

## **VOLUNTARY CONTRIBUTION OF THE ASOCIACIÓN CIVIL SURES ON THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS IN THE BOLIVARIAN REPUBLIC OF VENEZUELA**

Asociación Civil Sures is a Venezuelan civil organization dedicated to the study, promotion, education, and defense of human rights from critical, emancipatory, and alternative visions. It is a non-governmental, non-profit, independent, non-partisan, and non-denominational organization. Our mandate extends to all environmental, civil, cultural, economic, social, and political human rights recognized in the Constitution of the Bolivarian Republic of Venezuela and the international treaties ratified by our country.

We are pleased to address the Human Rights Committee, as a civil society organization in Venezuela, to formally submit the Alternative Report on the implementation of the International Covenant on Civil and Political Rights in the Bolivarian Republic of Venezuela in the framework of the 139th session to be held from October 9 to November 3 on the review of the fifth report of the Bolivarian Republic of Venezuela.

### **Right to self-determination (Article 1)**

1. During the last few years, Venezuela has been subject to the application of unilateral coercive measures imposed mainly by the United States of America since December 2014, when the U.S. Congress sanctioned Public Law 113-278, entitled as Public Law for the Defense of Human Rights and Civil Society Act.<sup>1</sup> The application of this sanctions regime against Venezuela aims to change the government and the economic, social, and cultural development model through the imposition of restrictions, obstacles, freezing of assets, and confiscation, among other mechanisms, which constitute an economic, financial, and commercial blockade.

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<sup>1</sup> Public Law 113-278 was published on 18 December 2014, this law could be cited as "Public Law for the Defense of Human Rights and Civil Society Act of 2014". Available at: <https://www.govinfo.gov/app/details/PLAW-113publ278/summary>

2. The unilateral coercive measures imposed on the oil, gold, and mining industries; the actions that impede the normal functioning of the Central Bank of Venezuela, as well as other entities with competence in monetary, financial, and exchange control matters, have reduced income and resources to maintain social programs aimed at the entire population.<sup>2</sup> These measures violate the principles and values in the Charter of the United Nations and deprive the Venezuelan people of their means of subsistence, representing a clear violation of the right of people to self-determination.

3. The imposition of the economic, financial, and commercial blockade is based on the principle of extraterritoriality used by the legal authorities of the United States of America to impose the sanctions program. In this context, the right to development has been violated due to the threat of imposing secondary sanctions against non-US actors, and over-compliance with unilateral coercive measures by private actors and entities are the main obstacles to foreign investment and the expansion of markets to energize the Venezuelan economy.<sup>3</sup> Despite the above, the Venezuelan State has continued to comply with its human rights obligations to the extent of its capacities, which have been severely restricted because of the negative impact of unilateral coercive measures since the end of 2014.

#### **Non-discrimination (Articles 2, 20 and 26)**

4. In March 2023, the Constitutional Chamber of the Supreme Court of Justice declared the nullity of Article 565 of the Organic Code of Military Justice on grounds of unconstitutionality. Being that the derogatory decision has retroactive effects, it would mean this decision would favor the situation of any person deprived of liberty for the conduct that ambiguously punished this alleged offense. The Venezuelan State must take proper measures to ensure the equality of lesbian, gay, bisexual, transgender, and intersex persons in access to their rights. Nonetheless, it should be

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<sup>2</sup> The Special Rapporteur on the negative repercussions of unilateral coercive measures on the enjoyment of human rights published a report after her visit to Venezuela from February 1 to 12, 2021, for more information on the situation in our country consult A/HRC/48/59/Add.2

<sup>3</sup> Asociación Civil Sures (2023). Secondary sanctions, over-compliance and the impact of the unilateral coercive measures on the right to health. Available at: <https://sures.org.ve/sanciones-secundarias-sobrecumplimiento-derecho-a-la-salud/>

reinforced with legislation against discrimination based on sexual orientation, gender identity, and gender expression.

5. Under the principles of progressiveness and non-discrimination contemplated in the Constitution of the Bolivarian Republic of Venezuela, we consider it necessary that other family models be recognized and included in legal forms such as marriage, economic regimes, and divorce; legal union; and filiation, whatever their origin. The extension of family models that have not been yet recognized by law but exist in the reality of Venezuelan society would imply a significant advance in the civil rights of the Venezuelan population. Such recognition would not represent a denial of the hetero-normativity of the matrimonial and nuclear family. However, it would guarantee the exercise of the rights of LGBTIQ+ persons, promoting a harmonious relationship between consanguinity and socio-affectivity without undermining the already established or more traditional family forms and models.

#### **Women's right to decide over their bodies, sexual and reproductive rights (Articles 6 and 7)**

6. During the first years of the application of the sanctions program, the shortage of contraceptives has limited the prevention of sexually transmitted diseases, has hindered family planning, and has had devastating effects on the autonomy of women and their integral health. Today, high prices are producing the same effects mentioned above. Adolescents, young and adult women must have access to contraceptive methods and family planning services to guarantee the right to life of women and their children. It is also necessary to take proper measures to eliminate discrimination based on gender or any other social condition in the health care system.

7. The frequency of clandestine and unsafe abortions represents a public health problem since they cause death in women during or after undergoing these procedures that are considered illegal under Venezuelan law. In previous years, access to these drugs was almost universal thanks to accessibility and availability because it did not carry a huge burden on women or represented steep prices. It is crucial to note the increase in maternal mortality to 125 per 100 thousand live births

for 2017, an upsurge of 5% over the value estimated for 2000.<sup>4</sup> Given this situation of vulnerability and loss of autonomy over women's sexuality, the decriminalization of abortion is an element to consider, expanding coverage in access to medical care for women in the face of unplanned pregnancies, as well as their ability to decide how many children they wish to have.

8. It is crucial to establish legal provisions that permit voluntary termination of pregnancy or, in any case, to update the legislation to establish exceptions to the general prohibition of all non-therapeutic abortions. Measures must also be taken to ensure education and awareness-raising on sexual health, reproductive rights, and family planning, with broad access to informative and educational material. These actions must be accompanied by civil society organizations, academic and scientific institutions, and various sectors of Venezuelan society.

#### **Elimination of trafficking in persons (Articles 7 and 8)**

9. In Venezuela, the application of unilateral coercive measures has produced a change in the patterns of human mobility, from being a receiving country of migrants from the entire region until 2017 to an abrupt, irregular, and disorderly increase in migration, which has allowed criminal organizations of human trafficking to take advantage of this situation, going from being a transit country, especially in Margarita Island (in the state of Nueva Esparta, northeast of the territory), to a country of origin of victims of human trafficking. Our organization has established that the economic impact generated by the application of unilateral coercive measures against Petróleos de Venezuela S.A. (PDVSA) has hindered the acquisition of essential goods and services by the Venezuelan State, having a direct relation to the emigration from Venezuela to other parts of the world, being a fundamentally economic migration. In this sense, we have observed that emigration is linked to the violation and deprivation of human rights because the abrupt decrease in State income affected social policies and missions, wages, salaries, and pensions. This has also influenced human

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<sup>4</sup> Pan-American Health Organization. Country Profile. Available at: <https://hia.paho.org/es/paises-2022/perfil-venezuela>

trafficking in our country since the precarious economic situation of the population is a risk factor for transnational criminal organizations and trafficking networks.

10. In April 2021, a Border Lab report noted that human trafficking has increased significantly in Norte de Santander in the last two years, ranking as the first department of destination for trafficked persons in Colombia. In this context, the study states that between 2018 and 2020, there was a significant increase in human trafficking victims of Venezuelan origin, rising during that period from 10.6% to 37.5%. These data coincide with our work and the field research we conducted on the Colombian-Venezuelan border at the end of 2021, where we confirmed the presence of criminal groups that recruit Venezuelan migrant women in Colombia, especially in the border area between the two countries.<sup>5</sup>

11. The conclusions of the United Nations Special Rapporteur on trafficking in persons, especially women and girls, Siobhán Mullally, after visiting Colombia in May 2023, highlights that human trafficking, regardless of its purpose, committed by armed groups and criminal organizations, particularly impacts Afro-Colombian populations, rural communities, indigenous peoples and Venezuelan migrants. On this last point, girls, adolescents, and young women of Venezuelan nationality are at greater risk of being victims of trafficking for sexual exploitation in border areas and the rest of the Colombian territory. Moreover, the situation of domestic workers at greater risk of being trafficked for forced labor deserves special emphasis, which is much more prevalent among Venezuelan migrant women.<sup>6</sup>

12. The Consular Relations Office of the People's Ministry of Foreign Affairs of Venezuela has developed a series of actions to strengthen the protocols and attention to alleged victims of human trafficking in different countries of destination for Venezuelan migrants. According to data from this instance, one hundred and ninety-nine (199) have been attended from 2019 to May 2023 in twenty-three (23) countries, mainly in Trinidad and Tobago, Peru, Belize, Mexico, and Chile, carrying out

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<sup>5</sup> Asociación Civil Sures. (2021). Between Táchira and Cucuta. Report on the situation in the Colombian-Venezuelan Border. Available at: <https://sures.org.ve/entre-tachira-y-cucuta-informe-sobre-la-frontera-colombo-venezolana/>

<sup>6</sup> Final statement of the Special Rapporteur on trafficking in persons, especially women and girls, after her visit to Colombia from 21 to 30 May, 2023. Available at: <https://www.ohchr.org/sites/default/files/documents/issues/trafficking/statements/20230530-eom-colombia-sr-trafficking-en.pdf>

one hundred and eleven (111) repatriations of presumed victims of human trafficking, in the 2019 - 2023 period. We believe that it is crucial to have disaggregated information and statistical data from the Venezuelan authorities for better care of victims of human trafficking victims, as well as to establish mechanisms for coordination and consultation with civil society organizations working in this area.

13. In our country, we recognize the efforts of the Venezuelan State to sanction human trafficking. It is crucial to note that the penalties for the active subjects of these crimes were increased in the Organic Law against Organized Crime and Financing of Terrorism.<sup>7</sup> Furthermore, an aggravating circumstance is established if the victim is a child or adolescent, which entails a higher penalty. It is also imperative to indicate that the consent of the passive subject does not constitute grounds for exclusion of criminal liability. The current legislation does not discriminate in any way among the different types of victims of trafficking in persons, we must emphasize that trafficking in women, girls, and adolescents is also typified as a crime in the Organic Law on the Right of Women to a Life Free of Violence.<sup>8</sup>

### **Freedom of Movement (Article 12)**

14. The exercise of the freedom of movement of Venezuelan migrants and returnees, on which the right to human mobility is based, has been violated in recent years. The imposition of unilateral coercive measures, both formally by laws, decrees, and legal acts, as well as non-formal like secondary sanctions against third States, and private, financial, and commercial entities, coupled with the over-compliance of sanction programs has a directly proportional relationship in the abrupt outward movement and flows of Venezuelan persons emigrating from the country. In 2015, there were 697,562 Venezuelan migrants abroad. In 2017 this figure increased to 1,622,109 migrants, and in 2019 amounted to 3.6 million according to the International Organization for Migration data. The pressure applied by the U.S. government by

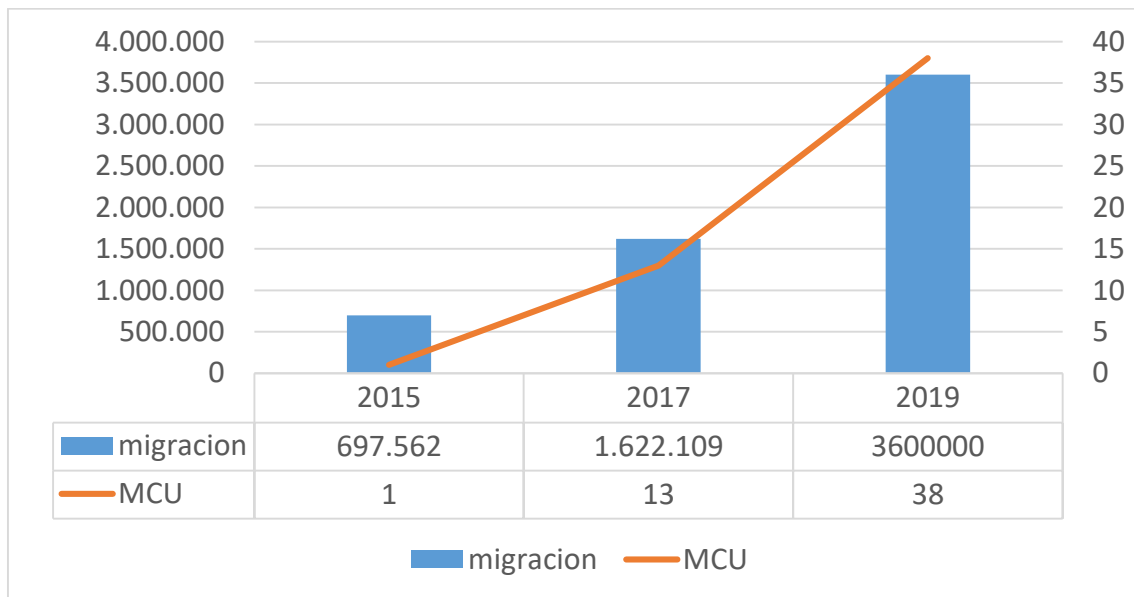
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<sup>7</sup> Organic Law against Organized Crime and Financing of Terrorism, published in the Official Gazette N° 39.912 in April 30, 2012.

<sup>8</sup> Reform to the Organic Law on the Right of Women to a Life Free of Violence, published in the Official Gazette N°6667, in December 16, 2021.

imposing sanctions went from one measure dictated in 2015 to 13 in 2017 and 38 coercive measures in 2019.

**Graph 1. Impact of unilateral coercive measures against Venezuela on migration flows, 2015-2019**



Source: Asociación Civil Sures, with data from the International Organization for Migration

15. A recent report published by the Demographic Observatory of the Economic Commission for Latin America and the Caribbean (ECLAC) shows a reduction in the magnitude of outflows from Venezuela to other countries in the region after the closing of borders and restrictions to mobility generated by the COVID-19 pandemic. Although the report admits that there are projections on the gradual return movement as of 2022, our organization has conducted monitoring on the return, as well as research with returnees from several countries in the region and the world, witnessing this movement since 2019, due to the precarious socio-economic and labor conditions that a considerable number of Venezuelan migrants faced in the receiving countries.

16. In the context of this situation, the Venezuelan State implemented in September 2018 the "Return to the Homeland" Plan consisting of humanitarian bridges, mainly



by air, but also by land and sea, to facilitate the repatriation of Venezuelan people who were victims of xenophobia, discrimination, and situations of vulnerability in the destination countries. In this regard, according to the monitoring of the Asociación Civil Sures, until the beginning of May 2023, 31,190 people have returned to Venezuela. However, estimations show that hundreds of thousands of people have returned voluntarily, including those who entered the territory through non-regular channels due to mobility restrictions and the closure of international borders during the pandemic.

17. It is significant to highlight the obstacles that have arisen, the unilateral coercive measures against the Republic, and the fears generated by the secondary sanctions on other States and companies of the private sector, which have impacted operations in repatriation trips. Some governments and companies have denied landing and overflight permits<sup>9</sup> and fuel supply to the state-owned airline CONVIASA<sup>10</sup> under Executive Order No. 13,884 decreed in August 2019. Additionally, the fleet of aircraft was included in the List of Specially Designated Nationals of the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury. The right to freedom of movement, human mobility, the right of migrants to return to their State of origin, as well as the guarantee of cooperation between States Parties for the adoption of measures for voluntary, safe, and orderly return, as established in the International Convention on the Protection of Migrant Workers and Members of their Families, have been violated to ensure enhanced compliance with U.S. sanctions.<sup>11</sup>

18. To guarantee the effective enjoyment of the right to free movement of persons, especially migrant populations, the State must review and update the regulatory framework on human mobility, citizenship, and migration, with the participation of Venezuelan civil society organizations and various sectors and social movements, through public consultation and mechanisms that promote dialogue between actors.

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<sup>9</sup> Venezuela denounces Argentina for not granting flight permits for the Return to the Homeland Plan, available at: <https://www.telesurtv.net/news/venezuela-denuncia-argentina-impedir-vuelo-vuelta-a-la-patria-20190411-0035.html>

<sup>10</sup> Peru hinders flights of the Return to the Homeland Plan, visit: <https://mppre.gob.pe/2019/05/18/peru-obstacliza-vuelta-patria-conviasa/>

<sup>11</sup> Treasury Department Press Releases: “Treasury Pressures Illegitimate Maduro Regime by Identifying Blocked National Airline”. Action to Enhance Compliance with Broad Venezuela Sanctions Program. February 7, 2020. Available at: <https://home.treasury.gov/news/press-releases/sm903>



We urge that the Law on Foreigners and Migration,<sup>12</sup> the Law on Nationality and Citizenship,<sup>13</sup> and the Law on Refugees and Asylum Seekers<sup>14</sup> be the first national legal norms to undergo a process of review, consultation, and reform. We believe that the National Migration Commission's activation could be a space for articulation and dialogue between the national government, civil society organizations, and other institutions to develop actions that favor migrants, returnees, and the population in general. Likewise, the Venezuelan State must establish intersectional strategies to guarantee the full reintegration of returnees in their communities of origin, with a gender approach, age perspective, and a holistic vision of migration and return.

### **Right to Legal Recognition (Article 16)**

19. It is urgent that the Venezuelan State expedite the issuance of passports and their renewal, both in the country and in consular offices abroad, to guarantee the right to identity and the recognition of their legal personality. We note with concern that tens of thousands of Venezuelans in Colombia were affected at the beginning of 2022, due to alleged irregularities in the civil registry of birth,<sup>15</sup> being that such document is the basis in most cases to obtain a citizenship card. The persons affected by such annulment lose their civil and political rights, violating the right to recognition of their legal personality, among other civil and political rights contemplated in this Covenant. Likewise, the difficulties faced by Venezuelan nationals abroad have been exacerbated by situations of rupture of bilateral relations and lack of recognition of the national government, which has led to the closing of consulates and embassies, as well as the impossibility of carrying out a series of procedures to renew identification and travel documents of persons who are currently outside the country with expired documents.

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<sup>12</sup> Published in the Official Gazette of the Bolivarian Republic of Venezuela No. 37,944, dated March 24, 2004.

<sup>13</sup> Published in the Official Gazette of the Bolivarian Republic of Venezuela No. 37,971, dated July 1, 2004.

<sup>14</sup> Published in the Official Gazette of the Bolivarian Republic of Venezuela No. 37,296, dated October 3, 2001.

<sup>15</sup> 43,000 identification cards issued to Venezuelans are annulled and removed from the electoral roll, published on February 4, 2022, see: <https://www.eltiempo.com/politica/gobierno/registraduria-anulo-cedulas-entregadas-a-venezolanos-649173>

## COVID-19 Pandemic Control and Management

20. In the context of the pandemic, the Venezuelan State guaranteed an effective and equitable response to the management and control of COVID-19 through the National Health System. The World Health Organization shows that from January 3, 2020, to August 16, 2023, 552,695 cases have been confirmed, with only 5,856 deaths from the disease.<sup>16</sup> The management and containment of the pandemic followed the principles of gratuity, universality, integrality, equity, social integration, and solidarity, which are characteristics of the right to health, as established in the Constitution of the Bolivarian Republic of Venezuela.<sup>17</sup>

21. Concerning immunization against COVID-19, according to WHO, 37,860,994 doses of the vaccines have been administered as of June 2, 2023. According to the latest available data from the Pan American Health Organization, as of July 2, 2022, 49.8% of the population had the complete COVID-19 vaccination schedule.<sup>18</sup> We should note that, in the face of the health crisis, the protocol contemplated mechanisms for screening and medical care in transitory health centers against COVID-19 to ensure the lives of Venezuelan people returning to the country and as a measure to contain the spread of the virus in an adverse economic context and with limited resources.

22. One of the challenges encountered in this harsh context was the escalation of the blockade despite the recommendations of various United Nations bodies. Among the calls for the lifting and relaxation of these restrictive measures amid the world health crisis, it was registered the blocking of funds destined for the purchase of vaccines and the withholding of money destined for the payment of vaccines through the COVAX system. However, most of the vaccines against the disease were acquired thanks to humanitarian bridges and the international cooperation of allies. It is crucial to point out that the licenses issued by the Office of Foreign Assets Control (OFAC) do

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<sup>16</sup> Situation of the Bolivarian Republic of Venezuela, World Health Organization, see: <https://covid19.who.int/region/amro/country/ve>

<sup>17</sup> Article 84 of the Constitution of the Bolivarian Republic of Venezuela. Available at: [http://www.oas.org/dil/esp/constitucion\\_venezuela.pdf](http://www.oas.org/dil/esp/constitucion_venezuela.pdf)

<sup>18</sup> The health situation and the COVID-19 pandemic. Country Profile: Venezuela. Available at: <https://hia.paho.org/es/paises-2022/perfil-venezuela>

not fully guarantee the normality of commercial and financial transactions between Venezuelan banking entities and third parties.<sup>19</sup> Even in the presence of humanitarian exemptions and licenses, the population's right to health, access to medical care, and medicines against coronavirus disease is affected by the application of the initial unilateral coercive measures.

### **Children's Rights (Articles 23, 24 and 26)**

23. The Asociación Civil Sures participated in consultation processes in the National Working Group for the Migratory Protection of Children and Adolescents which is advised by UNICEF. We are concerned about the cases in which cooperation with other States in the region is necessary, considering that several governments did not recognize the government of President Nicolás Maduro Moros until recently. In this instance, our organization confirmed that there are major administrative obstacles to the registration of births of children of Venezuelan nationals in the countries of destination. In our research with returning migrants from various Latin America and the Caribbean countries,<sup>20</sup> the vast majority have children, however not all children accompanied their mothers or fathers in the migration process, remaining in the care of relatives in Venezuela. Meanwhile, in the cases in which they have migrated with their mothers, they do not always return; 6.19% of the people who returned from Trinidad stated that all their children remained, while others left some of their children in the host country. In this way, administrative obstacles magnify family separation, making access to education and health systems more complex and presenting a greater risk of statelessness because their births are not registered.

24. We are also concerned about the situation of migrant children and adolescents who, for various reasons, have lost their fathers, mothers, or relatives in their countries of destination and have been institutionalized. Concerning this type of case, the Constitutional Court of Colombia ruled, following a tutelage action brought by the

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<sup>19</sup> Office of Foreign Assets Control. Venezuela Sanctions Regulations. General License No. 39A, Authorizing Certain Activities to Respond to the Coronavirus Disease 2019 (COVID-19) Pandemic. Available at: [https://home.treasury.gov/system/files/126/venezuela\\_gl39a.pdf](https://home.treasury.gov/system/files/126/venezuela_gl39a.pdf)

<sup>20</sup> Sures Civil Association. Survey conducted to the returning population in the Transit Health Centers of the Bolivarian State of Miranda (PASI), see our website: [www.sures.org.ve](http://www.sures.org.ve).

Ombudsman's Office of the Colombian Family Welfare Institute (ICBF by its acronym in Spanish), to grant Colombian nationality by adoption to a five-year-old Venezuelan child, in the care of the ICBF for more than two years, without having been able to locate his relatives and complete the administrative process for the restoration of his rights.<sup>21</sup> The sentence has *inter comunis* effects, so as long as there is no law or a definitive regulation on the matter, the same can be applied to other children and adolescents who are in the same situation.

### **Recommendations**

1. We urge the Venezuelan State to guarantee the rights of LGBTI+ persons, especially access to marriage or legal de facto union for persons of the same sex, and legal recognition of the identity of transgender and intersex persons.
2. We urge the Venezuelan State to legalize the voluntary interruption of pregnancy.
3. We urge the Venezuelan State to continue its cooperation with the Committee to make visible the negative repercussions of unilateral coercive measures on human rights. We recommend the development of a series of indicators, especially regarding health and the right to life, to measure the impact of the economic, financial, and commercial blockade against the Bolivarian Republic of Venezuela.
4. We recommend that the Venezuelan State establish a system for the systematic compilation of statistical data on migratory flows and movements, encouraging the public dissemination of data and information so that civil society organizations can analyze and contribute to processes and mechanisms for consultation, the elaboration of public policies and attention to the Venezuelan migrant population.

### **Recommendations to States Parties**

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<sup>21</sup> Constitutional Court of Colombia. Decision SU-180-22 of May 26, 2022, available at: <https://www.corteconstitucional.gov.co/>

1. We demand that the States Parties cease and completely lift the unilateral coercive measures against the Bolivarian Republic of Venezuela, which has become an economic, financial, and commercial blockade that harms the human rights of the entire population, the right to development and the right to self-determination of the Venezuelan people.
2. We urge the States Parties to guarantee the rights of migrants of Venezuelan nationality in their respective territories to investigate human rights violations or abuses committed against them and establish international cooperation mechanisms to guarantee the safe return of Venezuelan migrants.
3. We call upon the State Parties to guarantee the fair distribution of vaccines, without discrimination, and by the values and principles contained in the Charter of the United Nations and the Sustainable Development Goals.