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Civil and Political Rights**

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Human Rights Committee

**Seventh periodic report submitted by Ecuador
under article 40 of the Covenant pursuant to the
optional reporting procedure, due in 2022***

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* The present document is being issued without formal editing.



Replies to the list of issues (CCPR/C/ECU/QPR/7)

Replies to the issues raised in paragraph 1 of the list of issues

1. Regarding the implementation of the Committee's Views under the Optional Protocol in respect of communication No. CCPR/C/124/D/2290/2013 concerning Karoma Fofana, the Ministry of the Interior and the National Police Force of Ecuador have taken the following measures: (1) expungement of Mr. Karoma Fofana's criminal record by the National Directorate of the Criminal Investigation Service; (2) conduct of a workshop in August 2018 on human rights, with a focus on human mobility, for officials working at the various immigration checkpoints, seaports and river ports, international and regional airports, border crossings, binational or national border assistance centres and integration zones, with a total of 114 police officers trained.

2. In relation to the guarantees of non-repetition prescribed by the Human Rights Committee in this case, the Secretariat for Human Rights coordinated a training session on 16 December 2021, training 72 officials of the Council of the Judiciary and the Attorney General's Office who are working on these cases. This was part of the training on human mobility that is carried out every year under the annual training plan of the Secretariat's Directorate of Policy Integration and Promotion of Human Rights.

3. The case of Juan Fernando Terán Jijón, the alleged victim, has been under preliminary investigation since 28 February 2018 and has been joined with 28 other preliminary investigations opened in respect of members of the Criminal Investigation Service of Pichincha for alleged crimes against humanity committed between 1984 and 1988. Pursuant to article 580 of the Comprehensive Organic Criminal Code, the purpose of this pretrial phase is to gather inculpatory and exculpatory evidence that will enable the prosecutor to decide whether or not to file charges. In addition, article 584 of the Code provides that, in the pretrial phase, the proceedings are confidential except in respect of the victims, the persons being investigated and their counsel. It can therefore be reported, without violating any express provision, that, in relation to the Ecuadorian national Juan Fernando Terán Jijón, several expert opinions were ordered on 25 March 2022; these consist of a forensic evaluation, a psychological evaluation and a social environment evaluation, for the purpose of contributing to the determination of material elements in relation to the offence being investigated.

Constitutional and legal framework within which the Covenant is implemented

Replies to the issues raised in paragraph 2 of the list of issues

4. Regarding the establishment of a specific mechanism or procedure for implementing the Committee's Views, article 10 of the Constitution of the Republic of Ecuador recognizes individuals, communities, peoples, nationalities and collectives as rights holders entitled to enjoy the rights guaranteed in the Constitution and in international human rights instruments. Along the same lines, article 57 recognizes and guarantees collective rights in accordance with the Constitution and with covenants, conventions, declarations and other international human rights instruments. These provisions are directly applicable, as established in articles 11 (3), 417 and 426 of the Constitution. This interpretation was upheld by the Constitutional Court of Ecuador in its Judgment No.11-18-CN/19. The Constitutional Court, in the exercise of its jurisdiction, has protected the rights to employment, health, education, housing, cultural rights, food sovereignty, access to water and a healthy environment; the rights of groups with priority needs; gender, rights of peoples and nationalities, rights of freedom; right to protection, rights of participation and other rights set forth in the Covenant. For example, the Constitutional Court, in Opinion No. 13-18-TI/19, found, upon its consideration of this international instrument, that the right to the protection of personal data has also been affirmed in the universal human rights system. It added that: "The Human Rights Committee, in its general comment No. 16 on article 17 of the International Covenant on Civil and Political Rights, sets out a number of important considerations that should guide the protection of personal data." Likewise, Judgment No. 8-12-JH/20 of the Selection Chamber establishes that "United Nations human rights bodies have highlighted the importance of

habeas corpus in the framework of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights...”.

5. The training of justice officials is led by the Judicial Academy and is based on participatory processes that include personnel from the Council of the Judiciary, the National Court of Justice, the Attorney General’s Office, the Public Defender’s Office, professional associations and universities in order to provide comprehensive coverage of human rights issues. Between January 2017 and January 2022, 22 awareness-raising events and 109 training initiatives were held nationwide on human rights issues such as gender-based violence, full reparation, interpretation and application of national and international standards, application of the gender approach, trafficking in persons, protection measures, universal and regional human rights protection systems, rights of Indigenous Peoples, the right to health, decriminalization of homosexuality in Ecuador and hate crimes, international treaties and protection instruments, access to justice, the impact of discrimination on comprehensive health care for LGBTI+ persons, sexual diversity and persons deprived of liberty in the context of human rights. Talks have been given to 86,504 people, including judges, prosecutors, public defenders, civil servants, independent lawyers, students, officers of the National Police Force, court clerks and court assistants, independent and institutional lawyers, justice officials, a lawyers’ forum and communicators. In addition, on 1 December 2020, a discussion forum was held on the topic of gender-sensitive adjudication.

6. Between 2019 and 2022, the Secretariat for Human Rights coordinated 42 educational processes, raising awareness and training 13,244 people from the public sector, civil society and the general public. In 2022, 4 processes were coordinated, with a target group of 100 officials. This process was carried out pursuant to the annual Human Rights Training Plan and to the international obligations undertaken by the State. These awareness-raising and training sessions are related to the International Covenant on Civil and Political Rights (1976) and deal with human rights issues, including the right to life, freedom of expression and peaceful protest, due process and effective judicial protection, the right to liberty and the right not to be arbitrarily deprived of it, freedom of movement, equality and non-discrimination, and the use of force in relation to extrajudicial executions.

7. In August 2019, the Attorney General’s Office held a human rights workshop for 37 of its officials. The workshop dealt with the concepts of natural law vs. positive law; the object, nature, sources and principles of interpretation of human rights; international human rights obligations; and the universal and regional human rights systems. In 2020, two human rights workshops were held in January and December which addressed issues such as the criminal justice response to violence against women and girls in Ecuador, standards of protection for human rights defenders, transitional justice, international crimes and serious violations of human rights; 34 officials of the Attorney General’s Office took part. Refresher training workshops were held in October and December on inter-American procedural law and the jurisprudence of the Inter-American Court of Human Rights for officials of public entities and the Prosecution Service, with content related to treaty law, the inter-American human rights system, the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, monitoring of treaty compliance, procedural principles, preliminary objections, theory and burden of proof; five officials of the Attorney General’s Office took part. In December 2021, a human rights workshop was held on content related to the prohibition of torture and the progressive use of force, journalists and human rights defenders, and reparation measures; 50 officials of the Attorney General’s Office took part. In addition, a workshop on the gender perspective was held in February, with the participation of 45 officials of the Attorney General’s Office. Lastly, a workshop on gender mainstreaming in the public and private sectors was held in June, with the participation of 116 officials of the Attorney General’s Office.

States of emergency

Replies to the issues raised in paragraph 3 of the list of issues

8. In relation to the suspension of rights in exceptional situations, Ecuador has constitutional provisions under which the President may decree a state of emergency

throughout the national territory in case of aggression, international or internal armed conflict, serious internal disturbance, public calamity or natural disaster. This suspension must observe the principles of necessity, proportionality, legality, temporariness, territoriality and reasonableness. Thus, the decree must set forth the causes and reasons, scope of application, duration and nature of the measures to be applied, the rights to be limited or suspended, and the corresponding notifications.¹ Likewise, the President may only suspend or limit the exercise of the rights to inviolability of one's home and correspondence, freedom of movement, freedom of association and assembly, and freedom of information.² Lastly, it is established that the President must inform the National Assembly, the Constitutional Court and the relevant international organizations of the declaration of emergency within 48 hours after signing the decree; if the situation so warrants, the National Assembly may revoke the decree at any time; the initial period of validity may not exceed 60 days but, when warranted, may be extended for up to 30 additional days and notification of any such extension must be provided as appropriate; and, if the causes that gave rise to the decree cease to exist, the President must terminate it and provide notification to that effect.³

9. In relation to declarations of states of emergency in Ecuador: (1) in 2019, a few months after the National Service for Adults Deprived of Liberty and Adolescent Offenders (SNAI) was established, it faced a crisis in the prison system that led the Government to declare a state of emergency⁴ which was subsequently extended for 30 days;⁵ (2) on 13 March 2020, the National Emergency Operations Committee⁶ was activated to coordinate the health crisis;⁷ the Committee remains active. To safeguard the population's well-being, on 16 March 2020 the President declared a state of emergency throughout the country⁸ which was extended for an additional 30 days;⁹ (3) on 15 June 2020, the President decreed a state of emergency due to public calamity owing to the coronavirus disease (COVID-19)¹⁰ and extended it on 14 August 2020.¹¹ This declaration included measures such as restrictions on movement, border closures, teleworking and suspension of mass events and on-site classes; (4) in August 2020, owing to incidents of violence in detention centres, the President again declared a state of emergency due to internal disturbance,¹² which was subsequently extended for 30 days;¹³ (5) on 21 December 2020, a state of emergency due to public calamity was declared in the light of the sharp increase in cases of COVID-19. The decree will be in force throughout the national territory, suspending the rights to freedom of movement and freedom of association and assembly;¹⁴ (6) on 1 April 2021, a state of emergency due to public calamity was decreed in the provinces of Azuay, El Oro, Esmeraldas, Guayas, Loja, Manabí, Pichincha and Santo Domingo de los Tsáchilas owing to the worsening of the COVID-19 situation;¹⁵ (7) on 21 April 2021, the President decreed a state of emergency from 8 p.m. on 23 April until 11.59 p.m. on 20 May due to public calamity in the provinces of Azuay, Imbabura, Loja, Manabí, Santo Domingo de los Tsáchilas, Guayas, Pichincha, Los Ríos, Esmeraldas, Santa Elena, Tungurahua, Carchi, Cotopaxi, Zamora Chinchipe, El Oro and Sucumbíos owing to the high rate of COVID-19 infections and suspended the rights to

¹ Constitution of the Republic of Ecuador, art. 164.

² Constitution of the Republic of Ecuador, art. 165.

³ Constitution of the Republic of Ecuador, art. 166.

⁴ Executive Decree No. 741 of 16 May 2019.

⁵ Executive Decree No. 832 of 15 July 2019.

⁶ The National Emergency Operations Committee is a mechanism of the National Decentralized Risk Management System and is responsible for promoting, planning and maintaining coordination and joint operations between actors at the national level in response to emergencies or disasters. It is made up of the heads of State institutions or their designated representatives and is led by the President of the Republic of Ecuador or his or her designated representative.

⁷ <https://www.gestionderiesgos.gob.ec/resoluciones-coe/>.

⁸ Executive Decree No. 1017 of 16 March 2020.

⁹ Executive Decree No. 1052 of 15 May 2020.

¹⁰ Executive Decree No. 1074 of 15 June 2020.

¹¹ Executive Decree No. 1126 of 14 August.

¹² Executive Decree No. 1125 of 11 August 2020.

¹³ Executive Decree No. 1169 of 10 October 2020.

¹⁴ Executive Decree No. 1217 of 21 December 2020.

¹⁵ Executive Decree No. 1282 of 1 April 2021.

freedom of movement, association and assembly and inviolability of the home;¹⁶ (8) on 14 July 2021, a state of emergency was declared in the province of El Oro and the city of Guayaquil from 8 p.m. on 14 July until 11.59 p.m. on 28 July 2021 due to public calamity in relation to the Delta variants of COVID-19¹⁷ and was subsequently extended on 28 July 2021;¹⁸ (9) on 29 September 2021, the President decreed a state of emergency due to serious internal disturbance in all places of deprivation of liberty for 60 days, suspending the right to inviolability of correspondence and the right to freedom of association and assembly,¹⁹ and extended these measures on 28 November 2021;²⁰ (10) on 18 October 2021, the President decreed a state of emergency throughout the national territory due to serious internal disturbance for a period of 60 days owing to an increase in criminal activity throughout the country²¹ and extended this measure on 18 November 2021;²² (11) on 17 December 2021, a state of emergency due to public calamity was decreed in the canton of Zaruma, province of El Oro, for 60 days owing to the collapse of buildings as a result of the appearance of sinkholes caused by mining activities;²³ (12) on 29 April 2022, the President decreed a state of emergency due to serious internal disturbance in the provinces of Esmeraldas, Guayas and Manabí for 60 days, restricting freedom of movement owing to an upsurge in crime in those provinces;²⁴ (13) on 20 June 2022, the President declared a state of emergency due to serious internal disturbance owing to acts of violence. This decree applies to the provinces of Chimborazo, Tungurahua, Cotopaxi, Pichincha, Pastaza and Imbabura and repeals Decree No. 455 (which suspends the rights to freedom of association and assembly and freedom of movement).²⁵ The decree was repealed on 25 June 2022;²⁶ (14) on 29 June 2022, a state of emergency due to serious internal disturbance was declared in the provinces of Azuay, Imbabura, Sucumbíos and Orellana, effective for 30 days, suspending the exercise of the right to freedom of association and assembly and the right to freedom of movement.

10. The states of emergency declared during the COVID-19 pandemic limited or suspended the rights to freedom of movement (article 12), freedom of association and assembly (articles 21 and 22) and inviolability of the home. In the framework of COVID-19, various actions were taken to mitigate the situation and safeguard people's health. On 29 February 2020, Ecuador confirmed its first case of COVID-19 infection; on 11 March 2020, the Ministry of Health declared a national health emergency; and on 22 June 2020, the Organic Act on Humanitarian Support to Combat the COVID-19 Health Crisis was issued.²⁷ On 24 May 2021, there was a change of government. The new authorities have attached priority to ensuring free and universal access to COVID-19 vaccines. To this end, the National COVID-19 Vaccination Plan (the "9/100 Plan"), launched on 18 June 2021, set a target of vaccinating 9 million people in 100 days. This target was achieved seven days ahead of the proposed deadline.²⁸ To protect the health of Ecuadorians, a total of 35,491,601 vaccine doses have been administered,²⁹ with a priority focus on especially vulnerable groups, including Indigenous Peoples in voluntary isolation. The State carried out a vaccination programme reflecting an intercultural perspective in Indigenous communities of the Waorani

¹⁶ Executive Decree No. 1291 of 21 April 2021.

¹⁷ Executive Decree No. 116 of 14 July 2021.

¹⁸ Executive Decree No. 140 of 28 July 2021.

¹⁹ Executive Decree No. 210 of 29 September 2021.

²⁰ Executive Decree No. 276 of 28 November 2021.

²¹ Executive Decree No. 224 of 18 October 2021.

²² Executive Decree No. 257 of 18 November 2021.

²³ Executive Decree No. 296.

²⁴ Executive Decree No. 411 of 29 April 2022.

²⁵ Executive Decree No. 459 of 20 June 2022.

²⁶ Executive Decree No. 461 of 25 June 2022.

²⁷ <https://www.asambleanacional.gob.ec/es/leyes-aprobadas?leyes-aprobadas=All&title=&fecha=&page=2>.

²⁸ <https://www.salud.gob.ec/wp-content/uploads/2022/04/Plan-Nacional-de-Vacunacion-plan-9-100.pdf>.

²⁹ Cut-off date: 11 June 2022. Available at <https://app.powerbi.com/view?r=eyJrIjoieYkzNTFkMmUtZmUzNi00NDcwLTg0MDEtNjFkNzhzZTg5ZWYyIiwidCI6IjcwNjIyMGRiLTliMjktNGU5MS1hODIILTI1NmIwNmQyNjlmMyJ9&pageName=ReportSection>.

nationality in the Tagaeri-Taromenane Protected Zone and in 36 detention centres around the country for the benefit of persons deprived of their liberty.

Combating impunity and past human rights violations

Replies to the issues raised in paragraph 4 of the list of issues

11. Until December 2017, the primary function of the Directorate of the Truth and Human Rights Commission of the Attorney General's Office was to carry out pretrial and criminal investigations in the cases identified in the Truth Commission report *Sin Verdad No Hay Justicia* (No Truth, No Justice). By Decision No. 001-FGE-2018, as amended by Decision No. 012-FGE-2018, the Directorate became the Human Rights and Citizen Participation Directorate. This change has institutionalized mechanisms for mainstreaming the human rights, gender and participatory approaches in all judicial and administrative processes of the Attorney General's Office. In addition to investigating cases of serious human rights violations and crimes against humanity, the new Directorate has a mandate to produce guidelines for facilitating access to justice for victims of gender-based violence and for groups in need of priority attention. Notwithstanding the foregoing, thus far in the current administration period, the Human Rights and Citizen Participation Directorate has prosecuted more cases in three years than had been prosecuted in the last eight years; in other words, 10 cases have been prosecuted and 3 more are expected to be prosecuted by the end of 2022. It should be noted that not all of the cases being brought were identified in the Truth Commission report *Sin Verdad No Hay Justicia*. The cases that have been prosecuted involve serious human rights violations (torture, extrajudicial executions, enforced disappearances).

12. Since April 2019, the cases to be investigated have been chosen on the basis of geographical location, time frame, repressive structures and victims, ensuring that there is an equitable distribution of cases, that the events occurred in the vicinity of the provinces of Pichincha or Azuay and that investigators specialize by subject matter within the wide range of serious human rights violations. All cases are investigated; in "new" or recently reported cases, an admissibility report analysing the perpetrators and victims, the facts and responsibility is drawn up, and any new cases that involve offences amounting to serious human rights violations are admitted for processing. Cases that do not meet this threshold are redirected to the competent unit for further investigation as prescribed by law in accordance with the criminal offence to which they correspond.

13. Concerning the progress made and the number of compensation agreements, the Secretariat for Human Rights, within the framework of the Truth Commission, has referred 314 cases and, since 2016, payment has been made in connection with 109 cases or compensation agreements. In November 2021, payments amounting to US\$ 90,000 were made under five compensation agreements. In addition, the corresponding internal procedures are being carried out and arrangements are being made with the Ministry of Economic Affairs and Finance to mobilize and allocate resources in fulfilment of the Truth Commission's regulations on material reparation for the 2022 fiscal year.

Counter-terrorism measures

Replies to the issues raised in paragraph 5 of the list of issues

14. With respect to the offence of terrorism, it should be noted that, by Official Gazette No. 180 of 10 February 2014, the Criminal Code was repealed and replaced with the Comprehensive Organic Criminal Code, which defines this offence in article 366. In 2017 the Attorney General's Office received 11 reports of this offence in the provinces of Azuay (1), Guayas (8) and Pichincha (2), of which 3 have been dismissed, 5 are pending a decision on dismissal and 3 are under preliminary investigation. In 2018 it received a total of 120 reports in the provinces of Azuay (3), Bolívar (1), Carchi (7), Cotopaxi (1), Esmeraldas (9), Guayas (53), Imbabura (3), Manabí (3), Pichincha (36), Santa Elena (1) and Santo Domingo (3), of which 38 have been dismissed, 48 are pending a decision on dismissal, 33 are under preliminary investigation, 2 have led to a conviction and 2 are in the process of validation. In 2019, 65 reports of this offence were filed in the provinces of Azuay (3), Chimborazo (1),

Cotopaxi (2), Guayas (33), Loja (1), Los Ríos (1), Pichincha (21), Santa Elena (1), Santo Domingo (1) and Tungurahua (1), of which 7 have been dismissed, 15 are pending a decision on dismissal, 37 are under preliminary investigation, 1 has led to a conviction, 2 have led to acquittals and 2 are in the process of validation. In 2020 there were 13 reports of this offence in the provinces of El Oro (1), Esmeraldas (1), Guayas (7), Pichincha (1) and Sucumbíos (3); all 13 are under preliminary investigation. In 2021 there were 23 reports of this offence in the provinces of Cotopaxi (1), El Oro (1), Esmeraldas (2), Guayas (12), Loja (2), Los Ríos (4) and Zamora Chinchipe (1), of which 22 are under preliminary investigation and 1 is in the process of committal for trial.

Non-discrimination, equal rights for men and women

Replies to the issues raised in paragraph 6 of the list of issues

15. The Ecuadorian Constitution recognizes equality and non-discrimination as a right and a principle and establishes the National Councils for Equality³⁰ as the bodies responsible for ensuring full implementation. The Government continues to strengthen the work of these councils. In order to guarantee their effectiveness, it has made equality the cornerstone of the social pillar – based on Sustainable Development Goals 5, 6, 7 and 8 – of the Opportunity Creation Plan, 2021–2025.³¹ These five councils form part of the Decentralized National System of Participatory Planning and have each set national agendas for equality covering the period from the present up to 2025.

16. The National Council for Gender Equality has developed technical standards for gender mainstreaming and provided advisory assistance in various forums, including the Inter-Institutional Committee on Support for the Rights of Paid Household Workers, and forums dealing with gender and climate change. It has also established a central register of acts of violence. The Council implemented the Spotlight Initiative in seven cantonal rights protection councils and produced a handbook concerning the advisory councils together with the National Electoral Council and the Institute for Democracy. It also developed a number of instruments and guidelines, such as a handbook on case management of gender-based threats or rights violations; a model confidentiality agreement; a handbook on compliance management for cantonal councils, guidelines for responding to threats or violations of rights; and guidance on inter-institutional cooperation on issues such as gender-based political violence and women’s political participation. It also prepared a diagnostic matrix with 11 indicators as a tool for monitoring progress towards gender targets, a proposal for a national integrated care system and a document on affirmative action for transgender persons and lesbians. In addition, the National Council for Gender Equality put together the series *Mujeres y Hombres del Ecuador en Cifras IV* (Statistics on Women and Men in Ecuador IV), which contains official gender indicators that reflect the current situation of women and LGBTI+ persons. During the 2022 fiscal year, 32 cases of threats or violations of rights were processed, two official statements issued and two *amicus curiae* briefs filed. Lastly, several institutions cooperated in the development of guidelines on safe work environments for pregnant women, breastfeeding women and women with children under 3 years of age in the public sector.³²

17. The National Council for Intergenerational Equality prepared a document setting out 30 recommendations for public policy on youth development for the period 2021–2030.³³ The recommendations focus on involving young people in the implementation of international agreements. Priority is placed on reducing youth unemployment from 10.08 to

³⁰ Article 6 of the Organic Act on National Equality Councils provides for the establishment of five councils on gender equality, intergenerational equality, equality of peoples and nationalities, persons with disabilities and equality in human mobility.

³¹ <https://www.planificacion.gob.ec/wp-content/uploads/2021/09/Plan-de-Creacio%CC%81n-de-Oportunidades-2021-2025-Aprobado.pdf>.

³² Within the framework of the Constitutional Court’s Decision No. 3-19-JP/20.

³³ The full document is accessible at: https://www.igualdad.gob.ec/wpcontent/uploads/downloads/2022/06/30_recomendaciones_juventudes.pdf.

8.17 per cent and increasing the percentage of persons between 18 and 29 years of age who have completed secondary school from 69.75 to 77.89 per cent. Methodological tools were designed to help decentralized autonomous governments develop and update development and land management plans that integrate the requisite gender perspective and to deliver support and technical assistance to cantonal councils for mainstreaming the policies set out in the National Agenda for Intergenerational Equality across 221 cantons; 209 of those cantons have information on rights protection and guarantees for different generational groups. The Council prepared a compliance report on human mobility in the case of Venezuelan children and youth in Ecuador, which contains an exhaustive analysis of the fulfilment of obligations in relation to people on the move. It also prepared a compliance report on violence in the education system entitled “Violencia en el Sistema Educativo: Protocolo 2017”, which sets out an operational protocol for dealing with cases of sexual violence in the education system, in cooperation with the Ministry of Education.³⁴ A report was also prepared on compliance with the National Electoral Council provisions concerning the prohibition of the use of children and adolescents in political campaigning in the 2021 general elections.

18. The National Council on Equality in Human Mobility focuses on providing technical assistance to the country’s cantons and guidance on the creation of inclusive public spaces for people on the move, ordinances, specialized services, public policy development, and educational and information materials, among others. The Council cooperates with the cantonal councils and boards and the human mobility advisory councils. Implementation of the National Equality Agenda for Human Mobility 2017–2021 was monitored using a methodology developed in 2020.

19. The National Council for Persons with Disabilities is currently updating the handbook on legal assistance for persons with disabilities. Once the handbook has been updated, it will be incorporated into the training provided to all judicial officials through the Judicial Academy. Materials dealing with the pathways and protocols for protecting the rights of persons with disabilities and their families are also being updated; these materials will set out the various mechanisms for the protection and restitution of such persons’ rights.

20. The National Council for the Equality of Peoples and Nationalities promotes strategies for mainstreaming its agenda across levels of government to ensure the effective enjoyment of individual and collective rights enshrined in the Constitution and international instruments. Implementation of Executive Decree No. 060 concerning the Plurinational Plan to Eliminate Racial Discrimination and Ethnic and Cultural Exclusion is being assessed. A protocol for the treatment and referral of cases of rights violations was prepared to provide guidance on the reception and referral of cases involving Indigenous communes, communities, Peoples and nationalities, Afro-Ecuadorians and the Montubio people.³⁵ A proposal has been developed concerning training for Indigenous, Afro-Ecuadorian and Montubio women aimed at enhancing their participation through the provision of legal and technical instruments for protecting their human rights and putting an end to all forms of violence directed at them.

21. In connection with the training of judges, prosecutors and members of the security forces, the National Council for the Equality of Peoples and Nationalities implements a training plan for police officers in cooperation with the National Police Force. Three training modules have been developed on equality and non-discrimination (collective rights); interculturality and plurinationality; and peoples and nationalities (the Protocol for Peoples and Nationalities). Eight hundred police officers have received train-the-trainer instruction. In order to establish strategic and cooperative partnerships, the National Council for the Equality of Peoples and Nationalities signed an agreement with the Public Defender’s Office to strengthen access to free advisory services, timely assistance and legal representation for individuals, communes and communities of Indigenous Peoples and nationalities and of Afro-Ecuadorian and Montubio peoples who may lack access to such services because of their economic, social or cultural situations. The Council has also developed training programmes for public defenders and for authorities of peoples and nationalities on the

³⁴ The full report is available at: https://www.igualdad.gob.ec/wp-content/uploads/downloads/2021/06/inf_obs_viol_sisteduc2.pdf.

³⁵ Effective as of May 2022.

principle of legal pluralism, the rights enshrined in the Constitution, international human rights instruments and current legislation. In 2020, the Council of the Judiciary conducted training concerning COVID-19, Indigenous Peoples, and the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization (ILO) for the Lawyers Forum; 78 people participated.

22. The National Police Force has organized various training activities through the National Directorate of Education and the Comprehensive In-Service Training Programme. In 2017, a workshop on the collective rights of Indigenous Peoples nationalities and of Afro-Ecuadorian and Montubio peoples and nationalities in Ecuador was held for 80 police officers, and 60 police officers attended a workshop on interculturality and the recognition of Afrodescendent peoples. In 2019, a training seminar on the collective rights of Indigenous Peoples, Afro-Ecuadorians and the Montubio peoples and nationalities in Ecuador was attended by 40 police officers from the Loja area. In 2021, a workshop on the collective rights of Indigenous Peoples and nationalities and of Afro-Ecuadorian and Montubio peoples and nationalities of Ecuador was attended by 40 police officers, 4 members of the armed forces, 2 traffic wardens and 8 Indigenous leaders from the Chimborazo area. In addition, an affirmative action plan for the period 2022–2024 was developed for police officers belonging to Indigenous Peoples and nationalities and to Afro-Ecuadorian and Montubio peoples and nationalities of Ecuador.

23. The Attorney General's Office has delivered training on social issues affecting persons of African descent (related to racial profiling and international human rights instruments) to 2,093 of its staff (November 2020). Also in 2020, a workshop was held on tools for investigating racially motivated crimes. The workshop covered issues related to criminal proceedings, investigation, feminism, interculturalism, plurinationality, legal safeguards, discrimination and structural racism; 18 staff of the Attorney General's Office took part. That same year, 2,136 staff members of the Attorney General's Office participated in a training course on indigenous justice. A workshop on indigenous justice and the plurinational State was held in December 2021 in which 100 staff of the Attorney General's Office took part.

24. The Attorney General's Office received reports of the following hate crimes and acts of discrimination constituting offences committed between 2017 and 2021: 1,890 alleged hate crimes (682: discontinued; 387: discontinuation requested; 3: submitted for mediation; 1: sentence served in full; 1: judgment issued; 5: formal criminal complaint filed; 5: criminal proceedings were discontinued; 779: under preliminary investigation; 1: subject to statute of limitations; 1: summary proceedings; 1: under appeal; 5: convictions; 3: acquittals; 15: validations; and 1: dismissal and 632 acts of discrimination constituting offences (211: discontinued; 152: discontinuation requested; 3: submitted for mediation; 1: formal criminal complaint filed; 254: under preliminary investigation; 1: conviction; 1: acquittal; 2: validations; and 7: dismissals). Thus, the total number of reports of offences falling into these categories was 2,522.

Replies to the issues raised in paragraph 7 of the list of issues

25. The Council of the Judiciary has provided the following training courses/events:

In 2020: (1) decriminalization of homosexuality in Ecuador and hate crimes (93 lawyers and students); (2) the impact of discrimination and comprehensive health for LGBTI+ persons (70 staff members and students); (3) international seminar on sexual diversity and hate crimes (73 judges).

In 2021: A video discussion on legal aspects of gender equality and the human rights of women and LGBTI+ persons in Ecuador (102 staff members and students).

26. The Ministry of Health serves all persons without discrimination and has developed various types of materials, such as a handbook on best practices in health care for LGBTI+ persons; protocol for the comprehensive care of patients with sexual development disorders (intersex); technical standards for the comprehensive care of victims of gender-based violence and serious human rights violations; and an inclusive health services strategy, which includes provisions on non-discrimination and a framework for awareness-raising and capacity-building among internal and external users aimed at preventing discrimination

against LGBTI+ persons. In 2021, 4,430 awareness-raising activities were carried out, reaching 21,605 users. A gender diversity variable was also included in the automated daily register of consultations and outpatient care and the care delivery registration platform. In the period 2019–2021, 20,5698 persons who self-identified as LGBTI+ were served. In terms of legislation, the 2016 version of the handbook for health care for LGBTI+ persons has been updated to include information on studies and research concerning health practices, the holistic approach, recognition of diversity and health issues specific to LGBTI+ persons. The handbook is a key tool for health professionals.

27. In April 2022, the Constitutional Court accepted case No. 611-21-JH for review because it deals with the issue of conversion clinics offering sexual reorientation therapy, which will enable the Court to establish precedents in its case law relating to the issues associated with these centers. The Court's opinion is currently pending.

28. The National Police Force developed a protocol regarding the arrest or apprehension of persons belonging to priority groups and LGBTI+ persons. During the reporting period, it also implemented the eighth edition of the training-of-trainers course on human rights for police officers, which covered topics such as the human rights of persons of diverse sexual orientations, the legal treatment of sexual diversity, gender identity, sexual orientation and gender-sensitive procedures. The training was delivered to 25 police officers. A gender empowerment workshop was also held which addressed issues relating to gender identity and empowerment, among others, with the participation of 6,205 police officers. Lastly, a hands-on workshop on gender identity and empowerment from a gender perspective was held for 342 senior officials.

29. An example of the good practices employed by the Attorney General's Office with regard to crimes committed against LGBTI+ persons is what is known as the "JSVA case, in which the guilty party was sentenced to 34 years' imprisonment and ordered to pay compensation in the amount of US\$ 50,000 for the aggravated murder of a person known to be a member of the LGBTI+ community. In this case, the application of a gender perspective throughout the investigation and criminal proceedings brought to light the structural nature of gender-based violence. A report was submitted concerning the implementation of a gender perspective in the JSVA case (criminal investigation No. 070201820050024) No. FGE-DDHPC-2020-0056, which contains an analysis of the application of a gender perspective in this case, international standards on comprehensive reparations in cases of violence against LGBTI persons issued by the Inter-American Commission on Human Rights and comprehensive reparation mechanisms. The report was submitted to the prosecutor in charge of the investigation. In cooperation with the agency attached to the Ministry of Health that is responsible for quality control of health services and prepaid medical plans, steps are being taken to close down what are known as "de-homosexualization clinics".

30. The Secretariat for Human Rights is focusing on the organization of workshops for public officials to build their capacity for the application of a comprehensive approach based on an intersectional gender perspective, the promotion of the rights of the LGBTI+ persons and the elimination of stigma and stereotypes based on sexual and gender diversity. As of June 2022, 213 staff members of public institutions providing essential services and assistance to people wishing to avail themselves of their rights have received awareness training. In addition, the inter-institutional committee on the closure of clinics that promote "sexual or gender identity reorientation" and other practices that violate human rights is scheduled to resume its work. Inter-institutional strategies are being developed to coordinate follow-up on victims/survivors of violence and discrimination based on sexual orientation, gender identity and body norms. Thus far in 2022, follow-up has been provided in 16 cases in which the Attorney General's Office is involved. That follow-up has taken the form of support during court proceedings, the submission of administrative requests to the Ministry of Health and the Ministry of Labour, and other forms of assistance.

Replies to the issues raised in paragraph 8 of the list of issues

31. As part of the measures taken to eliminate gender stereotypes, the Constitutional Court of Ecuador, in its judgment No. 751-15-EP/21, analysed stereotypes around clothing that promote the unequal treatment of women. In this case, a woman was prevented from entering a social rehabilitation centre because of the way she was dressed. According to the Court,

this constitutes a form of discrimination devoid of any objective justification, a disproportionate measure in terms of the objective pursued and a decision based purely on behavioural stereotypes that promote the unequal treatment of women. The Government has also carried out campaigns to combat gender stereotypes. In 2020, the Ministry of Health launched the “Esa Es” campaign to prevent sexual violence and promote comprehensive sexual health. The National Council for Gender Equality launched a campaign called “Vivamos la Igualdad” (Let’s Experience Equality), which was implemented in cooperation with other advisory councils and the Secretariat of Human Rights. The Ministry of Culture and Heritage led the “16 days of activism against gender-based violence” campaign, and the Office of the Ombudsman conducted a campaign to prevent cyberbullying among children and young people, making its service portal available as a channel for filing complaints.

32. Projects and campaigns were rolled out to increase women’s representation in public life. In that context, the “Intercultural Perspective in Electoral Observation” dialogue sought to foster the creation of mechanisms to address ethnic diversity inclusion in democratic processes. Partnerships among the National Electoral Council, international cooperation agencies and universities have been promoted to put an end to acts of gender-based violence associated with the exercise of political rights. Relevant activities include a film forum and discussion on women’s political participation and violence against women in politics; the “There is no Democracy without You” campaign, which is part of wider efforts to promote the participation of women and young people in the 2023 local elections; and the 2023 Council for Citizen Participation and Social Control. In addition, two substantive reforms were introduced to the Organic Act on Elections and Political Organizations: a quota for women at the top of multi-person candidate lists and progressively as candidates for one-person posts, and the inclusion of political violence in the catalogue of electoral offences. The National Council for Gender Equality, in consultation with the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), worked on amending the regulations of the National Electoral Council to enable the implementation of these reforms. The National Electoral Council approved a regulation on internal democracy of political organizations, a regulation on electoral alliances, and a regulation on the registration of candidates. The National Council for Gender Equality rolled out the #EleccionesEnIgualdad (elections on equal terms) campaign. The third phase of this campaign aimed at preventing acts, political discourse and other messages that infringe the rights of women and LGBTI+ persons.

33. The National Assembly is currently discussing the draft organic act to promote women’s work, equal opportunities and the “purple economy”³⁶ and the draft organic act amending the Labour Code and the Organic Act on Public Service concerning equal pay for equal work and ineffective dismissal. Together with the Institute for Democracy, a training on gender and leadership and women’s political participation was held in 2021. In 2018, the two institutions concluded a four-year framework agreement on inter-institutional cooperation to promote gender equality in electoral processes and thus guarantee the right to political participation of women and LGBTI persons.

34. The Secretariat for Human Rights, together with the Ministry of Labour and the Ministry of Economic Affairs and Finance, issued the Purple Economy public policy, which promotes the economic rights of women and their right to a life free from violence and aims to reduce gender inequality in the economic, labour, family and social spheres through the empowerment of women.³⁷

³⁶ Cod. AN-2021-2016/402369. Economic, Productive and Microenterprise Development Committee.

³⁷ <https://www.zonalegal.net/uploads/documento/14.59%20ECONOMIA%20VIOLETA%20POR%20UNA%20VIDA%20LIBRE%20DE%20VIOLENCIA%20PARA%20LAS%20MUJERES.pdf>.

Violence against women, children and adolescents (arts. 2, 3, 6, 7, 24 and 26)

Replies to the issues raised in paragraph 9 of the list of issues

35. The statistical records on the number of complaints filed concerning different forms of violence against women indicate that the Attorney General's Office registered the cases listed below. In 2020, there were 6,422 reports of sexual abuse; 1,312 of sexual harassment; 228 of femicide; 5,398 of rape; 4,317 of physical violence against women or other family members; 28,004 of psychological violence against women or family members; and 233 of sexual violence against women or family members, for a total of 45,914 reported crimes. In 2021, there were 6,823 reports of sexual abuse; 1,483 of sexual harassment; 210 of femicide; 6,924 of rape; 4,568 of physical violence against women or other family members; 30,627 of psychological violence directed at women or other family members; and 230 of sexual violence against women or other family members, for a total of 50,865.

36. Between 2014 and 2019, the following statistics were collected on the crime of femicide: under 15 years of age: (4); between 15 and 24 years of age: (102); between 25 and 34 years of age: (117); between 35 and 44 years of age: (70); between 45 and 64 years of age: (38); and over 65 years of age: (4). In terms of the sentences handed down: 8 per cent received a sentence of less than 22 years, 46.4 per cent received a sentence of between 22 and 26 years, 42 per cent received a sentence of between 27 and 35 years, and 3.6 per cent received a sentence of between 36 and 40 years.

37. As regards investigations and their outcomes, the Attorney General's Office has multicompetent units specializing in responses to gender-based violence at the national level. From 2019 to date, 1,128 rulings in favour of the victims were handed down in criminal proceedings concerning femicide and physical, sexual and psychological violence. In order to keep the public informed, a data viewer which provides transparent access to up-to-date, accurate statistics on violent deaths of women has been made available on the website of the Attorney General's Office.³⁸ In 2017, the A protocol for forensic interviews of child and adolescent victims of sexual violence involving specialized listening skills was developed jointly by the Government of Ecuador, the United Nations Children's Fund (UNICEF) and the Council of the Judiciary; the protocol was implemented in 2018. This was followed by the issuance of a treatment protocol for child and adolescent victims of offences against sexual integrity.³⁹ In 2019, the technical team of experts on gender-based violence published a criminological and statistical bulletin on the crime of femicide. This bulletin provides information about this type of crime and the times and places where it has been committed.⁴⁰ In 2020, a criminological study was conducted on offences against the sexual integrity of children and adolescents in Ecuador, and a campaign for the prevention of crimes of sexual violence against children and adolescents was carried out. A guideline was issued on the mandatory admission of child and adolescent victims of crimes against sexual integrity into the national victim and witness support and protection system. In addition, between 2019 and 2022, the Attorney General's Office actively participated in national and international technical forums on gender-based violence that work to ensure proper care for victims and to improve institutional settings by incorporating a rights perspective and high-quality, compassionate service delivery. In 2021, the Office participated in 13 technical forums.

38. The National Plan for the Eradication of Gender Violence against Children, Adolescents and Women was created in 2007, and the Comprehensive Organic Act to Prevent and Eradicate Violence against Women was approved in 2018. Since June 2021, the Secretariat for Human Rights has been running a training programme on the prevention of violence against women in cooperation with the National Skills Council for staff of cantonal rights protection councils and boards and internal management units of the decentralized autonomous governments of Ecuador. This programme was rolled out between 5 and 28 October 2021 in all nine planning zones with a total of 987 participants and focused on

³⁸ www.fiscalia.gob.ec

³⁹ By resolution 055-2018.

⁴⁰ <https://www.fiscalia.gob.ec/pdf/politica-criminal/Boletin-Criminologico-de-Estadistica-Delictual-Femicidio.pdf>.

strengthening the decentralized autonomous governments' advisory councils in coordination with the National Council for Intergenerational Equality and the Cantonal Councils for the Protection of Rights. The issues addressed by the programme were human rights and gender-sensitive approaches. Training on the gender perspective was provided at the level of the decentralized autonomous governments for security officers, municipal staff and firefighters. The training events, which were attended by a total of 1,157 persons, sought to promote changes to sociocultural patterns giving rise to generalized violence against women in the workplace, non-sexist masculinities, institutional gender mainstreaming, public policies on violence prevention and pathways for handling cases of violence. A workshop was held in collaboration with the National Agricultural Research Institute on measures to protect women against violence in the workplace for the Institute's staff; the workshop took place on the premises of the Ministry of Agriculture and Livestock and was attended by 50 people. In this context, materials such as "The Neighbour's Recipe" and "A Roadmap for Access to Justice for Women Victims of Political Gender-based Violence" were prepared for working with different groups of women.

39. The National Assembly reports that its deliberations regarding the draft Organic Code for the Comprehensive Protection of Children and Adolescents have been under way since 2018 and that a special ad hoc committee has been established. On 11 May 2020, the committee decided to submit its report and the bill for first reading; the bill was then considered in plenary on 24 June 2020. In this connection, a national consultation process was implemented that had been designed by children and adolescents in coordination with the Network of Organizations for the Defence of Children's and Adolescents' Rights (RODNNA) and the relevant advisory councils. The draft text was duly disseminated among civil society and government entities, and proposals were collected and expert workshops held with academia; general committees were also convened alongside the sessions of the special ad hoc committee. On 15 June 2021, the Assembly decided to defer consideration of the bill at second reading in order to allow the compilation and systematization of the observations drawn up. By the committee during the preceding legislative term.⁴¹ The bill is currently being discussed by the Standing Committee on Matters related to Children and Adolescents.

Reply to the issues raised in paragraph 10 of the list of issues

40. Ecuadorian legislation does not specifically provide for measures for the protection of children and adolescents whose mothers were victims of femicide, but the Organic Code on Children and Adolescents and the Civil Code establish procedures for the award of parental authority⁴² and guardianship in respect of children and adolescents. They also establish the rights of children of persons deprived of their liberty⁴³ and the right of children and adolescents to personal integrity.⁴⁴

41. By Executive Decree No. 696 of 8 March 2019, the Government introduced an allowance for children and adolescents orphaned as a result of femicide. The purpose of the allowance is to help to repair and rebuild the family and social environment of children under the age of 18 years who are classified on the Social Register as being in a situation of poverty. On 4 June 2019, the Government adopted a procedural manual for the administration of this allowance, which accounted for expenditure in the amount of \$11,222.76. Executive Decree No. 696 was amended by Executive Decree No. 1186 of 10 November 2020, with \$39,838.50 disbursed in 2020 and \$111,684.48 in 2021. On 8 March 2022, a new decree was issued whereby the Ministry of Economic and Social Inclusion will administer an allowance for children and adolescents orphaned as a result of the violent death of their mother or female progenitor, including in cases of femicide, murder, manslaughter and rape resulting in death. The benefits to be provided include the payment of a provisional allowance from such time as the preliminary investigation is opened and a permanent allowance once the judgment has been handed down. As at April 2022, the sum of \$47,148.21 had been disbursed among 130 children. The Secretariat for Human Rights has attended several meetings convened by the

⁴¹ Resolution RL-2021-2023-014 dated 15 June 2021.

⁴² Organic Code on Children and Adolescents, art. 106.

⁴³ Organic Code on Children and Adolescents, art. 56.

⁴⁴ Organic Code on Children and Adolescents, art. 50.

Ministry of Economic and Social Inclusion on the implementation of the decree and has been urged to collect information on women who suffered violent deaths under circumstances that are covered by the decree. The Ministry has trained Comprehensive Protection Services staff in the administration of the allowance.

Reply to the issues raised in paragraph 11 of the list of issues

42. In the context of measures taken by the State to combat abuse and sexual violence in educational settings and punish the perpetrators of such acts, the Government issued the third edition of the document “Protocolos y rutas de actuación frente a situaciones de violencia detectadas o cometidas en el sistema educativo” (Protocols and guidelines for handling situations of violence identified or committed in the education system), which covers the protocols and procedures to be followed in the event of violent incidents, the detection mechanisms that can be used and the importance of adopting a proactive preventive approach. The document also underscores the imperative of transforming educational spaces to ensure that they are safe environments and then maintaining them as such. It also presents a theoretical perspective on violence and its categorization, with a specific focus on sexual violence, in order to provide guidance on the detection of situations of risk. In 2020, nine specialists were recruited to provide training to staff of student counselling departments, school authorities and teachers in the areas covered by the document. In 2021, this training was provided to 10,158 professionals and, in 2022, a budget of \$70,000 was set aside for the printing and nationwide distribution of the document.

43. In addition, a new participatory methodology for the prevention of violence was introduced to develop students’ ability to initiate dialogues on sexuality and provide information for the prevention of sexual and gender-based violence. Between 2019 and 2021, this training initiative, entitled “Recorrido de la Prevención” (Prevention Journey), reached 16,654 students and 3,920 educational institutions, while 26,000 students participated in replication training events. The methodology is currently being designed for use in a virtual format. In addition, curricular opportunities for comprehensive sexuality education were introduced in 2021; teachers and student counselling departments received capacity-building support to raise awareness of the priority tools at the disposal of the Ministry of Education and to present these curricular opportunities as a strategy for preventing and addressing situations of teenage pregnancy and parenthood and situations of discrimination. From March to October 2021, 1,144 educational institutions, 4,643 teachers, 55,660 students and 95 professionals from student counselling departments participated in the capacity-building exercise. In late 2021, an open virtual course was given to two cohorts of teachers: the first composed of 400 and the second of 4,999 participants. Three additional courses were planned for 2022.

44. An investment project entitled “Prevention of Adolescent Pregnancy in Education” was carried out to institutionalize comprehensive sexuality education and to strengthen and apply existing guidelines and protocols for use by schools in dealing with students who become pregnant or become parents. Within this framework, digital resources for comprehensive sexuality education initiatives were developed for the educational community. Between April and December 2022, direct training opportunities were due to be provided to student counselling professionals from 18 priority cantons.

45. The “Education is a Family Matter” programme was implemented to improve the quality of education by averting various types of school, family and social problems. Since June 2019, the programme’s module on communication in the family for the prevention of psychosocial risks has been taught in 3,305 educational institutions to 2,970 student counselling professionals, 70,229 teachers and 1,456,599 families. The module on preventing sexual violence within the family has been taught in 6,246 educational institutions to 3,283 student counselling professionals, 101,276 teachers and 1,498,303 families. The Ministry of Education maintains the sexual violence registration system, which contains information supplied by its national directorates on cases of reported sexual violence.

46. According to the Council of the Judiciary, between 2014 and 2021 there were 13,801 cases in which individuals were prosecuted for sexual offences against children and adolescents. These included 4,589 cases of rape; 4,338 cases of sexual abuse; 3,665 cases of sexual violence against a wife or member of the family unit; 191 cases of sexual harassment;

639 cases of statutory rape; 189 cases of sexual contact with a minor; 122 cases of corruption of children and adolescents; 24 cases of distribution of pornographic material to children and adolescents; 20 cases of sexually motivated use of persons for public exhibition; 15 cases of incestuous rape; and 9 cases of online sale of the sexual services of a minor. From January 2014 to March 2022, the Ministry of Education registered 13,885 cases of sexual violence identified or committed in the national education system. Some 71.5 per cent of alleged offenders were persons close to the victim's family who were not part of the education system, while 28.5 per cent of alleged offenders were associated with the education system.

47. Between 2017 and 2021, the Attorney General's Office received the following complaints relating to sexual offences in educational settings. They included 1,203 complaints of sexual abuse, 52 of which resulted in convictions; 851 complaints of sexual harassment, 10 of which resulted in convictions; and 2 complaints of hate crimes, in which regard the judge agreed to close the corresponding case. One case relating to a complaint of sale of child pornography was closed. There were 26 complaints of online sexual contact with a minor, 3 of which resulted in convictions. One complaint of distribution of pornographic material to children and adolescents resulted in a conviction. There were 2 complaints of sexually motivated use of persons for public exhibition, 1 of which is under preliminary investigation; and 271 complaints of rape, resulting in 25 convictions.

48. Regarding the judgment of the Inter-American Court of Human Rights in the case of *Guzmán Albarracín et al. v. Ecuador*, an inter-institutional committee, led by the Secretariat for Human Rights with the participation of the Ministry of Education, the Ministry of Health, the Attorney General's Office, the Council of the Judiciary, the National Council for Intergenerational Equality, the National Council for Gender Equality, the National Court of Justice and the Ministry of Economic and Social Inclusion, was set up in August 2020 to develop a comprehensive policy for the prevention and eradication of sexual violence in educational settings. This committee has held technical meetings to devise a national strategy for eradicating sexual violence in educational settings, which was discussed in March 2022 with a view to responding to the demands of victims' organizations. UNICEF provided support for the preparation of this document. The strategy includes indicators and targets for the prevention of sexual violence against children and adolescents in the education system and includes components on prevention, care, access to justice and comprehensive redress, and information management. Once the document has been validated, it will be officially launched and implemented within the framework of a programme of activities to be carried out under the remit of each participating institution. In the same vein, workshops are being held with the participating institutions and victims' representatives. The first, an awareness-raising workshop, was held on 13 July 2022; each of the remaining four will focus on a component of the strategy and will seek to support the conclusion of agreements among the participating entities and the completion of the strategy development process.

Voluntary termination of pregnancy and reproductive rights

Replies to the issues raised in paragraph 12 of the list of issues

49. In its Judgment No. 34-19-IN/21 of 28 April 2021, the Constitutional Court ruled that the phrase "of a woman with a mental disability", in article 150 (2) of the Comprehensive Organic Criminal Code, was unconstitutional, with the result that abortion in the case of rape was decriminalized for all women. The Court issued a clarification stating that abortions may be performed in all cases of rape; it also ordered the Ombudsman's Office to draft a bill on the voluntary termination of pregnancy resulting from rape and required the National Assembly to hear and discuss that bill, in accordance with the criteria and standards set forth in the judgment. The relevant points stipulate that abortion will no longer be punishable in the case of rape; that it will not require the prior conviction of the rapist; that it will not require authorization from a legal representative in cases involving minors; that the unborn child and the rights of victims must be legally protected; that the protection of the unborn child is progressive and that therefore the law must set a time limit within which pregnancy may be terminated; and that the requirements for carrying out the procedure on an exceptional basis must be established.

50. The Organic Act on the Voluntary Interruption of Pregnancy for Girls, Adolescents and Women in Cases of Rape, published on 29 April 2022, establishes the following requirements for the performance of an abortion: a criminal complaint of rape must be filed by the victim, or any other person with knowledge of the offence, with a view to its investigation and punishment; the victim, and if she is a minor, her legal representative, must sign a sworn statement; and the victim must undergo an examination by the attending physician or medical examiner, who must certify under oath that there is strong evidence of her having been raped. In all cases, the victim or her legal representative must sign an informed consent form that explains the procedure and the risks involved and indicates the age of the unborn child and the woman's wishes. If a woman who has been raped by her legal representative or caregiver wishes to have an abortion, this must be authorized by a social worker, the attending physician or a representative of the Ombudsman's Office.

51. No draft legislation has been submitted to the National Assembly to introduce an exception to the prohibition of voluntary termination of pregnancy in the Comprehensive Organic Criminal Code. The restrictive interpretation of article 150 of the Code is a subject of discussion among legal scholars.

52. As for criminal proceedings in cases of abortion, between January 2019 and December 2021, the Attorney General's Office was notified of 152 cases involving the offence of consensual abortion. The presiding judges agreed to close 31 cases and were considering requests for the closure of a further 19 cases. One case was the subject of mediation proceedings. In four cases, the prosecution decided not to bring charges; in five cases, it brought formal charges. In two cases, the criminal proceedings were discontinued. One case was under official criminal investigation, and 75 were under preliminary investigation. In one case, the court has issued a committal for trial order. In another, the principle of discretion to prosecute was accepted. Two cases were referred, and five resulted in a conviction. One complaint was pending validation and three were dismissed. A suspended sentence was handed down in one case.

Replies to the issues raised in paragraph 13 of the list of issues

53. Regarding the measures taken to inform the general public about how a legal termination of pregnancy may be obtained, the Ministry of Health, within the framework of a project for the prevention of teenage pregnancy, has prepared a document setting out standards for the comprehensive care of pregnant girls under 15 years of age. That document covers the voluntary termination of pregnancy as one of the possible options. It is intended to raise health professionals' awareness of the issue so that they are able to provide information to adolescents of both sexes and the general public in order to promote the exercise of sexual and reproductive rights and the reparation and restitution of rights, particularly those of girls and adolescents. A handbook on the comprehensive care of pregnant girls under 15 years of age has been adopted by ministerial decision and is in the process of being published. A set of messages has been developed to inform users, and six webinars for the promotion of sexual and reproductive rights have been planned for health personnel. Documents containing guidelines, process flows and the regulatory framework for comprehensive care in the event of voluntary termination of pregnancy as a result of rape are also being developed.

54. Regarding the legal framework that allows for institutional conscientious objection, article 66 of the Constitution recognizes and guarantees individuals' right to conscientious objection, which must not undermine other rights or cause harm to people or nature.⁴⁵ Article 11 establishes the principles governing the exercise of rights and determines that the rights and guarantees set forth in the Constitution and in international human rights instruments are directly and immediately enforceable by and before any civil, administrative or judicial servant, either ex officio or at the request of the interested party. Article 226 establishes that State institutions, bodies, agencies, public servants and persons who act by virtue of a State power invested in them may perform only those duties and wield those powers that are given to them by the Constitution and the law, their actions being governed by the principle of legality. Health facilities are therefore enjoined to adhere to the principles of quality,

⁴⁵ Constitution, art. 66 (12).

efficiency and effectiveness in order to guarantee health care for users/patients. In the event of conscientious objection, the timely provision of care is not to be limited, and trained personnel are to be available to provide an immediate health response.

55. Regarding measures to ensure the professional secrecy of information in the possession of medical practitioners, article 424 of the Comprehensive Organic Criminal Code, on the exemption from the duty to report, provides that there is no obligation to report a suspected offence when knowledge of the facts is covered by the tenet of professional secrecy. The Ministry of Health considers that patient confidentiality and professional secrecy are closely linked to bioethical principles and human rights; it also notes that they are protected by the Patient Rights and Protection Act, since they allow health professionals to have access to privileged information which helps them to advise their patients. This generates a circle of trust in the health system; facilitates access to services; and helps safeguard human rights such as the rights to life, integrity of the person, privacy and the well-being of the population. A webinar on gender-based violence, professional secrecy and patient confidentiality was held with the participation of 1,400 health professionals. The Attorney General's Office has provided general information, for the period 2017–2021, on the offence of failure to report by a health professional under article 276 of the Comprehensive Organic Criminal Code but did not provide information on the reporting of illegal abortions. During this period, there were seven cases of failure by a health professional to make a report; in two of those instances, the judge agreed to close the case; in another three, the prosecutor has requested that the case be closed; one was under preliminary investigation and, in the remaining case, the court has brought the case to trial.

Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment

Replies to the issues raised in paragraph 14 of the list of issues

56. The Strategic Plan for Comprehensive Border Security 2018–2021 was prepared by the National Committee for Comprehensive Border Security.⁴⁶ It was issued in the wake of violent incidents in the vicinity of the northern border and has three components: defence, security and development. In the area of defence, the Ministry of Defence is responsible for monitoring, controlling and protecting the northern border on land, on the water and in the air. It is also responsible for resources, infrastructure, strategic areas and the implementation of preventive, response, deterrence and defence measures. The goals of the Plan are to maintain 100 per cent effective control over the northern border security zone and reserved areas and to ensure the absolute security of State institutions during interventions. From 2019 to 2021, the Ministry of Defence reported that the achievement of these goals remained at 100 per cent.

57. There is also a project to increase the mobility and strategic capacity of the armed forces at the northern border, which is designed to meet the needs for personal protective equipment and logistical support and thus ensure the protection and surveillance of the northern border zone. These activities, implemented since 2018, have reduced the impact of violent activity. In relation to security (of State institutions), between 2017 and 2021 the National Directorate of Border Control carried out 2,826 operations in which it arrested 342 persons on various grounds and seized 1,008 vehicles, 45 firearms, 20,440 gallons of petrol, 308 gas cylinders, 849,407 grams of controlled substances, 2,900,820 cigarettes, 52,093 articles of clothing, 13,639 boxes of fruit and 70,054 units of medicines and supplements.

58. Regarding measures taken to guarantee law and order, the armed forces have carried out surveillance and protection operations, specifically for the control of weapons, munitions, explosives and their accessories, as well as maritime policing operations and operations in support of other State bodies. In 2020, 40,200 copies of a booklet on human rights and international humanitarian law were distributed among the members of the armed forces in order to inform them about human rights and international standards with a view to the optimal conduct of their mission. In 2021, the Government distributed 43,950 copies of a

⁴⁶ Established by Executive Decree No. 348 of 28 March 2018.

booklet on standards for the progressive use of force, a tool that covers the most relevant aspects of international human rights law and principles for the progressive use of force, which apply to all law enforcement functions. All personnel engaged in military operations, including the control of weapons, munitions, explosives and their accessories, were provided with training on human rights issues applicable to military operations, in accordance with a handbook on that topic⁴⁷ and the 2021 booklet on standards for the progressive use of force. The Ministry of Defence is focused on the application of and respect for human rights and human rights issues have therefore been integrated into training curricula and refresher courses.

59. The Ministry of Defence is participating in the implementation of an action plan drawn up in 2022 under a framework agreement on inter-institutional cooperation between the Secretariat for Human Rights, the Ministry of Defence and the Ministry of the Environment, Water and the Ecological Transition with the aim of strengthening cooperation mechanisms for follow-up, monitoring and control in the Tagaeri-Taromenane Protected Zone and its area of influence. The purpose of the action plan is to coordinate and implement timely measures to protect life, the self-determination of the Tagaeri-Taromenane Indigenous Peoples living in voluntary isolation, and the inviolability of their territory and the natural wealth of the Tagaeri-Taromenane Protected Zone. In 2020 and 2021, the Ministry of Defence conducted operations to monitor illegal logging and other potential threats to the Tagaeri-Taromenane Protected Zone. Aerial reconnaissance of the sector is carried out every month during the rotation of detachments. Border protection is maintained by five detachments deployed along the international border, whose duties are to monitor and report any illegal activities, while aerial reconnaissance is carried out to protect communities living in isolation and prevent the exploitation of natural resources in the Tagaeri-Taromenane Protected Zone. On 17 June 2021, military personnel were assigned to operations in support of the Ministry of Health (vaccination). Detachments plan and conduct tactical protection and security operations in the Protected Zone.

Replies to the issues raised in paragraph 15 of the list of issues

60. Regarding measures taken to prevent, investigate and punish human rights abuses and violations, especially torture and ill-treatment, the National Police Force has run several training courses, including a 2017 course based on case studies of Inter-American Court judgments in which 44,174 police officers were trained; a 2018 course on international standards and human rights case studies in which 44,112 police officers were trained; a 2019 course on police protocols for the arrest and detention of persons with disabilities, persons belonging to priority groups and LGBTI+ persons, the fulfilment of international obligations, and an intercultural approach to human rights, with 48,048 police officers trained; and a 2020 course on the cases of *Tibi*, *Joffre Aroca Palma*, *Jorge Darwin García and family* and *Washington Hidalgo*, with 5,215 police officers trained. In 2021, a workshop was held on the right to integrity of the person in the context of social rehabilitation, the prohibition of torture and cruel and degrading treatment in places of deprivation of liberty, the remedy of habeas corpus and the use of force, including case studies; 1,432 police officers working in detention centres received this training. The Ministry of the Interior reports that Ecuador, in compliance with its international obligations, has made full reparations for the human rights violations found by the Inter-American Commission on Human Rights in the cases of *Constante Merizalde*, *Zalles Cueto* and *García v. Ecuador*.

61. Regarding complaints of human rights violations filed against police officers, especially those relating to torture and ill-treatment, the Council of the Judiciary reported that proceedings were brought against National Police officers in the Province of Guayas under case No. 9284202000008 and a committal for trial order has been issued. According to the Ministry of the Interior, disciplinary administrative proceedings have been brought in accordance with article 120 of the Organic Code on Public Safety and Public Order Institutions against 91 police officers for excessive use of force. Penalties have been imposed on 14 of these officers.

⁴⁷ Executive Decree No. 272 of 11 September 2014.

Excessive use of force

Replies to the issues raised in paragraph 16 of the list of issues

62. The Ministry of the Interior and the General Headquarters of the National Police submitted a bill to the National Assembly on the progressive use of force which complies with national and international human rights standards and is compatible with the Covenant and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. At the same time, the executive branch, the Ombudsman's Office and members of the National Assembly submitted related bills, which were consolidated and approved by the Legislative Council. Subsequently, on 7 June 2022, the National Assembly approved the Organic Act on the Legitimate and Exceptional Use of Force with the aim of protecting citizens from increased crime and ensuring that law enforcement officers perform their duties properly. The Act contains 74 articles and is intended to regulate the exceptional and legitimate use of force by the State, including by National Police officers, members of the armed forces and members of the Prison Security and Surveillance Corps. Its application will be mandatory in judicial and administrative proceedings involving the use of force.

63. As for the number of criminal complaints received in relation to the improper use of force, between 2017 and 2021 the Attorney General's Office received 500 criminal complaints in connection with abuse of authority in the line of duty. Of these, judges agreed to close 128 cases, and the prosecution submitted requests to close a further 64. In two cases, the prosecution decided not to bring charges; in two other cases, it did bring charges. Some 288 cases were under preliminary investigation; in 2 cases, the principle of discretion to prosecute was accepted. One case was the subject of an appeal in cassation, 3 resulted in convictions and 2 resulted in acquittals. Three complaints were validated and 5 dismissed. The Ministry of the Interior reported that since 2016 there have been 34 trials dealing with abuse of authority in the line of duty. Of the 81 police officers who were prosecuted, 46 are under preliminary investigation, 15 have had their case closed, 10 have been acquitted, 6 have had their case dismissed, 3 are under official criminal investigation and 1 has been convicted.

Persons deprived of their liberty and conditions of detention

Replies to the issues raised in paragraph 17 of the list of issues

64. The National Service for Adults Deprived of Liberty and Adolescent Offenders (SNAI) reports that the capacity of the places of deprivation of liberty in the country and the number of prisoners held in them as of the time of writing in 2022 was as follows: In Zone 1 (Carchi, Esmeraldas, Imbabura and Sucumbíos) there are five centres with a total effective capacity of 2,823 persons; there are currently 3,557 inmates there. In Zone 2 (Napo), there is one centre with an effective capacity of 301 persons, which currently houses 432 prisoners. In Zone 3 (Chimborazo, Cotopaxi, Pastaza and Tungurahua), there are six centres with an effective capacity of 6,093 which currently house 5,998 prisoners. In Zone 4 (Manabí and Santo Domingo), there are six centres with an effective capacity of 3,696 in which 3,957 prisoners are currently being held. In Zone 5 (Bolívar and Los Ríos), there are three centres with an effective capacity of 691 persons in which 1,086 prisoners are currently being held. In Zone 6 (Azuay, Cañar and Morona Santiago), there are four centres with an effective capacity of 3,120 where 2,117 prisoners are currently being held. In Zone 7 (El Oro and Loja), there are three centres with an effective capacity of 1,474 which currently house 1,955 prisoners. In Zone 8 (Guayas), there are five centres with an effective capacity of 10,890 persons which currently house 13,336 prisoners. Finally, in Zone 9 (Pichincha), there are three centres with an effective capacity of 1,081 in which 1,385 prisoners are currently being held.

65. In Zone 1, there are two centres for adolescent offenders with an effective capacity of 95 people, in which 67 adolescents are currently held; in Zone 3, there are two centres for adolescent offenders with an effective capacity of 90 people, in which 69 adolescents are currently held; in Zone 6, there is one centre for adolescent offenders with a capacity of 35 people, in which 18 adolescents are currently held; in Zone 7, there are two centres for

adolescent offenders with an effective capacity of 70 people, in which 7 adolescents are currently held; in Zone 8, there are two centres for adolescent offenders with a capacity of 189 people, in which 117 adolescents are currently held; and in Zone 9, there are two centres for adolescent offenders with an effective capacity of 130 people, in which 111 adolescents are currently held.

66. SNAI reports that, in order to reduce overcrowding, training has been delivered on using electronic means to certify the basic requirements for prison credits, the associated formalities and detention regime changes; internal communication mechanisms have been set up to make the requirements, needs and obligations to be fulfilled by places of deprivation of liberty more achievable; working sessions have been held with justice officials to find a more practical and timely solution for allocating dates and times for hearings; and the system for processing prison credits and detention regime changes was digitalized using the Alfresco Platform with a view to reducing the backlog of cases and speeding up the transmission of files to and from places of deprivation of liberty. Pursuant to Executive Decree No. 264 of 22 November 2021, a presidential pardon was granted to persons deprived of their liberty in relation to traffic offences such as driving with worn tyres and other category 1 infractions. Furthermore, under Executive Decree No. 355, a pardon was granted to persons deprived of their liberty who had been convicted of robbery, theft, fraud or breach of trust, provided that: they have served more than 40 per cent of their sentence; they have no other convictions; are not subject to any precautionary measures, criminal proceedings or investigations; and have not been sentenced for any of the minor, serious or very serious offences set out in the Comprehensive Organic Criminal Code.

67. So far in 2022, a total of 12,912 persons have been registered as being held in pretrial detention, which amounts to 38.18 per cent of the total number of persons deprived of their liberty. According to SNAI, alternatives to detention have been applied in the cases of 585 persons deprived of their liberty, including persons subject to preventive measures, persons with prison credits or whose detention regime has been changed and persons who are unable to serve a prison sentence for health or other reasons; 526 of them are at liberty and 59 are under house arrest.

68. With respect to the prison management model, the SNAI National Social Rehabilitation System is made up of a supervisory board, which is tasked with issuing public policies concerning the prison system, and the technical body that it oversees, which is currently SNAI itself. On 21 February 2022, the supervisory board unanimously approved the Public Policy for Social Rehabilitation 2022–2025, under which persons deprived of their liberty are considered a priority group. The policy, which is focused on the implementation of urgent actions aimed at facilitating genuine social rehabilitation and effective social reinsertion, is made up of 12 key components designed to realize different rights, along with 65 thematic areas and 308 lines of action.⁴⁸

Replies to the issues raised in paragraph 18 of the list of issues

69. Regarding the measures taken to prevent the spread of COVID-19 in places of deprivation of liberty, according to SNAI, communication campaigns have been carried out for persons deprived of their liberty all over the country, as well as for their families and administrative and security personnel at places of deprivation of liberty. Information on preventive health measures was disseminated among SNAI operational security staff and administrative personnel. SNAI also worked with local authorities to prevent the spread of COVID-19 to ensure, above all, that there were no interruptions to food supplies for persons deprived of their liberty. In that regard, hygiene checks were put in place to prevent the spread of COVID-19 during the receipt and handling of foodstuffs. The provision of masks, hand sanitizer, alcohol and biosafety suits was coordinated at the national level, and fabric masks were made at sewing workshops and then distributed to places of deprivation of liberty and centres for adolescent offenders. In order to make the procurements required to respond to the situation, the National Social Rehabilitation System was declared to be in a state of

⁴⁸ Available at the following link: https://www.derechoshumanos.gob.ec/wp-content/uploads/2022/02/18_02.-Politica-Publica-de-Rehabilitacion-Social_vF-.pdf.

emergency.⁴⁹ SNAI worked with the Ministry of Health to set up epidemiology teams to provide health-care services for persons deprived of their liberty diagnosed with, or suspected of having, COVID-19, and arrangements were made to provide spaces for self-isolating and facilities for hospital transfers. Guidelines on COVID-19 prevention and response were developed, and provisions were made for rapid self-testing. With respect to the vaccination of persons deprived of their liberty, the Ministry of Health reports that 18,889 individuals received the single-dose Cansino vaccine, 29,586 individuals received a first dose, 12,125 individuals received a second dose, and 20,499 individuals received a booster dose.⁵⁰

Trafficking in persons

Replies to the issues raised in paragraph 19 of the list of issues

70. Regarding efforts to prevent and eradicate trafficking in persons, in 2020, the Ministry of the Interior delivered 19 training programmes on human trafficking to 3,201 people involved in addressing this problem, including public servants and members of civil society; the webinars on human trafficking that were held covered topics such as COVID-19, social media, supply chains and the exploitation of children and adolescents. The Ministry of Economic and Social Inclusion led the implementation of a national strategy for the prevention of begging, child labour, homelessness and other human rights violations and for the care and protection of those affected, and a handbook for communicators and journalists on trafficking in persons was produced with the support of the International Organization for Migration. Meetings were held for trafficking victims receiving protection in four shelters; an online campaign on human trafficking in times of crisis was launched to raise public awareness about the offence and how to report it; and three local committees on the prevention and investigation of human trafficking and smuggling of migrants and on protection for victims were set up in different provinces. At the sixth binational meeting between Colombia and Ecuador, inter-institutional committees from the two countries discussed strengths and challenges in the fight against human trafficking. Lastly, a reform of the Comprehensive Criminal Code is under way, following the adoption of which prisoners convicted of human trafficking will not be allowed to serve their sentences in semi-open facilities.

71. In 2021, the Organic Act on Human Mobility was amended to include the consideration of victims of trafficking as persons under protection, and the Inter-Institutional Coordinating Committee for the Prevention of Trafficking in Persons and Smuggling of Migrants and for Victim Protection was created. Twelve training events on human trafficking were held for public servants, members of civil society and police officers as part of a seminar on the new *modi operandi* of criminal organizations involved in human trafficking and related activities. The first National and International Course on Specialized Technical Investigation of Trafficking in Persons was attended by 50 members of the National Police Force. Public fairs were held with the aim of teaching people how to avoid becoming victims of human trafficking, and five training workshops were organized on the basis of the handbook for communicators and journalists on trafficking in persons. A workshop of the EUROFRONT regional programme was held for public servants involved in the Local Inter-Institutional Coordination Committee for the Prevention of Trafficking in Persons and Smuggling of Migrants and for Victim Protection in Carchi. To mark the World Day against Trafficking in Persons, 300 people participated in a webinar on good practices for the protection of victims of human trafficking during the COVID-19 pandemic; during the event, white kites were flown from six public institutions in recognition of the World Day against Trafficking in Persons and Smuggling of Migrants. Instructions on applying for humanitarian visas for victims of human trafficking were issued and the 1800 DELITO and 911 hotlines were set up to enable members of the public to report possible incidents of human trafficking and smuggling of migrants. Furthermore, an office at the Mariscal Sucre International Airport has been reserved for the use of the National Unit for the Investigation of Trafficking in Persons and Smuggling of Migrants. An operational guide on identifying, acquiring, storing,

⁴⁹ Under Decision No. SNAI-SNAI-2020-0005-R of 13 March 2020.

⁵⁰ Source: Office of the National Vaccination Plan of the Ministry of Health, February 2022.

processing and using possible pieces of evidence in human trafficking cases was issued, and the System for Monitoring Human Trafficking and Migrant Smuggling was set up. That system can be used to store records on the progress and monitoring of the Action Plan against Trafficking in Persons. The System for Registering Cases of Trafficking in Persons and Migrant Smuggling, which provides statistical data on trafficking in persons and migrant smuggling, was also established. The following activities were carried out under the EUROFRONT project: (a) the preparation of manuals for the System for Registering Cases of Trafficking in Persons and Migrant Smuggling and the System for Monitoring Human Trafficking and Migrant Smuggling; (b) the strengthening of the interactive map of human trafficking and migrant smuggling; and (c) a technical visit to the border area of Carchi. Prosecutors and police officers from Ecuador and Colombia met to pursue the work of the standing committee set up to carry out proactive joint investigations into the crime of human trafficking in the Carchi area.

72. Regarding measures that have been taken in the northern border area, the National Police Force has carried out enforcement activities in cooperation with both Colombia and Peru; these activities are included in the respective binational annual operating plans. Within this framework, operations and investigations aimed at identifying internal human trafficking in its various forms were carried out in coordination with the Attorney General's Office. Two binational operations known as "Impact 607" (Impacto 607) and "Redemption IV" (Redención IV) were executed, leading to the rescue of four victims and the arrest of three people. In coordination with Peru, an operation known as "Impact 491" (Impacto 491) was executed, resulting in two victims being rescued and four people being arrested. The National Unit for the Investigation of Trafficking in Persons and Smuggling of Migrants implemented operational strategies with the compliance and technical assistance of prosecutors sent by the competent authorities in the provinces of El Oro and Carchi, leading to one arrest in the city of Tulcán and three in the city of Machala for the crimes of smuggling of migrants and trafficking in persons, respectively. As a result of the operation, 18 persons were arrested and 5 victims were identified. In 2020, according to the information provided by the Unit, 126 reports of human trafficking offences were registered, 18 operations were carried out, 28 victims were rescued, 22 people were arrested, and 11 referrals of information were received via the 1800 DELITO hotline, leading to 2 investigations. In 2021, the Unit reported 19 operations, 23 arrests, 31 rescued victims and 152 investigations.

73. The Attorney General's Office indicates that, of the total of 565 reports of human trafficking offences that were received between 2017 and 2021, 4 resulted in a conviction that is being appealed; 140 cases were closed; in 92 cases, closure has been requested; judgments have been issued in 4; in 1, the charges were dropped; in 8, formal criminal complaints have been filed; 1 resulted in a mixed verdict; 1 resulted in the discontinuation of criminal proceedings; 3 cases are under criminal investigation; 255 are under preliminary investigation; in 3, a committal for trial order has been issued; 1 is subject to a reformulation of charges; 22 resulted in convictions; 10 resulted in acquittals; 2 are pending validation; 16 are subject to a dismissal order; 1 has been suspended subject to completion of probation; and 1 is awaiting trial.

Right to a fair trial and independence of the judiciary

Replies to the issues raised in paragraph 20 of the list of issues

74. Regarding measures taken to strengthen the independence of judges and prosecutors, the Directorate for Transparency of the Attorney General's Office has a "transparency inbox" that allows the public to call for cases to be investigated objectively and in line with the Code of Ethics. The Directorate for Legal Oversight and Prosecution Assessment receives complaints regarding any failures by prosecutors to observe due process. In order to strengthen the fight against corruption in the judiciary, the Council of the Judiciary has set up a free hotline (1800 TRANSPARENCIA) and an online form to make the service more accessible for users.⁵¹ As part of its strategic planning for 2019–2025, the judiciary has established the following strategic priorities: the fight against corruption; institutional

⁵¹ <http://apps.funcionjudicial.gob.ec/denunciasweb/>.

strengthening through capacity-building and the evaluation and modernization of the judicial service; internal and external independence; and the strengthening of investigative and punitive mechanisms for dealing with cases of sexual violence against children, adolescents and women. The aim is to institutionalize transparency and integrity in the judiciary, to facilitate social oversight and to ensure optimal access to justice services.

75. The judgment of the Constitutional Court of 20 July 2020 in relation to the constitutional review of the article addressing criminal intent, evident negligence or inexcusable error in the work of judges⁵² establishes that the application of article 109 must in all cases be accompanied by a review by the Council of the Judiciary of the main duties, prohibitions and powers of judges, prosecutors and public defenders laid down in articles 75–82 of the Constitution, as well as in article 130 of the Organic Code of the Judiciary in relation to judges, in article 444 of the Comprehensive Criminal Code in relation to prosecutors and in article 286 of the Comprehensive Criminal Code in relation to public defenders. It is also established that, given the provision for different forms of culpability and the particular nature of the penalties imposed under administrative law, strict liability is proscribed. In other words, for this article to be compatible with the Constitution, it must always be interpreted and applied with good reason and in relation to the constitutional violations set out in article 125 of the same legal text; however, it shall not be processed directly by the Council of the Judiciary without a prior judicial declaration of criminal intent, evident negligence or inexcusable error, including, in this case, two successive phases.

76. On the basis of the disciplinary system applying to judges, magistrates and prosecutors, the Council of the Judiciary establishes that judicial officials are responsible for any possible acts of criminal intent, negligence or inexcusable error that they may commit during their handling of their cases. The need has been identified for mechanisms designed to overcome administrative barriers and ensure that decisions handed down in cases referred by international organizations are acted upon. The aim is to determine the responsibility of judicial officials who, in acting on the basis of judgments handed down by the Inter-American Court of Human Rights – which constitute international judgments and thus have the force of *res judicata* – engage the international responsibilities of the State. In this sense, it is the responsibility of the Constitutional Court of Ecuador to determine whether a ruling of the Inter-American Court can be considered to constitute the prior judicial declaration required to establish disciplinary violations such as inexcusable error, criminal intent or negligence.

Replies to the issues raised in paragraph 21 of the list of issues

77. The Council for Citizen Participation and Social Control reports that the Transitional Council for Citizen Participation and Social Control was empowered to evaluate the performance of authorities of public institutions concerned with judicial independence under the transitional regime of the Council for Citizen Participation and Social Control. The Transitional Council carried out evaluations of national authorities from different institutions, including the members of the Council of the Judiciary, which belongs to the judicial branch. In accordance with the report issued in connection with Decision No. CPCCS-T-037-04-06-2018, the aspects that were assessed included the failure of members of the Judiciary Council to perform their duties and irregularities in the performance of their core duties, and in the selection, evaluation and dismissal of judicial officials. This led to the dismissal of five members. Both the evaluation process and the full results of the investigation have been made public.⁵³

78. With regard to the referendum held on 4 February 2018 that resulted in the formation of the Council for Citizen Participation and Social Control, the Constitutional Court stated, in its ruling No. 4-18-RC/19, that, when proposals to amend the Constitution are submitted, it could intervene at three points in the process: firstly, during the determination of the avenue to use for the amendment process; secondly, during the constitutional review of the proposal; and thirdly, during the constitutional review of an amendment to the Constitution that has already been approved. That is why, with respect to the aforementioned referendum, through

⁵² Article 109 (7) of the Organic Code of the Judiciary.

⁵³ Available at the following link: <https://www.cpccs.gob.ec/wp-content/uploads/2018/11/RESOLUCION-No.-PLE-CPCCS-T-O-037-04-06-2018.pdf>.

its Decisions No. 001-17-CO of 18 March 2019 and No. 002-17-RC of 9 April 2019, the Constitutional Court decided to close those cases, ruling that a favourable opinion had been issued as a consequence of the expiry of the relevant term. Likewise, in Decision No. 60-17-IN of 27 March 2019, by which the Court rejected the action filed against Executive Decrees Nos. 229 and 230 of 2017 and Decision No. 002-17-RC on the grounds of lack of jurisdiction, it explained that, under article 105 of the Organic Act on Jurisdictional Guarantees and Constitutional Oversight, an assumed opinion is issued by which it is presumed that the Court's ruling on the factual basis of the request is favorable; that is to say, that a constitutional review of the referendum had been carried out and a favourable opinion had been issued regarding the assertions made in the cases on which it had not ruled and that the implicit opinion had the same force as if it had been expressly declared.

Treatment of aliens, including refugees and asylum-seekers

Replies to the issues raised in paragraph 22 of the list of issues

79. The National Council on Equality in Human Mobility has its articles of association and a manual containing post descriptions and classifications. The Council is made up of 13 public servants (two working in the technical secretariat, one in legal advisory services, one in the social communication area, five in financial and administrative management, and four in the technical management area) and has a budget of US\$ 362,457.12 for the year 2022.

80. The rules on deportation set out an administrative process by which, on the basis of a duly reasoned resolution, the migration authorities may order a foreign national to depart from the national territory. The process can only be applied if the foreign national: (1) has entered at an unauthorized location, except for cases of persons under international protection; (2) has provided, at any time, fraudulent or altered documentation, and shown it to any public authority, without prejudice to the determination of criminal responsibility; (3) has failed to begin regularization procedures within the time established by the Organic Act on Human Mobility; (4) has repeatedly infringed migration laws; (5) has had his or her visa revoked; (6) has not complied with a notification to depart voluntarily within 30 days; (7) is considered a threat or risk to public security and the State structure based on the information available to the competent authorities; (8) has been convicted and punished for an offence for which the penalty of deprivation of liberty is more than five years under criminal law; or (9) has been punished for committing any of the offences defined under criminal law related to breaching and endangering the tranquility and peace of citizens or disturbing the public order. The deportation process may be subject to the administrative and judicial remedies laid down in the current regulations, and due process and access to precautionary measures are guaranteed in accordance with national and international regulations. Similarly, the law provides that persons subject to a deportation order shall have access to the Public Defender Service throughout the process and to a translator or interpreter at the hearing.

81. In article 90 et seq., the Organic Act on Human Mobility sets out procedures and measures for ensuring equal access to refugee status and upholding the rights of asylum-seekers. Regarding the determination procedure for refugee and stateless status, the person may submit his or her request orally or in writing to any public institution (throughout the country) within 90 days of entering the country, and his or her case will immediately be referred to the human mobility authorities. The Ministry of Foreign Affairs and Human Mobility has received a total of 20,362 applications for asylum. Once an application for asylum has been accepted, the asylum-seeker will be summoned under article 102 to present his or her case at one or more interviews, during which the principles of confidentiality and non-revictimization will apply. The case will then be assessed by the Commission on Asylum and Statelessness, which will make a duly reasoned decision on the request. If the request is denied, the applicant may have recourse to the administrative and judicial remedies available under current laws without losing his or her asylum-seeker status. Throughout the process, the person retains his or her applicant status, and observance of the principle of non-refoulement is guaranteed. Between 2018 and March 2022, the Commission on Asylum and Statelessness ruled on 22,649 individual applications. The relevant authorities are notified of all procedures involving children and adolescents, and those cases are given priority. Pursuant to a cooperation agreement signed in 2006 and a memorandum of understanding

signed in December 2020, the Ministry of Foreign Affairs and Human Mobility has worked with the Office of the United Nations High Commissioner for Refugees to set up permanent cooperation mechanisms for the provision of technical assistance during the recruitment of new personnel.

Replies to the issues raised in paragraph 23 of the list of issues

82. With respect to the measures taken to address the high-volume migratory flows at the northern border, the Ministry of Foreign Affairs and Human Mobility has promoted the design and implementation of strategies built around mechanisms that facilitate the socioeconomic inclusion of foreign nationals living in Ecuador and strengthening the priority attention given to the most vulnerable groups. In that regard, a census, registration and regularization programme has been launched to identify migrants and regularize their situation so that they may avail themselves of their rights. In 2019, a regularization process was initiated following the adoption of an executive decree establishing a migration amnesty for Venezuelan nationals who had entered Ecuador legally. A census was taken, and temporary residence visas were issued on humanitarian grounds.⁵⁴

83. On 26 July 2019, the Ministry of Foreign Affairs and Human Mobility established the criteria for granting exceptional temporary residence visas for humanitarian reasons; this process was free of charge, with payment required only to obtain the application form. Applicants were required to present a passport, even if it was up to five years past its expiry date, and a copy of their Venezuelan judicial record certificate duly accompanied by an apostille. For minors, only a Venezuelan birth certificate accompanied by an apostille was required. This process began on 21 October 2019 and ended on 13 August 2020; a total of 56,052 visas were granted and the situations of 93,066 Venezuelan nationals were regularized. Another exceptional regularization process is planned for 2022. Furthermore, a contingency plan has been put in place by the Commission on Asylum and Statelessness to respond to all cases pending resolution. Launched in 2018, the plan was designed as an institutional response to the growing demand for services generated by the increase in the migration of Venezuelan nationals. Coordination mechanisms have also been created to help to meet the needs of people living in areas where there is no field office, and the quality of services has improved nationwide.

84. In 2021, with the aim of facilitating the integration of refugees in their host localities, special teams were deployed and tasked with issuing identity cards, carrying out registration formalities, updating data and conducting interviews in coordination with the Directorate General for Civil Registration, Identification and Documentation and the Office of the United Nations High Commissioner for Refugees. These teams reached a total of 4,683 people.

Human rights defenders

Replies to the issues raised in paragraph 24 of the list of issues

85. The functions detailed in the Organic Act on the Ombudsman's Office include the defence of all human rights and the rights of nature and, particularly, those of individuals and groups that exercise their right to promote, protect and strive for the realization of human rights and the rights of nature. Defenders of human rights and the rights of nature are defined in article 23 of the same law as persons or groups that exercise the right to promote, protect and strive for the realization of human rights and the rights of nature. The Ombudsman's Office must therefore ensure that the State complies with its obligations to protect defenders of human rights and the rights of nature, including by guaranteeing that they enjoy the conditions required to carry out their activities freely. In accordance with the other functions set out in the Organic Act, the Ombudsman's Office must issue notifications on rights violations in the various provinces concerned and promote a culture of participation in the protection and promotion of human rights and the rights of nature among civil society organizations in the different provinces.

⁵⁴ Executive Decree No. 826 of 25 July 2019.

86. With respect to the functions of the Ombudsman's Office, the National Council of Defenders of Human Rights and the Rights of Nature was elected on 9 December 2021 pursuant to Decision No. 057-DPE-CGAJ-2020. Interviews are currently being scheduled and conducted in line with a new public policy on human rights defenders involving the participation of several different institutions.

Freedoms of expression and association and arbitrary or unlawful interference with privacy

Replies to the issues raised in paragraph 25 of the list of issues

87. With respect to the adoption of a new organic law on communication, the National Assembly reports that several bills to amend the Organic Act on Communication have been drafted.⁵⁵ Furthermore, a group of members of the Assembly presented an organic bill on guarantees, promotion and protection of the freedom of the press and communication, which has been distributed in preparation for a second debate.⁵⁶ Meanwhile, the President of the Republic presented an organic bill on free speech and communication, which is also being submitted for a second debate. The latter bill provides for the media to rely primarily on self-regulation mechanisms; it will also guarantee freedom of expression, communication and the press as a basic right that cannot be restricted and for the right of journalists to invoke the freedom of conscience clause and to maintain the confidentiality of their sources and professional secrecy.⁵⁷ There are four reform bills in addition to the organic bill on guarantees, promotion and protection of the freedom of the press and communication and the organic bill on free speech and communication. The latter was debated on 19 and 21 July 2022, and its minority report was approved for submission to the executive for passage into law. Due action has been taken to raise awareness of the bill and make it more visible, with an emphasis on freedom of expression in a broad sense.

88. Eighty per cent of the provisions of the Digital Violence Act were vetoed by the President of the Republic on 12 June 2021 owing to their highly punitive nature.

Replies to the issues raised in paragraph 26 of the list of issues

89. With regard to the guarantees in place to ensure the right to freedom of expression, the Council on the Regulation, Development and Promotion of Information and Communication states that, under the Organic Act on Communication, its mandate includes developing and promoting mechanisms that allow a variety of programmes to be produced, with a focus on educational and cultural programmes. In this regard, in 2021 and 2022 it conducted research and the analysis of academic papers on the use of remote learning during the COVID-19 pandemic. It also published a paper addressing political violence in the Ecuadorian media and an investigative analysis of a case involving the newspaper *La Hora* and the impact that the case had on the right to freedom of expression. The Council is also conducting research on information relevant to the public or in the general interest and mechanisms for obtaining access to public information for journalists during the state of emergency imposed in connection with the COVID-19 pandemic. In addition, it dealt with 13 requests to publish papers produced by the technical units of the institution. Of these, five were assessed by external experts using the peer review process. Furthermore, opportunities for dialogue were created at a discussion on women journalists and harassment attended by 42 people, an in-house training session on public administration and human rights attended by 21 people and an online discussion on political communication and pandemics attended by 25 people.

90. In 2022, the Council took steps to promote and protect the right to freedom of expression. In that connection, a workshop on the regulations governing freedom of expression, attended by 183 people, was held on 3 February; a workshop on freedom of expression and its relationship with protective measures, attended by 145 people, was held

⁵⁵ Cod. AN-2021-2099; Cod. AN-2021-2099; Cod. AN-2021-2079; Cod. AN-2021-2078.

⁵⁶ Cod. AN-2021-2055.

⁵⁷ Cod. AN-2021-2051/403631.

on 10 February; a workshop on freedom of expression and the rights to communication and information, attended by 124 people, was held on 17 February; a workshop on journalism and freedom of expression, attended by 113 people, was held on 24 February; a workshop on journalism, freedom of expression and rights, attended by 23 people, was held in Cañar on 23 March; and a workshop on journalism, freedom of expression and rights, attended by 27 people, was held in Azuay on 24 March. A total of 999 people are enrolled in ongoing courses on equality and inclusive communication, the representation of women in Ecuador, freedom from violence for women, digital media (universities), digital media (citizenship), sign language for accessible communication, legal journalism, and the security and protection of media professionals.

91. In addition, the Council has begun to monitor warnings and threats concerning media professionals.⁵⁸ It has also been authorized to develop, implement and follow up on a system for protecting journalists and workers.⁵⁹ Between 23 July and 31 December 2021, 62 reports of assaults on media professionals were filed. During this period, assaults against 53 men and 21 women were recorded but only 14 of them were reported to the public prosecutor's office. A total of 18 of the reports do not identify the aggressor, 26 were submitted by members of the public and 37 were submitted by State officials, 25 of whom were civil servants and 12 members of the security forces. There were 24 physical assaults, 22 threats, 21 cases of obstruction of work, 15 acts of cyberbullying, 9 cases involving the stigmatization of journalistic work, 8 cases of harassment through the courts, 2 rejections of requests for access to information, 2 attempts to violate the confidentiality of sources and 1 case of theft of journalistic material, as well as espionage, unlawful detention and assault.

92. With regard to the events of October 2019, the Ministry of the Interior states that, on the one hand, they involved protests and peaceful demonstrations by members of the public and, on the other, attacks on State facilities, road blockages, the stoppage of basic services and interference with key infrastructure, which required the State to take comprehensive action with the lawful and legitimate aim of guaranteeing the safety of the citizenry and maintaining peace and public order. In the light of this situation, the Ministry of the Interior instructed police officers that, in the event of a public disturbance, they were legally required to respect and guarantee human rights and uphold the four fundamental principles of the progressive use of force, i.e., legality, necessity, proportionality and timeliness. The National Police Force has value-added procedures such as its monitoring and assessment mechanism, which is used to supervise, monitor and assess police conduct in order to determine administrative responsibilities in the event that actions are taken that run counter to legitimate objectives. For this reason, administrative investigations are considered to be a routine procedure that does not necessarily have to be initiated solely in response to a formal complaint. Rather, the Geophysical Institute of the National Police Force acts on its own initiative if images or videos showing alleged misconduct are posted on social media. The entirety of this procedure is governed by article 36 of the Organic Code on Public Safety and Institutions of Public Order, which concerns the administrative disciplinary regime. According to the Attorney General's Office, 790 investigations were initiated in connection with actions committed by police officers or demonstrators. The Office has recorded several reports of offences involving the deaths of protesters that are currently under preliminary investigation. Furthermore, a report of an offence involving an alleged crime against humanity, flagged by the Ombudsman's Office, is still under investigation.

Rights of Indigenous Peoples

Replies to the issues raised in paragraph 28 of the list of issues

93. With regard to the measures taken to protect Indigenous Peoples, the National Council for the Equality of Peoples and Nationalities adopted its 2022–2025 national agenda, which focuses on eradicating violence, discrimination and all forms of social, ethnic, cultural and structural exclusion, especially racism. To this end, the Council promotes the mainstreaming

⁵⁸ Memorandum No. CRDPIC-CGPD-2021-0122-M of 26 August 2021; Memorandum No. CRDPIC-CGPD-2021-0122-M of 26 August 2021.

⁵⁹ By Administrative Decision No. CRDPIC-PRC-20201-0000020 of 3 September 2021.

of the agenda in both the public and private sectors and at all levels of government, including the decentralized autonomous governments. The Ombudsman's Office and the association Antígona have established an inter-institutional agreement to cooperate on the design and implementation of measures to strengthen national policies on support for priority groups, especially Indigenous Peoples. Within the framework of its scope of action, it has arranged for the implementation of a training plan to educate police officers about the intercultural and plurinational processes of the Indigenous Peoples and nationalities, with a focus on equality and non-discrimination. In this connection, three training modules have been developed for 800 participants. A process for monitoring the implementation of Executive Decree No. 060, establishing the Plurinational Plan to Eliminate Racial Discrimination and Ethnic and Cultural Exclusion, has been launched.

94. During the COVID-19 pandemic, priority support was provided to Indigenous Peoples in voluntary isolation. In this connection, a vaccination programme reflecting an intercultural perspective was implemented in the Indigenous communities of the Waorani nationality in the Tagaeri-Taromenane Protected Zone.

95. With regard to laws on prior consultation, the National Assembly states that a bill on an organic code on prior, free and informed consultation concerning environmental and legislative matters was submitted on 11 May 2022. In July 2022, it adopted the report prepared for the initial debate, which sets out the considerations addressed in four bills submitted to the National Assembly. These bills provide that prior, free and informed consultation on environmental and legislative matters, based on inclusive, transparent, appropriate and mandatory processes,⁶⁰ must be carried out with communities, communes, Montubio peoples, people of African descent, and Indigenous Peoples and nationalities.

96. The issue of prior consultation is addressed in the Agenda for the Equal Rights of Indigenous Nationalities and Peoples, the Afro-Ecuadorian People and the Montubio People. The Agenda includes a section on land and territory that provides for improvements to the procedures for prior consultation on legislative and environmental matters aimed at protecting tangible and intangible heritage and ensuring the right to be consulted in connection with any plan or programme for prospecting, developing or marketing non-renewable resources that may have an environmental or cultural impact on the nationalities and peoples concerned. The National Council for the Equality of Peoples and Nationalities must prepare consultations in a participatory manner and adopt a binding and culturally appropriate mechanism for implementing consultation procedures in accordance with the Constitution and international standards. The Agenda also sets out policies on democratic participation within the framework of the area of competence of the National Council for the Equality of Peoples and Nationalities. The Council must follow up on the implementation of these policies, which should cover regulations, institutions, budgetary resources, oversight and justiciability and should provide for the conduct of consultations prior to any legislative action; the establishment of dialogues at the necessary levels; the formalization of negotiations and firm agreements on issues affecting the definition and exercise of the rights of peoples and nationalities; and the fostering of democratic practices at the community level.

Replies to the issues raised in paragraph 29 of the list of issues

97. Measures to ensure access to justice for Indigenous persons, in their own language and with respect for their culture, were considered by the Constitutional Court in case No. 112-14-JH, which concerned a review of judgment. In the case, the Court analysed a situation in which Indigenous persons of the Waorani nationality, who were deprived of their liberty, filed an application for habeas corpus that was denied. The judgment establishes parameters for the protection of the rights to liberty and personal integrity of Indigenous persons, especially those belonging to recently contacted Peoples. On this basis, it establishes that State institutions, together with Indigenous organizations, should develop a participatory plan to strengthen the adoption of an intercultural perspective by judicial bodies. Thus, the principle of interculturality is observed in accordance with the national and international regulatory framework governing pretrial and criminal investigations, addressing the obligation of the State to strengthen public policies designed to protect the rights of

⁶⁰ https://www.asambleanacional.gob.ec/es_proyectos_de_leyeS.

Indigenous Peoples and, more generally, all persons who live in these territories.⁶¹ In order to establish strategic, cooperative partnerships, the National Council for the Equality of Peoples and Nationalities signed an agreement with the Public Defender's Office to strengthen access to free advisory services, timely assistance and legal representation for individuals, communes, communities, Indigenous Peoples and nationalities, people of African descent and the Montubio peoples, who may lack access to such services because of their economic, social or cultural situation. Within this framework, training in the applicability of legal pluralism and the rights enshrined in the Constitution and international instruments has been provided to public defenders and the authorities of peoples and nationalities.

98. With regard to the measures taken to ensure effective cooperation between the Indigenous and ordinary justice systems, the Council of the Judiciary states that it has implemented a guide to mainstreaming the principle of interculturalism in the ordinary justice system with a view to improving judicial services by raising awareness among justice officials. In addition, a survey study was conducted of the standards applied in judgments handed down by the National Court of Justice in which it had found a decision to be null and void because the principle of interculturalism has not been upheld in legal proceedings. The results of that study were then used to provide guidance and input for justice officials. Furthermore, a protocol for expert interpreters and translators working in cases involving gender-based violence has been approved and translated into Kichwa.⁶² A road map for the development and implementation of a process for promoting the adoption of an intercultural perspective by judicial bodies has been drawn up. A register of specialist areas related to intercultural justice and legal pluralism was established to strengthen the expert witness system and thereby uphold the principle of equal access to justice. A total of 38 expert witnesses were included in the register (6 specializing in anthropology, 2 in indigenous law and 22 in ancestral languages). The specialist area of intercultural expertise was established for members of communities. Eight experts were registered as working in this area between 2021 and 2022. On 18 December 2018, the Confederation of Indigenous Nationalities and the Council of the Judiciary signed an agreement on cooperation between the Indigenous and ordinary justice systems with a view to establishing coordination, inter-institutional cooperation and mutual support mechanisms for dealing with issues of interest related to the Indigenous justice system and for developing training sessions and workshops. On 8 February 2021, the Council of the Judiciary and the Eugenio Espejo Higher Intercultural Technological Institute signed an educational partnership agreement to disseminate policies, decisions, protocols and procedures in ancestral languages in order to promote access to justice for peoples and nationalities. A project designed to foster a culture of peace and democracy was established as part of an effort to strengthen the Indigenous justice system in Ecuador. The project is aimed at mainstreaming intercultural public policies and will be implemented between 2021 and 2025. On 4 November 2021, the first national workshop for sharing information on intercultural and Indigenous justice in the plurinational State was held. Presentations on current public policies, studies, research and other matters were given. On 10 December 2021, a national mechanism for dialogue and coordination between the ordinary justice system and the Indigenous authorities was officially established. Furthermore, training sessions were held as part of a seminar on the scope of an amnesty and a particular judgment handed down by the Constitutional Court. The seminar was designed for Indigenous justice authorities and judges working in the ordinary justice system and was attended by 500 people, with a further 5,000 watching on social media. A second international seminar on the analysis of Indigenous justice and the vision of the Constitutional Court was held on 2 and 3 December 2021. Lastly, between May and August 2021, the Pacari Institute of Indigenous Sciences and the Fundación Luxemburgo held a series of talks on legal pluralism (*tinkuy*) to provoke discussion and reflection on the plurinational State.

99. With regard to the delegitimization of the Indigenous justice system, the Council of the Judiciary states that the Indigenous authorities are vested with legitimacy at the community level in the exercise of their functions. In addition, article 345 of the Organic Code of the Judiciary establishes that judges who learn that a case has already been brought

⁶¹ Directive No. FGE-DDHPC-D-003-2021.

⁶² Decision No. 097A-2018.

to the attention of the Indigenous authorities shall decline jurisdiction whenever requested to do so by the Indigenous authorities. The proceedings are thereby dismissed and referred to the Indigenous court. In recent years, this procedure has been implemented in respect of 105 requests to decline jurisdiction. Of these, 68 were admitted and 37 were denied. These requests were made in connection with different issues and in different provinces in the country. The Council of the Judiciary has taken disciplinary action in cases that it has found to constitute an abuse of the legal process because legal professionals have brought proceedings before the ordinary justice system in an effort to obtain a review of a decision issued by the Indigenous justice system under circumstances where this is prohibited.⁶³ The Organic Code of the Judiciary recognizes the principle of interculturalism, which is related to access to justice for Indigenous peoples and nationalities in their own languages, taking into account intercultural interpretation, intercultural dialogue, the principle of *non bis in idem* and recognition of Indigenous jurisdiction.

⁶³ Disciplinary case file No. AP-0918-SNCD-2021-PC of the plenary Council of the Judiciary.