



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

Distr.: General
5 August 2020
English
Original: Spanish
English, French and Spanish only

Committee on the Elimination of Racial Discrimination

**Twenty-fifth periodic report submitted by
Ecuador under article 9 of the Convention, due in
2020*, ****

[Date received: 30 December 2019]

* The present document is being issued without formal editing.
** The annexes to the present report are available in the files of the secretariat.



I. Introduction

1. Ecuador has been a party to the Convention since 22 September 1966. Under article 9 of the Convention, States parties are required to submit periodic reports on their compliance with their international obligations. Ecuador presented its combined twenty-third and twenty-fourth periodic reports to the Committee in 2017.
2. The present report sets out the country's legislative framework and the current situation in the country in respect of this topic. It has been drafted in accordance with the relevant guidelines (CERD/C/2007/1).
3. The report was drawn up by the National Council for the Equality of Peoples and Nationalities in coordination with the Human Rights Secretariat and the Ministry of Foreign Affairs and Human Mobility. Contributions were also made by all the institutions with competencies in this area.
4. Ecuador demonstrated its commitment to progress in this area by extending invitations to visit the country to the Special Rapporteur on the rights of indigenous peoples, Victoria Tauli-Corpuz, whose visit took place between 19 and 29 November 2018, and to the Working Group of Experts on People of African Descent, whose visit took place between 16 and 20 December 2019.

II. Information on measures taken to implement the Convention

Article 1

5. As a plurinational and intercultural State, Ecuador guarantees the exercise of the rights established in the Constitution of 2008 and in international instruments, without discrimination of any form. The Constitution recognizes the right not to be subjected to discrimination on the basis of ethnicity, place of birth, age, sex, gender identity, cultural identity or on grounds of any other distinction, whether personal or collective, temporary or permanent, whose aim or effect is to diminish or nullify the recognition, enjoyment or exercise of rights. It also prohibits any form of direct or indirect discrimination affecting women in the workplace. The intention at the time of writing is to continue with this model of interculturalism (art. 11 (2) of the Constitution), which is underpinned by the principles of equality and non-discrimination and is being strengthened through the different branches of Government.
6. The first section of the National Lifelong Development Plan 2017–2021, entitled “Lifelong Rights for All”, is focused on guaranteeing a dignified life for all and a more just and equitable society by pursuing equal opportunities in all areas and the eradication of all forms of discrimination, affirming interculturalism and plurinationality and emphasizing the value of diverse identities. Policy No. 1.10 establishes the eradication of all forms of discrimination and violence as a national goal, while policy 2.1 is to eradicate discrimination and exclusion through affirmative action and comprehensive reparation and policy 2.2 is to ensure interculturalism and plurinationality in the public administration and thus to facilitate the effective enjoyment of the collective rights of peoples and nationalities.

Article 2

7. The Government views social inclusion and the fight against discrimination as priority, cross-cutting lines of action. The principles set out in the Constitution serve as guidelines for the national planning and management instruments referred to below. Public resources earmarked for the promotion of interculturalism and the fight against racism, discrimination and intolerance were mobilized during the 2016–2019 financial years, with the corresponding amounts being registered by the public institutions concerned in the relevant budget tool. However, a failure to register resources on the part of institutions does not mean that funds are lacking. According to the Ministry of Economic Affairs and Finance, budget accruals amounting to \$1,808,763.66 were registered in the system for the classification of spending

on intercultural equality policies between 2014 and 2019 (with a cut-off date of September), and, between 2016 and 2019 (with a cut-off date of September), institutions whose work relates to intercultural issues, peoples and nationalities recorded as budget accruals (all sources of funding included) a total expenditure of \$117,239,150.14.

8. An important step forward in establishing an institutional structure for guaranteeing and upholding the rights enshrined in the Constitution and in international human rights instruments was the inclusion of offences against the right to equality such as discrimination and hate crimes in the Comprehensive Organic Criminal Code, enacted in 2014 (Official Gazette 2015, section five).

9. A further advance was the opening of the Ombudsman's Office in 2019, as provided for in the Organic Act on the Ombudsman's Office of 2019, setting out processes and procedures for guaranteeing human rights. The Office is responsible for defending and observing the fundamental individual and collective rights guaranteed by the law and the international treaties in force. Article 2 (b) of the Act stipulates that the Office's responsibilities include defending and encouraging, of its own motion or at the request of a party, and where appropriate, the observance of the fundamental individual or collective rights guaranteed by the Constitution, laws, international conventions and treaties ratified by Ecuador.

10. In April 2019, the Organic Act on the Prevention and Punishment of Violence in Sport was adopted as part of efforts to combat violence, racism, xenophobia and intolerance in sport. The second transitional provision of this Act establishes that the national education authority will issue regulations providing for a new subject to be introduced to the national curriculum with a view to eliminating behaviour and conduct that promote expressions of discrimination or hatred on the grounds of gender, ethnicity, culture, disability, religion or on grounds of any other distinction, whether personal or collective, temporary or permanent, whose aim or effect is to diminish or nullify the recognition, enjoyment or exercise of rights.

11. In 2017, the Government adopted the Organic Act on Human Mobility, which is based on the principles of equality before the law and non-discrimination and establishes that no person may be subjected to discrimination because of his or her migratory status, national origin or other social, economic or cultural condition.

12. In 2016, the Organic Code on the Social Economy of Knowledge, Creativity and Innovation was adopted. Among other principles, the Code recognizes knowledge-sharing as a means of generating, transmitting and exchanging scientific and traditional know-how that supports the consolidation of a plurinational and intercultural State. The Code provides for the establishment of an advisory council on traditional knowledge to serve as a participatory forum for peoples and nationalities that will be composed of representatives of indigenous, Afro-Ecuadorian and Montubio peoples and higher education institutions.

13. The Organic Act on Communication of 2013 provides for the establishment of two institutions: the Council on the Regulation and Development of Information and Communication, responsible for creating communication-related legislation, and the Office of the Superintendent of Information and Communication, responsible for conducting audits, taking action and monitoring compliance with the legislation in force in the area of communication. The National Assembly, in accordance with the powers conferred upon it by the Constitution and the Organic Act on the Legislative Branch, discussed and adopted the draft Organic Act amending the Organic Act on Communication, which entered into force on 20 February 2019.

14. The Comprehensive Organic Act on the Prevention and Eradication of Violence against Women has been in force since 2018, supporting the effort to prevent and eradicate all forms of violence against women in all their diversity, whether girls, adolescent women, young women, adult women or older women. Article 7 (c) and (e) of this Act call for an intercultural, integrated approach to the Act's implementation, guided by the principles of equality, non-discrimination, diversity and empowerment, among others.

15. The Organic Act on Land-Use Planning, Land Use and Land Management of 2016 establishes the principles and general regulations that govern the planning, use and management of urban and rural land and their relationship with other regulations that concern

or have a significant bearing on land. The aim is to ensure that the regulations are effectively coordinated, and that they promote equitable and balanced land development and the enjoyment of the right to the city, a safe and healthy environment and adequate and decent housing. Article 85 of the Act defines social housing as adequate and decent housing for priority groups and poor and vulnerable persons, especially members of the indigenous, Afro-Ecuadorian and Montubio peoples.

16. With regard to housing policy, in January 2019 the Ministry of Urban Development and Housing issued Ministerial Agreement No. 002-2019, recognizing the “Homes for All” project as a flagship national investment project intended to provide poor and vulnerable Ecuadorian citizens with decent and adequate social housing.

17. The Organic Act amending the Organic Act on Higher Education, which has been in force since 2 August 2018, establishes that the higher education system should be intercultural in nature (art. 2) and that its purposes include developing and strengthening the bilingual intercultural higher education system in accordance with the requirements of cultural diversity (art. 8 (k)). Article 81 of the Act provides that admissions to higher education – for all applicants – must be processed through the National Remediation and Admissions System, respecting the principle of equal opportunity, and that, in order to promote this principle, affirmative action measures will be taken on behalf of rights holders in situations of inequality or vulnerability.

18. On 5 December 2018, and then on 12 April 2019, pursuant to Agreement No. SENESCYT 2019-030, the Secretariat for Higher Education, Science, Technology and Innovation officially adopted the regulations of the National Remediation and Admissions System, which, inter alia, provide for affirmative action policies by which additional points are awarded to applicants belonging to indigenous peoples and nationalities or to the Afro-Ecuadorian or Montubio communities (art. 41 (d)).

19. In July 2018, pursuant to Executive Decree No. 445, the Secretariat of the Bilingual Intercultural Higher Education System was established as an entity attached to the Ministry of Education. The Secretariat enjoys administrative, technical, educational, operational and financial independence and is responsible for coordinating, managing, monitoring and evaluating public policy on bilingual intercultural education. Its aim is to organize, develop and manage the System in a manner respectful of the rights of communities, peoples and nationalities and the principles of interculturalism and plurinationality.

20. From January to June 2019, the Ministry of Economic and Social Inclusion implemented Ministerial Agreement Nos. 0052, 0053 and 0054 of 27 December 2018 on the process of adding persons to, and removing them from, the database of persons entitled to receive progressive cash transfers in accordance with the social register issued by the Technical Planning Secretariat of Ecuador. Until confirmation is received that the mass update process and the corresponding change of database is complete, the register will consist of information from the 2013–2014 social registry and information gathered during the exercise undertaken in 2018–2019. Since July 2019, entitlement to the cash transfers previously defined in Executive Decree No. 804¹ of 20 June 2019 has been granted or withdrawn in accordance with the conditions established in Ministerial Agreement No. 109 of 27 June 2019, which regulates the cash transfer programme of the comprehensive social protection system. Access to these non-contributory transfers, which are administered by the Ministry of Economic and Social Inclusion, is unrestricted and free from any form of discrimination.

21. The Ministry of Economic and Social Inclusion’s protocol for action in cases involving violence against children, adolescents, women, persons with disabilities and older persons has resulted in greater emphasis being placed on the intercultural perspective in the support provided by the Ministry’s services. This perspective was mainstreamed in the

¹ This Executive Decree establishes the components of the cash transfer programme operated as part of the comprehensive social protection system administered by the Ministry of Economic and Social Inclusion. It also sets the parameters incorporated in Ministerial Agreement No. 109 of 27 June 2019 that are used to determine the conditions under which vulnerable persons can obtain access to such programmes.

nationwide capacity-building programme for officers working within the specialized systems for the comprehensive protection of rights that ran in 213 cantons and was completed by 5,219 officers, thereby guaranteeing quality care for the target groups concerned.

22. The Ministry of Health supports the “Let’s Make a Deal to Treat Each Other Well” plan by implementing the train-the-trainers strategy developed by the National Directorate for Intercultural Health. This strategy, which is currently at the follow-up stage, addresses topics such as interculturalism, racism and decent treatment and involves 704 professionals.

23. To comply with the obligation to address the issue of equality in public administration, the Ministry of Economic Affairs and Finance has created a budget tool, called the expenditure guidance and classification system for equality policies, which facilitates the registration of public resources allocated to the implementation of policies on gender, disability, interculturalism, human mobility and generational mobility.

24. The purpose of the Organic Act on National Equality Councils of 2014 is to promote, encourage, protect and guarantee the right to equality and non-discrimination for individuals, communes, communities, peoples, nationalities and groups, in accordance with the mandate of the Equality Councils, and within the scope of their competence, in order to strengthen national unity in diversity and build the plurinational and intercultural State (art. 3 (2)).

25. Executive Decree No. 560 of 14 November 2018 provided for the Ministry of Justice, Human Rights and Religious Affairs to become the Human Rights Secretariat, an entity under public law with legal personality and administrative and financial independence. The Secretariat will henceforth be responsible for matters related to human rights, including the enforcement of judgments, precautionary and interim measures, amicable settlements, recommendations and resolutions originating from the Inter-American human rights system and the universal human rights system, and for following up and assessing international commitments and other international obligations, the eradication of violence against women, children and adolescents, the protection of indigenous peoples living in voluntary isolation, and ensuring effective access to quality and timely justice.

Article 3

26. The Roma in Ecuador do not constitute a large group. However, the State guarantees and promotes freedom of movement for all persons on the planet, considering everyone to be equal before the law and to have the same rights, duties and opportunities without discrimination on grounds of belonging to any national or foreign minority group.

Article 4

27. Pursuant to article 49 of the Organic Act on Communication, in-force since 2019, the powers of the Council on the Regulation, Development and Promotion of Information and Communication include: (a) regulating the broadcast of violent content that is explicitly sexual or discriminatory on television and radio and its publication in print media, in accordance with international human rights instruments, the Constitution and the law; (d) developing and supporting mechanisms for disseminating forms of communication particular to different social and cultural groups, peoples and nationalities and collective rights holders; (i) drafting technical reports on analyses of possible discriminatory, violent or sexually explicit content for submission to the Ombudsman’s Office so that the corresponding action may be initiated ex officio.

28. The Comprehensive Organic Criminal Code defines discrimination and hate crimes as criminal offences, establishes the relevant grounds and specifies the penalties that apply if the offence is committed or ordered by public officials. Article 176 of the Code, which addresses discrimination, provides that “any person who, other than in the cases considered to be affirmative action policies, propagates, practices or encourages any distinction, restriction, exclusion or preference on grounds of nationality, ethnicity, place of birth, age, sex, gender identity or sexual orientation, cultural identity, civil status, language, religion, ideology, socioeconomic condition, migratory status, disability or state of health with the aim

of diminishing or impairing the recognition, enjoyment or exercise of rights on an equal basis shall be punished by a term of imprisonment of 1 to 3 years. If the offence penalized under this article is ordered or carried out by public officials, it shall be punished by a term of imprisonment of 3 to 5 years.” Article 177 of the Code, which addresses hate crimes, provides that “any person who commit acts of physical violence or psychological hatred against one or more persons on grounds of nationality, ethnicity, place of birth, age, sex, gender identity or sexual orientation, cultural identity, civil status, language, religion, ideology, socioeconomic condition, migratory status, disability, state of health or HIV status shall be punished by a prison sentence of 1 to 3 years. If the acts of violence result in personal injury, the guilty party shall be punished with the prison sentence applicable to the offence of causing bodily harm increased by one third. If the acts of violence cause death, the punishment shall be a term of imprisonment of 22 to 26 years.”

29. In the area of employment, article 7 of Ministerial Agreement No. MDT-2017-0082 provides that workers may submit complaints of discrimination to the Labour Inspectorate, setting out the facts and presenting evidence to substantiate the alleged violation of their rights.

30. Between 2016 and 2019, 1,355 acts of hatred and 503 acts of discrimination were registered in the integrated prosecution service information system used by the Attorney General’s Office. A total of 309 acts of hatred were registered in 2016, but the figure dipped to 298 in 2019. There were 111 cases of discrimination in 2016 and 127 in 2019 (see table 1).

31. With regard to types of offence, the number of hate crimes registered in the integrated information system each year fell from 309 in 2016 to 298 in 2019, with a total of 1,334 cases being recorded over the period. There were 24 hate crimes linked to gender-based violence in 2016, 23 in 2019 and a total of 90 cases over the period. As regards discrimination, there were 97 cases in 2016 and 122 in 2019. As regards discrimination linked to gender-based violence, there were 7 cases in 2016, 11 in 2017, 2 in 2018 and 10 in 2019, making a total of 30 cases over the period. No acts of hatred causing personal injury were recorded in 2016, but there were 6 such cases in 2017, 15 in 2018 and 14 in 2019, making a total of 35 cases over the period. There was one case involving an act of discrimination ordered or carried out by a public official in 2016, 7 such cases in 2017, 8 in 2018 and 6 in 2019, making a total of 22 cases over the period. There was 1 case of a crime against humanity in 2016, 2 such cases in 2017 and 4 in 2019. A total of 8 cases involving this type of offence were registered during the period 2016–2019 (table 2).

Discrimination and acts of hatred disaggregated by modifying circumstance

32. In 2016, 302 acts of hatred were registered in the integrated prosecution service information system, while 285 such acts were registered in 2019. In the period 2016–2019 as a whole, a total of 1,314 acts of hatred were recorded, but no cases of acts of hatred resulting in death. In 2016, there were 7 cases of acts of hatred that involved violence resulting in personal injury, 6 such cases in 2017, 15 in 2018 and 13 in 2019, making a total of 41 cases over the period. There were 97 cases of discrimination in 2016, 113 in 2019 and a total of 456 cases over the period. In 2017, there was one registered case of discrimination linked to gender-based violence ordered or carried out by public officials. In 2019, a total of 10 such cases were registered, with 29 cases being registered for the period as a whole. There was one case of an act of discrimination ordered or carried out by a public official in 2016, 4 in 2019, and a total of 26 over the period. Overall, 1,858 cases of discrimination were registered (see table 3).

Status of proceedings linked to offences involving hate and discrimination

33. With regard to the status of proceedings linked to offences involving hate and discrimination, 4 cases were dismissed in 2019, 51 in 2018, 101 in 2017 and 134 in 2016, making a total of 290 dismissals in the period as a whole. The number of cases in which a request for dismissal was made also decreased, falling from 137 in 2016 to 15 in 2019. A total of 364 such requests were made from 2016 to 2019. One case was recorded in which the penalty for offences involving hate and discrimination was fully enforced. A total of 3 cases were resolved by conciliation (1 in 2016 and 2 in 2019). In the period as a whole,

charges were filed for these offences in a total of 5 cases (1 in 2016 and 2 in both 2017 and 2018), but no charges were filed in 3 cases. In a further 3 cases, the proceedings were discontinued. A prosecutorial inquiry was carried out in 2 cases over the period; by contrast, preliminary investigations were carried out in 159 cases in 2016, in 450 cases in 2019 and in a total of 1,286 cases over the entire period. Committal orders were issued in 4 cases during this period, the principle of discretion to prosecute was applied in 2 cases, summary proceedings were brought in 1 case, convictions were handed down in 3 cases, the defendants were found not guilty in 2 cases, the proceedings were stayed in 5 cases and the judgment was appealed in 1 case (see table 4).

34. According to the Constitutional Court of Ecuador, the complainants claimed that the right to equality and non-discrimination had been violated in 141 of the 3,847 cases brought before the Court in which a judgment was handed down (i.e. 3.6 per cent). In 1 of these cases, it was alleged that the right to equality and non-discrimination on the grounds of race had been violated. In 165 of the 3,847 cases brought before the Court in which a judgment was handed down (4.3 per cent of the total), the Court addressed the right to equality and non-discrimination in its argumentative analysis. However, only 1 such case related to the right to equality and non-discrimination on grounds of race. In 12 of the judgments handed down in these cases (0.3 per cent of the total), the Constitutional Court declared that the right to equality and non-discrimination had been violated. Only 1 of these cases involved racial discrimination.

35. None of the judgments handed down by the Constitutional Court stated that the right to racial equality and non-discrimination had been violated. In 2018 and 2019, the Court handed down one judgment related to constitutional reform and two in which it ruled on the constitutionality of international instruments.

36. In the period 2014–2017, the Constitutional Court handed down two judgments in which it declared the right to equality and non-discrimination on the grounds of national origin to have been violated. In these cases, an application for constitutional review and a public application for constitutional review were submitted.

37. The Constitutional Court has handed down seven judgments of relevance for protection against discrimination on the basis of ethnic origin. Although these judgments did not state that the right not to be discriminated against on grounds of race had been violated, they guarantee protection for the cultural rights of indigenous peoples and respect for ethnic differences, and are therefore important for progress in the protection of indigenous rights and the prevention of discriminatory acts.

Terrorism

38. Terrorism, as defined in article 366 of the Comprehensive Organic Criminal Code, is dealt with in the same way as other offences, that is, within the framework of a comprehensive security policy and from a human rights perspective. This requires coordinated and systematic action on the part of central and regional governments, as well as strict compliance with the principles set out in the Constitution, national and international human rights instruments and international law.

39. Accordingly, any person who, through acts that endanger the life, physical integrity or freedom of persons or endanger buildings, communication facilities or transport infrastructures using methods capable of causing harm, provokes or sustains a state of terror among some or all members of the public will be treated in accordance with the principles guaranteed in the legislative frameworks established for this purpose, with due respect being shown for their human dignity and rights.

Article 5

40. The National System of Protection and Assistance for Victims, Witnesses and Other Participants in Criminal Proceedings has 24 provincial units and provides protection and assistance at all stages of proceedings, including the pretrial stage, to direct and indirect victims or witnesses who are at risk owing to their involvement in a public or private suit or

a criminal offence. The System is intended to safeguard their physical and mental integrity and to protect and support them in the face of all manner of threats or intimidation, and provides for action plans (for example, comprehensive intervention plans or discharge plans), follow-up in cases involving protected persons (lines of action) and inter-agency and intersectoral coordination (action protocols).

41. Any person may request protection and assistance through the System, including public officials, members of the judiciary, human rights defenders, environmental defenders and defenders of the rights of the indigenous, Afro-Ecuadorian and Montubio peoples and their leaders, whether an Ecuadorian or foreign national and irrespective of sexual orientation, ethnicity, place of birth, age, sex, gender identity, culture, marital status, language, religion, ideology, political affiliation, criminal record, socioeconomic status, migration status, health status, HIV status, disability or physical difference.

42. With regard to policies for refugees and stateless persons in Ecuador, article 2 of the Organic Act on Human Mobility cites the principle of non-refoulement while article 4 of the regulations governing the status determination process for refugees and stateless persons establishes that the non-refoulement principle must be observed throughout the process. Ecuador does not conduct mass deportations of any kind. The Organic Act on Human Mobility simply provides for the voluntary departure of any person whose visa has expired.

Other civil rights

Freedom of movement

43. The right to freedom of movement is enshrined in the Constitution and in the Organic Act on Human Mobility. This right applies to persons from all countries, except those from one of the 24 countries whose citizens currently require a visa to enter Ecuador. A person may be prohibited from leaving the country only by order of a competent judge. Thus, the right to freedom of movement and to choose a place of residence in Ecuador is fully regulated, as set out in the sixth chapter of the Organic Act on Human Mobility.

Leaving and entering the country

44. The Constitution provides for the right to freedom of movement. Therefore, both Ecuadorian and foreign nationals may leave and enter Ecuador in accordance with the Organic Act on Human Mobility, article 416 (9) of which establishes the principle of universal citizenship and the free movement of all inhabitants of the planet.

Right to nationality

45. With regard to the right to nationality, article 6 of the Constitution provides that Ecuadorian nationality may be acquired by birth or naturalization and is not lost through marriage or the dissolution of a marriage, or through the acquisition of another nationality. For foreign citizens in Ecuador who wish to naturalize, article 70 of the Organic Act on Human Mobility refers to naturalization as the administrative procedure by which a person acquires Ecuadorian nationality, the right to which, for both nationals and non-nationals, is enshrined in the Constitution and the Act.

Human mobility

Access to citizenship and naturalization

46. The fourth chapter of the Organic Act on Human Mobility sets out the naturalization procedure. From 2013 to 2019, the Government naturalized 6,685 nationals of Colombia, Cuba, Spain, the United States, the Bolivarian Republic of Venezuela and Peru (listed in order of the number of naturalized persons from each country), among other countries.

Permanent residents

47. Article 9 of the Constitution provides that all foreign nationals in Ecuador have the same rights and duties as Ecuadorian nationals.

*Statelessness and access to citizenship for non-citizens married to citizens (women and men)*²

48. Article 111, section V, of the fifth chapter of the Organic Act on Human Mobility, concerning foreign nationals under international protection, stipulates that the recognition of stateless persons is a declaratory, humanitarian and apolitical act of the Ecuadorian State. Such recognition is granted in accordance with the guarantees set out in the Constitution. The Act also establishes a differential procedure, with reduced requirements, for the legal naturalization of stateless persons as Ecuadorians.

Marriage and choice of spouse

49. On 12 June 2019, the Constitutional Court recognized equal marriage (case No. 11-18 CN), thereby ensuring that persons of the same sex have access to the rights and obligations of civil marriage. To this end, the Court interpreted article 67 of the Constitution in the light of constitutional provisions that uphold the equality of the individual and reject any form of discrimination.

Right to freedom of thought, conscience and religion

50. In order to guarantee the right to freedom of thought, conscience and religion, the Directorate of Public Policy for Peoples, Nationalities and Religious Organizations has been tasked, inter alia, with: developing public policies that maintain and strengthen the status of the State as a secular entity that is neutral in matters of religion and independent in its ability to formulate national policy; developing and strengthening mechanisms to ensure the absence of discrimination on the basis of religious affiliation and freedom of conscience or belief; and assessing the results of implementing policies that regulate religions and their relationship with the State.

Right to freedom of opinion and expression³

51. The Organic Act on Communication, published in Supplement No. 22 of the Official Gazette of 25 June 2013, last amended on 20 February 2019, provides that the name “Council for the Regulation and Development of Information and Communication” should be replaced by the name “Council for the Regulation, Development and Promotion of Information and Communication” throughout the text. Article 17 of the Act provides that all persons have the right to freedom of thought and expression, which includes the freedom to seek, receive and impart information, whether orally, in writing, in print or in the form of art, or through any other medium of their choice. It also provides that all persons have the right not to be harassed on account of their opinions. Article 384 of the Constitution provides that the social communication system must uphold the rights to communication, information and freedom of expression and must strengthen citizen participation.

52. The public media register is a measurable, quantifiable and searchable tool that can be used to process data, figures and indicators for media outlets in Ecuador, classified as radio, television, subscription audio and video (including cable television), newspapers, magazines and Internet media. The register ensures the availability of accurate data on access to, and the distribution of, communication frequencies. Articles 88 and 89 of the Organic Act on Communication provide that all media outlets in Ecuador must be listed in the register.

53. The Human Rights Secretariat is spearheading an investment initiative to create networks of public and private local community media outlets that will give peoples and nationalities access to 14 frequencies and community radio equipment. The initiative spans 7 provinces, corresponding to 32 of the country’s cantons.

² With regard to these issues, see in particular general recommendation No. 30 (2004) on discrimination against non-citizens.

³ See general recommendation No. 15 (1993) on article 4 of the Convention, according to which “in the opinion of the Committee, the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the right to freedom of opinion and expression”.

Right to work

54. The Ministry of Labour has implemented various programmes and projects to encourage the recruitment of persons who have a disability or are otherwise vulnerable, including members of peoples and nationalities. These include: (a) the Employment Partners Network, a free digital platform designed to facilitate staff recruitment and selection, teleworking and the provision of services by employees working off-site – a type of work to which breastfeeding mothers, pregnant women, persons with disabilities, persons living with catastrophic diseases, older persons, and persons who live more than one hour from their workplace should be given preferential access; (b) the “My First Job” Programme, designed to promote public policy on youth employment and enhance young persons’ skills through internships in the private sector and work experience in the public sector; (c) the Youth Employment Programme, whereby the State offers economic incentives to encourage private sector enterprises to hire young person.

55. In 2017, the Ministry of Labour issued Ministerial Agreement No. MDT-2017-0082, establishing the regulatory framework for the elimination of discrimination in the labour market. The purpose of the Agreement is to establish regulations that guarantee access to recruitment processes on equal terms and equality and non-discrimination in the workplace by establishing mechanisms for the prevention of psychosocial risks. Article 7 of the Agreement gives employees the possibility of submitting complaints of discrimination to the Labour Inspectorate, setting out the facts and submitting supporting evidence. Article 3 of Decree No. 060⁴ provides for the adoption of affirmative action policies to ensure that social groups that have historically suffered discrimination have access to employment opportunities that are unrestricted by racial discrimination.

Right to form and join trade unions

56. The Directorate of Labour Organizations of the Ministry of Labour promotes, evaluates and monitors the registration and operation of labour organizations, whether they are associations, unions or works committees. Article 440 of the Organic Labour Code establishes the right to freedom of association, providing that workers and employers have the right to organize themselves and form such associations, unions or works committees as they deem appropriate and to join or withdraw from them in accordance with the law and the statutes of the respective associations.

Right to housing

57. Article 30 of the Constitution provides that persons have the right to a safe and healthy environment and to adequate and decent housing, irrespective of their social and economic status. This right is enshrined in article 375, which provides that the State, at all levels of Government, must guarantee the right to a decent environment and housing.

58. Interministerial Agreement No. 023-2019 of June 2019 establishes the procedure for obtaining access to the construction of, and/or incentives for, fully State-subsidized social housing for the communes, communities, peoples and nationalities of Ecuador on community lands belonging to poor or vulnerable family groups. Revised regulations for the selection of beneficiaries of fully State-subsidized social housing were issued through Ministerial Agreement 025-19 of 2019. The regulations governing access to the subsidies and incentives available under the Social and Public Housing Programme within the framework of the flagship “Homes for All” project, which forms part of the National Lifelong Development Plan, were issued through Presidential Decree No. 681 of 2019. The criteria for determining the eligibility and prioritization of beneficiaries of the “Homes for All” project are based on poverty lines and thresholds established using the welfare index defined by the Social Register used to measure poverty in Ecuador.

59. According to the housing indicators established by the National Statistics and Census Institute in 2016, 24.5 per cent of indigenous, Afro-Ecuadorian and Montubio households are overcrowded while 13.9 per cent of mestizo and white households are overcrowded. In 2018,

⁴ *Registro Oficial*, 28 September 2009.

this indicator stood at 24.8 per cent for members of peoples and nationalities and 13.9 per cent for mestizos and whites (see table 34).

Right to health, medical care, social security and social services

60. Article 32 of the Constitution provides that health is a right guaranteed by the State, that the provision of health-care services must be governed by the principles of equity, universality, solidarity, interculturalism, quality, efficiency, effectiveness, prevention and bioethics, and that such services must incorporate a gender and generational perspective. Article 362 stipulates that health care, as a public service, must be provided by State, private, autonomous or community-based entities or by bodies that practise alternative and complementary ancestral medicine. Article 363 establishes the need to provide specialized care for the priority groups defined in the Constitution. Within the framework of the overall national health system, the State has established a comprehensive public health-care network composed of all relevant State and social security institutions and other public sector health-care providers, which provide mutually complementary services and are linked operationally and in terms of their legal structure.

61. Agreement No. 82 of the Ministry of Health establishes the regulations governing the application of the intercultural approach at all levels of care in health facilities forming part of the national health system. The regulations apply to the care of users/patients from remote communities, cover referrals, self-referrals to a second or third-level health-care provider and referrals back to the original referring entity, and include measures to reduce geographical barriers (management of transport to and from hospital, follow-up and home visits for patients belonging to different peoples and nationalities) and sociocultural barriers (language, clothing, food, coordination between ancestral and conventional medicine). They also provide for culturally relevant childbirth care, for which purpose labour, delivery and post-partum recovery units have been established in which mothers have freedom to choose their birthing position and to be accompanied either by a family member or a midwife, can wear their own clothing, are offered drinks and light food and have the option of saving the placenta, among other choices.

62. The Ministry of Health is training two cohorts of primary health-care technicians (322 technicians in total) as part of a strategy for reducing gaps in access to health services that prioritizes the needs of indigenous, Afro-Ecuadorian and Montubio peoples and nationalities. These technicians carry out the following activities: (a) home visits, with priority being given to families facing health risks; and (b) childcare, with priority being given to babies up to the age of 11 months. Each technician is responsible for following up on every case, initiating a process of community-based monitoring, coordinating with family support technicians of the Ministry of Social and Economic Inclusion and identifying new cases in the community. The Ministry of Health has developed an online training course entitled “Interculturalism, Health and Good Treatment”, which targets health-care professionals around the country. This course is part of the drive to implement public policies on interculturalism in health. A total of 52,472 professionals have completed the course, which ran five times from 2016 to April 2019.

Education and training

63. As at 6 September 2019, the Ministry of Education employed 46,255 teachers with a self-identified ethnicity other than white or mestizo. Of this group, 2,922 are Afro-Ecuadorians, 7,150 are indigenous and 4,279 are members of the Montubio people. The basic education programme for young persons and adults run by the Office of the Under-Secretary for Specialized and Inclusive Education offers literacy and post-literacy training, and higher basic and upper secondary education to indigenous, Afro-Ecuadorian, Montubio and migrant youths and adults, aged 15 years and older, who have not completed their schooling. From September 2017 to September 2019, nearly 284,000 persons enrolled on the programme, including 1,130 indigenous persons, 570 Afro-Ecuadorians and 622 members of the Montubio people. These educational services will continue until 2021.

64. The science baccalaureate offers supplementary schooling in science and the humanities for students who are interested in science but have not yet decided on their future career path. At the time of writing, there were 31,530 students pursuing this course in the

Amazon region, 261,917 in the coastal region, 311,244 in the mountain region and 709 in undefined areas, giving a total of 605,400 students. The technical baccalaureate, which is centred on specific professions chosen by the student, is available to pupils studying for the general unified baccalaureate. These students study technical training modules in addition to the subjects on the core curriculum. At the time of writing, there were 21,126 students pursuing this course in the Amazon region, 165,428 in the coastal region, 100,354 in the mountain region and 798 in undefined areas, giving a total of 287,706 students. Lastly, the complementary technical manufacturing baccalaureate is a training option offered as a complement to the technical baccalaureate. It is an optional course, lasting an additional year, in which students develop specific skills and competencies. At the time of writing, there were 131 students pursuing this course in the Amazon region, 600 in the coastal region and 349 in the mountain region areas, giving a total of 1,080 students.

65. The National Directorate of Special and Inclusive Education has developed the following support models: the national model for hospital and home education management and support; the national management and educational support model for young offenders' institutions; the national model for the management and support of students with special educational needs associated with a disability in specialized educational establishments; and the national bilingual and bicultural education model for persons who are hard of hearing.

66. The aim of the Government's basic education programme for young persons and adults, which came to an end in December 2017, was to reduce illiteracy among young persons over 15 years of age and adults. The programme included support goals for border areas and indigenous and Montubio communities. The ABC Campaign for All: Literacy, Basic Education and the Monsignor Leonidas Proaño Baccalaureate, aimed at illiterate persons or those who are behind in their studies, was launched in 2017. This campaign, which is currently in its second phase (2018/19), allows students to complete secondary-level studies in intensive modules. For example, a person who embarks on the literacy course can complete his or her secondary education in five years.

67. Since the regulations governing the National Remediation and Admissions System entered into force in 2018, affirmative action measures whereby additional points may be awarded to persons belonging to vulnerable groups have been introduced. During the first academic registration period, in 2018, 12,435 applicants belonging to indigenous peoples and nationalities or to the Afro-Ecuadorian or Montubio peoples were offered a place in a higher education establishment through the National Remediation and Admissions System, with a total of 8,949 persons accepting the offer. In 2018, 72 per cent of higher education places offered to members of peoples and nationalities through the System were accepted. This figure was exceeded in the first period of 2019, when it rose to 78 per cent.

Languages spoken and taught in schools

68. The Bilingual Intercultural Education System helps to strengthen the position of the languages of the nationalities that are protected under article 3 of Ministerial Decision No. 440-13 of 5 December 2013. This article, which addresses the use of language, states that teachers in the Bilingual Intercultural Education System are to use the various languages concerned in their teaching and provide education in the 14 living languages of the nationalities present in Ecuador (see table 27).

Cultural diversity

69. The State of Ecuador, through the Ministry of Culture and Heritage, has taken four measures to enhance the right of all persons without discrimination to participate in cultural life, namely: (a) promoting museums, historical archives and libraries as spaces that foster the exercise of cultural rights, providing access to and enhancing the enjoyment of cultural goods and services and tangible and intangible heritage, and supporting various artistic and cultural events, access to knowledge and social memory; these projects have involved 101 historical archives (not including rural registries), 174 urban museums, 8 community museums, 832 urban libraries and 171 rural libraries throughout the country; (b) organizing, in 2018, 83 cultural events or activities for historically excluded groups, including 58 festivals, which were enjoyed by 4,797 members of the Afro-Ecuadorian community, 19,746 indigenous persons, 722 members of the Montubio community, 43 persons with catastrophic

illnesses, 1,997 persons with disabilities and 2,364 people in situations of human mobility, and 20 cultural and 5 arts and culture productions; (c) following the work undertaken in 2018, including in the budget of the Institute for the Promotion of the Arts, Innovation and Creativity, as part of its 2019 Operational Programme for Development, a \$200,000 line to support community-based “living culture” initiatives, with seven meetings held in 2019 where concepts and definitions relating to community-based living culture in Ecuador were developed, focusing on public, technical and political issues on the sectoral agenda and the principal thematic areas of the Organic Act on Culture; (d) overseeing the Community Cultural Management Network, an instrument of government policy whose purpose is to promote the exercise of cultural rights and the rights of nature and to democratize these rights.

Preservation and development of their culture

70. The Institute for the Promotion of the Arts, Innovation and Creativity supports programmes designed to advance the implementation of inclusive management and training strategies, including two categories of programme that promote access and participation for priority and traditionally excluded groups such as indigenous peoples and nationalities and persons in situations of mobility. In the 2018–2019 call for funding applications, 20 places were reserved for projects intended to benefit these groups.

71. Of the 14 indigenous languages spoken in Ecuador, almost half are at risk of disappearing owing to a lack of initiatives that highlight the importance of their use within communities and nurture an environment of respect and equality by including the various languages in the different spheres of public life. This challenge has led to sustained efforts to develop a methodology for building an inclusive and participatory legal framework that facilitates the implementation of plans and projects to protect the languages that are developed at the community level.

Establishment of media

72. In accordance with articles 16 and 312 of the Constitution, article 33 of the Organic Act on Communication enshrines the right to establish media enterprises, as follows: “all persons shall have the right, with equal opportunity and on the same terms, to create communication media, subject to the constitutional or legal restrictions established for financial and business entities or groups, their legal representatives, board members and shareholders”.

Measures taken to prevent racial hatred and prejudice in competitive sports

73. Article 29 (a) of the Organic Act on the Prevention and Punishment of Violence in Sport addresses the responsibility of the media to promote and disseminate messages aimed at preventing violence through their different programming platforms and to take action that supports the eradication of discrimination on any grounds.

74. Further details are provided above, in the fourth paragraph of the section concerning article 2.

Status of minority, indigenous and other languages in domestic law and in the media

75. Seven out of every 100 individuals living in Ecuador, which is equivalent to 1,018,176 persons, self-identify as indigenous. This number increased by 22.6 per cent between 2001 and November 2010.

76. Each of the 14 nationalities present in Ecuador has its own language (see table 27), and each of these languages belongs to one of eight language families, namely, Barbacoan, Choco, Jivaroan, Quechuan, Tucanoan, Zaparoan, Cofán and Waorani, the last two being independent families. Under article 2 of the Constitution, Kichwa and Shuar are official languages for intercultural relations. The other ancestral languages have official status for the indigenous peoples in the areas where they live, under the terms set by the law. While the State must respect and encourage the preservation and use of these languages, only 86 out of every 100 indigenous persons, or 85.7 per cent, self-identify as a member of a nation or people, with 14 out of every 100 indigenous persons not stating the nation or people to which

they belong. The Quechua nation accounts for 85.87 per cent of the indigenous population, making it the largest indigenous community, and encompasses 16 peoples.

Refugees and displaced persons

77. Under article 3 (1) of the Constitution, the State must guarantee, without any discrimination whatsoever, the effective enjoyment of the rights enshrined in the Constitution and international human rights instruments. Articles 26, 32 and 326 of the Constitution provide that the State must guarantee the rights to health, education and work for foreign nationals present in Ecuador, who have the same rights and duties under the Constitution as Ecuadorian nationals.⁵ The Organic Act on Human Mobility protects the right of non-refoulement of asylum seekers and recognized refugees.

Non-citizens, including immigrants, refugees, asylum seekers and stateless persons

78. Article 2 of the Organic Act on Human Mobility sets out the principles of universal citizenship, equality before the law and non-discrimination as part of a legal framework designed to recognize the rights of all non-nationals on an equal footing with nationals.

Indigenous peoples

79. The State has consolidated its institutional framework by strengthening the role of the Human Rights Secretariat through Executive Decree No. 718 of 2019, which makes the Secretariat responsible for safeguarding collective rights in the promotion and oversight of government policies on plurinationality and interculturalism; though the adoption of the Agenda for the Equality of Peoples and Nationalities by the Council for the Equality of Peoples and Nationalities, which enables the State to implement government policies on plurinationality and interculturalism across sectors; and by conducting the 2020 population and housing census managed by the National Statistics and Census Institute.

Article 6

80. The Constitutional Court is responsible for hearing actions for non-compliance,⁶ an avenue of redress whereby any individual may petition the Court to order compliance with a legal rule containing a clear, express and enforceable obligation to act or not to act. Any failure to comply with a legal rule that supports the exercise of a right may be sanctioned by the Court. This mechanism is used to challenge violations of rights. Special protective remedies,⁷ on the other hand, may be used by the Court, at the request of a party, to verify whether judges have respected constitutional rights in their handling of cases. The special protective remedy available with respect to the decisions of indigenous judicial bodies⁸ allows the Court to verify whether the indigenous authorities respected constitutional rights in their handling of the cases.

81. Measures taken to ensure (a) that victims have adequate information concerning their rights; (b) that they do not fear social censure or reprisals; (c) that victims with limited resources do not fear the cost and complexity of the judicial process; (d) that there is no lack

⁵ Constitution, art. 9.

⁶ Organic Act on Judicial Safeguards and Constitutional Review, art. 52: "The purpose of an action for non-compliance is to ensure the application of the rules that make up the legal system and address non-compliance with judgments, decisions or reports of international human rights protection bodies. Such an action shall be available with respect to rules, judgments, decisions or reports that contain a clear, express and enforceable obligation to act or not to act."

⁷ Organic Act on Judicial Safeguards and Constitutional Review, art. 58: "Purpose: The special protective remedy is intended to safeguard constitutional rights and due process in judgments, final rulings and decrees having the force of judgments in which there has been a violation – by act or by omission – of rights recognized in the Constitution."

⁸ Organic Act on Judicial Safeguards and Constitutional Review, art. 58: "Purpose: The special protective remedy is intended to safeguard constitutional rights and due process in judgments, final rulings and decrees having the force of judgments in which there has been a violation – by act or by omission – of rights recognized in the Constitution."

of trust in the police and judicial authorities; and (e) that the authorities are sufficiently alert to, or aware of, offences with racial motives.

82. Under article 78 of the Constitution, victims of crime have the right to receive special protection, not to be revictimized and to be granted comprehensive reparation, including knowledge of the truth, restitution, compensation, rehabilitation, assurances of non-repetition and satisfaction of the right violated. Under article 443 of the Comprehensive Organic Criminal Code, the duties of prosecution service include “heading the National System of Protection and Assistance for Victims, Witnesses and Other Participants in Criminal Proceedings”.

Individual complaints of racial discrimination

83. The national bodies authorized to hear and consider individual complaints of racial discrimination as part of their duties are the Attorney General’s Office, when a complaint is submitted together with an accusation from a private individual or an indication of an intent to press charges, and the System for the Protection of Rights, which is formed, in the cantonal decentralized autonomous governments, by the Councils for the Protection of Rights. The Office of the Ombudsman may also hear such complaints.

84. Under article 195 of the Constitution, it is the Attorney General’s Office that heads investigations conducted prior to and during criminal trials, exercises the public right of action, brings charges, where appropriate, against the offenders in court and makes the criminal case. The Office also heads the National System of Protection and Assistance for Victims, Witnesses and other Participants in Criminal Proceedings. The administration of justice is the responsibility of the Constitutional Court, the National Court of Justice, the provincial courts and the courts of first instance.

Reparation and satisfaction in cases of racial discrimination⁹

85. Under article 78 of the Constitution, victims of criminal offences, including hatred and racism, have the right to receive special protection, not to be revictimized and to be granted comprehensive reparation, including knowledge of the truth, restitution, compensation, rehabilitation, assurances of non-repetition and satisfaction of the right violated.

86. Under the country’s Organic Act on Judicial Safeguards and Constitutional Review of 2009, the special protective remedy may be invoked against decisions handed down within the indigenous justice system. This is a mechanism for challenging the decisions of these judicial bodies and is available whenever the decision in question violates constitutional rights or involves gender-based discrimination against women.

Body competent to receive and consider petitions alleging violations of any of the Convention rights

87. The duties of the Office of the Ombudsman include providing support for constitutional actions, accepting complaints about poor public or private services, ordering immediately enforceable compulsory measures for the protection of rights, investigating and resolving, within the scope of its powers, matters relating to acts or omissions of individuals or entities providing public services, and monitoring due process and the prevention of torture and cruel, inhuman and degrading treatment.

⁹ See general recommendation No. 26 (2000) on article 6 of the Convention. See also general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system and paragraph 5 of general recommendation No. 23 (1997) on the rights of indigenous peoples.

Article 7

Measures adopted to combat prejudices which lead to racial discrimination: Education and teaching

88. The legal framework fostered by the National Secretariat for Higher Education, Science and Technology through the promulgation of the General Regulations on the Organic Act on Higher Education demonstrates the importance that the Secretariat attaches to effective application of the principles of equal opportunity and non-discrimination and to interculturalism in the higher education system. The scope and purpose clauses of these regulations therefore include definitions of the concepts of interculturalism policies (art. 2) and affirmative action policies (art. 3) so that the relevant legal provisions can be effectively implemented.

89. Since 2016, the Secretariat has encouraged the formulation of institutional plans that mainstream the principles of equality, non-discrimination and environmental conservation in higher education institutions in accordance with the legal and constitutional frameworks in place. Accordingly, in December 2017, the Secretariat published and disseminated a guide to equality and environmental awareness in higher education, which sets out guidelines regarding the concepts, the content and the methodology to be used for the preparation of such plans.

Curricula to promote knowledge of human rights issues

90. The Ministry of Education has developed several courses addressing issues such as educational inclusion, disability awareness, prevention of and initial discussions regarding sexual offences in schools and violence prevention. In total, 2,744 Afro-Ecuadorian teachers, 6,782 indigenous teachers and 3,900 Montubio teachers have benefitted from these courses.

Distribution of texts and broadcasting of television and radio programmes about the history and culture of the nationalities and peoples, in languages spoken by them¹⁰

91. The Ministry of Education, through its National Curriculum Directorate, has developed a set of criteria that is shared with publishers so they can ensure that the texts they produce are in line with ethical, academic and scientific standards and with constitutional safeguards and rights. Criteria for the evaluation of texts that take approaches and perspectives that are respectful of diversity, including cultural, ethnic, ecological, sexual and gender diversity, have been in use since 2016, mainly in social science subjects, notably in social studies at the basic general education level, and in history, education for citizenship and philosophy at the general, unified upper secondary level.

92. Supplementary educational materials have been prepared on the peoples and nationalities of Ecuador (for example, the Andean equatorial calendar, a textbook on experiences of learning about Afro-Ecuadorian culture) to allow students to get to know, understand and develop an appreciation for the history, culture and ethical and aesthetic principles and values of indigenous, Afro-Ecuadorian and Montubio communities and the components of the plurinational nation of Ecuador. Lastly, relevant cultural content has been produced and disseminated through the “Educate TV” programme.

Intensive training about peoples without distinction as to race, colour or national or ethnic origin¹¹

Culture

93. The State of Ecuador, through the Ministry of Culture and Heritage, has taken measures to combat racial prejudices and to promote intranational and intracultural understanding, tolerance and friendship among all groups of humans. Some of these measures involve aspects of critical museum studies: there are new directions in concepts and content for the Ministry’s museums that address issues such as decolonization, cultural rights and the

¹⁰ See general recommendation No. 27 (2000) on discrimination against Roma, para. 26.

¹¹ See general recommendation No. 27 (2000) on discrimination against Roma, para. 26.

diversity of identities in Ecuador today, with the themes of interculturalism and equity in all areas (gender, ethnic and intergenerational) cutting across these topics.

Respect for and promotion of cultural diversity

94. The Ministry took an intercultural approach based on human rights and territorial development when developing its policy on cultural heritage research. It has prepared government policy guidelines to protect research into the cultural heritage of the country that forms part of its intangible cultural heritage, underpinned by a strategic analysis of the current situation and the desire to safeguard the country's cultural heritage and its expressions.

Linguistic policies adopted and implemented by the State party

95. The Permanent Forum on Indigenous Issues, which meets every year at the United Nations headquarters in New York, named Ecuador and Australia co-chairs of the United Nations International Year of Indigenous Languages, observed in 2019.

Additional information

Prejudices which lead to racial discrimination

96. Since 2016, the Council for the Regulation and Development of Information and Communications has been running online courses for equality officers¹² with the aim of promoting the rights to communication, freedom of expression and non-discrimination. In the first phase (2016–2018), 200 individuals were certified. The second phase of the course was launched in October 2019 in a massive, independent learning format accessible to persons with disabilities. The aim is to train all public servants and media officials using this format.

97. The second issue of the Council's magazine, *Cuadernos*,¹³ was published in 2016, addressing the theme "Media and Interculturalism: Trends and Perspectives". It covered topics such as discrimination and the struggle for equity and was distributed to media outlets, public entities, non-governmental organizations and the public. The same year, the Council published a practical guide, entitled "Communicating without Discriminating: Communications and Journalism for Equality",¹⁴ in collaboration with the National Equality Councils and the Consortium of the Decentralized Provincial Governments of Ecuador. In total, 2,000 copies were published and distributed to institutions, the media and universities.

98. In 2017, the Council published an informational guide entitled "Discrimination against the Afro-Ecuadorian People and their Representation in the Media".¹⁵ This guide analyses the historical discrimination against people of African descent in Ecuador from a holistic perspective that characterizes this discrimination as a long-term structural phenomenon manifested socially, economically, politically, culturally and symbolically. A thousand copies of the guide were printed and distributed to the media and universities.

¹² The online courses can be consulted at <http://plataforma.consejodecomunicacion.gob.ec/>.

¹³ The magazine can be consulted at <http://cort.as/-SbTZ>.

¹⁴ The guide can be consulted at <http://cort.as/-SakF>.

¹⁵ The guide can be consulted at <http://cort.as/-SamM>.

III. Information on the implementation of the concluding observations of the Committee on the Elimination of Racial Discrimination on the twenty-third and twenty-fourth periodic reports of Ecuador, adopted by the Committee at its ninety-third session

Measures against structural discrimination

Paragraph 6

Socioeconomic gaps

99. According to the National Statistics and Census Institute, as at December 2018, 41.4 per cent of persons who self-identified as indigenous, Afro-Ecuadorian or Montubio were affected by income poverty, compared to 18.7 per cent of mestizos and whites and 44 per cent of persons belonging to peoples and nationalities.

100. In 2016, average monthly per capita income for indigenous, Afro-Ecuadorian and Montubio persons was \$144.20, while their mestizo and white counterparts received an average of \$241.10; in 2018, the figure was \$139.80 for members of peoples and nationalities and \$249.30 for their mestizo and white counterparts. In 2016, average monthly earned income was \$506.30 for mestizos and whites and \$346.80 for indigenous, Afro-Ecuadorian and Montubio persons; in 2018, the average figure for mestizos and whites was \$505.60, while indigenous, Afro-Ecuadorian and Montubio persons received an average of \$330.10.

Access to basic services for the employed, underemployed and unemployed

101. The National Statistics and Census Institute's national survey on employment, underemployment and unemployment, updated to June 2019, sets out labour indicators for members of peoples and nationalities and indicates that the economically active population comprised 1,422,024 persons in 2018 and 1,570,624 in 2019, while, overall, 1,387,449 persons were in employment in 2018 and 1,503,273 in 2019. In 2018, 319,106 persons had adequate employment, compared to 320,610 in 2019, while 271,330 were underemployed in 2018, compared to 385,324 in 2019. The number of unemployed persons rose from 61,264 to 67,351 in 2019 (Table 5).

102. For information on access to public services for members of peoples and nationalities, please see the third paragraph of the section on access to public services below.

Access to employment opportunities

103. Between January 2016 and August 2019, 36,553 persons self-identifying as members of peoples or nationalities – 26,855 Afro-Ecuadorian, 7,253 indigenous and 2,445 Montubio persons – connected with the job market through the Employment Partners Network. According to data from the Unified Labour System, 2,413,570 in-force contracts were registered in August 2019, with members of peoples and nationalities being a party to 87,612 of them.

104. When employment opportunities are broken down by economic sector, Afro-Ecuadorians mainly have access to work in sectors such as agriculture, animal husbandry, forestry and fishing, followed by manufacturing and motor vehicle and motorcycle repair. Indigenous persons mainly work in the sectors of agriculture, livestock, forestry and fishing, followed by finance and insurance and construction. Montubio persons are primarily employed in agriculture, animal husbandry, forestry and fishing, followed by motor vehicle and motorcycle repair and manufacturing.

105. Of the total number of persons belonging to peoples and nationalities, 62.17 per cent earn \$394 or less, 20 per cent earn between \$395 and \$500 and 11.9 per cent earn between \$751 and \$1,000, with 5.59 per cent earning more than \$1,000.

Participants in the Social Security Institute's voluntary social security scheme for employees and in the campesino social security scheme

106. The Social Security Institute reports that, as at August 2019, 384,891 heads of household, 686,261 dependents and 88,148 retirees were participating in the campesino social security scheme, with 1,123,726 individuals covered. There are no data on how these individuals self-identify with respect to their ethnicity. Within this group, retired individuals who are also heads of household are considered contributing retirees, as they continue to contribute for their dependent family members (see table 6). There were 178,507 individuals participating in the voluntary insurance scheme (see table 7). The total number of participants in Ecuador was 3,334,352 (see table 8), of whom 2,660,149 were dependents and 688,887 were not (see table 9).

107. According to the Institute, in August 2019, there were 2,287,455 private sector participants, 646,874 public sector participants, 236,200 participants in a semi-contributory scheme and 178,507 in a voluntary scheme, giving a total of 3,349,036 participants (see table 7) out of a total population that the National Statistics and Census Institute estimated to be 16,528,730 in 2019.¹⁶ Social Security Institute data indicate that a total of 2,660,149 participants were employed and 688,887 were not (see table 9).

Access to education

108. A total of 18,647 Afro-Ecuadorian, indigenous, Montubio, mulatto and black children have access to child development centres. This figure does not include white children, the figures for whom are shown in table 10.

109. Mean years of schooling for members of nationalities and peoples was 7.7 in 2016 and 7.4 in 2018; for mestizos and whites, it was 10.6 in 2018. Thirteen per cent of members of peoples and nationalities were illiterate in 2016, compared to 15.1 per cent in 2018; the figure for mestizos and whites in 2018 was 4.9 per cent. The primary school attendance rate for members of peoples and nationalities was 96.6 per cent in 2016 and 97.3 per cent in 2018; the corresponding figure for mestizos and whites in 2018 was 96.8 per cent (see table 28). The net attendance rate for members of peoples and nationalities at the basic education level was 95.7 per cent in 2016 and 95.3 per cent in 2018. The net secondary school attendance rate for members of peoples and nationalities was 79.7 per cent in 2016 and 80.9 per cent in 2018. The attendance rate for members of these groups at the upper secondary level was 58.4 per cent in 2016 and 61 per cent in 2018 (table 29).

110. In order to improve access to education, 534 children, 2,163 indigenous children, 236 Montubio children, 123 mulatto children and 55 black children were removed from situations of child labour (see table 11).

Access to public services

111. The Ministry of Transport and Public Works is currently engaged in the initial phase of a project to collect and systematize data on access to rural transportation and public transportation for persons living in rural and urban areas. In the second phase, it will conduct an analysis of services, as provided under the National Plan for Long-Distance and Rural Mobility and Accessibility. This information will be available in January 2020. The Plan is a strategic institutional project to modernize transport planning in order to reduce social gaps, improve quality of life for the public and expand the coverage of public interprovincial and intraprovincial transport services nationwide.

112. The National Transit Agency is working to form an interdepartmental technical commission for the priority management of transport in rural areas. The commission will collect information on mobility needs in different areas, the characteristics of the population, road infrastructure and vehicles types with a view to implementing a transport model in rural areas.

¹⁶ National Statistics and Census Institute, available at: <https://ecuadorec.com/numero-habitantes-ecuador-poblacion/>.

113. With respect to the access of members of peoples and nationalities to basic services, it is reported that 78.5 per cent had access to a public water system in 2016, while 89.4 per cent of mestizos and whites had such access. In 2018, 70.9 per cent of members of peoples and nationalities and 87.7 per cent of mestizos and whites had such access (see table 34). Data indicate that, in 2018, 74.6 per cent of households self-identifying as indigenous, Afro-Ecuadorian or Montubio had access to an adequate excreta disposal system, compared to 93.4 per cent of mestizo and white households. Of homes belonging to members of indigenous peoples and nationalities, the Afro-Ecuadorian people or the Montubio people, 35.2 per cent had access to a sewage system in 2018, while in the same year 67.9 per cent of homes belonging to persons who self-identify as white or mestizo had such access. In 2018, street lighting was available to 95.3 per cent of homes belonging to individuals self-identifying as indigenous, Afro-Ecuadorian or Montubio and to 98.6 per cent of homes belonging to mestizos or whites (see table 34).

Access to social services

114. The Ministry of Economic and Social Inclusion runs a project called “Care, Recreation and Learning Circles” as part of the “Mission: Tenderness” programme that serves families of children aged 3 years and under and supports children’s healthy development. Up until September 2019, 37,194 members of peoples and nationalities had received assistance under the project nationwide: 3,179 Afro-Ecuadorians, 20,166 indigenous persons, 11,774 Montubio persons, 1,354 mulattoes and 721 black persons (see table 12).

115. The Ministry’s home-care programme for older adults served 17,580 members of peoples and nationalities, including 599 Afro-Ecuadorians, 12,927 indigenous persons, 3,837 Montubio persons, 143 mulattoes and 74 black persons (see table 13). Venues where they can gather and socialize have also been created (see table 14). Another Ministry project that serves persons with disabilities at home and in the community had benefitted 6,021 members of peoples and nationalities as at September 2019, including 649 Afro-Ecuadorians, 125 indigenous persons, 5 Montubio persons, 2 mulattos and 2 blacks (see table 15). The “My Best Years” programme is designed to “improve the quality of life of individuals over 65 years of age living in situations of extreme poverty by progressively empowering them to exercise their rights, enhancing their well-being and giving them access to life enrichment opportunities”.

Access to housing

116. In 2018, 40 per cent of indigenous, Afro-Ecuadorian and Montubio households were living in substandard homes; for mestizo and white households, the figure was 32.1 per cent (see table 33). Data disaggregated by self-identified ethnicity indicate that 28.7 per cent of indigenous, Afro-Ecuadorian and Montubio households were living in shared or improvised homes in 2018, compared to 10.2 per cent of white and mestizo households. Data on overcrowding can be found above, in the third paragraph of the section covering the right to housing.

Paragraph 7

117. Regarding the promotion of the economic, social and cultural rights of indigenous, Afro-Ecuadorian and Montubio peoples through the expansion of special measures or affirmative action:

118. The Ministry of Labour has created affirmative action opportunities with the relevant stakeholders under Ministerial Decision No. MDT-2019-022, establishing technical standards for the staff selection subsystem. Under article 31 of the Decision, members of peoples and nationalities who reach the final stages of the competitive hiring process of any State entity are attributed two additional points. In addition, in the administrative district of the Amazon, under Ministerial Decision No. MDT-2019-040, by 2022, 10 per cent of the staff hired by any of institutions named in article 3 of the Organic Act on Public Service or any private companies or entities with more than twenty-five civil servants or employees, respectively, must be members of peoples and nationalities. This provision is being

implemented incrementally, with 4 per cent being required in 2019, 6 per cent in 2020, 8 per cent in 2021, and 10 per cent in 2022.

119. The Ministry of Education is implementing a plan to achieve high-quality comprehensive initial and basic education, as well as a special educational service, in application of Decision No. MINEDUC-2019-00057-A, designed to bring to grade level and accelerate the learning of children and adolescents between 8 and 18 years of age who are falling behind in school.

120. The aim of the special educational service is to place students who have fallen behind because they have been unable to exercise their right to an education at some point in their lives once again on an equal footing with their peers. In order to bring students closer to the grade level corresponding to their age, the service adapts the curricula to allow pupils in the lower and upper primary school grades to move up two years and pupils at the lower secondary school level to advance to the first year of the upper secondary level in one school year. Although the service was not conceived with a cultural purpose, 43.08 per cent, or 1,397, of the students served are members of peoples or nationalities; for example, in the 2018–2019 cycle 11.78 per cent, or 382, of the students were of African descent and 14.18 per cent of the total 3,243 students were Shuar. Most of the students – 1,818 of the total – were mestizo. The service also assisted 124 foreign students, mostly Colombians (155) and Venezuelans (35).

121. A decision has been taken to develop a central register for cases of violence against women as part of the Comprehensive National System for the Prevention and Eradication of Violence against Women. The System is coordinated by the ministries responsible for justice, human rights and religious affairs and for civil security and law enforcement as well as the Council of the Judiciary.

122. The Council of the Judiciary is working to ensure access to justice by increasing the number of judicial bodies in the provinces with the largest indigenous populations, namely, Chimborazo (17.11 per cent) and Pichincha (13.5 per cent), and the largest populations of persons of African descent, namely, Guayas (33.2 per cent) and Esmeraldas (20 per cent). In total, there are 38 judicial bodies in Esmeraldas, 48 in Imbabura, 202 in Guayas, 45 in Chimborazo and 158 in Pichincha.

123. Since March 2018, the Council departments in charge of access to judicial services, case management and information and communications technology have been working on technological improvements to the Ecuadorian Automated Judicial Processing System with a view to identifying indicators that might be used to develop strategies for eliminating all forms of racial discrimination and overcoming the structural barriers that hinder access to judicial services.

124. Under articles 85 and 86 of the Organic Code on the Judicial Branch and point 3.1 (a), (b), (d), (f), (g) and (h) of the Regulations on the Process-based Management and Organization of the Judicial Training Academy, the Judicial Training Academy is responsible for the training and education policy of the judicial branch. In this role, it ran an online training course on equality and non-discrimination in Ecuador, in which 460 notaries participated nationwide. In addition, since 2017, regular training sessions have been held for civil servants in accordance with the Code of Ethics for Civil Servants and Employees in the Judicial Branch, with 2,750 public servants trained in 2017, 9,329 in 2018, and 3,379 in 2019.

Paragraph 9

125. In December 2016, the Council for the Regulation and Development of Information and Communication organized a public intercultural event called “Now My Voice Is Heard” in the north of Ecuador. From 2016 to 2018, the Council provided technical support for 54 events, which were attended by 3,188 persons. In 2019, it provided technical support six times for workshops and forums for an internal audience that covered violence, discrimination and rights-oriented content generation, in which 44 people participated. For the International Day for the Elimination of Discrimination in March 2017, the Council organized a forum on discrimination, racism and policies for their eradication in which 276 persons took part. In 2018, the Council and the National Council for Peoples and Nationalities

held an event on the handling of interculturalism and plurinationality in the media, in which 110 people participated.

126. The goals set for 2021 under the National Lifelong Development Plan 2017–2021 include increasing the percentage of educational institutions that form part of the Bilingual Intercultural Education System, having adopted the Model Bilingual Intercultural Education System, from 2.38 per cent to 3.80 per cent and increasing the percentage of public educational institutions with a bilingual intercultural offering in districts where the majority of the population belongs to a nation or people from 65.9 per cent to 75 per cent.

127. Other educational goals for 2021 include increasing the percentage of members of peoples and nationalities with adequate employment from 26 per cent to 32 per cent; increasing the net enrolment rate of indigenous, Afro-Ecuadorian and Montubio persons in upper secondary education from 58.2 per cent to 70 per cent; improving public education services from an intercultural perspective by bringing the percentage of indigenous students in the third year of upper secondary education with more than a minimum level of competence in language and literature from 67.9 per cent to at least 70 per cent; improving public education services from an intercultural perspective by bringing the percentage of students in the third year of upper secondary education who self-identify as indigenous and have more than a minimum level of competence in mathematics from 56.2 per cent to at least 60 per cent; improving public education services from an intercultural perspective by bringing the percentage of students in the third year of upper secondary education who self-identify as Afro-Ecuadorian and have more than a minimum level of competence in mathematics from 50.4 per cent to at least 60 per cent; and improving public education services from an intercultural perspective by bringing the percentage of Montubio students in the third year of upper secondary education with more than a minimum level of competence in mathematics from 56.9 per cent to at least 60 per cent.

128. Other goals set for 2021 under the National Lifelong Development Plan include improving public health services from an intercultural perspective by increasing the percentage of health facilities in the Comprehensive Public Health Network that are certified as “Friends of Mother and Child” facilities for delivery; eradicating discrimination on the basis of gender, ethnicity and situation of mobility by reducing to zero the percentage of members of the LGBTIQ community who have experienced some form of discrimination on the basis of their sexual orientation and gender identity and reducing to zero the percentage of indigenous, Afro-Ecuadorian and Montubio persons who say that they are discriminated against; increasing the number of people belonging to peoples and nationalities who take part in politics; and increasing the net enrolment rate of indigenous, Afro-Ecuadorian and Montubio students in higher education and strengthening intercultural dialogue.

Hate crime and racial discrimination

Paragraph 11

129. According to the Automated System of Judicial Procedures, which is the electronic repository of all cases registered in the country, 82 cases were registered between January 2017 and August 2019. Of these, 25 related to the offence of discrimination and 57 related to hate crimes. More information is available in table 23.

130. In the same period, 70 of the 82 cases filed for racial discrimination and hate crimes, or 85.3 per cent, were resolved. The remaining cases are still being processed. Of the 67 cases filed for hate crimes, 15 involve adolescent offenders; of the 25 cases filed for discrimination, 3 involve adolescent offenders. Such cases are governed by the Code on Children and Adolescents. Adolescents who commit an offence defined in the Comprehensive Organic Criminal Code are liable to face socioeducational measures proportionate to their degree of responsibility in the offence committed (see tables 24 and 26).

131. By Decision No. 038-2019 of 28 March 2019, the plenary Council of the Judiciary established that, in cases where the Council becomes aware that a disciplinary offence has been committed, it must request the National Directorate of Disciplinary Oversight to initiate the appropriate disciplinary proceedings *ex officio*, to ensure effectiveness, efficiency and quality in disciplinary matters.

Indigenous and ordinary justice

Paragraph 13

132. At a meeting on 29 January 2019, the Legislative Council adopted the draft Organic Act on the Application of Indigenous Justice in Ecuador, whose purpose is “to establish the scope of and mechanisms for coordination and cooperation between the bodies of the judiciary and the jurisdictional functions of the authorities of indigenous communes, communities, peoples and nationalities”.

133. Indigenous justice is recognized in the Constitution and in secondary legislation (Organic Code of the Judiciary, arts. 24 and 343), in which the principles of interculturalism and indigenous jurisdiction are enshrined. The authorities of indigenous communities, peoples and nationalities have the power to exercise jurisdictional functions on the basis of their ancestral traditions and internal law within their own territory. The indigenous authorities may apply their own laws and procedures to settle internal disputes, provided that these do not conflict with the Constitution or the human rights recognized therein and in international instruments.

134. In order to establish efficient mechanisms for cooperation and coordination between the indigenous justice system and the ordinary justice system, the Council of the Judiciary is developing a plan that will allow the two systems to work together. The plan will comprise three phases. The first phase involves gathering information in the provinces where indigenous nationalities, peoples, communes and communities live so as to determine how they exercise their jurisdiction. The second phase will consist in the establishment of an interdisciplinary working group for preparing coordination guidelines and protocols whose application can be adapted to reflect the conditions in each community. The third phase will consist in the application of the plan.

135. The Constitutional Court of Ecuador has extensively analysed indigenous peoples’ internal jurisdiction and respect for their customs, culture and territory. The following judgments are of particular interest in this connection: Judgment No. 001-17-PJO-CC, which states that the status of an indigenous authority cannot be assessed on the basis of the formal requirements of ordinary law but rather must be based on an analysis of the situation of the people, community or nationality that the authority claims to represent; Judgment No. 013-15-SAN-CC, which provides for the application of criminal law with an intercultural approach, taking into account indigenous customs; Judgment No. 008-15-SCN-CC, which establishes that the indigenous communities are competent to resolve internal conflicts within the scope of indigenous jurisdiction; Judgment No. 309-15-SEP-CC, which establishes that judges in the ordinary justice system have no jurisdiction over acts that fall within the scope of indigenous justice, particularly where it has been proven that the indigenous justice system in question has the mechanisms necessary to rule on the matter and enforce appropriate sanctions; Judgment No. 001-17-SEI-CC, which provides that decisions handed down by the authorities of the communities within the scope of their jurisdiction must respect constitutional and human rights safeguards; and Judgment No. 141-14-SEP-CC, in which it was ruled that the right to collective ownership of the land of indigenous ancestral peoples was violated by the issuance of an administrative decision ordering the eviction of a Shuar community from their ancestral territory in the area of influence of the Panantza-San Carlos mining project.

Indigenous peoples in voluntary isolation or initial contact

Paragraph 15

136. Pursuant to the second paragraph of article 57¹⁷ of the Constitution and the precautionary measures recommended by the Inter-American Commission on Human Rights, the Secretariat for Human Rights has taken the following measures:

¹⁷ “The right of peoples in voluntary isolation to their territories is irrevocable and sacrosanct, and any type of extractive activity whatsoever on these territories is prohibited. The State shall take action in

(a) Introduction of a monitoring system for the protection of indigenous peoples living in voluntary isolation, comprising a set of measures for collecting and analysing information about the Tagaeri-Taromenane Protected Zone and its area of influence in order to identify possible threats, including their causes and consequences, to the lives of indigenous peoples living in voluntary isolation, so that prevention and response measures can be taken. These measures include patrols, radio monitoring, analysis of satellite imagery and overflights.

(b) Conduct of land and river patrols in the Tagaeri-Taromenane Protected Zone, the buffer zone and areas of influence to identify areas frequented by indigenous peoples living in voluntary isolation, material evidence of their culture, and threats and risks to their territories and resources. These patrols undergo strategic planning and inspections and employ an early warning system, for which purpose the Tagaeri-Taromenane Protected Zone and its area of influence have been divided into separate monitoring zones to allow for specific responses according to geographical, social and institutional contexts and alert/risk priorities.

(c) Radio monitoring, including monitoring reports sent by Waorani officials of the Human Rights Secretariat directly from their communities and by persons who have volunteered to issue alerts from various communities in the Tagaeri-Taromenane Protected Zone and its area of influence and who have been provided with radios to maintain direct contact. In both cases, the aim is to collect information of all kinds, including information about illnesses, social, territorial and environmental problems, and alerts and emergencies related to threats to indigenous peoples living in voluntary isolation, and to provide an immediate response.

(d) Analysis of satellite imagery and overflights, which entails collecting information on the territories of indigenous peoples living in voluntary isolation and their area of influence using indirect monitoring techniques. In the analysis of satellite imagery, orthomosaic maps¹⁸ acquired by the Human Rights Secretariat and open-access platforms provided by the companies Google and Planet are used to evaluate the situation in the areas surrounding the territories of indigenous peoples living in voluntary isolation. Overflights generate in situ information, which is compared with data obtained through patrols and the analysis of satellite imagery. They are carried out at a height of 1,000 meters above ground level to avoid damaging the hearing of indigenous peoples living in voluntary isolation. Their purpose is to take high-resolution georeferenced photographs. The information gathered through these activities has been drawn upon to produce a map that is used: (i) to identify areas that indigenous peoples have historically occupied or travelled through; (ii) to facilitate the verification of conditions in the territories of indigenous peoples living in voluntary isolation; (iii) to analyse threats to indigenous peoples living in voluntary isolation identified in surrounding areas; and (iv) to draft reports on the viability of activities in the Tagaeri-Taromenane Protected Zone.

Promotion of a policy for the protection of indigenous peoples living in voluntary isolation

137. Training and dissemination of information with regard to indigenous peoples living in voluntary isolation: The Human Rights Secretariat carries out information and awareness-raising activities throughout the country for the main social actors involved directly or indirectly with the Tagaeri-Taromenane Protected Zone, its buffer zone and its area of influence. The training addresses topics such as: (i) general background information relating to indigenous peoples living in voluntary isolation; (ii) the rights of indigenous peoples living in voluntary isolation and protection policies; (iii) the situation of indigenous peoples living in voluntary isolation in Ecuador; (iv) measures taken by the Ecuadorian State to protect

order to protect the lives of peoples in voluntary isolation, enforce their right to self-determination and to choose to remain in isolation, and ensure that their rights are respected. The violation of these rights shall constitute the offence of ethnocide, which shall be defined by law.” (Constitution, art. 57 (21))

¹⁸ An orthomosaic map is a map composed of a set of aerial images (i.e. images taken from an aircraft or a satellite) that have been processed into an orthographic projection, i.e. a two-dimensional map, that can be used to take exact measurements.

indigenous peoples living in voluntary isolation; and (v) the protocols to be applied in the event of an encounter with an indigenous people living in voluntary isolation. The training is intended to raise awareness of the vulnerable situation of indigenous peoples living in voluntary isolation, the need to respect their rights and the importance of protecting them.

138. Community work is being carried out in the Tagaeri-Taromenane Protected Zone and its area of influence to assess relations between the indigenous Waorani and Kichwa communities and the indigenous peoples living in voluntary isolation. The Human Rights Secretariat encourages dialogue within these zones to strengthen knowledge of and respect for indigenous peoples living in voluntary isolation and to encourage Waorani and Kichwa communities to engage in participatory monitoring in their territories. The Human Rights Secretariat has taken the following measures together with Waorani and Kichwa communities: (i) protection of territories in the Tagaeri-Taromenane Protected Zone through participatory monitoring; and (ii) development of community ecotourism; (iii) participatory assessments through dialogue to determine the needs of the populations concerned and to define possible joint activities to be managed by the competent authorities. It has also established cooperation networks with civil society organizations.

Interinstitutional measures

(a) The Ministry of Health has organized visits by mobile medical and immunization teams to communities in the Tagaeri-Taromenane Protected Zone and its area of influence. These activities are carried out in coordination with the activity schedule of the mobile health officials of the Ministry of Health and Human Rights Secretariat officials working in the field. A technical standard on the protection of the health of indigenous peoples in voluntary isolation and initial contact was adopted through Ministerial Agreement No. 0114-2017 of 8 August 2017.

(b) Petroamazonas EP is taking the following measures: (i) planning, coordinating, facilitating, implementing and evaluating the logistical support necessary for the supervision and monitoring of blocks 21, 31, 43 and 55 with respect to indigenous peoples living in voluntary isolation; (ii) training its staff, contractors and subcontractors in how to protect the indigenous peoples living in voluntary isolation in blocks 21, 31, 43 and 55; and (iii) coordinating activities so as to minimize operational risks in blocks 21, 31, 43 and 55 and thus protect indigenous peoples living in voluntary isolation.

(c) The Ministry of Agriculture and Livestock and the Ministry of the Environment have taken joint action to regulate agricultural, livestock, fish and forestry activities, in accordance with their respective spheres of competence, in the Diversity and Life Corridor of Francisco de Orellana canton, adjacent to Yasuní National Park and Waorani territory. In addition, the regularization of land in the Diversity and Life Corridor, the issuance of technical criteria for land use and development, and training, monitoring and social dialogue initiatives involving the communities living in the Diversity and Life Zone have all continued.

(d) The Ministry of the Environment and the Ministry of Defence have concluded an agreement to strengthen their mechanisms and monitoring activities in the Tagaeri-Taromenane Protected Zone, in view of the external threats identified in the region. An inter-institutional action plan is being implemented, which entails parallel patrols and monitoring coordinated with the institutions involved; strengthening existing checkpoints; inter-institutional coordination and dialogue to support application of the policy for the protection of indigenous peoples living in voluntary isolation; training members of the Ecuadorian Armed Forces and other actors at the local level; geographical analysis; mapping the location of stakeholders; mapping risks; coordinating with the Attorney General's Office; dialogue with local organizations; and meetings with senior decision-making authorities in their respective spheres of competence.

(e) On 16 August 2018, the Waorani Nationality of Ecuador signed a new agreement to facilitate the planning, implementation and evaluation of actions that promote a culture of peace and respect for human rights among the Waorani communities of the Tagaeri-Taromenane Protected Zone and towards indigenous peoples living in voluntary isolation.

139. Checks and monitoring activities are also under way. Through Interministerial Agreement No. 002, published in the Supplement to Official Gazette No. 335 of 26 September 2018, the Ministry of Justice, Human Rights and Religious Affairs (now the Human Rights Secretariat), the Ministry of Hydrocarbons and the Ministry of the Environment signed a protocol of conduct governing hydrocarbon operators subject to oversight in areas adjacent to the Tagaeri-Taromenane Protected Zone and its buffer zone. The protocol also provides for the establishment of a follow-up and monitoring committee composed of representatives of the three signatory ministries. To strengthen protection for the rights of indigenous peoples living in voluntary isolation, and to check for illegal logging, fishing, and hunting, patrols and monitoring activities are carried out in the protected area in coordination with staff from the administrative office of the Yasuní National Park, with the aim of identifying and combating illegal activities in the territory.

140. Further monitoring activities include an exchange of experiences, within the framework of the Treaty for Amazonian Cooperation, on the establishment of sanitary cordons to support the development of a regional health plan for indigenous peoples in a situation of isolation and initial contact. Categories for the confirmation of evidence of the existence of indigenous peoples living in voluntary isolation, guidelines for the protection of indigenous peoples in a situation of isolation and initial contact, and guidelines for the exchange of traditional knowledge among indigenous peoples in border regions for the sustainable management of biodiversity have also been established.

Additional activities in the framework of the public policy for the protection of indigenous peoples living in voluntary isolation

141. On 29 November 2017, through Executive Decrees No. 229 and No. 230, the National Electoral Council was requested to organize a referendum and a popular consultation on the expansion of the territory of the Tagaeri-Taromenane Protected Zone. Executive Decree No. 230 invited Ecuadorians and foreign nationals residing in Ecuador to vote on the following question, among others: “Do you agree that the Protected Zone should be enlarged by at least 50,000 hectares and that the area in which oil drilling in Yasuní National Park may be authorized by the National Assembly should be reduced from 1,030 hectares to 300 hectares?” On 4 February 2018, the Ecuadorian people voted yes to this question, with 67.31 per cent of voters responding favourably. By Executive Decree No. 314 of 16 February 2018, President Lenín Moreno Garcés established a commission composed of officials from the Ministry of the Environment, the Ministry of Justice, Human Rights and Religious Affairs (now the Human Rights Secretariat) and the Ministry of Hydrocarbons to take responsibility for increasing the size of the Tagaeri-Taromenane Protected Zone by at least 50,000 hectares and reducing the size of the area in which oil drilling may be authorized by the National Assembly.

142. Executive Decree No. 751 of 21 May 2019 (Official Gazette No. 506 of 11 June 2019) amends Executive Decree No. 2187 and provides for the expansion of the Tagaeri-Taromenane Protected Zone by a total of 818,501.42 hectares, enveloping the parishes of Cononaco and Nuevo Rocafuerte in Aguarico canton, Orellana province, and the parish of Curaray in Pastaza canton, Pastaza province. Executive Decree No. 751 replaced article 3 of Executive Decree No. 2187, which was published in Official Gazette No. 1 of 16 January 2007, with the following: “In the buffer zone, it is prohibited to carry out new infrastructure projects involving the construction of roads, hydroelectric power plants and centres for oil facilities or any other project that technical and environmental impact studies have determined to be incompatible with the purpose of the Protected Zone. Drilling platforms and platforms for the production of hydrocarbons are exempted from the prohibition established in article 3.” It also replaced article 4 with the following: “The Ministry of the Environment, the Ministry of Energy and Non-Renewable Natural Resources, the Human Rights Secretariat and the National Secretariat for Policy Management, or other competent authorities, shall, within 180 days, define appropriate policies and procedures to prevent or minimize the impact that the activities of oil companies legally authorized to operate in the buffer zone may have on the lives of hidden peoples living in the Protected Zone. Authorized oil operations in the buffer zone shall use low-impact techniques in the exploration and extraction of hydrocarbons, such as directional or cluster drilling techniques and underground

pipe laying; such operations must be authorized by the Ministry of the Environment and the Ministry of Energy and Non-Renewable Natural Resources.”

143. With regard to the institutional framework for the protection of indigenous peoples living in voluntary isolation, the Human Rights Secretariat has an intercultural, interdisciplinary and intergenerational team of experts, including Waorani and Quechuan field experts, community monitors and Waorani *pikenani*,¹⁹ located either in the central offices of the Human Rights Secretariat or in the field, who are a key part of the effort to protect indigenous peoples living in voluntary isolation.

144. The Ministry of Health has a technical standard for the protection of the health of indigenous peoples in voluntary isolation and initial contact. To ensure that the standard is applied, training was organized for personnel from district authorities 2 and 3, for 10 Waorani indigenous facilitators and for Ministry officials. With a view to providing comprehensive health care, a health protection cordon has been set up through which comprehensive mobile health units are periodically sent out to Waorani nationality communities. The Ministry of Health offers training for users from the indigenous nationalities and peoples on how to report concerns in health facilities in remote areas.

Impact of projects involving natural resource exploitation

Paragraph 17

145. In March 2016, the Government adopted the Organic Act on Rural Land and Ancestral Territories to regulate the possession, ownership, management and redistribution of rural land as a factor of production for ensuring food sovereignty, increasing productivity, fostering a sustainable and balanced environment and providing legal certainty for rights holders. The Ministry of the Environment concluded seven conservation agreements with the nationalities of the Ecuadorian Amazon region: two with the Zápara nationality, two with the Andwa nationality, two with the Shiwiar nationality and one with the Waorani nationality. These agreements benefited 4,472 people and ensured the conservation of 466,492.4 hectares. In the Amazon, seven direct agreements were signed with Kichwa communities,²⁰ three with Achuar communities,²¹ one with the Central Shuar Uyuimi Community and one with the Shiwiar Bufeo Tunkinza Association, benefiting 3,183 people and ensuring the conservation of 383,720.03 hectares.

Protection measures and safeguards against negative environmental impacts

146. Article 396 of the Constitution provides that the State has a duty to adopt appropriate policies and measures to prevent negative environmental impacts, when it is certain that a particular activity will cause damage to the environment. If there is doubt as to the environmental impact of a given activity, or of a failure to carry out a given activity, even where there is no scientific evidence of damage the State must adopt effective and timely protective measures. Liability for environmental damage is strict. Any damage to the environment, in addition to carrying sanctions, entails an obligation to restore the affected ecosystems comprehensively and to compensate the affected persons and communities. Every actor involved in the production, distribution, sale and use of goods or services must assume direct responsibility for preventing environmental damage, for mitigating and repairing any damage caused, and for maintaining a permanent environmental monitoring system. There is no statute of limitations on legal proceedings to prosecute and sanction persons responsible for environmental damage.

147. Since 2008, the Forest Partners Programme has been awarding economic incentives to farmers and indigenous communities who make voluntary commitments to conserving and protecting their native forests, paramos and other native vegetation. According to the

¹⁹ A *pikenani* is a wise elder.

²⁰ Kichwa de Curaray Ancestral People (two agreements), Kawsak Sacha, the San Virgilio Center, the Valle Hermoso Forestry Association, the Chunchupamba Kichwa Centre and the Canelos Kichwa Ancestral Community.

²¹ The Achuar Kupatas Community, the Achaur Numbaimi Ecological Community and the Achur Kasuaentza Center.

Programme's operational manual and Decision No. 281, these incentives are distributed in a manner that ensures the inclusive participation of the indigenous peoples and nationalities, in accordance with the organization's charter. The project currently covers 23 provinces in continental Ecuador and has a total of 174,793 partners, 49.95 per cent of whom are women.

Free, prior and informed consultation

Paragraph 19

148. Article 398 of the Constitution provides that any State decision or authorization that may affect the environment must be discussed with the community concerned, which must be provided with ample and timely information. The State is responsible for initiating the discussion. The law regulates prior consultation, citizen participation, deadlines, the subject of consultation and the criteria for assessing and opposing the activity submitted for consultation. The State must take account of the views of the community, following criteria established in law and international human rights instruments. Where the consultation process generates widespread opposition within the community concerned, the decision either to proceed or to cancel the project must be adopted by duly reasoned resolution of the relevant senior administrative body, in accordance with the law.

149. Article 57 (17) of the Constitution establishes the right of indigenous peoples, communes and nationalities to pre-legislative consultation, which must take place before any legal measure that might affect their collective rights is adopted. With a view to ensuring that the right to pre-legislative consultation is upheld in practice, the Constitutional Court, through Decision No. 001-10-SIN-CC of 18 March 2010, ruled that the National Assembly is the constitutional body responsible for conducting pre-legislative consultations and that it should adopt an administrative act to establish the requisite procedure.

150. In the case of hydrocarbon activities, Executive Decree No. 1247 of 2 August 2012 regulates the process of prior consultation that the Hydrocarbons Secretariat is required to carry out, which entails deciding on a participation mechanism and identifying the stakeholders who should take part, the administrative procedures required, the social benefits that the indigenous communities, peoples and nationalities to be consulted may receive, and any other conditions that lend legitimacy, security and a legal basis to proceedings relating to the management of the country's hydrocarbon resources.

151. In accordance with article 184 of the Organic Code on the Environment, the Ministry of the Environment is responsible for carrying out the citizen participation procedures required before any administrative environmental authorization may be granted. Environmental impact assessments and environmental management plans may be approved only after the completion of a technical review and a citizen participation exercise. The latter consists of a series of activities to share information and foster communication and dialogue between the project proponent and civil society.

Investigate the complaints arising from the alleged displacement of Shuar families in connection with the San Carlos Panantza mining project, and take the appropriate measures

152. The Provincial Prosecutor's Office of Morona-Santiago provided information on complaint No. 140801818020002 relating to the alleged commission of the crime of deportation or forcible transfer of population in the Tsuntsuin community in San Carlos de Limón parish, San Juan Bosco canton. The case is currently in the procedural phase of the preliminary investigation, which is confidential, in accordance with article 584 of the Comprehensive Organic Criminal Code. The Provincial Prosecutor's Offices of Sucumbíos, Orellana, Napo, Pastaza and Zamora-Chinchipe have registered no complaints regarding the displacement of Shuar families in connection with mining projects.

2012 judgment of the Inter-American Court of Human Rights in *Sarayaku v. Ecuador*

153. On 27 June 2012, the Inter-American Court of Human Rights issued a judgment in which it found a violation of the human rights of the Kichwa indigenous people of Sarayaku

and ordered the reparation measures cited below. The progress made in implementing these measures is detailed below.

154. “The State must neutralize, deactivate and, if applicable, remove all pentolite left on the surface and buried in the territory of the Sarayaku People, based on a consultation process with the People, within the time frames and in accordance with the ways and means described in paragraphs 293 to 295 of this Judgment”: Multiple meetings were held between senior officials of the former Ministry of Justice, Human Rights and Religious Affairs and the representatives of the community and their lawyer to coordinate actions in relation to the pentolite. In June 2014, the Ecuadorian State established a multidisciplinary team of nine public servants with technical expertise in biology, sociology, environmental matters, forestry and geography, which carried out a baseline survey.

155. “The State must adopt the necessary legislative, administrative or any other type of measures to give full effect, within a reasonable time, to the right to prior consultation of the indigenous and tribal peoples and communities and to amend those that prevent its free and full exercise and, to this end, must ensure the participation of the communities themselves, in the terms of paragraph 301 of this Judgment”: Prior consultation is regulated by Ecuadorian law, specifically under article 57 of the Constitution, article 87 of the Mining Act and article 8 of the Regulations on Prior Consultation.

156. “The State must implement, within a reasonable time and with the respective budgetary allocations, mandatory training programmes or courses that include modules on the national and international standards concerning the human rights of indigenous peoples and communities, in the terms of paragraph 302 of this Judgment”: Training modules were developed for members of the armed forces, the police, judicial officials, and officials of the Ombudsman’s Office. Since 2010, 1,514 national police officers have been trained in the human and collective rights of indigenous peoples and nationalities.

157. “The State must carry out a public act of acknowledgment of international responsibility for the facts of this case, as established in paragraph 305 of this Judgment”: On 1 October 2014, a high-level commission, made up of five ministers from different State departments, travelled to the territory of the Sarayaku people, where they delivered a public apology.

158. “The State must make the publications indicated in paragraphs 307 and 308 of this Judgment”: The official summary of the judgment prepared by the Court was published in the Supplement to Official Gazette No. 770 of 20 August 2012 and in the *El Telégrafo* newspaper on 10 August 2012. The full sentence was published on the official website of the Ecuadorian State, specifically the official web pages of the Ministry of Non-Renewable Natural Resources, the Ministry of the Environment and the Ministry of Justice, Human Rights and Religious Affairs. The official summary of the sentence was also broadcast on four radio stations selected by the people, in the Spanish, Kichwa and Shuar languages.

159. “The State must pay the amounts established in paragraphs 317, 323 and 331 of this Judgment, as compensation for pecuniary and non-pecuniary damage, and to reimburse costs and expenses, in the terms of the said paragraphs, and of paragraphs 335 to 339 of this Judgment, and reimburse the Victim’s Legal Aid Fund the amount established in paragraph 334 hereof”: The sum of \$1,380,000.00 was paid to the Kichwa indigenous people of Sarayaku on 24 July 2013, to the current account held in their name. The amount was broken down as follows: \$1,250,000 for non-pecuniary damage, \$90,000 for pecuniary damage and \$40,000 for the remaining costs and expenses.

160. In accordance with the judgment of the Inter-American Court of Human Rights of 27 June 2012, programmes that include modules on national and international standards for the human rights of indigenous peoples and communities were included in the curriculum of the Continuing Comprehensive Training Programme for 2019 and in the training and specialization courses run by the National Education Directorate of the National Police. Related awareness-raising activities and training were also incorporated into the Continuing Comprehensive Training Programme for the period 2019–2020, which was designed to regulate the actions that the police can use to establish harmonious relations, coordinate and cooperate with the authorities of indigenous communities, communities, peoples and nationalities, in the context of programmes and operations in Ecuador.

Exploration and exploitation activities in areas traditionally occupied by Montubio, Afro-Ecuadorian and indigenous peoples

161. The Organic Code on the Environment, which was adopted in April 2017 and entered into force in April 2018, is the most important environmental norm in the country. It addresses topics such as climate change, protected areas, wildlife, forest heritage, environmental quality, waste management, environmental incentives, coastal marine areas, mangroves, access to genetic resources, biosecurity and biotrade. By Executive Decree No. 752 of 21 May 2019, the President of the Republic issued the Regulations to the Organic Code on the Environment, the purpose of which is to develop and structure the normative framework to give effect to the provisions of the Code.

Human rights defenders

Paragraph 21

162. The Public Defender Service provides advice and legal representation to the priority individuals and groups defined in the Constitution and the 100 Brasilia Regulations Regarding Access to Justice for Vulnerable People. Between April 2016 and March 2019, it provided legal representation on 61,501 occasions to members of the indigenous peoples and nationalities, out of a total of 611,813 occasions on which representation was provided, including to mestizos and whites, and provided advice to 4,354 persons from the indigenous peoples and nationalities, out of a total of 66,343 persons who benefited from advice (see table 31).

Awá indigenous people

Paragraph 23

163. The Secretariat for Human Rights is working with the Northern Border – Territory of Peace and Development (Frontera Norte – territorio de paz y desarrollo) Project, which is financed by the European Union, Deutsche Gesellschaft für Internationale Zusammenarbeit (the German International Cooperation Agency) and Agencia Española de Cooperación Internacional (the Spanish International Cooperation Agency), to ensure the effective participation of the indigenous nationalities and peoples, including the Awá nationality, and to guarantee that State services are available to these populations.

164. The German International Cooperation Agency is implementing the part of the project that focuses on protecting rights, strengthening governance, and fostering a culture of peace to support the Ecuadoran State's strategies for the comprehensive development of the northern border area. The aim is to provide a comprehensive rights protection response, with an emphasis on victims of violence, persons in situations of mobility, indigenous peoples and nationalities, children, adolescents, young people and older persons.

Measures against multiple discrimination

Paragraph 25

165. The National Council for Gender Equality launched the National Agenda for Women and Gender Equality 2014–2017 and the National Equality Agenda for Women and Lesbian, Gay, Bisexual, Transgender and Intersex Persons 2017–2021 as guiding instruments for gender equality policies. The Agenda includes lines of action designed to benefit women belonging to indigenous peoples and nationalities, Montubio women and Afro-Ecuadorian women in the areas of rural literacy; access to and retention in all levels of education; sexual and reproductive rights; economic and social protection for persons in situations of mobility; production and employment; full employment; granting of land titles; empowerment; leadership and participation of women in decision-making spaces; strengthening of skills, knowledge and know-how; and production and agrifood and fisheries processing with an emphasis on micro- and medium-sized production units, community enterprises and enterprises in the social and solidarity economy.

166. The National Equality Councils, together with the National Statistics and Census Institute, have developed instruments for gathering information on perceptions of discrimination in the multi-year follow-up survey to the National Development Plan, which will provide data on discrimination.

167. In 2018, the roll-out of the National Survey on Family Relations and Gender-based Violence against Women resumed. The first pilot of the survey was carried out in selected provinces. The team responsible for the pilot received training on gender-based violence, self-care and emotional support, with support from the United Nations Population Fund.

168. In April 2018, an expert working group was formed to take charge of the establishment of a central register of incidents of violence. Currently, information is being collected from each participating institution. The register will be used to collate statistics and raise alerts based on records of assistance provided. On the basis of confidentiality agreements, a database of victims of violence against women who are receiving care in shelters and comprehensive care centres co-financed by the Human Rights Secretariat has also been set up.

169. With a view to sharing the knowledge and practices of ancestral midwives, the Ministry of Health worked with 388 midwives from throughout the country to prepare a handbook for cooperation that was published in 2016. In November 2018, a new mapping exercise was carried out, in which 2,097 midwives were registered at the national level, 1,472 of whom have been certified at the community level and 1,051 of whom have been recognized by the Ministry of Health.

170. With regard to the participation of women, the electoral authorities are currently headed by an indigenous woman, the judiciary is headed by a woman, the Council of the Judiciary and the legislative branch are headed by women, the Attorney General's Office is headed by an Afro-Ecuadorian woman, and the Ombudsman's Office was headed by a woman between May 2018 and April 2019.

171. The Ombudsman's Office has issued a decision in response to the Mandate of Amazonian Women, a group of activists defending and advocating for their rights and those of their ancestral territories because they are concerned about the extractive activities being carried out by mining and oil companies in their communities. The general provisions of this decision call upon various State institutions to uphold the rights of Amazonian women and their ancestral territories. The National Council for Gender Equality has committed to protecting and upholding the human rights of women indigenous leaders who are persecuted and threatened because of their opposition to mining and oil extraction in their territories.

172. In September 2019, the Ombudsman's Office issued a statement calling for gender parity to be respected in all deputy mayors' offices, arguing that parity is a question of respect for human rights that affects not only current women councillors but all women, as indirect or potential victims of discrimination who could one day become councillors.

173. In 2015, the Communication Board of the National Equality Councils was established. The Board's primary objective was to draft a document that would provide communications professionals with guidance on issues relating to equality and the inclusion of the various rights holders in communication, and to make recommendations to address the issues of gender, intergenerational relations, disabilities, indigenous peoples and nationalities and human mobility in communication, within a rights-based framework.

174. The National Council for Gender Equality has developed a basic guide on gender mainstreaming and intersectionality in the autonomous departmental governments, which proposes useful instruments for incorporating the needs and rights of diverse groups of women in departmental development and land management plans.

175. Within the framework of a project to strengthen community resilience to the adverse effects of climate change, with an emphasis on food security, in the Jubones River Basin and Pichincha Province, and with technical assistance from the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), a strategy for gender mainstreaming through adaptation measures has been designed and implemented. The aims of this strategy are to reduce women's workload, facilitate their agricultural work, improve their income, and widen their access to forums of representation and decision-making. The

project had a target population of 26,441 women and 22,523 men and a total budget of \$15,552,000. Within the framework of an agreement between the Ministry of the Environment, the Ministry of Agriculture and Livestock and the United Nations Development Programme, the Comprehensive Amazon Programme for the Conservation of Forests and Sustainable Production (PRO Amazonía) is now in the roll-out stage. In coordination with UN-Women, a gender perspective has been written into the Programme in order to improve the situation and position of women in socioenvironmental processes, the promotion of biodiversity conservation, forests and ecosystem-based services, and production processes to combat climate change, and women account for 35 per cent of the Programme's beneficiaries. The Programme has a budget of \$53,600,000, of which \$1,200,000 is earmarked for gender issues.

176. Since August 2016, the Ministry of Agriculture and Livestock has been implementing a project that promotes climate-smart livestock management. In 2018, with an eye on equal opportunities and affirmative action, mainstreaming the gender perspective was made a specific objective in the project's implementation. Accordingly, special assistance is provided to female heads of household and women who are leaders in livestock farming, the aim being to contribute to the elimination of obstacles that might hinder their development. The project has a total budget of \$3,800,000, 24 per cent of which is earmarked for activities with a gender focus.

Access to higher and bilingual education

Paragraph 27

177. The Government has set up the Amawtay Wasi University Management Committee to manage the reopening of the Amawtay Wasi Intercultural University of Indigenous Nationalities and Peoples as a community-based public higher education institution with academic, administrative, financial and organizational autonomy.

Paragraph 29

178. Ministerial Agreement No. MINEDUC-ME-2016-00045-A of 20 May 2016 provides for the recognition and implementation of Afro-Ecuadorian ethno-education in the national education system. Article 1 of the Agreement provides the following definition: "Ethno-education is a permanent educational, cultural, social, political and epistemic process aimed at strengthening the culture of the Afro-Ecuadorian people, based on the internalization and reproduction of their own values and knowledge. It allows them to maintain their identity and their cultural specificities within the framework of a collective life project, thus contributing to the country's interculturality." The Afro-Ecuadorian population represents 7.2 per cent of Ecuadorians, according to the 2010 census. The following activities have been carried out so far: a national round-table panel discussion on Afro-Ecuadorian ethno-education, and provincial round-table discussions in the provinces of Esmeraldas, Guayas, Pichincha, Napo, Carchi, Imbabura and Azuay; situational analysis of the Guardians of Knowledge Educational Units with regard to infrastructure, institutional management, pedagogical processes and teaching staff; distribution of 277,386 copies of a textbook entitled "Experiencias de aprendizaje sobre la Cultura Afroecuatoriana" (Experiences of Learning about Afro-Ecuadorian Culture); elaboration of educational calendars and educational booklets on ethno-education in eight Guardians of Knowledge Educational Units; formulation of a module for elementary school teachers entitled "Sembrando saberes a través de la palabra" (Sowing knowledge through words).

Combating discrimination in the media

Paragraph 31

179. The Council on the Regulation and Development of Information and Communication, pursuant to article 61 of the Organic Act on Communication, defines discriminatory content as any message disseminated by any means of social communication that makes a distinction, restriction, exclusion or preference based on nationality, ethnicity, place of birth, age, sex, gender identity, cultural identity, marital status, language, religion, ideology, political

affiliation, criminal record, socioeconomic status, migration status, sexual orientation, health status, HIV status, disability or physical difference, or any grounds that have the purpose or result of undermining or nullifying the recognition, enjoyment or exercise of human rights, promoting the propagation of stereotypes that foster gender violence of any kind, or limiting the freedom of expression of minority groups, in accordance with article 19 of the Constitution, which prohibits the broadcasting of advertising that incites violence, discrimination, racism or otherwise constitutes a violation of rights.

180. Between 2014 and 2018, the Council registered 64 reports of discriminatory messages. In the first half of 2019, three reports of discriminatory messages were registered.

181. Content analysis methodologies are tools that bring together a set of methods and techniques used to analyse a communication product and determine whether it contains discriminatory content that may violate the principle of the best interests of children and adolescents pursuant to articles 61, 62 and 63 of the Organic Act on Communication (2019).

Human mobility

Paragraph 33

182. The National Council for Human Mobility has developed technical and methodological tools to facilitate the formation of an advisory council on human mobility with a focus on human rights and social inclusion. These tools serve as supports for the facilitators who are working to promote the integration of migrants at the national and local levels and are spearheading the advisory council's creation.

183. Several national round-table panel discussions on human mobility have been organized to provide a suitable space for dialogue and the planning of joint actions involving Central Government, decentralized autonomous governments, international cooperation and representatives of civil society including groups of returned Ecuadorian migrants and groups of foreign migrants. The purpose of these discussions is to come up with a comprehensive response to the various issues surrounding migration, including social and economic inclusion, communication and information, research and statistics, integration and support for the Ecuadorian migrant community.

Education campaigns to prevent stereotyping

184. The National Council for Human Mobility, working with the Ministry of Education and Culture, the Ministry of Foreign Affairs and Human Mobility, the Ministry of the Interior, the International Organization for Migration and the United Nations Development Programme, ran a pilot project for the prevention of risky migration that targeted adolescents in schools in the provinces of Cañar, Chimborazo and Imbabura. The main aim was to identify the best teaching methods to use to inform and educate young people about risky migration.

185. A set of teaching materials and tools on human mobility was compiled, and was used to raise awareness of risky migration within the educational community with a view to its prevention. The aim was to assess the efficacy of the teaching materials and tools developed for the target group in question while increasing knowledge of the different aspects of migration – rights, principles, obligations, actors, causes, effects and risky migration scenarios that might entail unlawful activity – within the educational community and among family members. The project was piloted to a total of 194,974 students at the primary, lower secondary and upper secondary levels in the aforementioned provinces.

Efforts to remove administrative barriers that impede access to health care, education and employment

186. Article 9 of the Constitution establishes that foreign nationals present in Ecuadorian territory have the same rights and obligations as Ecuadorian nationals. Accordingly, article 44 of the Organic Act on Human Mobility establishes that foreign nationals have the right to request migrant status and that they will be issued with an identity card as soon as they have obtained resident status as migrants, the issue of a visa and/or an identity card serving to

remove the barriers that might otherwise prevent them from exercising and enjoying their right to health care, education and employment.

187. Similarly, the Organic Act on Human Mobility establishes that foreign nationals residing in Ecuador enjoy the right to work and access to social security benefits. These rights are enshrined in article 51 of the Act, which states that foreign nationals residing in Ecuador have the right to work and the right to social security benefits. Intergovernmental mechanisms are in place that enable refugees and applicants for refugee status to obtain recognition for their qualifications, which tends to improve their labour integration. The Ministry of Labour is thus succeeding in reducing administrative barriers; the issues that might otherwise affect access to the Unified Labour System (the system in which contracts are registered) and to the job search and work permit systems have been fully resolved, as these systems allow foreign migrants to register themselves using their travel documents.

188. In addition, through its Directorate for Employment and Labour Retraining, the Ministry of Labour has established a one-stop information service for migrants. This one-stop service, which is intended to guarantee fair labour relations on an equal footing for persons in situations of mobility, including returning Ecuadorian migrants, refugees, applicants for refugee status and foreign migrants, provides information on products and services available in the public sector to both employers and workers, with an emphasis on migrants and without discrimination or restriction on grounds of place of origin.

189. The right to health is guaranteed in article 7 of the Organic Act on Health, which states that all persons, without discrimination on any grounds, enjoy various health-related rights, including universal, equitable and timely access, on a permanent basis, to high-quality health-care facilities and services, in accordance with article 52 of the Constitution, which prohibits public and private sector institutions that provide health-care services from refusing to provide emergency assistance on grounds of a person's nationality or migration status in any circumstances.

190. The Ministry of Health provides comprehensive care for migrants, within the framework of its services and programmes, without discrimination on grounds of origin, ethnicity, gender identity, sexual orientation or any other characteristic. Thus, in Ecuador, migrants do not need to present documents attesting to their status in order to gain access to health care.

Statistical data on visits carried out by the Labour Inspectorate, offences uncovered and sanctions imposed in relation to the working conditions of migrants

191. With a view to verifying, by registering and monitoring workers, that the rights of foreign migrant workers in the Republic of Ecuador are respected, the Ministry of Labour issued Ministerial Agreement No. MDT-2018-006, on the labour rights of migrant workers, which provides for comprehensive inspections consisting of in-person visits to employers' premises to be carried out whenever information systems indicate a high or very high risk of non-compliance, and for targeted inspections entailing an in-person visit to the employer's premises to be carried out whenever a complaint or request is submitted by in-service workers through the Ministry of Labour's official channels. A total of 2,295 inspections have been carried out to date in seven of the country's largest cities, resulting in 196 sanctions (see tables 37 and 38). As required under Ministerial Agreement No. MDT-2018-0006, the Ministry of Labour continues to carry out labour inspections in order to verify that the labour rights of foreign nationals working in Ecuador are being upheld.

192. Article 79 of the Organic Act on Human Mobility provides for the formation of a body of experts, known as the Commission on Refugees and Statelessness, to take charge of refugee status determination and recognition procedures, on prior resolution of the migration authority. Procedural instructions for determining the status of refugees and stateless persons in Ecuador were issued by the Deputy Minister for Human Mobility in Ministerial Agreement No. 000150 of 20 December 2017, intended to facilitate the effective and efficient exercise of the right to refugee status and the right to be recognized as stateless, as enshrined in Chapter XII of the Agreement, on statelessness, and in line with the Constitution and the international instruments mentioned.

Other recommendations

Ratification of other treaties

Paragraph 36

193. Ecuador ratified the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, establishing an international procedure for submitting complaints of violations of the rights of children and adolescents to the United Nations Committee on the Rights of the Child, in September 2018.

194. Ecuador ratified the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance on 10 December 2019, via Executive Decree No. 942.

International Decade for People of African Descent

Paragraph 38

195. In the first phase (2015) of the plan to mark the International Decade, which consisted of a campaign to raise awareness of the goals and objectives of the Decade, four regional meetings attended by representatives of Afro-Ecuadorian organizations were held in Imbabura, Pichincha, Guayas and Esmeraldas. The goal was to obtain necessary and sufficient inputs for each of the themes of the International Decade, namely, recognition, justice and development.

196. In the second phase (2016), entailing the construction of the Agenda for People of African Descent in Ecuador, the National Secretariat for Policy Management, working in conjunction with the Council for Citizen Participation and Social Control and the National Council for the Equality of Peoples and Nationalities, held four regional meetings, in October 2016, in Carpuela (Imbabura), Esmeraldas (Esmeraldas), Guayaquil (Guayas), Quito (Pichincha), and one national meeting, in Guayaquil, at which proposals were approved and priorities assigned to kick-start the construction of the Agenda for People of African Descent in Ecuador around the thematic areas of the International Decade. About 600 people attended these meetings. At the national meeting held in Guayaquil on 29 October 2017, the Agenda for People of African Descent in Ecuador was presented to State organizations and agencies, including the National Council for the Equality of Peoples and Nationalities, the National Electoral Council and the Ombudsman's Office, by the institutions coordinating the process, namely, the National Secretariat for Policy Management and the Council for Citizen Participation and Social Control. About 300 persons were present at this meeting.

197. The third phase (2017) entailed the formulation of a road map for implementation of the Agenda for People of African Descent in Ecuador. Between January and July 2017, four regional meetings attended by representatives of Afro-Ecuadorian organizations and State institutions were held in Imbabura (El Juncal), Pichincha, Guayas, Esmeraldas and Orellana with a view to constructing the road map, establishing and agreeing goals and commitments for both civil society and the State. Since these events, the development of the Decade for People of African Descent in Ecuador component of the National Equality Agenda has continued with the establishment of impact indicators; technical coordination meetings involving the Secretariat for Policy Management, the National Council for the Equality of Peoples and Nationalities and the Technical Planning Secretariat have been organized with a view to building the Ecuador component of the National Equality Agenda; and expert working meetings involving the National Secretariat for Policy Management, the National Council for the Equality of Peoples and Nationalities and the Technical Planning Secretariat have been held to define a matrix for the project, including impact indicators. The First Dialogue with Afro-Ecuadorian Intellectuals, called to raise awareness and seek approval for the matrix, including related proposals and indicators, took place on 22 January 2018. The Second Dialogue, at which the contributions of the Afro-Ecuadorian intellectuals were defined and incorporated within the matrix for the Decade for People of African Descent in Ecuador component of the National Equality Agenda took place on 29 January 2018. The documents relating to the Decade were released to the National Council for the Equality of

Peoples and Nationalities and the associated competencies were assigned on 10 September 2018.

198. The National Council for the Equality of Peoples and Nationalities is currently working to implement Decree No. 915. For this purpose, an open call for representatives of Afro-Ecuadorian organizations interested in forming part of a national round-table working group for the Decade for People of African Descent in Ecuador was launched. The first meeting was held in 2018, and was attended by 45 representatives of such organizations. In October of the same year, at the second meeting of the national round-table working group, a General Coordinator was appointed, on a temporary basis, and specific members of the group were designated to take charge of the following thematic areas: Education and Ethno-Education; Territory: land, water, environment and food security; Health: sexual rights, reproductive rights and violence; Human rights: participation, political impact and governance; Promoting production: access to credit and work; Culture; Identity and Cosmopolitanism; Children, Adolescents, Young Persons and Older Persons; Housing and Habitat; Communication and Information; and Human Mobility and International Relations.

199. As part of efforts to raise awareness of the Decade for People of African Descent in Ecuador, the Council for Citizen Participation and Social Control, working with the National Equality Councils, has developed an inter-agency coordination mechanism for promoting participation and equality. Central elements of this task were to interview and gather information from women about their forms of organization and participation, and, subsequently, to collate, consolidate, disseminate and approve proposals for the programmatic agendas put forward by the Afro-Ecuadorian people that resulted in the Equality Agenda for the Decade for People of African Descent in Ecuador 2016.

Consultation with civil society organizations

Paragraph 39

200. As part of the process of preparing this report, on 30 September 2019 the National Council for the Equality of Peoples and Nationalities, along with the Human Rights Secretariat and the Ministry of Foreign Affairs and Human Mobility, met and spoke with representatives of civil society, sharing and discussing with them the Committee's observations on the combined twenty-third and twenty-fourth periodic reports of Ecuador with the aim of obtaining inputs and information for the formulation of the twenty-fifth periodic report.

Paragraphs of particular importance

Paragraph 41

201. Responses are provided above, in the paragraphs under the heading "*Paragraph 7*".

202. The Committee's concerns about the situation of the Awá indigenous people located on the border with Colombia are addressed above, in the paragraphs under the heading "Awá indigenous people".

203. In this connection, the Human Rights Secretariat works in coordination with the Northern Border Project to guarantee the effective participation of peoples and nationalities and to ensure that State services are available to these population groups.

204. The aim is to provide comprehensive protection for human rights, placing an emphasis on victims of violence, migrants, peoples and nationalities, children, adolescents, young people and older persons. Taking a holistic perspective, the Government will work to nurture a culture of peace through information-sharing activities, awareness-raising campaigns, public dialogue and innovative community projects involving young people.

IV. Additional information

Paragraph 13

205. Information on indigenous justice is provided above, in the paragraphs under the heading “Article 6”.

Paragraph 20

206. The President of Ecuador, Mr. Lenín Moreno Garcés, has pardoned eight indigenous leaders. An expert committee composed of delegates of the Confederation of Indigenous Nationalities of Ecuador (CONAIE) and representatives of the Assembly is currently responsible for handling amnesty applications.

Paragraph 32

207. Information on this subject can be found above, in the paragraphs under the heading “Article 5”, subheading “Human mobility”.
