitution, the Substantive Labour Code, the conventions and recommendations on migrant workers issued by the International Labour Organization (ILO), and the Convention.
6. Articles 13 and 100 of the Constitution prohibit discrimination on grounds of nationality and article 53 establishes the minimum basic principles of labour law, which include equal opportunities for workers, a flexible minimum living wage that is proportionate to the amount and quality of work available, stable employment and the irrevocable nature of the minimum benefits established in labour regulations.
7. The Substantive Labour Code regulates labour relations based on individual labour law applicable to the private sector and those based on collective labour law applicable to the public and private sectors. The Code is applied, without discrimination, to both citizens and foreign nationals present in the national territory.
8. The relevant decrees and decisions are set out in section 1 of Annex II, which supplements the annex to the third periodic report entitled “Laws and Regulations”.

### **Bilateral and multilateral agreements**

9. For the benefit of its nationals abroad, Colombia has promoted the adoption of bilateral and multilateral agreements and treaties that facilitate the migration of its nationals and their inclusion in the labour market and society in destination countries (issue raised in para. 31).
10. The Government provides reciprocal benefits to Colombian and foreign nationals through residence agreements and cooperation on migration matters and social security, ensuring that migrants can be trained in technical or technological trades or careers, obtain access to labour markets in another country and lawfully settle in that country with their families. These measures are implemented with the assistance of the national authorities of signatory States.

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<sup>1</sup> The Ministry of the Interior, Ministry of Justice and Law, the Ministry of Health and Social Security, the Ministry of Labour, the Ministry of Education, the Attorney General’s Office, the Colombian Family Welfare Institute, the Comprehensive Victim Assistance and Reparation Unit, Migration Colombia and the Ombudsman’s Office.

11. The agreement on residence for nationals of member States of the Southern Common Market (MERCOSUR), the Plurinational State of Bolivia and Chile allows citizens of countries covered thereunder to obtain legal residence in the territory of another State for a period of two years and to work or study lawfully in that State. The agreement provides citizens with access to all the rights and freedoms enjoyed by nationals of the host country, to decent working conditions and social security, and to the possibility of family reunification irrespective of the nationality of the family members, who enjoy the same right to temporary residence.

12. The States party to the above-mentioned agreement regulate access procedures in accordance with their national legislation. In the case of Colombia, Decision No. 6045 of 2017 - the administrative act through which visas are regulated - provides for the possibility of granting “M” category visas to nationals of the States parties to the agreement on residence for nationals of member States of MERCOSUR, the Plurinational State of Bolivia and Chile. In most cases, qualifying nationals are required to provide only a valid travel document and a criminal record certificate.

13. The Government has taken steps to standardize the applicable requirements and ensure that, on a reciprocal basis, Colombian nationals can easily obtain such visas in other States without being subject to any requirements other than those imposed by the Colombian authorities. To this end, Colombia makes use of its network of consulates and mechanisms for promoting multilateral dialogue including the South American Conference on Migration (the main multilateral forum for dialogue and consultation in this area), MERCOSUR (of which Colombia is an associate State only) and bilateral agreements established with Chile, Paraguay and other States.

14. Bilateral agreements normally provide for the designation of a national authority to oversee and implement them, usually the Ministry of Labour or the Ministry of Health and Social Welfare. These bodies, in consultation with the Ministry of Foreign Affairs, are responsible for implementing the agreements at the national level.

15. Through its consulates, Colombia carries out activities aimed at raising awareness of the agreements among Colombian nationals abroad. It also holds workshops and talks to inform migrants and support them in the process of adapting to the other country, obtaining access to the labour market, undergoing vocational training and making social security contributions.

16. The protocol on the expulsion of third-country nationals was signed in 2016 to deal with situations in which Cuban citizens who had entered Ecuador, where they did not require a visa, passed into Colombia, often unlawfully, crossed the country to the border with Panama and then moved through Central America in order to reach the United States. Migrants undertook such journeys in inhuman conditions and were extremely vulnerable to migrant smuggling and trafficking networks.

17. Although the above-mentioned agreement relates to deportation procedures for foreign nationals who do not comply with migration regulations, its purpose is to prevent the smuggling of migrants by means of a protocol implemented by the immigration authorities of both countries. To this end, it sets out a procedure in which migrants are considered to be irregular rather than illegal and guarantees the right to mobility protected by national and international regulations. It also provides for differentiated treatment of vulnerable persons, including women, children and adolescents, and guarantees safe and orderly repatriation.

18. The immigration authorities apply the agreement only when a person subject to deportation has regular status in the other State, thereby ensuring that such persons are not expelled from that country and that, in the specific case of Cuban nationals, they are not returned to their country of origin.

## **ILO Conventions**

19. Although Colombia has not ratified the ILO Migration for Employment Convention (Revised), 1949 (No. 97), or the Migrant Workers (Supplementary Provisions) Convention,

1975 (No. 143), the Colombian State has regulations in place that enable it to protect migrant workers, as outlined in the third periodic report and these replies to the list of issues (issue raised in para. 10).

20. Through its labour inspectors, the Ministry of Labour provides guarantees to migrant workers and visits companies to ensure that both national and foreign workers enjoy decent working conditions.

21. Workers can also visit support and guidance centres to obtain clear, up-to-date and free-of-charge information on labour migration that enables them to clarify their doubts and obtain help with the procedures that they may wish to carry out.

22. Migrants can make use of the employment road map issued by the Special Administrative Unit of the Public Employment Service, through which they can consult job vacancies or enrol on free-of-charge courses on how to find employment.

### **Reservations**

23. Before ratifying international human rights instruments, the Colombian State analyses their suitability and timeliness in the light of the national legal framework and public policies in force. Colombia is currently re-examining the reservations made to articles 15, 46 and 47 of the Convention (issue raised in para. 6) on this basis.

## **III. Migration policy**

### **Inter-agency coordination for the protection of migrant workers and their families**

24. In 2016, the Government issued Decree No. 1692 of 2016, establishing the Intersectoral Commission to Combat the Smuggling of Migrants,<sup>2</sup> a technical and operational body for the coordination and management of State measures to tackle this problem (issue raised in para. 2).

25. The aforementioned Commission is made up of 11 bodies and is presided over by the Ministry of Foreign Affairs, with Migration Colombia serving as its technical secretariat. The functions of the Commission include drawing up a national strategy and acting as a mechanism for coordinating the work of national agencies in the fight against migrant smuggling.

26. The strategy is currently under review and is expected to be submitted to the Commission for approval in the first half of 2019. It deals with State actions in the areas of prevention, protection and care, investigation and legal action, international cooperation, and knowledge management and generation.

### **Data collection**

27. In its efforts to control migration into and out of the country, Colombia has adopted a series of measures to improve the collection of data on flows of both Colombian and foreign migrants. Attention may be drawn to two initiatives in this connection (issue raised in para. 5).

28. The first such initiative is the biometric migration system known as BIOMIG. This system, in which Colombia is a world pioneer, has been installed in the immigration areas of the El Dorado International Airport in Bogota. It works by recognizing over 150 identification patterns in the user's iris while also scanning and verifying his or her travel

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<sup>2</sup> As the Commission is an intersectoral body whose purpose is to promote coordination between the competent bodies, it does not have its own staff or resources.

documents. The speed, stability and safety of this process make it ideal for identifying large numbers of people.

29. BIOMIG can be used by all Colombian citizens over the age of 12 years old who have voluntarily registered in the system before they enter the country. Registration can also be carried out when the citizen goes through the process of leaving the country.

30. Migration Colombia has 10 service units for Colombian travellers that have a processing capacity of more than 1,200 records per hour and a response time of less than 25 seconds per traveller. In addition to reducing processing times, this system has enabled the security of immigration control processes to be strengthened. Migration Colombia evaluates the use of BIOMIG in migration processes and at all migration checkpoints.

31. The second initiative is known as TABLEAU. In 2017, Migration Colombia implemented this tool in order to improve the management of migration statistics. Its displays are designed and generated with a view to making it easier for citizens and other State agencies to consult statistics.

32. TABLEAU is easy to use because it does not require users to work with complex Excel tables; instead, the variables that make up its databases are converted into filters, graphs, tables and maps (using geolocation) that users can intuitively understand. This tool not only generates migration statistics but also improves the capacity of the statistical infrastructure in the public and private sectors. It can be consulted at <https://public.tableau.com/profile/migraci.n.colombia#!/>.

33. Through Decision No. 4386 of 9 October 2018, the Ministry of Labour established the Single Registry of Foreign Workers in Colombia. This tool enables employers to register their migrant workers online and provides information on foreign workers in the country.

## **Immigration detention**

34. Owing to the fact that migration offences in Colombia are administrative in nature, no detentions are made by the immigration authorities (issue raised in para. 18).

## **Temporary migrant holding facilities**

35. Within the framework of institutional human rights policies for migrants, Migration Colombia does not operate detention centres for migrants. As part of these same policies, the above-mentioned agency has established temporary migrant holding facilities, which are intended to facilitate conditions for migrants during the verification and immigration control processes applied to nationals and foreign nationals in the national territory in accordance with Decree No. 4062 of 2011 and Decree No. 1067 of 2015 (issue raised in para. 17).

36. Temporary migrant holding facilities are physical spaces used to accommodate foreign adults during administrative proceedings while the authorities determine whether or not any grounds exist that might lead to deportation or expulsion measures being imposed. These facilities provide a place of refuge and temporary accommodation for migrants and foreign nationals who might not be admitted and also for nationals who have been repatriated to Colombia.

37. Temporary migrant holding facilities are subject to parameters and management procedures that comply with the recommended principles and rules for the treatment of migrants contained in judgments issued by the Inter-American Court of Human Rights and reports issued by the United Nations Special Rapporteurs on the human rights of migrants, the Office of the United Nations High Commissioner for Refugees and the International Organization for Migration.

38. In order to ensure respect for the dignity and human rights of migrants, temporary migrant holding facilities provide the services needed to ensure that they receive adequate care. Such services include immigration checks, medical diagnoses, legal aid, opportunities

to communicate with lawyers, consular representatives and family members (issue raised in para. 13) and language interpretation (in accordance with available capacities). Access to television, reading materials, rest areas and health services is also provided.

39. At the national level, Migration Colombia has 11 temporary migrant holding facilities, which attended to 2,911 foreign nationals in 2018.

40. With regard to minors, the administrative authorities are required to observe the principle of the best interests of the child in all their actions, in accordance with articles 2 and 3 of the Convention on the Rights of the Child. Appropriate measures are taken to this end, taking the obligations of parents, guardians or other persons responsible for children in law as the point of departure (issues raised in paras. 13 and 17).

41. The primacy of the rights of children as subjects entitled to special legal protection means imposing measures that do not give rise to greater risk or affect their fundamental rights, which are re-established through institutional care channels.

42. Where migration is concerned, if a minor violates migration regulations, punitive administrative action is taken against his or her legal representative or guardian. The necessary entries will be made in the system against the record of the foreign national concerned and a comment will be added to indicate that the measure was imposed on behalf of a minor.

43. When a minor is under special State protection, as provided by the Colombian Family Welfare Institute, and that minor has committed a migration offence, Migration Colombia will cease any administrative action that it has initiated and issue an order of dismissal on the grounds that the minor is subject to special protection and the Institute has begun taking steps to restore his or her rights.

44. Children and adolescents may not be held in temporary migrant holding facilities. When an incident involving a child or adolescent occurs, the immigration authority always communicates with the Police for Children and Adolescents and/or the Colombian Family Welfare Institute so that these bodies may take charge of the minor until his or her migration status has been settled.

### **Right of defence against a deportation or expulsion measure**

45. The punitive measures taken by Migration Colombia are of an administrative nature and are regulated by Act No. 1437 of 2011. Whenever a foreign national is deported or expelled from the country because he or she is residing unlawfully in the country, Migration Colombia conducts its proceedings with full regard for constitutional guarantees and rights, including guarantees of due process (issue raised in para. 13).

46. Irregular migrants who enter Colombia without having met the requirements, or in ways that are unauthorized, must contact the offices of Migration Colombia in order to resolve their migration status. The agency analyses the applicable administrative decisions on a case-by-case basis, in accordance with due process and respect for fundamental rights, on the understanding that unlawful entry and migration do not, in themselves, constitute offences in Colombia.

47. Thus, when foreign nationals enter the country in an unlawful manner (i.e. by evading immigration controls) or have an irregular migratory status because their visa or permit has expired, they are subject to a punitive administrative action that may result in deportation and, exceptionally, a fine. Once the punitive measure has been adopted and implemented, the foreign nationals on whom it has been imposed may apply for a visa that allows them to regularize their stay in the country.

### **Family unity**

48. Article 26 of Decision No. 6045 of 2 August 2017, laying down visa provisions and repealing Decision No. 5512 of 4 September 2015, provides that dependents' visas may be granted to family members who are financially dependent on the main holder of an "M" or

“R” type visa, in all cases, or the main holder of a “V” type visa<sup>3</sup> granted for the activities listed in paragraphs 12 to 15 of article 10, namely: “12. Carrying out journalism assignments or staying temporarily as a foreign media correspondent”; “13. Providing temporary services to natural or legal persons in Colombia”; “14. Occupying a position in the Colombian headquarters of a company with a presence abroad through a staff transfer within a company”; and “15. Entering as an official of a foreign Government, or the trade delegate of a foreign Government, on a mission that does not require accreditation with the Colombian Government” (issue raised in para. 30).

49. As a general rule, family members of the main visa holder shall be understood to mean his or her spouse or long-term partner, his or her parents, when they are financially dependent on him or her, any children under 25 years of age and any older offspring who have a disability that prevents them from being financially independent.

50. Article 27 establishes that dependents’ visas may not, under any circumstances, be granted for longer than the validity period of the visa granted to the main holder on whom the beneficiary is dependent.

51. Between 2014 and 2018, Colombia granted 41,406 dependents’ visas to family members.

### **Complaints of abuse of authority, harassment and corruption**

52. Between 2013 and 2018, Migration Colombia recorded nine complaints related to abuse of authority. Their status is as follows: closed: 2; refused: 4; under examination: 2; acquitted: 1 (issue raised in para. 15).

53. In the aforementioned period, Migration Colombia received three complaints of harassment. Their status is as follows: referral for determination of jurisdiction: 2; dismissed: 1.

54. As for possible cases of corruption, Migration Colombia received 406 complaints over the same period, which break down as follows: joinder of action: 5; closed: 156; referred for determination of jurisdiction: 5; assessment of notice: 7; refused: 80; under examination: 115; dismissed: 4; suspended: 18; fine imposed: 1; written warning issued: 6; acquitted: 9.

55. Of the 418 complaints submitted to Migration Colombia, a definitive decision has been issued in relation to 294 cases while the remaining 124 are at the evaluation and investigation stage.

### **Handling of violations of migrants’ human rights**

56. Mention should be made of the important role played by the early warning system of the Ombudsman’s Office, which has been strengthened in accordance with Decree Law No. 895 of 2017 and Decree No. 2124 of 2017. These instruments regulate the agreement with the Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo (Revolutionary Armed Forces of Colombia – People’s Army) and grant the Ombudsman’s Office full autonomy to issue early warnings of risks and threats of violations of the right to life, liberty, integrity and security of the person, civil and political liberties, and breaches of international humanitarian law affecting the civilian population in order to ensure that the competent entities respond quickly (issues raised in paras. 3 and 32).

57. In accordance with the principles of equality, non-discrimination and impartiality and taking a differentiated approach, as set out in article 3 of Decree No. 2124 of 2017, the early warning system issued a total of seven alerts in 2018. These warned of various scenarios involving risks of violations of the rights to life, liberty, integrity and security of the person, civil and political liberties and international humanitarian law against Venezuelan migrants in Colombia, especially around the border between the Bolivarian

<sup>3</sup> “M” =migrant; “R” =resident and “V” = visitor.

Republic of Venezuela and the Colombian Caribbean region. The warnings were issued in the light of the cycle of violence caused by the Ejército de Liberación Nacional, the Ejército Popular de Liberación, dissidents of the Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo and organized armed groups.

58. As part of its functions, the Office of the Specialized Ombudsperson for Criminal Justice and Prison Policy of the Ombudsman's Office coordinates the activities that its different units carry out in the area of criminal policy and defence of the human rights of prisoners. It also closely monitors rulings handed down by the Constitutional Court in this connection, oversees compliance with international standards applicable to management of the prison system and protection of the human rights of prisoners and prison staff in Colombia and verifies compliance with recommendations for the protection of the human rights of persons deprived of their liberty made by international organizations to prison authorities, among other actions.

59. The Office of the Specialized Ombudsperson for Criminal Justice and Prison Policy lacks the competence to close any facility intended for the detention of persons. In Colombia, foreign nationals subject to security measures or custodial sentences are detained in the same establishments as nationals, which are run by the National Prisons Institute. The Institute reports that 1,327 foreign nationals are currently deprived of their liberty.

60. With regard to enforced disappearance, when the Attorney General's Office learns that an incident of this kind has reportedly occurred, it activates the urgent search mechanism in accordance with Act No. 971 of 2005, which was enacted with the aim of preventing the offence of enforced disappearance.

61. In order to ensure that its district directorates deal effectively and in a timely manner with investigations of enforced disappearance, the Attorney General's Office issued Memorandum No. 00054 of 2015, which set out guidelines for ensuring that such investigations are handled in line with the criteria contained in Directive No. 002 of 2015, expanding and amending Directive No. 001 of 2012. This memorandum also describes the scope of the parameters for prioritizing situations and cases and establishes guidelines for the strategic planning and management of criminal investigations within the agency. These actions are conducted with a view to considering application of the legal concept of procedural connection and/or the association of cases whenever common elements are identified in the perpetration of an offence.

## **Labour inspections**

62. The functions of the Ministry of Labour, in execution of its powers, include carrying out preventive activities and inspections, monitoring and overseeing compliance with substantive and procedural rules on work and employment, and imposing the sanctions established in the current legal system (issues raised in paras. 2 and 11).

63. The Ministry carries out these functions, without discrimination, by making preventive visits, arranging settlements, issuing labour guidelines and conducting preliminary investigations and punitive administrative procedures, where applicable, in order to verify and guarantee compliance with workers' labour rights.

64. Labour inspection activities are aimed at monitoring and controlling compliance with labour standards and social security provisions within the meanings of articles 17, 485 and 486 of the Substantive Labour Code, Decree No. 4108 of 2011 and Decision No. 2143 of 2014 of the Ministry of Labour.

65. Article 1 of Act No. 1610 of 2013 establishes the general competence of labour and social security inspectors to inspect, monitor and control individual cases in the private sector and collective cases in the public and private sectors.

66. In accordance with article 3 of the aforementioned Act, the main functions of labour inspectors include prevention, persuasive action or administrative policing, the arrangement of settlements, improving labour regulations and supporting and maintaining the general social security system in the areas of occupational risk and pensions.



67. For further details of the instruments that have made it possible to strengthen the inspection system in Colombia, please see section 2 of Annex II.

68. The Ministry of Labour has developed two inspection, monitoring and oversight protocols aimed at migrants. In 2018, the Ministry's mobile inspection unit participated in four migrant festivals (see table 1 of Annex I for details).

### **Programmes to combat discrimination against migrant workers**

69. When they are invited, Colombian consulates participate in campaigns against xenophobia carried out by receiving States. In order to ensure that xenophobic acts are dealt with, the consulates maintain ongoing contact with the authorities and disseminate all relevant information provided to them. Such action has been taken at the consulates in Helsinki, Manaus, Nueva Loja, New York, San Francisco, Santiago and Washington, D.C. (issue raised in para. 9).

70. The Ministry of Labour conducts seminars, forums and workshops on the dissemination and implementation of the Convention. In order to formalize and promote social dialogue on migration issues, the aforementioned Ministry has established, through Decision No. 0425 of 2013, the Subcommittee on Tripartite Social Dialogue on Labour Migration Management of the Standing Committee on the Coordination of Wage and Employment Policy.

71. In 2013, within the framework of this Subcommittee, the Ministry of Labour began holding regional workshops, and corresponding follow-up meetings, on tripartite social dialogue and labour migration in the areas with the highest migratory flows. Thus, in 2013, three workshops were held in the departments of Eje Cafetero, Nariño and Norte de Santander; in 2014, four workshops were held in Barranquilla, Cali, Leticia and Medellín; in 2015, a plenary meeting of the Subcommittee was held in Bogotá, a workshop was held in Mocoa and follow-up meetings were held in Armenia, Cúcuta, Leticia, Manizales, Medellín, Pasto and Pereira; and in 2016, follow-up meetings were held in Barranquilla, Cúcuta, Pasto and Pereira, and a workshop was held on San Andrés Island.

72. These workshops made it possible to identify and raise awareness of labour migration issues; to disseminate and implement the Convention; to coordinate and undertake actions in conjunction with regional and local governments; to obtain inputs for the design and management of labour migration policy; and to include the issue of migration in departmental and municipal development plans.

### **Self-employed workers**

73. Article 17 of Decision No. 6045 of 2017 of the Ministry of Foreign Affairs provides that foreign nationals who have the qualifications or expertise required to exercise their profession independently and who fulfil the financial conditions set out in the regulations may apply for a visa as a self-employed migrant (issue raised in para. 36).

74. Some 2,375 visas were issued to self-employed workers between 2015 and 2018 and 746 visas were issued to the dependents of such workers between 2017 and the end of 2018.

## **IV. Efforts made to address the migration crisis**

75. On 23 November 2018, the Government issued Document No. 3950 of the National Economic and Social Policy Council in order to establish a channel for providing medium-term support to migrants from the Bolivarian Republic of Venezuela and to strengthen the State's capacities to deal with this issue at all levels.

## **Expulsion of Colombians and State support**

76. Once deported nationals are officially received at immigration checkpoints, Migration Colombia conducts an administrative interview with them during which any complaints about the treatment they received during the deportation process may be addressed. These complaints are then sent to the regional branch of the Ombudsman's Office in each of the cities where deportees are received (issue raised in para. 16).

77. The Ministry of Foreign Affairs was made aware of the complaints filed by Colombian citizens expelled from Venezuela in August 2015 through three channels: the Colombian consulates in Venezuela, which brought these complaints to the attention of the competent local authorities; the comprehensive citizen support centre of the Ministry of Foreign Affairs, which registered 143 complaints (timely actions were taken in response to these complaints and the Venezuelan authorities were informed via consular channels); and the regional and local ombudsman's offices, the Norte de Santander Border Secretariat, the Office of the Maicao Municipal Advocate, the Office of the President of the Republic and the Congress of the Republic, which institutions received 4,398 complaints. The arguments set out in these complaints were that the events took place in connection with mass operations or raids in areas where Colombian citizens lived and that the citizens concerned were taken from their homes or apprehended in queues at markets, bus stations, and other places. They were also subjected to physical and verbal abuse, family disintegration, theft and dispossession, house demolitions, withholding of documents, deprivation of liberty, requests for bribes and sexual violence.

78. As part of the Government's response to the humanitarian crisis triggered in August 2015 by the declaration of a constitutional state of emergency and unilateral closure of the common border by the Venezuelan authorities, Colombia created a unified command post, which made it a priority to attend to the humanitarian situation and guarantee the rights of affected Colombians. The unified command post focused its assistance efforts on the areas of health, temporary housing, legal aid, the return of nationals to their places of origin, security and coexistence.

## **Census of Venezuelan migrants**

79. In response to the social emergency that has arisen around the border with the Bolivarian Republic of Venezuela, the Government was instructed, pursuant to article 140 of Act No. 1873 of 2017, to draw up a comprehensive humanitarian assistance policy and allocate the corresponding resources through the National Disaster Risk Management Unit (issue raised in para. 4).

80. In line with this legislation, Colombia has established an administrative register of Venezuelan migrants to serve as a mechanism for information sharing and consultation on the migration of Venezuelans in Colombia. This mechanism is confidential and may not under any circumstances be used to impose penalties such as fines or any kind of deportation or expulsion measure on registered persons.

81. Data for 6 April to 8 June 2018 drawn from the register by the Disaster Risk Management Unit, show that 442,462 Venezuelan citizens entered Colombia irregularly in this period.

## **Special stay permits**

82. Special stay permits were introduced by the Ministry of Foreign Affairs through Decision No. 5797 of 2017 with the aim of controlling migration from Venezuela in accordance with the Constitution and the laws in force while enabling Venezuelan nationals to regularize their migration status in the medium term (issues raised in paras. 4 and 27).

83. In accordance with Decree No. 1288 of 25 July 2018, the Government has adopted measures to guarantee access to institutional services for persons entered on the register, amending the criteria and deadlines applicable to special stay permits.

84. Pursuant to Decision No. 6370 of 1 August 2018, the Ministry of Foreign Affairs established the requirements and set the deadline and extension period necessary to ensure that persons entered on the register could obtain a special stay permit. Pursuant to Decision No. 2033 of 2 August 2018, Migration Colombia established the procedure by which the permits are issued. Colombia has issued 566,765 special stay permits (see the figures in table 2 of Annex I).

### **Border mobility card**

85. Border mobility cards were introduced through Decision No. 1220 of 12 August 2016 as a means of facilitating land-based movement for foreign nationals and nationals of neighbouring States who need to cross border areas of Colombia in order to carry out non-income generating activities and/or persons who, for reasons of border activity and proximity, need to pass through these border areas on an occasional basis, without any intention of establishing or undertaking any activity for which a visa should be obtained in advance (issue raised in para. 4).

86. Steps have been taken to enable applicants for border mobility cards to pre-register their biographical and demographic details on Migration Colombia's website. Once an application has been approved, the card is issued for an initial period of six months, extendible by up to two years.

87. These cards serve as physical proof of border-crossing authorization and enable the various Colombian authorities, and especially the immigration authorities, to monitor, verify and record movements and ensure that border crossings are duly registered. In order to ensure that their entries and exits to and from the country are monitored, foreign migrants who use this migration mechanism must show their card and their national identity document.

88. The border mobility card is an administrative document used for registering, monitoring and authorizing border crossings. Under no circumstances does it replace the national identity document or equate to a business visa or a temporary or permanent residence visa in Colombia, nor does it constitute a work permit. It does not entitle holders to travel to places not classified as border areas or to establish a legal domicile within national territory.

89. The card is currently being used by Venezuelan nationals who end up residing in towns on the shared border between the two countries. This is because most Venezuelan nationals do not have a valid travel document and are not currently covered by a migration agreement, such as those established within the Andean Community or between MERCOSUR countries, that would allow them to travel into Colombian border regions.

90. Since Migration Colombia has the experience, technology, equipment and inputs necessary for continued issuance of border mobility cards, they can be obtained at any border or migration checkpoint that the Government deems appropriate and/or that is required under international agreements.

91. As of January 2019, Migration Colombia had approved 2,589,376 cards (see the figures in table 3 of Annex I).

### **Access to education**

92. The Ministry of Education issued Circulars No. 45 of 16 September 2015, No. 7 of 2 February 2016, No. 1 of 27 April 2017 and No. 16 of 10 April 2018 (the last two jointly with Migration Colombia) in order to guarantee the fundamental right to education of migrant children, adolescents and young persons from the Bolivarian Republic of Venezuela, with the assistance of local authorities (issue raised in para. 25).

93. The Government has determined that the education secretariats of the certified local authorities should prioritize the provision of education to children and young persons affected by the migration crisis irrespective of their nationality or migration status. In order

to ensure that Venezuelan students without valid identification documents in Colombia can enrol in public sector educational establishments, they have been allowed to register in the integrated enrolment system with a number established by the Ministry of Education. If a student has a special stay permit or a foreign national's identity card, he or she must be registered with these documents.

94. With regard to the recognition of previous studies, if a child's parent or guardian has duly certified documents or certificates that attest to the completion and validation of preschool, primary school or middle school in Venezuela, the educational establishment must allow no more than six months for the request for recognition to be submitted to the Ministry of Education. While the request is being processed, the education secretariat and educational establishment must allocate a place to the student in the next approved grade.

### **Access to health**

95. Health care is defined as a public service in Colombia pursuant to article 49 of the Constitution. In accordance with this principle, Act No. 1751 of 2015, better known as the Statutory Act on Health, established the right to health as a fundamental right. To this end, it consolidated already existing rights, duties and mechanisms for the protection of the health of Colombians and foreign nationals residing in Colombia (issues raised in paras. 24, 27 and 34).

96. The Statutory Act on Health covers various components of the health system, such as rights and protection mechanisms for patients (chapters I and II), regulations for the practice of health-care professionals (chapter III), drug policies and service provision in marginalized areas (chapter IV).

97. With regard to access to health care for migrants and their families, the Ministry of Health has taken the lead in making adjustments to public policies and regulations that have made it possible to provide emergency care to immigrants in an irregular situation, to insure part of the immigrant population in accordance with their migration status and to strengthen public health management in those local authorities that have the largest numbers of migrants.

98. These actions have been regulated through the issuance of Decree Nos. 1768 of 2015, 1495 of 2016 and 2228 of 2017 and Decision No. 5246 of 2016, among others, which are designed to identify migrants, and especially Colombian returnees, and make it easier for them to access health care and join the general social security system for health care.

99. Figures drawn from the central database of members show that 1,960 repatriated Colombians have joined the subsidized health-care plan of the aforementioned system.

100. In view of the rise in the number of returning Colombians and Venezuelan migrants, the Ministry of Health has taken steps to improve the quality and timeliness of the State response in the area of vaccination, particularly in border regions. Vaccination services are provided free of charge to all persons in the national territory, irrespective of their migration status. Between August 2017 and November 2018, 739,242 shots were administered to Venezuelan migrants at a cost of approximately \$3,600,000.

### **Dissemination to the migrant population of information about their rights**

101. The Inter-American Court of Human Rights, the Constitutional Court and the Council of State have repeatedly stated that the administration is required to ensure the real and effective participation of persons under investigation in all migration proceedings and to inform them of the terms on which they can contest each stage of the proceedings and the remedies available to them through administrative channels (issue raised in para. 28).

102. In accordance with this instruction and the conventions of the punitive procedure defined by Act No. 1437 of 2011, Migration Colombia ensures that foreign nationals are duly notified at all stages, from the framing of charges to the issuing of decisions, and that

they are informed, within the same administrative act, of the appropriate remedies and the time limits for activating them (issue raised in para. 13).

103. In order to ensure respect for the rights of migrants, the Ministry of Labour is taking measures to prevent irregular emigration, labour exploitation and trafficking and smuggling in human beings. These measures are aimed at foreign nationals in the country, returnees and emigrants.

104. As part of these measures, the aforementioned Ministry has prepared and disseminated a series of booklets, including a booklet of frequently asked questions about hiring foreign nationals, booklets of frequently asked questions providing guidance for Colombian workers abroad that is available for Chile, Mexico, Peru, the United States of America and Spain, an information booklet and labour orientation roadmap aimed at Colombian returnees that focuses on public sector employment, and an information and labour orientation booklet that provides Colombian returnees with information and guidance about the institutions to contact and the services available through the labour administration department (issue raised in para. 28).

## **V. Trafficking**

### **National strategy for combating trafficking in persons**

105. This strategy is the fruit of the concerted efforts of the various actors engaged in the fight against trafficking, which include the Inter-Agency Committee to Combat Trafficking in Persons,<sup>4</sup> the departmental, municipal and district committees, international cooperation and civil society organizations, victims and academia. The strategy's implementation was coordinated through national meetings, round tables, interviews and questionnaires (see the figures in tables 4, 5, 6 and 7 of Annex I) (issue raised in para. 35).

106. Following the issuance of Decree No. 1036 of 2016, the Ministry of the Interior disseminated the strategy among the regional committees so that the corresponding action plans could be drawn up. The strategy includes a set of indicators that make it possible to determine whether objectives have been met and planned activities have been completed. The Ministry of the Interior provides support to the regional committees so as to strengthen their ability to assist and protect potential victims of trafficking and to draw up and implement the aforementioned action plans.

107. The focuses of the strategy are rights; gender, generational and life-cycle issues; differentiated treatment; regional issues; and combating the criminal offence. The strategy focuses mainly on prevention, assistance, protection, knowledge management, international cooperation, investigation, legal action, monitoring, evaluation, coordination and sustainability.

### **Observatory for the Offence of Trafficking in Persons**

108. This Observatory is a mechanism for information-sharing, research, data collection, systematization and analysis about causes, methods, purposes of exploitation, trends, consequences and other information connected with trafficking offences at the national and local levels. The Observatory reports to the Ministry of the Interior and is responsible for generating knowledge, using reliable, timely and up-to-date information as inputs for public policies, prevention and control mechanisms and gaining a better understanding of trafficking (issue raised in para. 35).

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<sup>4</sup> Like the Intersectoral Committee to Combat Trafficking in Migrants, the Inter-Agency Committee to Combat Trafficking in Persons does not have its own staff and resources, because it is a coordinating body.

## **Protection of women migrants**

109. The Ministry of Foreign Affairs provides support to migrant women who report cases of sexual or domestic violence. Through its consular network, it provides legal guidance and psychosocial support and, with the prior agreement of the person concerned, arranges accommodation in shelters established for this purpose. It also issues documentation when required, remains in constant contact with police, legal and immigration authorities and takes all the measures appropriate within the framework of its powers (issues raised in paras. 12 and 19).

110. By way of example, the consular office in Asunción (Paraguay) maintains direct contact with the local authorities responsible for dealing with women victims of offences and different forms of violence. The relationship between this consular office and the Ministry for Women, the Directorate General for Migration, the Public Prosecution Service and the Paraguayan police makes it possible to count on their support when dealing with cases of violence against women, irrespective of the migration status of the women concerned or their reason for being in Paraguay.

111. All Colombian consulates have run campaigns to combat trafficking in persons, which primarily affects women, and have invited the Colombian community to contribute to their efforts. Noteworthy examples include the “No Truck with Human Trafficking” campaign, launched in 2017, and the “Let’s React on Social Media: Watch Out for Trafficking” campaign, conducted in 2018.

112. Whenever Migration Colombia becomes aware of a case of trafficking, it contacts the relevant municipal or departmental Inter-Agency Committee to Combat Trafficking in Persons, pursuant to Act No. 985 of 2005, in view of the victim’s vulnerability and irrespective of whether he or she is a Colombian or a foreign national, in order to restore the rights of the person concerned.

113. At migration checkpoints set up in the national territory, Migration Colombia aims to identify potential victims of human trafficking at the recruitment and/or transfer and/or transportation stages. It also carries out the actions listed in the regional guidelines for early detection of human trafficking situations at border crossings for MERCOSUR countries and associate States.

114. As part of this process, Migration Colombia identifies potential victims of trafficking and local and international trafficking routes, reviews the documents used for transfers, identifies recruitment methods, raises awareness of the risks to which victims of human trafficking networks are exposed, identifies possible traffickers, obtains inputs to facilitate the investigation of offences, receives potential victims at national migration checkpoints and conducts the procedures necessary within the organization in order to regularize their migration status. Potential victims are exempted from any payment arising from migration procedures required by their status or from possible penalties arising from their irregular stay in the country. If necessary, Migration Colombia supports inter-agency coordination in order to mobilize resources and efforts when potential foreign victims of trafficking need to return to their country of origin.

## **Protection of migrant children and adolescents**

115. With regard to the protection of child and adolescent victims of trafficking, the Colombian Family Welfare Institute acts in accordance with Act No. 1098 of 2006, as amended by Act No. 1878 of 2018, in order to restore children’s rights that have been threatened or violated (issue raised in para. 20).

116. In line with the above, agencies must act in accordance with the technical and administrative guidelines for the restoration of the rights of children and adolescents whose rights have been ignored, threatened or violated, adopted pursuant to Decision No. 1526 of 23 February 2016, in order to ensure that the Administrative Process for the Restoration of Rights is carried out.

117. The above-mentioned guidelines set out a series of actions, competences and procedures, including legal measures, that must be carried out in order to restore the full and effective exercise of the rights of children and adolescents, in accordance with their characteristics and needs. They include an annex that sets out specific measures for addressing trafficking, adopted pursuant to Decision No. 8720 of 11 July 2018. The annex describes the specific actions to be taken by the administrative authorities to guarantee the rights of victims of trafficking and trigger intersectoral State response mechanisms.

118. In order to ensure the provision of specialized care to restore the rights of children and adolescents who are victims of trafficking, or any other act that violates their right to protection and integrity of the person, the Colombian Family Welfare Institute, acting pursuant to Decision No. 8378 of 4 July 2018, has adopted technical guidelines on the care of child and adolescent victims of trafficking in persons. This initiative ensures the care of child and adolescent victims of trafficking for any exploitative purpose within the framework of the Administrative Process for the Restoration of Rights, in accordance with the regulations established by the children's ombudsman or the family commissioner. The specialized forms of care available include psychosocial support, shelters and foster homes.

### **Prosecution of persons responsible for offences of migrant smuggling**

119. Over the past four years, the criminal policy observatory of the Ministry of Justice has recorded a steady increase in arrests related to offences of migrant smuggling. The number of arrests reported for the aforementioned offence in the period 2015–2018 represented 0.038 per cent (470) of the national total (1,233,969 arrests) (issues raised in paras. 32 and 35).

120. With regard to the number of criminal complaints related to the offence of migrant smuggling, the number (966 in total) increased between 2014 and 2019 in line with the national trend (5,682,213). Thus, the number of criminal complaints made in this period for the offence of migrant smuggling represented 0.017 per cent of the total number of criminal complaints made at the national level.

121. As of January 2019, there were 140 persons deprived of their liberty for the offence of trafficking in migrants, representing 0.1 per cent of the national total.

## **VI. Other matters of interest to the Committee**

### **Consular protection for migrant workers and their families abroad**

122. The consular offices of Colombia are not competent to receive or examine complaints of violations of the rights of Colombian migrant workers (issues raised in paras. 7 and 21). Instead, they provide advice on action that can be taken by alleged victims in the event that their or their family members' labour rights are violated in their consular district, taking into consideration the competent authorities in each receiving State. The above applies even in those States that have not ratified the Convention, provided that they have agencies responsible for dealing with such cases.

123. Requests of this kind, which are received less frequently than requests for other forms of consular assistance, have been submitted to the Ministry of Labour for its consideration whenever this has been deemed necessary.

124. The assistance provided to Colombian nationals is ongoing, immediate and comprehensive. In order to strengthen the counselling offered, consulates have entered into agreements for the provision of legal and social advice in States where there are large numbers of Colombian nationals. As of 2018, the Ministry of Foreign Affairs had approved 50 legal advice and 31 social advice agreements.

125. Below are examples of assistance provided in cases involving migrant workers' rights.

126. Although the United States of America is not a State party to the Convention, the Consulate General of Colombia in Chicago receives requests for legal assistance in relation to violations of labour rights from Colombian nationals with regular and irregular migration status. In such cases, with the support of an external legal aid company, the consulate informs the interested party of the mechanisms, resources and agencies that each State makes available in the consular district. When necessary, the nationals concerned are put in touch with workers' organizations that represent the interests of persons in similar circumstances.

127. The consulate in New York refers cases to the New York City Office of Labor Relations, which has support programmes for workers whose rights have been violated and can even receive complaints from persons whose immigration status is irregular. In 2018, the consulate provided advice in two cases related to labour rights and one case related to discrimination.

128. If a Colombian national is placed in detention abroad, the consulate will provide consular assistance at the request of the detainee, his or her family members or the competent authority. It will also visit detention centres within its consular district on a regular basis, or on request, when such travel is justified.

129. The consulate is able to channel requests from prisoners within its jurisdiction and assist with the authentication of documents and the sending of physical correspondence to family members when an express request has been made and the prisoner has no other way of communicating with them. The consulate provides guidance on the mechanisms available for their defence and the general functioning of the legal system in the country in question and ensures respect for due process and the rights of nationals without ever becoming involved, or acting as a party, in any specific trial or case brought against them.

130. Where expulsion or deportation measures are concerned, it is important to point out that the migration-related and/or administrative procedures arising from proceedings of this kind depend solely on the regulations of the receiving State. Therefore, it is not possible to expedite or amend a migration decision taken by another State. However, the Ministry of Foreign Affairs, through its consulates, monitors the material and physical conditions of Colombian nationals involved in deportation proceedings. In such proceedings, consulates are not empowered to take on the role of legal representatives on migration issues but can provide guidance on the migration laws of receiving States and, where required, respond to requests from migration authorities for the issuance of travel documents (other than passports).

131. The Ministry of Foreign Affairs has no budget allocation for family reunification abroad. Colombia is unable to intervene in migration decisions in order to prevent parents and children from being separated as a result of an expulsion order issued by the country of destination and cannot prevent unaccompanied children, or children accompanied by their mothers, from being detained in the country of destination as a result of their immigration status.

132. The procedures for obtaining identity documents and birth certificates for the children of Colombians abroad, whether or not they are registered in a timely manner, apply to all Colombians, irrespective of their immigration status. The criteria applicable to the respective procedures can be found on the websites of the Ministry of Foreign Affairs and the National Civil Registry Office.

### **Access to the Central Register of Victims**

133. The current register is made up of records established under the regulatory frameworks for providing support to victims in Colombia since 1997.<sup>5</sup> Individuals are entered on the register in accordance with the parameters established in Act No. 1448 of 2011 and its Regulatory Decrees Nos. 4800 of 2011, now incorporated in Decree 1084 of

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<sup>5</sup> (i) Act No. 387 of 1997 (ii) Act No. 418 of 1997 (iii) Act No. 975 of 2005 (iv) Decree No. 1290 of 2008 and (v) Act No. 1448 of 2011.



2015; 4633 of 2011 on indigenous peoples, 4634 of 2011 on the Roma people, and 4635 of 2011 on the Black, Afro-Colombian, Palenquero and Raizal communities (issue raised in para. 22).

134. Article 2.2.2.3.7 of Decree No. 1084 of 2015 establishes the minimum contents of applications for registration, which are: the identification details of each related person, information on gender, age, socioeconomic status, situation and type of disability, if any and if known; race and ethnic affiliation; the signature of the official of the agency receiving the application for registration; the fingerprint of the person applying for registration; the signature of the person applying for registration; at least a brief summary of the circumstances of manner, time and location prior to, during and after the events took place, taking into account the time at which the violation occurred and the victim's vulnerable status; the contact details of the person applying for registration; and information on relationships with the victim in accordance with the second subparagraph of article 3 of Act No. 1448 of 2011.

135. Through the Colombian consulates, the Ministry of Foreign Affairs helps victims abroad to apply for registration in the Central Register of Victims. Consulate officials take statements from nationals abroad who wish to benefit from Act No. 1448 of 2011 by applying online for inclusion in the Register. Since the Victims Act came into force, 11,827 statements have been taken abroad, 9,100 of which are now included in the Register.

136. Comprehensive processes to provide redress to victims abroad are carried out through measures known as "satisfaction measures". These measures include exemption from military service, free duplicates of identity documents, issued on a one-off basis, measures aimed at paying tribute to victims and restoring their dignity, festivals, exhibitions and artistic activities aimed at victims of the armed conflict, workshops to raise awareness of, and provide training on, Act No. 1448 of 2011 and on the Register of Expropriated or Forcibly Abandoned Land, and special statement and notification days. In 2018 alone, within the framework of the powers granted to it by Act No. 1448 of 2011, the Ministry of Foreign Affairs, through its network of consulates, organized 120 activities related to the comprehensive redress process.

137. The available reparation measures include compensation provided by the Comprehensive Victim Assistance and Reparation Unit. This body makes two options available to Colombian victims residing abroad: payment of a deposit into a national bank account or payment of a deposit into an account in a foreign bank. Since the implementation of Act No. 1448 of 2011, compensation has been paid to 5,100 Colombian victims abroad.

### **Situation of the 59 Colombians who have been detained/retained without justification in the Bolivarian Republic of Venezuela**

138. Since September 2016, the Ministry of Foreign Affairs has provided consular assistance and humanitarian support to the 59 Colombian nationals deprived of their liberty at the police station in La Yaguara, Caracas, in the Bolivarian Republic of Venezuela (issue raised in para. 18).

139. The Colombian consulate in Caracas visits these nationals on a weekly basis, providing them with personal hygiene items, food, medicines and other supplies. In order to monitor their situation and provide assistance, the consulate has held 37 meetings with the Venezuelan authorities, including the Identification, Migration and Alien Affairs Service, the Bolivarian National Police Force, the Ministry of the Interior, the Apostolic Nunciature, the Office of the Deputy Minister for Latin America of the Ministry of People's Power for Foreign Affairs, the International Committee of the Red Cross and the Public Prosecution Service.

140. It has also paid 90 consular visits to the prisoners, conducted 56 activities with their families, provided medical assistance on the 13 occasions permitted by the Venezuelan authorities and delivered food on 18 occasions, among other measures taken to safeguard

the prisoners' basic needs. The Ministry of Foreign Affairs will continue to provide the necessary assistance and support to the Colombian prisoners.

141. Since 2016, 100 notes verbales have been sent to the Venezuelan Government, requesting the legitimate protection of the human rights of the 59 Colombian nationals. The most recent of these was sent on 11 December 2018.

142. Colombia has also sent three notes to the Working Group on Arbitrary Detention and two to the United Nations High Commissioner for Human Rights. In addition, diplomatic efforts have been made by the Colombian Mission to the United Nations. On 10 December 2018, the Minister for Foreign Affairs, Carlos Holmes Trujillo, met with the United Nations High Commissioner for Human Rights, Michelle Bachelet, to remind her that her actions and support were urgently needed to achieve the release of these 59 arbitrarily detained Colombians. The meeting took place within the framework of the Global Compact for Safe, Orderly and Regular Migration, held in Morocco.

143. The Minister reiterated the request to the Venezuelan Government to immediately release the Colombian nationals in accordance with the ruling issued by the twenty-seventh court of first instance responsible for the criminal court circuit of Caracas Metropolitan Area, which ordered the release of the Colombian nationals on 21 November 2017.

### **Voluntary return programmes**

144. In order to promote, coordinate and monitor initiatives aimed at guiding and supporting repatriation for work, Colombia has begun implementing a support strategy pursuant to agreement No. 16 of 31 October 2016, signed between the Ministry of Labour and the International Organization for Migration. To this end, the strategy has prioritized the six departments, which, according to data held in the central register of returns, have the highest numbers of migrants returning for work, namely Antioquia, Atlántico, Cundinamarca, Risaralda, Santander and Valle del Cauca (issue raised in para. 33).

145. The initiatives arising from this agreement allowed assistance to be provided to persons registered in the central register of returns (Act No. 1565 of 2012) who returned to work between November 2013 and October 2016. Under the agreement, action has been taken to coordinate efforts with the Public Employment Service, the Public Employment Agency of the National Training Service, family allowance funds, private employment agencies and regional and municipal universities and institutions in the prioritized departments.

146. In 2017, the Government held workshops to publicize job vacancies in Barranquilla, Bogota, Bucaramanga, Cali and Medellín. These made it possible to raise awareness of routes to employment, conduct initial interviews, schedule interviews for current job vacancies in accordance with the individual profiles of returning citizens and draw up the booklet of information and labour orientation for Colombian returnees.

147. However, in view of the ongoing number of returnees and the findings and recommendations of the first stage of implementation of the agreement, the parties have decided to extend the time frame for its implementation to 31 December 2018. This step is being taken in order to identify the characteristics of persons returning for work between October 2016 and December 2017; strengthen strategies, aimed at the network of service providers, for promoting the employment of returnees; hold workshops in the prioritized areas (Antioquia, Arauca, Atlántico, Cundinamarca, Norte de Santander and Valle del Cauca) in order to facilitate the return of beneficiary returnees and maximize their opportunities to find sources of income, become entrepreneurs and enter the labour market within the framework of the legal benefits established for such persons; and strengthen methodological strategies that enable the business sector to become involved in efforts to place returnees in the labour market.

148. With regard to the tax benefits provided for in Act No. 1565 of 2012, as of October 2018 the Directorate of National Taxes and Customs had registered a total of 1,031 beneficiaries of tax exemptions for the import of household goods and/or professional tools,

distributed annually as follows: 2012: 12 beneficiaries; 2013: 55; 2014: 136; 2015: 213; 2016: 247; 2017: 209; 2018: 159 (issue raised in para. 34).

149. With regard to access to the health system for beneficiaries of Act No. 1565 of 2012, the Ministry of Health records that, between November 2013 and March 2017, 73 per cent of returnees (4,365 persons) had access to the system, with 49 per cent (2,919 persons) participating in the contributory regime and 24 per cent (1,446 persons) in the subsidized one. The total number of beneficiaries was 5,942 persons.

### **Detention, trial and punishment of migrants accused of committing offences or crimes while employed in fishing activities in international waters**

150. Illegal fishing does not constitute a migration offence and is regulated by Act No. 1851 of 2017, pursuant to which measures are established to tackle illegal fishing and the offence of illegal fishing activity in the Colombian maritime territory. Notwithstanding the above, persons who violate this Act may be liable for the administrative and/or criminal penalties to which they are subject, in accordance with the regulations in force, to be applied by the authorities in accordance with their competence. These administrative penalties are provided for in Act No. 13 of 1990, the General Fishing Statute (issue raised in para. 29).

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