



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

Distr.: General  
23 July 2021  
English  
Original: Spanish  
English, French and Spanish only

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

**Initial report submitted by the Bolivarian  
Republic of Venezuela under article 73 of the  
Convention pursuant to the simplified reporting  
procedure, due in 2018\***

[Date received: 9 March 2020]

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\* The present document is being issued without formal editing.



## **Replies to the list of issues prior to submission of the initial report (CMW/C/VEN/QPR/1)**

### **Replies to the issues raised in paragraph 1**

1. The Bolivarian Republic of Venezuela has established a solid international relations framework under its Constitution and recognizes the validity of all the international treaties that it has signed and ratified. Article 23 of the Constitution<sup>1</sup> provides that the human rights treaties, covenants and conventions signed and ratified by Venezuela have constitutional status and take precedence over domestic law insofar as they contain provisions on the enjoyment and exercise of human rights which are more favourable than those established by the Constitution and the laws of the Republic and are immediately and directly applicable by the courts and other public bodies.

2. The protection of the rights of all migrant workers and members of their families had been an intrinsic component of the Constitution even before the signing of the Convention, as article 19 of the Constitution states that “the State shall guarantee to every person, in accordance with the principle of progressiveness and without any discrimination, the irrevocable, indivisible and interdependent enjoyment and exercise of human rights. Public bodies shall be required to respect and guarantee these rights in accordance with this Constitution, the human rights treaties signed and ratified by the Republic and the laws giving effect to them”.

3. As part of its international cooperation framework for the protection of migrant workers and members of their families, the State has signed bilateral and multilateral agreements on migration with various countries to strengthen cooperation mechanisms in the field. The agreements currently in force are described below:

(a) Agreement between the Republic of Venezuela and the International Organization for Migration on a selective migration programme that entered into force on 19 August 1993 and is aimed at establishing and implementing a programme to attract skilled migrants, thus furthering the economic and social development of the Bolivarian Republic of Venezuela and offering migrants new possibilities for putting their skills and knowledge to full use;

(b) Operational agreement on migration between the Government of the Republic of Venezuela and the Government of the Portuguese Republic that entered into force on 19 October 1978 and is designed to make it easier to hire skilled Portuguese workers, by facilitating their recruitment, selection, transfer and placement;

(c) Agreement on migration between the Government of the Republic of Venezuela and the Government of the Kingdom of Spain that entered into force on 7 April 1980 and is designed to facilitate the hiring of skilled workers from both countries;

(d) Memorandum of understanding for the exchange of migration alerts and security information between the Identification, Migration and Foreign Nationals Service of the Ministry of People’s Power for Internal Affairs, Justice and Peace of the Bolivarian Republic of Venezuela and the Directorate for Identification, Immigration and Foreign Nationals of the Ministry of the Interior of the Republic of Cuba that was signed on 8 April 2019 and is aimed at developing effective cooperation mechanisms and thus preventing and combating irregular migration, smuggling of migrants and trafficking in persons.

4. With respect to integration bodies, efforts have been made under the aegis of the Southern Common Market (MERCOSUR) to find common criteria to facilitate migration and establishment of residency for citizens of member countries and, subsequently, of community areas. Accordingly, various documents, plans and agreements intended to safeguard, promote and protect the rights of migrants in the region have been signed.

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<sup>1</sup> Published in *Gaceta Oficial* No. 5908 of the Bolivarian Republic of Venezuela, special edition, of 19 February 2009.

5. In addition, by Decision No. 8 of 2012, the Council of Heads of State and Government of the Union of South American Nations decided to initiate the process of creating South American citizenship, with a focus on the migration aspect.

## Replies to the issues raised in paragraph 2

6. The Identification, Migration and Foreign Nationals Service of the Ministry of People's Power for Internal Affairs, Justice and Peace is the body responsible for intergovernmental coordination of the implementation of the Convention and compliance with the obligations arising thereunder. The Service coordinates with other bodies that together carry out the measures necessary for the protection of migrant workers.

7. The functions of the National Migration Commission are to review the body of laws relating to migration policy and propose to the executive branch the amendments and measures needed to update and modernize these laws; to carry out the studies needed to identify the best methods for achieving a more effective and efficient application of the provisions of the Foreign Nationals and Migration Act and the regulations thereto; to prepare reports and issue opinions on migration laws and policies; to make the relevant recommendations for the executive branch to be able to enact the necessary measures in the field; and to carry out all other functions assigned to it by the executive branch.

8. The mission of the Identification, Migration and Foreign Nationals Service is to increase the speed and functionality of citizen identification processes through the use of technology, so that the right to an identity and legal safeguards can be enjoyed in a timely manner and it can carry out its duties as the migration authority expeditiously. Its mission also encompasses the effective monitoring of foreign nationals present in the country, in accordance with the policies on identification, migration and foreign nationals issued by the Ministry of People's Power competent in the area.

9. Activities related to the oversight of migrant workers are carried out by the Labour Migration Directorate of the Ministry of People's Power for the Social Process of Labour. The Consular Relations Office of the Ministry of People's Power for Foreign Affairs is responsible for providing support and advice to Venezuelans outside Venezuela.

## Replies to the issues raised in paragraph 3

10. Since at least 2014, the Bolivarian Republic of Venezuela has been the object of multifarious aggression by the Government of the United States of America, which is having a negative impact on the enjoyment of human rights by the Venezuelan population.

11. This aggression includes the adoption of unilateral coercive measures, whose impact has been documented by the Human Rights Council,<sup>2</sup> the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights,<sup>3</sup> the Independent Expert on the promotion of a democratic and equitable international order<sup>4</sup> and the United Nations High Commissioner for Human Rights.<sup>5</sup>

12. These unlawful and arbitrary measures have reduced the State's ability to obtain the financial resources, goods and services necessary to cover and meet in full the primary needs of its inhabitants, including food, medicine and essential public services.

<sup>2</sup> Resolution A/HRC/RES/42/4 of 3 October 2019.

<sup>3</sup> Report A/HRC/42/46 of 5 July 2019, submitted at the forty-second session of the Human Rights Council, para. 8.

<sup>4</sup> Report A/HRC/39/47/Add.1 of 3 August 2018, on the visit to Venezuela, submitted at the thirty-ninth session of the Human Rights Council.

<sup>5</sup> Statement by the United Nations High Commissioner for Human Rights, Michelle Bachelet, on 21 June 2019 regarding her visit to the Bolivarian Republic of Venezuela: "I am concerned that the sanctions imposed this year by the United States on oil exports and gold trading are exacerbating and aggravating the pre-existing economic crisis." Oral update on the human rights situation in Venezuela given by the High Commissioner on 9 September 2019 at the forty-second session of the Human Rights Council: "On 8 August I expressed my concern regarding the potentially severe impact on human rights of the new sanctions imposed by the Government of the United States of America."

13. As at May 2019, the international financial system was unlawfully withholding US\$ 5,470,030,645.29 belonging to the Bolivarian Republic of Venezuela. In addition, the Bolivarian Republic of Venezuela has been stripped of foreign assets worth more than \$30 billion.

14. The unilateral coercive measures adopted by the Government of the United States of America have induced an unprecedented phenomenon of outward migration from a country that has traditionally experienced mass immigration. These circumstances constitute the crime of deportation or forced displacement set out in article 7 of the Rome Statute of the International Criminal Court.

15. The State is in the process of adapting its institutions to respond to this flow of people and to assemble disaggregated qualitative and quantitative data on the matter.

#### **Replies to the issues raised in paragraph 4**

16. The State is implementing measures to support and protect the rights of Venezuelans who migrated from the country as a result of the unilateral coercive measures adopted by the Government of the United States of America. Venezuela has questioned the figures on Venezuelan migrants released by international organizations such as the International Organization for Migration and the Office of the United Nations High Commissioner for Refugees (UNHCR) and considers them to have been inflated by the receiving countries for political purposes.

17. Through the Ministry of People's Power for Foreign Affairs, as the central authority for international agreements related to the protection of children and adolescents, the State is committed to the international protection of migrant children and is increasing its technical cooperation with the United Nations Children's Fund (UNICEF) in this area.

18. The National Working Group for the Protection of Child and Adolescent Migrants was set up to improve coordination among national and regional government bodies and to address the situations facing children whose father or mother has migrated, with a special focus on cases that require the cooperation of other States in the region. The Working Group receives guidance from UNICEF on how to handle situations involving, for example, restrictions on the return of children and adolescents to the country, entry in birth registers and statelessness.

19. The Working Group acts whenever it is notified that a child or adolescent is in a situation of vulnerability. The necessary contact is made with the relevant consulates in order to ensure the comprehensive protection of the child or adolescent and to facilitate family reunification. This mechanism is coordinated by the central Government through the Consular Relations Office of the Ministry of People's Power for Foreign Affairs, with the support of the Autonomous Institute and National Council for Children's and Adolescents' Rights. Once a case has come to light, an analysis is undertaken and all the necessary mechanisms are set in motion to repatriate to the country all unaccompanied migrant children and adolescents in situations of vulnerability, thereby contributing to the safeguarding of their human rights.

20. In such cases, the entire child and adolescent protection system plays a role in locating the father, mother, representative or any other relative or person with whom the child or adolescent has an emotional bond. A home visit report is prepared where the family's ability to take on the responsibility of raising the child, children, adolescent or adolescents, as the case may be, is assessed.

21. The report is then sent to the consulate, institute or entity of the country where the child or adolescent is located. Once the institution of this country formally delivers the child or adolescent to the Venezuelan authorities, he or she is brought to the territory of the Bolivarian Republic of Venezuela, accompanied by officials designated by the State for this purpose.

22. If the family of origin or extended family cannot be located, the necessary steps are taken to bring the child or adolescent to a care institution run by the Autonomous Institute and National Council for Children's and Adolescents' Rights, once it has been confirmed that a place is available for him or her, where the protection measure ordered by the Protection Council will be carried out.

23. The following table shows the number of repatriation cases received and handled by the Autonomous Institute and National Council for Children's and Adolescents' Rights.

Table 1

**Repatriation cases received and handled by the Autonomous Institute and National Council for Children's and Adolescents' Rights**

<i>Year</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>
2012	0	1	1
2013	6	1	7
2014	4	3	7
2015	6	8	14
2016	8	8	16
2017	26	24	50
2018	46	32	78
2019	2	6	8
<b>Total</b>	<b>98</b>	<b>83</b>	<b>181</b>

### Replies to the issues raised in paragraph 5

24. As the national human rights institution, the Ombudsman's Office has a constitutional mandate to promote, defend and monitor the rights and safeguards established in the Constitution and international human rights treaties. Migrant workers and members of their families can turn to the Office for legal guidance and protection of their human rights. In addition, the Office provides training through classes, workshops, forums and diploma courses in different areas, including, in particular, the subject of social rights.

25. In fulfilling its goals and carrying out its functions, the Ombudsman's Office favours oral proceedings and acts promptly, quickly, without excessive formalities and *ex officio*. It provides its services free of charge and in an accessible manner. The institution receives and makes a record of all reports, complaints and petitions regarding alleged human rights violations and irregularities in the provision of public services.

26. Reports can be made to the Ombudsman's Office in person at any of its 33 state and 3 municipal sub-offices throughout the country. The Office also has a free telephone hotline (08000-Pueblo or 08000-783256) for receiving reports and providing guidance.

27. As part of the civil branch of government, the Ombudsman's Office is independent and operationally, financially and administratively autonomous, as established in article 273 of the Constitution. In addition, article 5 of the Act on the Ombudsman's Office<sup>6</sup> reiterates that the Office, as a component of the civil branch, is independent from the other branches of government and has organizational, operational, financial and administrative autonomy.

28. The national human rights institution promotes continuous learning and training in the different areas of human rights for its staff. As a result, the staff is able to meet the demands involved in handling requests, complaints and petitions regarding human rights violations or questions about human rights. In addition, the Ombudsman's Office has 33 sub-offices throughout the country, with staff that handle both administrative and operational matters. Recently, an office for a special ombudsman for trafficking in persons and people smuggling was created, and the relaunch of the 2019–2020 National Plan for Training on Trafficking in Persons was announced.

29. The Ombudsman's Office has been a member of the Ibero-American Federation of Ombudsmen since 2000 and has been actively involved since this time; it has served on the Steering Committee, was a member of the Governing Council in 2001, and has been a participant in the Federation's Network on Migrants and Trafficking in Persons, making substantial contributions to the work done through its four thematic networks, namely, the Communications Network, the Network on Migrants and Trafficking in Persons, the Network

<sup>6</sup> Published in *Gaceta Oficial* No. 37995 of 5 August 2004.

of Offices for the Protection of Women and the Network on Children and Adolescents. In 2017, the Ombudsman's Office contributed to the Federation's annual report on the issues of migration and human mobility.

30. As the national human rights institution, the Ombudsman's Office has been addressing the situation of migrant workers in coordination with the United Nations agencies that have provided their support, in particular UNICEF and UNHCR. In addition, it has set up standing lines of communication with the consular services of the Ministry of People's Power for Foreign Affairs in order to help provide assistance to Venezuelans abroad and foreign citizens in Venezuela, including migrant workers.

### **Replies to the issues raised in paragraph 6**

31. The State promotes and publicizes the human rights addressed in various international treaties, including the Convention, through the various training schools of public bodies and entities, including the Supreme Court's National School of the Judiciary, the National Human Rights School of the Ombudsman's Office, the National School of Prosecutors of the Public Prosecution Service and the National School of the Public Defence Service.

### **Replies to the issues raised in paragraph 7**

32. The Constitution provides that public and private social media outlets should contribute to citizens' development and that the State should ensure that public radio and television services and library and computer networks allow universal access to information. One of the objectives set out in the Act on Social Responsibility in Radio, Television and Electronic Media<sup>7</sup> is to promote the effective exercise of and respect for human rights.

33. Through the application of these provisions, social media outlets are now used as tools by various State institutions to disseminate information on the work they carry out in application of the international human rights treaties ratified by the country and to publicize the rights recognized in these treaties.

### **Replies to the issues raised in paragraph 8**

34. The Bolivarian Republic of Venezuela has adopted a model of participatory, people-driven democracy that recognizes the right of all persons to participate actively in all public affairs, including in the formulation, implementation and assessment of government policies on the matters that concern them.

35. In accordance with the principles set out in the Constitution, the State involves social movements and civil society organizations in the actions it takes to implement the provisions of the Convention.

36. For the present report, the State held consultations with civil society and social movements and organizations that have a history of working to achieve a more just and egalitarian society and to end discrimination against migrant workers. During these consultations, information was provided on progress and challenges in the field and the methodology and time frame for drafting supplementary reports. The civil society organizations participating also shared their views on the progress made and the challenges and difficulties facing the State in this area and offered assistance in the preparation of these replies to the list of issues.

### **Replies to the issues raised in paragraph 9**

37. Domestic courts apply the Convention when adopting their decisions and were doing so even before the date of the State's ratification. By way of example, the 9 August 2016 decision of the Second Superior Labour Court of Anzoátegui State Judicial District indicated

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<sup>7</sup> Published in *Gaceta Oficial* No. 39610 of 7 February 2011.

that the fact that an individual was a foreign national, even one present in the country in an irregular situation, was not an impediment to the exercise of his or her social rights.

38. Migrant workers and members of their families may avail themselves of the judicial protection mechanisms provided for in the country's domestic legal system to protect their rights, regardless of whether their migration status is regular or irregular. Under article 256 of the Constitution, all individuals are entitled to approach the bodies involved in the administration of justice in order to assert their rights and interests, including those of a collective or common nature, to have these rights effectively protected, and to obtain a prompt decision.

39. In addition, migrant workers and members of their families have access to free legal assistance and advice from the Public Defence Service in more than 15 branches of law, including employment law, child and adolescent protection, civil law, commercial law and traffic laws.

40. The Foreign Nationals and Migration Act<sup>8</sup> expressly recognizes the right of foreign nationals to effective judicial protection with respect to all decisions that affect or involve them owing to their status as foreign nationals.

### **Replies to the issues raised in paragraph 10**

41. Article 21 of the Constitution establishes the right to equality and non-discrimination and provides that no discrimination on grounds of race, sex, belief or social status is permitted, nor any other form of discrimination that, in general, has as its aim or effect the denial or impairment of the recognition, enjoyment or exercise, in conditions of equality, of the rights and freedoms of any individual. The wording of the article encompasses all prohibited grounds of discrimination specified in the Convention.

42. Article 87 of the Constitution recognizes the right and duty to work of each person and, at the same time, establishes the State's obligation to take the necessary measures to ensure that each person can obtain productive employment that allows him or her to lead a decent and dignified life and to guarantee him or her the full exercise of this right.

43. In addition, article 89 of the Constitution describes work as a social activity that deserves the State's full protection and requires that the necessary steps are taken to improve material, psychological and intellectual conditions for workers.

44. The promotion of the right to non-discrimination at work is a guiding principle of the Labour and Workers Act (art. 18.7).<sup>9</sup> In addition, article 21 of the Act prohibits any distinction, exclusion, preference or restriction in access to work or conditions of work on the basis of race, sex, age, marital status, unionization, religion, political opinion, nationality, sexual orientation, disability or social origin.

45. The Act guarantees equality and equity between women and men in the exercise of the right to work. Under the Act, employers must apply criteria of equality and equity in hiring, training, promotion and job security, professional development and pay, and are under an obligation to promote the equal participation of women and men in the management of the social process of labour (art. 20).

46. The Act establishes rules that guarantee the pay and working conditions of Venezuelans and foreign nationals under equal conditions (arts. 3 and 109). In addition, the illegal and clandestine employment of migrant workers is punishable under articles 52 to 59 of the Foreign Nationals and Migration Act.

47. The Foreign Nationals and Migration Act provides that foreign nationals present in the Republic have the same rights as Venezuelan nationals, subject only to the limitations set under the Constitution and the law.

<sup>8</sup> Published in *Gaceta Oficial* No. 37944 of 24 March 2004.

<sup>9</sup> Published in *Gaceta Oficial* No. 6076, special edition, of 7 May 2012.

48. A State plan for the regularization of migrants has been in place since 2004, in accordance with the provisions of Decree No. 2823.<sup>10</sup> The plan grants all foreign nationals who meet the requirements the possibility of applying for Venezuelan residency or nationality, as the case may be.

49. In January 2017, the President of the Republic issued the Basic Standards of Conduct for Public Officials in the Field of Human Rights.<sup>11</sup> Under article 3.2 of the Decree, State officials are required to treat individuals in conditions of true and effective equality. Consequently, they must refrain from engaging in any type of discriminatory act or conduct based on ethnic origin, religion, social position, gender, sexual orientation, gender identity, gender expression, language, political opinion, nationality or origin, age, economic position, disability, health status or any other personal, legal or social circumstance which has the aim or effect of denying or impairing the recognition, enjoyment or exercise of human rights.

### **Replies to the issues raised in paragraph 11**

50. Article 16 of the Foreign Nationals and Migration Act requires all persons who enter the Bolivarian Republic of Venezuela because of an employment contract to obtain a work permit. The Act sets out exceptions where such a permit is not required.

51. Similarly, under article 24 of the Act, employers must ask foreign workers to present their identification documents and must notify the National Foreign Nationals Registry of the terms and conditions of the employment relationship in writing.

52. To combat the exploitation of migrant workers in both regular and irregular situations, the Ministry of People's Power for the Social Process of Labour guides and advises foreign workers on the formalities and procedures related to the work permit requirement and the exceptions thereto. These efforts are undertaken by means of inter-institutional interaction and coordination between the domestic bodies competent in migration, foreign and domestic policy and defence and the entities of the civil branch of government.

53. For purposes of checking and monitoring workplaces hiring skilled foreign staff that are authorized by the Labour Migration Directorate, the workplaces and contracting firms are subject to oversight. At certain times, work permits are issued under temporary exceptions to the percentage of foreign workers permitted to be employed by the applicant public, private and mixed entities. In these cases, which occur largely in the petroleum sector, the percentage of foreign migrant workers permitted to be hired is increased by 10 per cent.

54. Inter-institutional cooperation between the Ministry of People's Power for the Social Process of Labour and the Ministry of People's Power for Foreign Affairs has been strengthened through the development of a module in the consular management system for work permits for foreign workers that is designed to facilitate the issuance of temporary work visas by linking Venezuelan consulates abroad, the Identification, Migration and Foreign Nationals Service and the Labour Migration Directorate.

55. The Ministry of People's Power for the Social Process of Labour and the bodies under its authority, which include the Venezuelan Social Security Institute and the National Institute for Occupational Risk Prevention, Health and Safety, are in charge of the Labour Inspection and Social Security System, which checks and verifies the working conditions and social security situation of all workers, in both urban and rural areas. In rural areas, these checks are carried out through the Integrated Programme for Agrarian Inspection.

56. Under this Programme, interdisciplinary inspections are carried out to verify compliance with in-force laws on production and working conditions, social security, occupational health and safety, labour migration, and the promotion of labour rights. These efforts are aimed at verifying whether workplaces are in compliance with the law and at providing advice and assistance to workers in the agricultural, poultry, livestock, forestry, aquaculture, small-scale fishing and agro-industrial sectors.

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<sup>10</sup> Enacting the Regulations for the Regularization and Naturalization of Foreign Nationals Present in the National Territory. Published in *Gaceta Oficial* No. 37871 of 3 February 2004.

<sup>11</sup> Published in *Gaceta Oficial* No. 41069 of 6 January 2017.



57. By way of example, in May 2019, 202 agricultural production units in the state of Merida were inspected, with a record made of 737 workers, of whom 4 were foreign nationals. This inspection revealed no cases of labour exploitation, domestic servitude, forced labour or commercial sexual exploitation.

58. With regard to efforts to prevent and respond to domestic servitude, forced labour and commercial sexual exploitation, the State has adopted a broader view of gender-based violence that includes sexual transgressions, which are seen as attacks on the dignity, physical integrity and sexual self-determination of women. This category of offences includes the crimes of forced prostitution and sexual slavery, which are also detrimental to the right of sexual self-determination.

59. The State has created separate courts to address violence against women. These cover the entire country and include specialized trial and appellate courts, which together make up the National Court System for the Comprehensive Protection of Gender Equality. The State therefore has a specialized institutional structure for processing and hearing cases involving violence against women. There are 91 courts with jurisdiction over offences involving violence against women; 126 judges serve on these courts and they cover 16 states. There are also five courts of appeal for offences involving violence against women.

60. Within the Public Prosecution Service, there is a Directorate General for the Protection of the Family and Women, which encompasses the Directorate for the Defence of Women, 124 offices nationwide specializing in the defence of women and 1 office specializing in femicide and sex crimes.

61. The Ombudsman's Office has a sub-office for women's issues.

### **Replies to the issues raised in paragraph 12**

62. In Venezuela, human rights treaties, covenants and conventions that have been signed and ratified have constitutional status and take precedence over domestic law insofar as they contain provisions on the enjoyment and exercise of human rights which are more favourable than those established under the Constitution and the laws of the Republic and are immediately and directly applicable by the courts and other public bodies (Constitution, art. 23).

63. In the light of the article cited, the process of legislative alignment begins, *ipso iure*, from the moment an international human rights instrument is ratified by the State. The provisions of the treaty take precedence over domestic law and are immediately and directly applicable by government bodies.

### **Replies to the issues raised in paragraph 13**

64. The State safeguards the rights of migrant children staying in the country, regardless of whether their status is regular or irregular. The Child and Adolescent Protection Act<sup>12</sup> protects "all children and adolescents present in the country" (art. 1).

65. Furthermore, article 3 of the Act establishes that its provisions apply equally to all children and adolescents, without any discrimination on grounds of race, colour, sex, age, language, thought, conscience, religion, belief, culture, political or other opinion, economic status, national, ethnic or social origin, disability, sickness, birth or any other characteristic of a child or adolescent or of his or her parents, representatives, guardians or relatives.

66. The authorities that comprise the National Child and Adolescent Protection System ensure that the rights of migrant children, including those who are unaccompanied or in transit through the country, are respected. If their human rights are threatened or violated in any way, the applicable steps and measures will be taken for their protection in accordance with the law.

67. The issuance of identity documents to safeguard the rights of children is one of the matters being addressed by the National Working Group for the Protection of Child and

<sup>12</sup> Published in *Gaceta Oficial* No. 6185 of 8 June 2015.

Adolescent Migrants, a forum that facilitates coordination between national and regional government bodies working to respond to the situations facing children.

### **Replies to the issues raised in paragraph 14**

68. In Venezuela, there is specific legislation to ensure that migrant children are protected from the worst forms of child labour. The Child and Adolescent Protection Act establishes a set of rights that protect children from economic exploitation and from the performance of any activity that may hinder their education or endanger or harm their health or overall development.

69. The Act also sets out various penalties for the infringement of children's labour rights, including penalties for:

(a) Accepting into employment or profiting from the labour of a child under 12 years of age (art. 238);

(b) Accepting into employment or profiting from the labour of an adolescent between 12 and 14 years of age without the required authorization (art. 239);

(c) Accepting an adolescent into employment without the necessary entry in the Adolescent Workers' Register (art. 240);

(d) Using threats to make a child or adolescent work (art. 255);

(e) Accepting into employment or profiting from the labour of a child aged 8 years or under (art. 257).

70. The bodies comprising the National Child and Adolescent Protection System, together with the Ministry of People's Power for the Social Process of Labour, ensure compliance with the law with respect to the prevention and punishment of the worst forms of child labour. The Child and Adolescent Protection Act establishes penalties for anyone who obstructs inspection and oversight activities carried out by the competent officials in relation to work done by children and adolescents (art. 243).

### **Replies to the issues raised in paragraph 15**

71. In Venezuela, unlawful acts carried out by any public official, including an official of the Identification, Migration and Foreign Nationals Service, are punishable under the Anti-Corruption Decree, which has the status, effect and force of a law.

72. From 2017 to mid-2019, officials from the Identification, Migration and Foreign Nationals Service were suspects in 85 cases, in which 196 individuals were investigated, 87 were charged and 34 were convicted.

73. A comprehensive approach, encompassing both legal and psychosocial elements, is taken when providing assistance to victims of trafficking in persons. To this end, the Public Prosecution Service has rolled out a programme of integrated services that applies a principle of zero discrimination and is built on the factors of vulnerability and social risk, which are established on the basis of the type of offence and the victim's relationship to the aggressor, ability to access means of support and assistance, and psychological, economic and social profile. With these parameters and in coordination with other bodies working on protection issues, support mechanisms have been created that allow for action to be taken based on assessments of the degree of assistance and protection required by the victims. This is intended to recast the victims in an active role with respect to the traumatic episode they have suffered and their social situation so that they can participate effectively in the trial.

74. The Organized Crime and the Financing of Terrorism Act<sup>13</sup> defines types of offences such as trafficking in persons and smuggling of migrants. With respect to the protection of victims, the State has signed an agreement with UNHCR to increase protection at the border for victims of trafficking in persons and smuggling of migrants.

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<sup>13</sup> Published in *Gaceta Oficial* No. 39912 of 30 April 2012.

75. In Venezuela, the offence of illegal immigration and people smuggling is defined in Chapter III of the Organized Crime and the Financing of Terrorism Act. Under article 42 of the Act, any person who promotes, induces, encourages, compels, facilitates, finances, collaborates through act or omission in or in any other way participates in the entry or departure of foreign nationals or the smuggling of people from the territory of the Republic, without satisfying the legal requirements, in order to reap economic gain or obtain any other benefit for himself or herself or a third party will be liable to imprisonment for a term of 8 to 12 years.

76. The Public Prosecution Service is responsible for directing investigations into potentially criminal acts and has offices that specialize in various matters. In addition, it has various mechanisms for handling reports made by victims, including a free telephone hotline (0-800FISCA-00) through which it provides the appropriate counselling and, if necessary, can initiate an investigation.

77. In August 2018, the State began implementing the “Return to the Homeland” (Vuelta a la Patria) Plan, a measure intended to facilitate the safe and expeditious return, without charge, of Venezuelan nationals who have gone to other countries and found themselves in situations of socioeconomic vulnerability. The Plan provides assistance to persons who have freely expressed their desire and need to return to the country in order to rejoin the personal, family and social environments that they had been a part of prior to migrating, have their quality of life restored and receive treatment in the national public health system.

78. The “Return to the Homeland” Plan is the State’s response to the large and growing number of requests for repatriation submitted to its diplomatic missions since mid-2017, mainly by persons in other countries who do not have the economic means to return. These requests usually demonstrate great need at the personal and family levels, but, above all, they reflect the disconnect between the hopes that motivated the persons to migrate and the reality they have found. In selecting whom to repatriate, priority is given to persons who have been victims of serious human rights violations, including xenophobia, discrimination, economic and labour exploitation, denial of access to health services, people smuggling and trafficking in persons.

79. Under the Plan, the State, with the support of the State-owned air transport company CONVIASA, bears all the costs associated with the land or air transport to the Republic. By 12 February 2020, there had been 97 flights for the voluntary return of Venezuelan migrants.

80. By February 2020, a total of 17,785 Venezuelan migrants had voluntarily returned to the country under the Plan.

Table 2

**Migrants repatriated under the “Return to the Homeland” Plan, disaggregated by country of departure, as at 20 February 2020**

<i>Country</i>	<i>Returnees</i>
Brazil	7 285
Peru	4 491
Ecuador	3 247
Colombia	764
Dominican Republic	366
Argentina	434
Chile	1 162
Panama	35
Uruguay	1
<b>Total</b>	<b>17 785</b>

81. Most of the people who have returned to the country under the “Return to the Homeland” Plan have done so to rejoin their families or because of the lack of decent employment in the country of destination.

Table 3  
**Migrants repatriated under the “Return to the Homeland” Plan, disaggregated by reason of return, as at 20 February 2020**

<i>Reason</i>	<i>Per cent</i>
Family reunification	24
Lack of decent employment	22
Health	12
Economic scarcity	11
Xenophobia	9
Decent housing	8
Identification with the homeland	6
Other	8

82. The execution of the Plan has been affected by the imposition of unilateral coercive measures against the company CONVIASA. On 7 February 2020, the United States Department of the Treasury placed the company on the Specially Designated Nationals and Blocked Persons List of the Office of Foreign Assets Control, in application of Executive Order No. 13884, issued on 5 August 2019 by the President of the United States of America.

83. Under the measures mentioned above, companies and individuals worldwide are prohibited from engaging in commercial transactions with and providing services to CONVIASA, and this is hindering the Plan’s execution. For example, it is impossible to purchase fuel or have the aircraft serviced in airports in the countries where the Venezuelan migrants covered by the Plan are located.

### **Replies to the issues raised in paragraph 16**

84. In the Bolivarian Republic of Venezuela, it is not an offence for a person to have an irregular migration status. However, anyone staying in the country without the appropriate visa may be subject to deportation under article 38 of the Foreign Nationals and Migration Act.

85. So as to safeguard due process and the right to a defence, the deportation may be carried out only after the administrative proceedings provided for in article 41 of the Act have been conducted and decided upon.

86. At the outset of the proceedings, the administrative authority must expressly set out the facts giving rise to them. It must also indicate that the foreign national has the right to access the administrative file and to take the time that he or she deems necessary to examine the file. In this process, he or she may be assisted by a lawyer of his or her choosing.

87. Within three days of the notification that proceedings have been initiated, the foreign national must appear before the competent immigration authority for an oral hearing. At this hearing, the foreign national can mount a defence, use evidence that he or she deems pertinent and be assisted by a lawyer of his or her choosing.

88. After the oral hearing, the immigration authority must take the appropriate decision. The decision must be set out in writing, in a duly reasoned administrative order containing the elements required under the law governing administrative proceedings.

89. Within five working days of the migration authority’s decision, the individual concerned may appeal the decision to a higher administrative level and take the matter before the minister responsible for matters involving foreign nationals and migration. The individual may also file the appeals provided for in the administrative court system. A deportation order is carried out only when the remedies provided for in the legal system have been exhausted.

90. Foreign nationals who are subject to a deportation order and have acquired property legitimately are granted a period of one year from the date on which the order becomes final to transport their property, which they may do either themselves or through a representative or agent.

91. Article 8 of the Foreign Nationals and Migration Act sets out the circumstances under which foreign nationals may be found inadmissible. In these cases, it is the immigration authority at the port or airport that issues the relevant notification and prevents the inadmissible foreign national from entering the country.

92. In the Bolivarian Republic of Venezuela, all foreign nationals are fully entitled to effective judicial protection with respect to all decisions that affect or involve them as foreign nationals. Due process safeguards, including the rights to challenge evidence and to be heard and the requirement that rulings be reasoned, must be observed in proceedings on matters concerning foreign nationals. By law, administrative decisions and rulings adopted in relation to foreign nationals are subject to appeal.

93. Article 78 of the Constitution, in conjunction with articles 10 and 13 of the Child and Adolescent Protection Act, provides that children and adolescents are full subjects of rights and therefore enjoy all the rights and safeguards of the legal system, especially those set out in the Convention on the Rights of the Child. Consequently, all children and adolescents are able to exercise their rights, enjoy these safeguards and carry out their duties themselves, in a progressive manner consistent with their developing capabilities and with appropriate guidance from a parent, representative or other responsible adult, so as to foster their overall development and help them to become active citizens.

94. Similarly, article 88 of the Child and Adolescent Protection Act states that all children and adolescents have the right to a defence at every stage and level of any administrative or judicial proceedings. They also have the right to due process under the terms set out in the Act and as provided for in the legal system.

95. The National System for the Comprehensive Protection of Children and Adolescents is responsible for protecting and assisting unaccompanied migrant children, safeguarding their due process rights and ensuring their right to a guardian, all of which it does using the means available under the domestic legal system and the institutional framework.

### **Replies to the issues raised in paragraph 17**

96. Article 44 of the Constitution provides that no person may be deprived of liberty except pursuant to a court order, unless he or she is caught in the process of carrying out an act defined as an offence under domestic law. In Venezuela, it is not an offence for a person to have an irregular migration status.

97. Article 46 of the Foreign Nationals and Migration Act contains a series of precautionary measures that may be applied to persons subject to deportation proceedings and/or facing expulsion from the country. These measures require the persons concerned to:

- (a) Report regularly to the authority competent in matters concerning foreign nationals and migration;
- (b) Refrain from leaving the area where they live without authorization;
- (c) Post sufficient bond, with their economic means being taken into account;
- (d) Reside in a certain area for the duration of the administrative proceedings;
- (e) Submit to any other measure deemed necessary to ensure compliance with any decision taken by the migration authority, provided that such measure does not involve deprivation of liberty.

98. In the Bolivarian Republic of Venezuela, there are no detention centres for migrants, as an irregular migration status is not classified as an offence in the country.

### **Replies to the issues raised in paragraph 18**

99. Between 2017 and April 2019, a total of 485 people were expelled or deported from the Bolivarian Republic of Venezuela.

Table 4  
**Persons expelled or deported 2017–2019**

<i>Measure</i>	<i>2017</i>	<i>2018</i>	<i>2019 (April)</i>
Expulsion	130	104	13
Deportation	140	76	22
<b>Total</b>	<b>270</b>	<b>180</b>	<b>35</b>

100. In the Bolivarian Republic of Venezuela, an individual's expulsion from the country may be ordered only after the administrative proceedings provided for in article 41 of the Foreign Nationals and Migration Act have been completed. Where several individuals are involved, each case must be decided and evaluated separately, in accordance with the provisions of the Convention.

101. Under article 39 of the Act, a foreign national may be expelled from the territory of the Republic on the following grounds:

(a) Making fraudulent use of the law to obtain or renew a visa authorizing his or her entry or stay in the territory of the Republic;

(b) Working in the production or distribution of narcotic or psychotropic substances, holding such substances or engaging in related activities;

(c) While legally present in the territory of the Republic, encouraging the legal or illegal entry of other foreign nationals with false promises of employment contracts or promises of visas or work permits;

(d) Compromising national security and defence, breaching the peace or committing offences that violate human rights, international humanitarian law or the terms of the international instruments to which the Republic is a party.

102. Both administrative appeals, heard by the minister competent in matters of migration and foreign nationals, and judicial appeals, heard by administrative courts, are available against a decision ordering an individual's expulsion from the country. Under article 44 of the Foreign Nationals and Migration Act, an expulsion order may be carried out only after the remedies provided for in the legal system have been exhausted.

### **Replies to the issues raised in paragraph 19**

103. In 2015, Venezuela experienced a series of attacks aimed at undermining the peace and the rights of the Venezuelan people. In this context, various irregularities were detected at the border with Colombia, with State institutions needing to take action to protect and safeguard human rights.

104. The incidents referred to occurred before the ratification of the Convention.

### **Replies to the issues raised in paragraph 20**

105. The consulates and diplomatic missions of the Bolivarian Republic of Venezuela provide assistance and protection to Venezuelan migrant workers and members of their families abroad, including those whose status is irregular.

106. Through the consular sections of its embassies and its consulates, the State provides information to Venezuelans who have migrated abroad and advises them on the consular procedures for regularizing their immigration status in the receiving State, civil registration formalities (for births, marriages, deaths and the recognition and renunciation of nationality), documents requiring the involvement of a notary (such as powers of attorney, sworn statements and single status certificates), travel authorizations for children and adolescents and other formalities.

107. The embassies and consulates of the Bolivarian Republic of Venezuela also provide consular assistance to Venezuelan nationals who have been deprived of their liberty abroad, in order to safeguard their human rights and ensure that due process is observed within the

framework of the Constitution, the Vienna Convention on Consular Relations and other multilateral and bilateral agreements signed by the Republic.

108. The Ministry of People's Power for Foreign Affairs brings the requests and reports of the diplomatic missions and consular offices regarding Venezuelan victims of trafficking in persons before the competent authority. There were a total of 11 such cases between March 2017 and June 2019. In five cases, the victims were effectively repatriated to Venezuela from Panama, Italy, Equatorial Guinea and Brazil.

109. The Ministry has developed a multidimensional data-collection tool to promote joint decision-making by agencies and bodies of the central Government in their handling of suspected cases of trafficking in persons and people smuggling that are referred by the competent authority of the receiving State or are reported by Venezuelan citizens at a consular office.

110. In addition, guidelines on the steps to take if there is a suspected case of trafficking in persons or people smuggling have been drawn up for all Venezuelan missions abroad. Among other things, the guidelines require that the victim be advised of the importance of making a complaint to the competent authorities of the receiving State. The mission is also instructed to follow each reported case closely.

111. With the assistance of United Nations agencies, the State has run a training and education programme on the protection of migrant children and adolescents who are in transit, have been abandoned or are unaccompanied for officials of the Ministry's Consular Relations Office, the consular sections in Ecuador, Peru, Chile, Bolivia, Brazil and Argentina and the consulates in Guayaquil, Manaus and Boa Vista. The most important topics covered in the training sessions related to the trafficking in and smuggling of migrant children, the international and regional systems for the protection of children and adolescents, the national protection systems in the countries of the region and consular measures to promote the migration-related protection of children and adolescents.

### **Replies to the issues raised in paragraph 21**

112. In connection with the movements of Venezuelans, more training has been provided to consular staff abroad, with special attention being paid to issues such as trafficking in persons and people smuggling, through initiatives developed with support from UNICEF and the Ombudsman's Office that are designed to bolster the State's capacity to combat this major scourge.

113. Work is also under way on the preparation of a manual of regional and international best practices for the migration-related protection of children and adolescents and on the standardization of procedures relating to children and adolescents through the preparation of specialized protocols on assisting and protecting migrants. To this end, partnerships are being formed to provide videoconferencing equipment and the infrastructure needed to improve the assistance and follow-up provided in cases of international protection involving migrant children and adolescents.

### **Replies to the issues raised in paragraph 22**

114. Venezuela questions the figures on Venezuelan migrants released by international organizations such as the International Organization for Migration and UNHCR and considers them to have been inflated by the receiving countries for political purposes. The State is taking all the necessary measures to support and protect the rights of Venezuelans who migrated from the country as a result of the unilateral coercive measures adopted by the Government of the United States of America.

115. The unilateral coercive measures enacted against the country have complicated and hindered the efforts to protect Venezuelan migrant workers made by the various consular jurisdictions abroad. As a result of these measures, the Bolivarian Republic of Venezuela is prevented from using the international financial system to transfer the funds needed to pay staff and cover the operating expenses of its embassies and consulates in the vast majority of countries receiving Venezuelan migrants. In several countries, the bank accounts of the

Bolivarian Republic of Venezuela and of diplomatic and consular officials have been illegally closed or frozen.

### **Replies to the issues raised in paragraph 23**

116. The Bolivarian Republic of Venezuela has taken advantage of the technical assistance offered by the various agencies, funds and programmes of the United Nations to expand the knowledge of staff providing consular assistance to Venezuelans abroad on issues such as the human rights of migrant workers and members of their families. In particular, a training and education programme on the protection of migrant children and adolescents who are in transit, have been abandoned or are unaccompanied was run for officials of the Ministry's Consular Relations Office, the consular sections in Ecuador, Peru, Chile, Bolivia, Brazil and Argentina and the consulates in Guayaquil, Manaus and Boa Vista.

### **Replies to the issues raised in paragraph 24**

117. Under article 88 of the Constitution, the State must ensure equality and equity between men and women in their exercise of their right to work. In accordance with this article, the State recognizes work done in the home as an economic activity that creates value added, produces wealth and increases social welfare. In Venezuela, women homemakers have a right to social security under the law.

118. In order to monitor employment conditions, the Ministry of People's Power for the Social Process of Labour has an internal platform in each of the country's states and regions that allows it to provide effective and timely help and assistance to workers in their places of work and to establish the existence of any violations with respect to their working conditions and labour rights.

119. The Labour Inspectorates provide assistance, nationwide and free of charge, to workers who require it, offering counselling on work-related matters, providing relief and calculating employment benefits, both during and after the end of the employment relationship. Through their networks of lawyers, the Legal Aid Offices for Workers also provide help and assistance, nationwide and free of charge, to workers in need of legal assistance.

120. The Labour Migration Directorate of the Ministry of People's Power for the Social Process of Labour is the entity that receives applications for work permits and is responsible for processing their approval, by means of administrative decisions, with a view to ensuring that the social and labour rights of migrant workers are protected and safeguarded under the same conditions as those of domestic workers. The approval of the employment relationship is addressed in article 16 of the Foreign Nationals and Migration Act. Similarly, work permits are processed for foreign workers entering the country under cooperation and technical assistance agreements signed by the Republic in accordance with article 17.3 of the Act.

121. Under article 13 of the Act, foreign nationals present in the territory of the Republic have the same rights as Venezuelan nationals, subject only to the limitations established under the Constitution and by law.

### **Replies to the issues raised in paragraph 25**

122. An entire chapter of the Labour and Workers Act is devoted to the regulation of all matters related to domestic workers or homeworkers. It sets out the obligations and rights that workers have under their employment relationships with respect to salary, holidays, rest, leaves, working hours and the entire social security system.

123. Under article 216 of the Act, when the Ministry of People's Power for the Social Process of Labour considers that the performance of certain tasks under the home work system is detrimental to workers, it may, under special rulings, institute the measures it deems appropriate. In addition, when the home work stems from new platforms made possible by technological advances, the Ministry may issue one or more special regulations applicable to the corresponding employment relationships.



### **Replies to the issues raised in paragraph 26**

124. The Constitution recognizes the right to health of all persons present in the country, without discrimination of any kind. Consequently, all migrant workers and members of their families have access to public health services free of charge, regardless of their migration status.

125. In the Bolivarian Republic of Venezuela, the national public health system is governed by the principle that care should be free, universal and comprehensive and by the principles of equity, social integration and solidarity. Health is considered a fundamental social right and an obligation of the State, which ensures its enjoyment as part of the right to life.

126. Between 1998 and 2018, 21,199 new public health facilities were established in Venezuela, with the total number increasing from 5,346 in 1998 to 26,545 in 2018.

### **Replies to the issues raised in paragraph 27**

127. The Child and Adolescent Protection Act enshrines the right of every child to be registered in the civil register free of charge immediately after birth. This includes children born in Venezuela to foreign migrants.

128. The foreign embassies and consulates of the Bolivarian Republic of Venezuela complete the necessary procedures for registering children born abroad to Venezuelan migrants in the civil register, thereby ensuring that they retain their parents' nationality.

129. The Organic Act on the Civil Register<sup>14</sup> provides that any person born abroad whose father or mother is Venezuelan by birth and whose birth was not declared to the relevant diplomatic mission or consular office of the Bolivarian Republic of Venezuela may request inclusion in the civil register, subject to verification of the authenticity and accuracy of the person's foreign birth certificate.

130. The National Working Group for the Protection of Child and Adolescent Migrants, which is composed of representatives of UNICEF, central Government – through the Consular Relations Office of the Ministry of People's Power for Foreign Affairs – and the Autonomous Institute and National Council for Children's and Adolescents' Rights, among others, works to ensure that the children of Venezuelan migrant workers are registered, either immediately after birth or at a later date.

131. The Working Group takes action in cases involving children who may be in a situation of vulnerability and liaises with foreign consulates to ensure the comprehensive protection of the children and adolescents concerned.

### **Replies to the issues raised in paragraph 28**

132. In Venezuela, all persons have the right to a comprehensive, free, high-quality, continuing education, under equal conditions and with equal opportunities, subject only to the limitations arising from their aptitude, vocation and aspirations and regardless of their nationality or migration status. Education is a human right and a fundamental social duty.

### **Replies to the issues raised in paragraph 29**

133. There are various private service companies operating in the Bolivarian Republic of Venezuela that offer money transfer services for remittances sent to Venezuela by Venezuelans abroad. Foreign currencies are freely convertible within the country.

134. In 2019, as part of its Homeland Platform, the State launched the "Homeland Remittances" (Patria Remesa) service to allow Venezuelans living abroad to send money to Venezuela in cryptocurrencies and cryptoassets.

<sup>14</sup> Published in *Gaceta Oficial* No. 39.264 of 14 March 2010.

### Replies to the issues raised in paragraph 30

135. The website of the Ministry of People's Power for Foreign Affairs contains all the necessary information on immigration procedures, including the conditions for admission and stay in the territory and for the remunerated activities in which migrants may engage, as well as all applicable legislation.

136. The embassies and consulates of the Bolivarian Republic of Venezuela abroad provide guidance and advice to people planning to travel to Venezuela.

### Replies to the issues raised in paragraph 31

137. The human rights treaties, covenants and conventions signed and ratified by Venezuela have constitutional status and take precedence in domestic law, insofar as they contain provisions on the enjoyment and exercise of human rights which are more favourable than those established by the Constitution and the laws of the Republic and are immediately and directly applicable by the courts and other public bodies.

138. The process of legislative alignment begins, *ipso iure*, from the moment an international human rights instrument is ratified by the State. The rules of the treaty take precedence over domestic law and are immediately and directly applicable by government bodies.

139. The Constitution enshrines the right of all persons to participate freely in public affairs, either directly or through their elected representatives (art. 62). The people's participation in planning, carrying out and overseeing the management of public affairs is recognized as necessary in order for them to play the leading role that will guarantee their comprehensive individual and collective development.

140. The Organic Act on the Electoral Process<sup>15</sup> expressly protects the right to participate in elections of Venezuelans abroad. Venezuelans have the right to cast their vote abroad in accordance with the conditions established in the Act.

### Replies to the issues raised in paragraph 32

141. To improve the situation of frontier workers, a border mobility card has been introduced that allows Venezuelan and Colombian citizens who live in border areas to move between Colombia and Venezuela.

142. The purpose of the border mobility register is to facilitate mobility and ensure control and order at the border. The register facilitates entry and orderly, regular and safe mobility.

143. A frontier worker card has been introduced to facilitate the exercise of the right to work for migrant workers. The card, which may be issued either for agricultural or for industrial work, authorizes work on farms, cattle ranches and estates and in industries located along the border between Colombia and Venezuela.

### Replies to the issues raised in paragraph 33

144. The Venezuelan State has taken various measures and adopted various agreements to promote the regular, safe and orderly migration of Venezuelans. These include:

(a) The Simón Rodríguez Agreement on Social and Labour Integration, signed in Caracas on 26 October 1973, which regulates migration between Colombia and Venezuela;

(b) Decision No. 116, known as the Andean Labour Migration Instrument, which was replaced in 2003 with Decision No. 545;

(c) Agreements reached during the meetings of the social and labour bodies of the Southern Common Market (MERCOSUR) held during the *pro tempore* presidency of Venezuela, and in the MERCOSUR standing inter-institutional working group on migration.

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<sup>15</sup> Published in *Gaceta Oficial* No. 5.928, special edition, of 10 August 2009.

### **Replies to the issues raised in paragraph 34**

145. Migrant smuggling is a criminal offence in the Bolivarian Republic of Venezuela. Under article 56 of the Foreign Nationals and Migration Act, individuals and representatives of legal entities who, by act or omission, encourage or participate in the smuggling of persons in transit through or travelling to or from the territory of the Republic are liable to imprisonment for a term of 4 to 8 years.

### **Replies to the issues raised in paragraph 35**

146. The outflux of migrants from Venezuela in recent years is directly related to a series of unilateral coercive measures adopted primarily by the Government of the United States of America, at least since 2014.

147. These unilateral coercive measures have had a marked impact on the human rights of the Venezuelan population, including adverse consequences for children's rights, the right to food, the right to health, the right to education and the right to water.

148. The aggressiveness of these unilateral coercive measures has led to a drastic reduction in national revenues. Oil revenues fell from around \$42 billion in 2013 to around \$4 billion in 2018, and this situation has been compounded by the economic and financial blockade, which has severed external lines of financing and has brought about a near fivefold increase in the cost of imports owing to its effects on logistical operations and related trade restrictions.

149. Human rights institutions and United Nations bodies, including the Human Rights Council and its special procedures, have recognized the negative effects of these unilateral coercive measures on the civilian population of Venezuela. In July 2019, the United Nations High Commissioner for Human Rights told the Human Rights Council that "the effects of these sanctions appear to be affecting the State's ability to provide basic health services to the population".

150. The unilateral coercive measures, which are of an unprecedented scale, constitute a widespread and systematic attack against the civilian population. They fit the description set out in article 7 of the Rome Statute and therefore amount to crimes against humanity.

151. On 13 February 2020, the Bolivarian Republic of Venezuela, as a State party to the Rome Statute, submitted a referral to the Office of the Prosecutor of the International Criminal Court regarding the situation in its territory, in accordance with article 14 of the Statute, requesting that the Prosecutor initiate an investigation.

152. The Assistance Plan for Victims of the Economic War was launched in 2019 to provide assistance and protection to the groups most affected by the multifarious aggression to which Venezuela is being subjected.

### **Replies to the issues raised in paragraph 36**

153. The Venezuelan State has implemented policies and programmes to accommodate Venezuelan returnees, providing them with benefits and facilities for their reintegration into the country.

154. The "Return to the Homeland" Plan promotes the integration of Venezuelan returnees into the various social missions and programmes established by the Government to guarantee their enjoyment of human rights, including the rights to education, work and housing.

155. The State provides consular protection and assistance to Venezuelans who have been forcibly removed from countries of transit and destination and pays special attention to ensuring respect for their physical integrity.

### **Replies to the issues raised in paragraph 37**

156. The Office against Organized Crime and the Financing of Terrorism is the lead agency responsible for designing, planning, organizing, formulating and implementing public policies in the area of organized crime and terrorist financing. It raises awareness among and

provides guidance to communities and educational institutions at the national level, informing them about the risks and vulnerabilities associated with organized crime's role in trafficking in persons and smuggling of migrants.

157. The Office against Organized Crime and the Financing of Terrorism coordinates with other State bodies and engages in various activities, including running training programmes on preventing and monitoring the offences referred to in the Organized Crime and Financing of Terrorism Act for public officials in the judiciary, the Public Prosecution Service and supervisory bodies. The aim is to build their capacity to prevent trafficking in persons and migrant smuggling, detect potential victims early on, identify traffickers and smugglers, record information on trafficking and smuggling in a standardized manner, conduct adequate criminal investigations and distinguish between human trafficking and migrant smuggling.

158. The Constitution expressly prohibits human trafficking, which marks a significant step forward, and provides guidance in this area. Trafficking in persons and people smuggling are also criminalized under various legal instruments.

159. In Venezuela, the penalties for trafficking in persons are high, reaching up to 30 years' imprisonment when the victim is a child or an adolescent. Offenders are also required to pay compensation to their victims. The Organized Crime and Financing of Terrorism Act provides that trafficking in persons is punishable by imprisonment and expressly criminalizes forcing another person into begging or performing labour or services; debt bondage; irregular adoption; slavery and similar practices; the removal of organs; and all forms of sexual exploitation, including the prostitution of others or forced prostitution, pornography, sexual tourism and servile marriage.

160. In Judgment No. 1378 of the Constitutional Division, the Supreme Court of Justice declared that, in the interests of public order, judges specializing in offences involving violence against women will be appointed to hear all cases involving the offence of trafficking in persons, as defined in article 41 of the Organized Crime and Financing of Terrorism Act, when the victim of the offence is a woman or a child or adolescent of either sex. When the victim of trafficking is an adult male, a judge with competence in ordinary criminal matters is appointed to hear the case.

161. With regard to the protection of children and adolescents, various guidelines have been issued that are currently in force and are binding on all public bodies, including the guidelines on authorizations for children and adolescents to travel within the country or abroad (2002), the directives containing instructions on the process of identifying children and adolescents born in the Bolivarian Republic of Venezuela (2002) and the general directives on protecting children and adolescents against sexual abuse and commercial sexual exploitation (2003).

### **Replies to the issues raised in paragraph 38**

162. The National Plan against Trafficking in Persons 2016–2019 is currently under way and is being updated for the period 2020–2023.

163. The Act on the Protection of Victims, Witnesses and Other Parties to Judicial Proceedings<sup>16</sup> provides for comprehensive assistance to be afforded to victims. The Public Prosecution Service is responsible for its application.

164. In application of an interministerial framework cooperation agreement between the Ministry of People's Power for Women and Gender Equality and the Ministry of People's Power for Internal Affairs, Justice and Peace, an agreement was reached to establish an inter-agency commission composed of representatives of the National Office against Organized Crime and the Financing of Terrorism and the National Institute for Women to combat trafficking in women, children and adolescents. The commission is responsible for standardizing procedures for prevention, response and action in such cases. To this end, it has prepared a standardized protocol for efficient and effective care and established border command units, thus reducing the prevalence of trafficking and improving compliance with national and international standards in this area.

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<sup>16</sup> Published in *Gaceta Oficial* No. 38.536 of 4 October 2006.

165. Women's refuges provide shelter to women in danger and provide them with temporary protection and care in situations that present a risk to their lives. There are currently six refuges, in the states of Aragua, Monagas, Sucre, Cojedes, Trujillo and Portuguesa, which are staffed by multidisciplinary teams including psychologists, lawyers, educators and other professionals.

166. There are two programmes specifically for children and adolescents: the shelter programme for emergency situations in which a 30-day shelter referral order has been issued by a children's and adolescents' rights protection council; and the family placement programme for more permanent situations. The shelter programme has registered foster families and 47 care institutions, which provide emergency psychological and medical assistance and relocation and family reintegration services. A social evaluation of the situation of each child or adolescent is conducted at the time of admission.

### **Replies to the issues raised in paragraph 39**

167. To protect and uphold the rights of child, adolescent and women victims of violence, the State has established 67 specialized prosecutor's offices for the protection of children and adolescents nationwide. There are also 53 specialized prosecutor's offices for ordinary criminal law offences involving child and adolescents victims. In addition, there are 71 prosecutor's offices for the protection of women and 1 prosecutor's office specialized in offences involving the trafficking of women.

168. These prosecutor's offices are staffed by professionals trained in their respective areas of justice. They receive and investigate complaints and issue recommendations in respect thereof, in accordance with the Venezuelan legislative framework and the international treaties, conventions and agreements signed and ratified by Venezuela.

169. To strengthen the work of prosecutors in the area of the protection of women, in 2016, the Public Prosecution Service established the Comprehensive Assistance Service for Victims of Gender-based Violence, which receives and processes complaints in connection with offences of gender-based violence. Psychological care is also provided to victims by a multidisciplinary team.

170. The State established the Network against Organized Crime and the Financing of Terrorism to carry out prevention and monitoring activities to combat human trafficking and smuggling. The Network is active in all 24 states. Since 2018, its activities have included developing and implementing the Border Control Guide on Trafficking in Persons, which is used to train public officials posted to the main border control points and to provide them with tools to improve their mechanisms for identifying possible victims and providing assistance, and also their prevention and monitoring measures.

### **Replies to the issues raised in paragraph 40**

171. The Ministry of People's Power for the Interior, Justice and Peace has organized workshops for security officials, public prosecutors, judges and members of the child and adolescent protection councils to strengthen the criminal investigation of trafficking in persons. Between 2017 and the first half of 2019, 570 public officials in the justice system received training on trafficking in persons and migrant smuggling.

172. The Public Prosecution Service has been implementing the National Training Plan for Combatting Trafficking in Persons among its staff in order to ensure that comprehensive care is provided to all victims, to raise awareness of the situation of victims of trafficking in persons and to scale up efforts to promote and protect their rights. Between 2012 and the first half of 2019, 970 officials received training on trafficking in persons.

Table 5  
**Officials of the Public Prosecution Service having completed training on the issue of trafficking in persons**

<i>Year</i>	<i>Female</i>	<i>Male</i>	<i>Total</i>
2012	58	77	135
2013	-	-	685
2014	220	111	331
2015	123	58	181
2016	119	104	223
2017	54	39	93
2018	3	-	3
2019	2	2	4
<b>Total</b>	<b>579</b>	<b>391</b>	<b>970</b>

173. Initiatives have also been undertaken with various international organizations, including the International Organization for Migration, UNHCR and the United Nations Office on Drugs and Crime, which have strengthened training and prevention efforts nationwide.

### **Replies to the issues raised in paragraph 41**

174. The Ministry of People's Power for the Social Process of Labour provides all workers, including migrant workers, with information and training on their rights, in accordance with the Constitution, the Labour and Workers Act and international treaties. It also carries out regular workplace inspections to ensure compliance with current labour regulations.

175. The Labour and Workers Act provided for the transformation of public employment agencies into Employment and Education Meeting Centres. The purpose of these centres is to:

(a) Match vocational training needs with opportunities in all areas of the education system, particularly educational missions, specialized vocational education institutions, and workplaces that provide training in certain aspects of specific productive processes;

(b) Match jobless workers, in particular young persons, older workers and workers with disabilities, with opportunities for decent, productive and rewarding work, and introduce these people to the social process of labour, providing them with the necessary educational support and guidance;

(c) Match independent and self-employed workers and their social organizations with initiatives aimed at building networks that produce goods or services to meet the needs of the people within the framework of the social process of labour, upholding these workers' labour, cultural, educational and social security rights;

(d) Match trade union organizations, workers' councils and other people's organizations, especially those that produce goods or services, with information on education and work opportunities, and facilitate links between these organizations and networks that produce goods or services.

### **Replies to the issues raised in paragraph 42**

176. The Foreign Nationals and Migration Act provides that all persons who intend to enter Venezuela under an employment contract must obtain a work permit from the ministry responsible for labour affairs. It is the foreign national's responsibility to apply for the necessary permit through his or her employer in Venezuela.

177. The Foreign Nationals and Migration Act also provides that employers must ask foreign workers to present their identification documents and must notify the National

Registry of Foreign Nationals in writing of the terms and conditions of their employment relationship. The law provides for the application of penalties for non-compliance with this obligation.

178. The Labour Inspectorates provide assistance, nationwide and free of charge, to migrant domestic workers who require it, offering counselling on work-related matters, providing relief and calculating employment benefits, both during and after the end of the employment relationship. Through their networks of lawyers, the Legal Aid Offices for Workers also provide help and assistance, nationwide and free of charge, to migrant domestic workers in need of legal assistance.

### **Replies to the issues raised in paragraph 43**

179. The Bolivarian Republic of Venezuela protects migrant workers and members of their families by way of the following:

(a) Legal norms: the Constitution (1999), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (2014), the Foreign Nationals and Migration Act (2004), the Labour and Workers Act (2012), the Organized Crime and Financing of Terrorism Act (2012), the Organic Act on the Protection of Children and Adolescents (2015), the Organic Act on Women's Right to a Life Free from Violence (2007) and the Act on the Protection of Victims, Witnesses and Other Parties to Judicial Proceedings (2006);

(b) Institutions: the Ministry of People's Power for Foreign Affairs, the Ministry of People's Power for Internal Affairs, Justice and Peace and its subsidiary bodies, such as the Identification, Migration and Foreign Nationals Service, the National Office against Organized Crime and the Financing of Terrorism, the Ministry of People's Power for the Social Process of Labour, the Ombudsman's Office, the Autonomous Institute and National Council for Children's and Adolescents' Rights, and the Public Prosecution Service;

(c) Policies, programmes and action plans relating to migration: the "Return to the Homeland" Plan, the "Mission Identity" (Misión Identidad) Programme, the National Working Group for the Protection of Child and Adolescent Migrants, the National Training Plan for Combatting Trafficking in Persons, joint initiatives with the International Organization for Migration, the Office of the United Nations High Commissioner for Refugees, the United Nations Office on Drugs and Crime, missions, great missions and micro-missions, the border mobility card, the Network against Organized Crime and the Financing of Terrorism, the Border Control Guide on Trafficking in Persons, women's refuges, the shelter programme for children and adolescents, and the National Plan against Trafficking in Persons 2016–2019;

(d) Recent ratifications of human rights instruments: the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1968), the United Nations Convention against Transnational Organized Crime (2002), the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2001), the Protocol against the Smuggling of Migrants by Land, Sea and Air (2005), the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2002), the International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29) (1945), the ILO Abolition of Forced Labour Convention, 1957 (No. 105) (1964), the ILO Minimum Age Convention, 1973 (No. 138) (1973), and the ILO Worst Forms of Child Labour Convention, 1999 (No. 182) (2004).

### **Replies to the issues raised in paragraph 44**

180. The country's administrative records show an unprecedented migration flow of 1,203,237 persons leaving the Bolivarian Republic of Venezuela in the period 2015–2019. This migration flow has economic reasons and is directly related to the impact of the unilateral coercive measures adopted primarily by the Government of the United States of America against Venezuela.

181. The Public Prosecution Service recorded a total of 176 complaints of trafficking in persons in the period 2016–2019, resulting in 80 indictments and 14 convictions.

Table 6  
**Cases of trafficking in persons**  
Public Prosecution Service

<i>Year</i>	<i>Cases</i>	<i>Indictments</i>	<i>Convictions</i>
2016	62	32	9
2017	58	25	4
2018	39	14	1
2019	17	9	-
<b>Total</b>	<b>176</b>	<b>80</b>	<b>14</b>

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