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Mintrabajo



# 2<sup>st</sup> Post-accession report of Colombia to the Employment, labour and Social Affairs Committee of the **OECD**



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## I. EXECUTIVE SUMMARY

As noted in Colombia's First Post-Accession Report to the OECD Committee on Employment, Labour, and Social Affairs (ELSAC), the Colombian Ministry of Labour has strengthened its actions and developed policies and strategies for the benefit of Colombian workers. This has involved a joint work between different government entities, to respond to the recommendations given by the ELSAC in labour matters. This report presents the specific progress of Colombia during 2021 in each of the post-access recommendations on labour issues, which were delivered by ELSAC to the Ministry of Labour of Colombia in the formal opinion. The information provided in the present report is part of the inter-institutional effort and joint work with the Prosecutor General's Office of the Nation, the Ministry of the Interior, the Ministry of Defence, the Ministry of Commerce, Industry and Tourism, the Ministry of Health and Social Protection, the National Protection Unit and the entities attached to the Ministry of Labour.

### Labour informality and subcontracting.

It is important to mention the efforts of the National Government to address the unprecedented crisis brought about over the labor market by the COVID – 19 pandemics, which caused the loss of approximately 5 million jobs at its most critical point (between April and May 2020) out of a labor force that reached about 22 million prior to this worldwide event. The reactivation process, spearheaded by several government programs aimed at the retention and generation of jobs, allowed the recovery of over 90% of those jobs through 2021.

Among the main achievements are the **Formal Employment Support Program – PAEF**, whose benefits reached 142,999 employers and 4,151,854 employees, during the first 11 months of the program under its initial conditions (applications May 2020 to March 2021). With the new conditions of PAEF aimed at micro and small employers, it has been able to benefit 43,146 employers and 377,804 employees (applications May to September 2021).

Similarly, the **Support Program for the Payment of the Service Bonus -PAP**, has reached 94,809 employers and 1,044,439 workers. The **Support Program for Companies Affected by National Unemployment**, to reactivate the economy and support businesses companies affected by the national strike, has benefited 12,684 employers and 441,726 workers.

On the other hand, within the framework of the **Sacúdete Strategy aimed at young people between 18 and 28 years old** and the **Incentive to the generation of new jobs** that expands the target population and includes women and men of all ages, the Government provides support for each additional worker hired after the month of March 2021. These benefits have reached 14,096 employers for a total of 274,142 new jobs on the payrolls from July to December 2021, of which 217,644 correspond to young people, 31,978 to women over 28 years of age and 24,520 men over 28 years of age.

The implementation of the one-stop-shop for the registration of companies (VUE by its acronym in Spanish), since its creation in 2018 and until December 2021, has allowed the creation of more than 116,000 companies, thus promoting reactivation and entrepreneurship in Colombia.

The National Government has been adopting alternative insurance mechanisms for the informal population, which recognize the need to have tools for workers who are outside the Comprehensive Social Security System. One such mechanism is the Social Protection Floor, which includes health coverage, a savings instrument for old age, and insurance for work related and common sickness.



Additionally, one of the most important issues of this recommendation is to launch a citizen awareness program, especially in rural areas, on the importance of formal employment, social security benefits and workers' rights and generate a scenario that allows for the construction of a new dynamic, based on a greater integration of the territory and the population sectors that were historically marginalized. In addition, the National Government will provide and implement the Progressive Plan for Social Protection and Guarantee of the Rights of Rural Workers.

### **Labour Law Enforcement:**

This section will address the efforts made by the Ministry of Labour to ensure adequate resources, capacities, and tools for strengthening the Labour Inspection System. The progress and achievements in the allocation of resources to facilitate the performance of the work of labour inspectors will be enunciated where, despite the budgetary restrictions and the strong impact that COVID-19 has had on budgetary use, it has been possible to sustain and increase the budget allocated to the Ministry of Labour for the fulfilment of its missionary objective, with an allocation of COP 8.4 billion (Approx. EUR 2 million) for the year 2021, which represents a growth of about 45% compared to 2020, even exceeding by 5% the budget available for 2018, a scenario prior to the current emergency. It is also mentioned that the permanent training processes that have been given for the officials who are part of the missionary process of Inspection, Surveillance and Control (IVC) have been sustained, highlighting that the Virtual Campus is fully operational.

It is important to point out the different efforts aimed at the need for the expansion of the staff of the Ministry of Labour, especially aimed at expanding the positions of Labour and Social Security Inspector, in accordance with international standards, within this recommendation the management and progress obtained during the validity of 2021 will be detailed, at whose term the staff of the Ministry of Labour has 904 jobs of Labour Inspector and Social Security, which represents an increase of about 9% compared to 2020. Likewise, the proposal of the Ministry of Labour to increase its staff in a staggered manner from 2021 to 2024 is exposed, starting with 355 jobs with the name inspector of Labor and Social Security, whose final objective is the creation of 1,332 positions, of which 1,096 positions will correspond to the role of labour inspection.

Regarding the Mobile Labour Inspection, which aims to bring the Labour Inspection System to all regions of the country where there are labour relations, an advance is presented reaching 2021 to the accumulated intervention of 140 municipalities.

Similarly, the advances in the collection of fines are mentioned, noting that from 2020 to 2021, the Coercive Collection Group has managed to recover resources worth COP \$4,386,040,508 (Approx. EUR 984,305) of the total of the processes opened for the Fund for the Strengthening of Inspection, Surveillance, and Control of Labour and Social Security (FIVICOT), which means that on the total portfolio (COP \$13,446,334,880 Approx. EUR 3,238,375), 33% has been recovered.

### **Collective Bargaining:**

Through the collective bargaining recommendations, the following actions adopted for the construction of social dialogue were presented. In the first place, the collective agreement in Colombia is bound by an employment relationship and necessarily governed by a legal act, which establishes the guidelines of the employment contracts of each member until its completion. It is of vital importance to guarantee social dialogue between the actors to strengthen relations and therefore labour negotiations in the country; therefore, it is carried out through unions, specifying that it is not mandatory to enter a union system, understanding that collective pacts and union contracts are under studies of legal conformity. The Ministry of Labour issued Decree 1631 of 2021 by means of which it modifies the Single Regulatory Decree 1072 of 2015, in what has to do with the continuation of the rights recognized in collective agreements or that are contained in administrative acts. A guarantee is also established to comply with the agreements pending at the end of the validity of a collective agreement. Additionally, it regulates that, in the framework of collective



bargaining with public employees, what is related to the principle of progressivity and the rule of non-regressive will be considered.

The Ministry of Labour is conducting inquiries into the illegal subcontracting and misuse of collective agreements and social contracts under discussion with the dialogue table through the Permanent Commission for the Coordination of Wage and Labour Policies, in order to carry out a possible reform of the collective bargaining processes, taking into account that this would not only represent the company but also different entities applicable to economic groups, contemplated in Decree 089 of 2014 based on social dialogue and negotiation in the private sector and protected under the Substantive Labour Code that enshrines the right and recognition of the legal entity attributed to the unions and that among the objectives are the representation of common interests of workers against the employer, stating primarily the presentation of a list of demands contemplated in the Substantive Labour Code; which constitutes a modality of the right to free association to formally build and strengthen organizations that defend the common interests of professions or trades without prior authorization, as contemplated in articles 39 and 55 of the Political Constitution of Colombia, ratified by the Colombian government in the conformation and categorization of workers, whether dependent or independent, excluding members of the security forces in order to maintain impartiality so that they can defend sovereignty, independence, constitutional order and territorial integrity; taking into account also the guarantee that workers with missionary ties have, through legalized labour intermediation companies such as the so-called "temporary" ones also with the right to join a union.

Finally, the support of the Government of Canada in which the development of the registration on collective bargaining in companies is located, to monitor their evolution through the UNION ARCHIVE INFORMATION SYSTEM – SIAS, which guarantees the protection of trade union rights provided for in the Constitution and Colombian laws.

### **Crimes against trade unionist.**

Finally, in the fourth recommendation, we will point out the progress that the country has made, in compliance with the commitment to protect specific populations such as trade union members. The report states that, for events that occurred between January 2017 and December 2021, investigative progress towards clarification has so far been achieved in 43.16% of the cases; and that compared to 2020, in 2021 the number of homicides of trade unionists was reduced; however, as we pointed out in the first report, we will continue to fight until the number is zero.

It is mentioned that, from 2017 to 2021, 16 sentences have been handed down in 13 cases of homicides committed against trade unionists. However, during this same period, the Attorney General's Office has spared no effort in continuing investigations for events prior to 2017, where 156 convictions have been handed down for homicides against trade unionists.

The report also mentions the strategy of the Office of the Attorney General of Colombia (FGN) for the analysis, the association of cases and the design of investigative projects that it consolidates to address complex situations, using a three-part methodology for the investigation of homicides attributable to criminal organisations designed by the Special Investigation Unit of the FGN.

On the other hand, the report indicates that within the framework of the Colombia – Canada Labour Cooperation Action Plan 2018-2021, the Ministry of National Defense has signed the Association Agreement No. 003 of 2021 with the Universidad del Rosario, to carry out the independent study on the role played by ESMAD in social protests; Likewise, the main events during the 2021 period regarding the formation and training of the specialized operational group will be mentioned, since in 2021 9,332 ESMAD members were trained at the national level, on various issues related to human rights and the excessive use of force.

Lastly, it is important to note that both the Office of the Attorney General of Colombia and the National Protection Unit (UNP) have provided additional information to that contained herein, to respond to the questions raised by the OECD

mission on the recommendations and some specific actions, and for which, through the Ministry of Labour, a formal response has been sent.

## II. RECOMENDATIONS

### 1. LABOUR INFORMALITY AND SUBCONTRACTING

Continue tackling labour informality by:

#### 1.1. *Implementing a one-stop-shop for the registration of companies that unifies procedures for the registration of new companies (Ventanilla Única Empresarial)*

To simplify the process of creating companies and facilitating business procedures, in 2018, the National Government began the operation of the VUE, which was created by Decree 1875 of November 17, 2017. The VUE, available in [www.vue.gov.co](http://www.vue.gov.co), is a public-private strategy that, based on the articulation of more than 71 entities at the national and local level, seeks to facilitate business activity in Colombia, integrating procedures associated with the creation, operation, and closure of companies.

#### Achievements of the VUE in 2021

**From the point of view of geographical expansion**, 26 Chambers of Commerce were enabled in the VUE, thus fulfilling 100% of the projected goal. There are 38 Chambers of Commerce enabled in the VUE. The challenge of this government is to continue advancing to achieve in 2022 the habilitation of the 57 Chambers of Commerce in the country.

**From the point of view of expansion of services in 2021**, the goal was to enable at least two, in this sense the following were enabled:

- A redirect for certification and registration for some INVIMA products.
- a redirect to obtain the Single Register of RUP Proponents through the INTEGRATED INFORMATION SYSTEM SII.
- In the process of Elimination of the PreRut, the DIAN issued the corresponding Resolution, providing 6 months for the implementation of the same. This deadline ends in the month of April 2022; we are currently advancing in the related processes.
- Additionally, access was enabled from the VUE to the Buy Ours Portal and the Portal innovated.
- Since December 10, the VUE complies with the guidelines of the state portal (GOV.CO).
- The information related to the Inventory of procedures (ISIC Code 95 procedures) has been updated, and is already published in GOV.CO
- A cultural transformation study was implemented, with which the main characteristics of the entrepreneurs who use the VUE were identified and the strategic lines that they must implement at the level of communications for the promotion and massification of the VUE were identified. In addition to the above, the VUE's communications strategy was designed and implemented, linking key actors such as: MINSALUD, MINTRABAJO, DIAN, INVIMA, PORTAL INNOVAMOS, COMPRA LO NUESTRO.

The VUE is working hand in hand with the Ministry of Health and the Ministry of Labour to integrate Social Security procedures, including the subsystems of Health, Occupational Risks (ARL), Compensation Funds and Pension Fund Insurers. Within the contribution of the VUE to the process of formalization of a company, today the most important challenge is in the habilitation of the social security module in these four subsystems.

To date in the VUE the entrepreneur can access the following services: procedure of Commercial Registry (natural person and SAS) and RUT (DIAN) – Tax Information Registry RIT (Secretary of Finance), Departmental Tax of registration, Consultations of homonymy, of ISIC Code, of land use, National Registry of Corrective Measures (RNMC) on the Fines police code, Tax Responsibilities, rut status, also finds a pre-liquidator as well as information on the Simple Taxation Regime and can make the registration, update, renewal, reactivation, cancellation and suspension of the National Tourism Registry – RNT, among other services.

Since its creation in 2018 and until December 2021, **the VUE has allowed the creation of more than 116,000 companies, thus promoting reactivation and entrepreneurship in Colombia.**

For the development of this tool, the national government has allocated \$5.8 billion COP (Approx. 1,301,593 Eur) and will continue to make investments to expand and improve it constantly.

### **1.2. Designing and implementing a single affiliation system for the different social security systems (including health, pensions, family subsidies and accident insurance).**

The **Transactional Affiliation System - SAT** was created by the National Government through article 11 of Decree 2353 of 2015, compiled in **article 2.1.2.1 of Decree 780 of 2016, modified by article 1 Decree 1818 of 2019.**

The Transactional Affiliation System - SAT is a set of processes, procedures and instruments of an administrative technical nature, which the Ministry of Health and Social Protection has to register, report and consult, in real time, the data of basic and complementary information of the affiliates, the affiliation and its novelties in the Integral Social Security Systems and the Family Subsidy System. This System is conceived as the means for the registration of affiliation and the reporting of news, without prejudice to the platforms or other technological means available to the administrators of the General Pension System and the Family Subsidy System, whose information related to the affiliation and report of news of its affiliates, in any case, it must be reported to the SAT.

Thus, the Ministry of Health and Social Protection has the administration of the Transactional Affiliation System – SAT and defines the responsibility of each of the actors in the registration and reporting of the information in the System, according to the data structure and the magnetic or electronic means that are required to process the information.

The progress in the development and production in the SAT of the General Social Security Systems in Health, Occupational Risks and Pensions, as well as the Family Subsidy System, is as follows:

#### **General System of Social Security in Health**

It is currently in production and allows the citizen who is a contributor or head of household to make the novelties of updating complementary data; updating of the identity document; re-enrolment to EPS; inclusion of beneficiaries; inclusion/exclusion of partner or spouse; transfer; acquisition of capacity to pay; mobility to the subsidized scheme; confirmation of mobility to contributory scheme; loss of ability to pay; hospitalization report. Likewise, it allows the member to consult information on health interventions; health history; health affiliation status; National Registry of Orphan Diseases (RNEH).

As of 2020, health care institutions - IPS and territorial entities can make the affiliation ex officio of minors, new-borns from the day they are born and / or any person who is without social security in health or is in a retired state and meets the conditions established in the Law to carry out their affiliation in any regime.

#### **General System of Occupational Risks**





For the General System of Occupational Risks, the novelties of employer affiliation to an ARL are currently in operation; consultation of companies transferred from one ARL to another; necessary consultations of company structure; initiation of an employment relationship or training practice; modification of the basic contribution income; news of work centres (creation, inactivation and updating); headquarters developments (creation, inactivation and updating); risk reclassification of a workplace; report of late payment of contributions to the General System of Occupational Risks; payment agreements and non-compliance with payment agreement; retraction of the employer's transfer from one ARL to another; termination of an employment relationship or training practice; transfer of the ARL employer; variation of the workplace; correction of the contribution rate and subtype of contributors; web services of cancellation of start of employment relationship, among others.

In accordance with the provisions of the draft *resolution "By which the general conditions for the operation in the Transactional Affiliation System – SAT of the General System of Occupational Risks are defined, for the affiliation of mandatory and voluntary affiliated independent workers, the incorporation of information and interoperability in the Transactional Affiliation System – SAT"*, to date, the corresponding developments are being made in the Transactional Affiliation System.

### **General Pension System**

For the incorporation of the General Pension System in the SAT, Resolution 0293 of 2021 was issued "By which article 9 of resolution 1734 of 2020 is modified in relation to the implementation of the functionalities of the General Pension System through the SAT".

In order to incorporate the information, pilot tests began in May 2021, which culminated in October of the same year, through these tests, the administrators carried out a debugging and corrections of information to be able to make the final incorporation, in accordance with the provisions of Resolutions 351 of 2021 *"By which the guidelines for the incorporation of the information and the interoperability of the General Pension System in relation to the affiliation, the retraction to the application for affiliation and the report of novelties are defined"*; and 782 of 2021 *"By which Article 9 of Resolution 1734 of 2020 is modified in the sense of extending the period of purification and validation of the information of affiliates to the General Pension System and the implementation of its functionalities through the SAT"*

During the first week of November 2021, the incorporation of RUAF information into the SAT was carried out, in accordance with the guidelines established in Resolution 1134 of 2021 *"By which articles 4 and 8 of Resolution 351 of 2021 and numeral 3 of its Technical Annex are modified."*

### **Family Subsidy System**

In the Family Subsidy System, pilot tests were carried out, which culminated on August 6, 2021 with the incorporation of family subsidy information, likewise, the information reporting service websites were put into operation to update the information incorporated, in order to comply with the provisions of Resolutions 1126 of 2020, *"By which the general conditions for the operation of the aforementioned system in the SAT are defined"*; 025 of 2021 *"By which Article 10 of Resolution 1126 of 2020 is modified in relation to the term of putting into operation the functionalities of the family subsidy system through the SAT"*, and, 083 of January 28, 2021 *"by which the guidelines for the incorporation of the information and interoperability of the Family Subsidy System in the SAT with respect to the employer roles are defined legal person and employer natural person"*.

On December 20, 2021, the Ministry of Health and Social Protection issued Resolution 2134 *"By which the guidelines for the incorporation of information and interoperability of the Family Subsidy System in SAT with respect to independent workers and pensioners are defined"*; proceeding in compliance with the aforementioned standard, jointly with the Ministry of Labour, to carry out work tables with the family compensation funds in order to achieve during the first half of 2022 the incorporation of information to SAT and the subsequent updating of independent workers and pensioners.

Additionally, in the web portal Mi Seguridad Social, several queries are arranged to other information systems among which is the history of the payment of contributions to the Integral social security and Parafiscal System through the Integrated Payroll of Settlement of Contributions -PILA, and the individual records of Provision of Health Services - RIPS, among others.

The Ministry of Health and Social Protection is the public entity of the national order that will define the transactions that can be carried out by the different users, according to their competences and the levels of access that are defined. Once the Transactional Affiliation System begins its operation, this will be the means for the registration of the affiliation and the reporting of news.

Normative support: Next, the corresponding normativity is presented, which legally supports the entire process of this system and emphasis is placed on the different administrative acts related to the Family Subsidy System.

Table 1. Regulations Creation of the Transactional Affiliation System

Health	Labour Risks	Family Subsidy	Pensions
<ul style="list-style-type: none"> <li>✓Decreto 2353/2015</li> <li>✓Decreto 780/2016</li> <li>✓Decreto 974/2016</li> <li>✓Resolución 768/2018</li> </ul>	<ul style="list-style-type: none"> <li>✓Decreto 2058/2018</li> <li>✓Resolución 2389/2019</li> <li>✓Resolución 2945/2019</li> <li>✓Resolución 906/2020</li> </ul>	<ul style="list-style-type: none"> <li>✓Decreto 1818/2019</li> <li>✓Resolución 1126/2020</li> <li>✓Resolución 1734/2020</li> <li>✓Resolución 025/2021</li> <li>✓Resolución 083/2021</li> </ul>	<ul style="list-style-type: none"> <li>✓Decreto 1818/2019</li> <li>✓Resolución 293/2021</li> <li>✓Resolución 351/2021</li> </ul>

### Transactional Affiliation System – SAT – Family Allowance

The Transactional Affiliation System – SAT, is the Set of processes, procedures, and instruments of a technical and administrative nature to register, report and consult, in real time, the data of basic and complementary information of the affiliates, the affiliation and its novelties in the Integral Social Security System and in the Family Subsidy System.

The Transactional Affiliation System is administered by the Ministry of Health and Social Protection, with the support and inter-institutional guidelines of the Ministry of Labour, assigning this competence to the Sub directorate of Family Allowance, a functional area whose main purpose is: To direct the plans, programs, and related projects, in accordance with current regulations and objectives of the sector, to improve working conditions in the country.

Among its essential functions, which show the importance and competence of the Ministry of Labour, in the context of the country's social security, are, among others, the following:

- Propose and promote policies, plans and programs in the field of family allowance.
- Prepare the draft regulations, regulations and laws that correspond to the Ministry, National Government or that have the initiative of the latter in matters of family allowance.
- Propose the regulation of the Family Subsidy System and the services it provides in matters within its competence and promote and evaluate the execution of the complementary transversal services offered by the Family Compensation Funds.
- To elaborate research and studies for the formulation of policies, plans, programs, and projects in the field of family allowance, in coordination with the missionary areas of the Ministry.
- Propose plans, programs and projects aimed at expanding the coverage of the family subsidy and improving the quality of its provision.

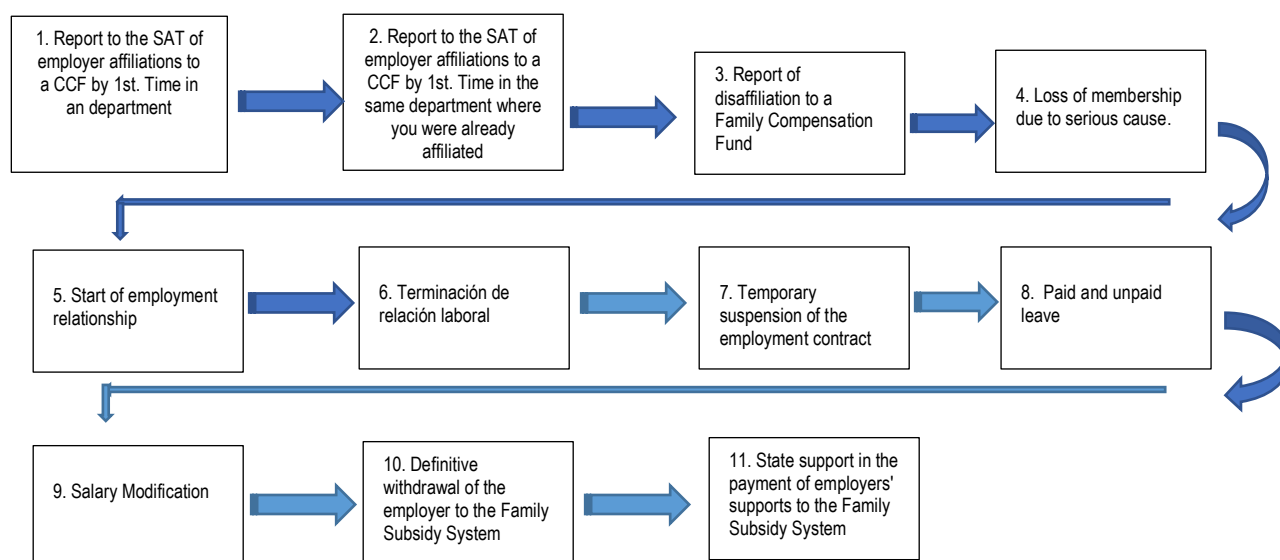
### Objectives and scope of the SAT

Define the protocol to establish the tests and levels of acceptance, connectivity (Validation of credentials – username and password), structure and content of the published services and the business rules and integrity of the information, reported by the CCF (Family compensation Funds), through socialized services in test environments.

Place the Webs services, defined by the Ministry of Health and Social Protection, in an environment of quality tests together with their catalogues; which will be reviewed and consumed by the CCF, for the proper functioning of the System.

Generate approval to the CCF that have satisfactorily complied with all the activities established in the protocol and its schedule, for the realization of each of the proposed testing stages, based on the result of the analysis in each of them.

### SAT Web Services Level Scope



### INCORPORATION OF INDEPENDENTS AND ADJUSTMENTS TO FUNCTIONALITIES

#### February 2022

Between the end of October and December 2021, the technical preparation of the platform begins, based on Resolution 2154 of December 20, 2021, in order to be able to carry out the pilots of incorporation of independents and pensioners to SAT.

In the month of February 2022. The first pilot will be analysed, after uploading the information by the CCF. The definitive process of incorporating information from pensioners and independents to SAT and adjustments to the functionalities in SAT is projected for the month of June 2022.

There is a web portal ([www.miseguridadsocial.gov.co](http://www.miseguridadsocial.gov.co)) on the website of the Ministry of Health, created so that news reports can be made and queries can be made in the General System of Social Security in Health and in the General System of Occupational Risks.

Benefits of the **Mi Seguridad Social** platform:

- **As a citizen:** You can move to another EPS, check the status of your health affiliation and the history of registrations to EPS, and include and exclude your beneficiaries.
- **As an employer, public sector entities or employer, you may, among others:** register; join the General System of Occupational Risks, selecting the ARL of your preference; report the beginning of an employment relationship with an employee.
- **As Health Promoting Entities - EPS and Institutions Providing Health Services - IPS, - Administrators of Occupational Risks - ARL, territorial entities, you can, among others:** consult the information related to their functions in the SGSSS, make hospitalization reports and interoperate with Mi Seguridad Social. And as the National Superintendence of Health, it will be able to register the EPS immersed in some measure, as well as the exceptions to the minimum time of permanence in the transfer process.

Objectives of the **Mi Seguridad Social** platform:

- Identify in a full and unique way the citizen and legal persons in front of the Social Protection.
- Simplify and standardize the procedures related to the General Social Security System.
- Increase transparency towards the citizen and other actors.

### **1.3. Improving the link between what workers and employers are required to contribute to social insurance and the benefits and services they receive in return.**

In the bases of the National Development Plan 2018-2022 "Pact for Colombia, Pact for Equity", adopted by Law 1955 of 2019, the need to define inclusion strategies to contribute to the reduction of inequality in the short term was raised. This instrument establishes in a particular way that the coverage in protection and social security of workers must be expanded, implementing a Social Protection Floor, consisting of subsidized health affiliation, the link to the complementary social service of Periodic Economic Benefits - BEPS, and access to inclusive insurance for people who earn less than one (1) Legal Monthly Minimum Wage in force as a result of their partial dedication to a job or trade or economic activity.

Article 193 of Law 1955 of 2019, established the creation of a Social Protection Floor for people who earn less than a Current Monthly Legal Minimum Wage, because of their partial dedication to a job or trade or economic activity.

Besides, **Decree 1174 of 2020** regulated the access and operation of the **Social Protection Floor** for those people who monthly receive income lower than a Legal Monthly Minimum Wage in force, as a result of their partial dedication to a job or trade or economic activity indicating that the provisions contained in this chapter regarding the linkage, registration and realization of the contribution to the Social Protection Floor will be mandatory from the first (1st) of February 2021.

However, with as of October 2021, the follow-up and monitoring actions to the **Social Protection Floor** showed the following results<sup>1</sup>:

- In the month-on-month comparison in September 2021, 228 employers made contributions to the social protection floor for a total of 2,869 dependent workers, raising a value of \$167,439,800 COP (Approx. 37,821 Eur). 83.5% of these workers were in the Department of Antioquia, 4.5% in Bogotá, 1.6% in Atlántico and 1.3% in Santander.

<sup>1</sup> Data taken from the edition No. 8 of the Bulletin "Social Protection Floor" generated by the Pension and Parafiscal Management Unit - UGPP.



- For the period of October 2021, 233 employers made contributions to the social protection floor for a total of 3,605 dependent workers, raising a value of \$ 199,138,900 COP (Approx. 44,992 Eur). 70.8% of these workers were in the Department of Antioquia, 19.6% in Bogotá, 1.4% in Santander and 0.9% in Boyacá.

It is important to note that the Constitutional Court in Judgment C-276 dated 08/19/2021, declared the unenforceability of article 193 of Law 1955 of 2019, through which the National Development Plan 2018-2022 is issued. This unaffordability is declared with deferred effects to two full legislatures, counted from July 20, 2021, therefore, the effects of the decision were deferred until June 20, 2023. The Court adopted this measure considering the need not to affect the rights of citizens who have been linked to the social protection floor mechanism and this means that the Executive and the Legislative must integrate this issue into the legislative agenda before June 2023.

On the other hand, the national government, because of the fall in jobs associated with the socioeconomic effects of the COVID-19 Pandemic and other social phenomena, began the operation of several programs aimed at the retention of labour and recently at the generation of new jobs. These initiatives are described below:

- **Formal Employment Support Program – PAEF**, created by Decree 639 of 2020 and modified by Decrees 677 of 2020 and 815 of 2020, whose purpose is to allocate monthly, a contribution per employee, corresponding to 40% of one (1) legal monthly minimum wage in force. With this support, it is sought that companies can maintain payments related to the salaries of their workers. The term of operation of this program was initially extended through Law 2060 of 2020 and later, Law 2155 of 2021. The benefits of this program, under its initial conditions aimed at all types of companies, reached 142,999 employers and 4,151,854 employees (applications May 2020 to March 2021). With the Law 2155 of 2021, and the new conditions of the PAEF (Micro)<sup>2</sup> aimed at micro and small employers, it has been able to benefit 43,146 employers and 377,804 employees (applications May to September 2021).
- **Support Program for the Payment of the Bonus of Services - PAP**, created by Legislative Decree 770 of 2020 and modified the term of amparo by Law 2060 of 2020. The PAP aims to support the payment of the service premium for the months of June and December 2020. The benefits of this program reached 94,809 employers and 1,044,439 employees.<sup>3</sup>
- **Support Program for Companies Affected by National Unemployment**, created in Law 2155 of 2021, in order to reactivate the economy and support companies affected by the national strike, for which, the National Government at the head of the Ministry of Finance and Public Credit will grant employers legal entities, natural persons, consortia, temporary unions and autonomous assets a state contribution to contribute to the payment of labour obligations for the months of May and June 2021. The beneficiaries of this program reached 12,684 employers and 441,726 workers.<sup>4</sup>
- **“Sacúdete” strategy aimed at young people between 18 and 28 years old**, created by Decree 688 of 2021 and modified by Decree 935 of 2021. Within the framework of this strategy, an incentive was created for the hiring of young people between 18 and 28, equivalent to 25% of one (1) legal monthly minimum wage in force. This incentive applied for the months of August and September 2021. The beneficiaries reached 6,918 employers and 78,448 employees.<sup>5</sup>
- **Incentive to the generation of new jobs**, created in Law 2155 of 2021 and regulated by Decree 1399 of 2021, expands the target population and includes women and men of all ages, the Government provides support for each additional worker hired after the month of March 2021. This incentive corresponds to 25% of

<sup>2</sup> Data taken from [#](https://paef.ugpp.gov.co/ver20/dfV3Paef.php)

<sup>3</sup> Data taken from <https://paef.ugpp.gov.co/ver20/dfV3Pap>

<sup>4</sup> Data taken from <https://paef.ugpp.gov.co/ver20/dfV3Paro>

<sup>5</sup> Data taken from <https://paef.ugpp.gov.co/ver20/dfV3Joven>



one (1) current legal monthly minimum wage – SMLMV, for each young person between 18 and 28 years old, 15% of one (1) SMLMV for each woman over 28 years old and 10% of one (1) SMLMV for each man over 28 years old. In the case of those over 28 years of age, support will be assigned to those who accrue up to three (3) SMLMV. The beneficiaries at the term of December 2021, reached 10.549 employers and 222.957 new jobs: 166,459 young people, 31,978 women over 28 years of age and 24,520 men over 28 years of age.

- As a whole, the Sacúdete Strategy and the Incentive to the generation of new jobs have reached 14,096 employers for a total of 274,142 new jobs on the payrolls from July to December 2021, of which 217,644 correspond to young people, 31,978 to women over 28 years of age and 24,520 men over 28 years of age, representing \$111.862 million Colombian pesos in subsidies.

In this way, the National Government has been adopting alternative insurance mechanisms for the informal population that recognize the need to have tools for workers who are outside the Integral Social Security System. Likewise, strategies have been created that allow the business and productive sector, the subsidy of wage costs, seeking to reduce the effect of the Covid-19 Pandemic, the external shocks observed in the economy and some social phenomena at the national level.

#### ***1.4. Launching a citizen awareness programme, especially in rural areas, on the importance of formal employment, benefits of social insurance and workers' rights.***

One of the central points of the peace talks held between the National Government and delegates of the Revolutionary Armed Forces of Colombia-People's Army was related to the agrarian problem. Addressing such a situation and trying to put an end to a conflict, and especially one of more than 50 years, required a mandatory look back at the causes that originated it and the responsibilities of each of the parties to the conflict.

For this reason, the Final Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace seeks, in the first place, to put an end to the suffering caused to millions of Colombian victims, of everything originated by the armed conflict and to compensate the affected populations in one way or another, throughout the national territory.

And, secondly, to generate the opening of a scenario that allows the construction of a new history, based on a greater integration of the territory and the population sectors that were marginalized.

The Final Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace puts rurality at the centre of attention and directs efforts to transform injustice, inequality, inequality and exclusion, with a territorial, differential and gender approach.

The Comprehensive Rural Reform (RRI) raises the need to establish national plans for comprehensive rural development for the provision of goods and services that contribute to improving the current conditions of those who live and live in the countryside, in particular rural women, children, and the most vulnerable populations.

Another relevant aspect is the prioritization of the territories most affected by the armed conflict and their poverty levels; therefore, the National Plans must consider the needs, characteristics, and economic, cultural, and social particularities of the territories and, in addition, try to develop a joint action that, in a transition phase of 15 years, contribute to the overcoming of extreme poverty in the countryside and to the reduction of inequality.

Precisely, within the framework of the National Plans for Comprehensive Rural Reform, point 1.3.3.5 "Rural labour formalization and social protection, states that "the National Government will strengthen to the maximum the system of protection and social security of the rural population, with a differential approach and taking into account the particular

situation of women ... the National Government shall create and implement the Progressive Plan for Social Protection and the Guarantee of the Rights of Rural Workers."

The Progressive Plan for Social Protection and Guarantee of Rights of Rural Workers was adopted on December 29, 2020, through Resolution 2951 by the Ministry of Labour, thus formalizing the content instrument of the actions that must be carried out by the different actors with responsibilities in this matter.

However, some results in this area are described below:

- In terms of progress from the National Network of Labour Formalization – RNFL, during the period 2017-2020, training and awareness actions were carried out in terms of labour formality, labour rights and offer of services of the Ministry of Labour through 81 days or interventions in 78 municipalities of which 51 are PDET municipalities. In 2020 alone, 22 PDET municipalities were reached, with 3197 people trained. By 2021, the actions of the training component in labour obligations and rights for agricultural workers, companies, and promotion of the culture of labour formalization, reached 30 PDET municipalities and reached 42,281 people.

The RNFL as a fundamental strategy to guarantee the consolidation of decent work, social security coverage for all and the development of active employment policies, will reach in the current term, 40 PDET territories, of which 30 will be covered at the end of August and the rest by the end of the year; will be carried out through strategies and alliances with different public or private entities, allowing the promotion of policies that favour prosperity, equality, opportunities and well-being for all people in these territories that have been the most affected by violence, poverty, illicit economies and institutional weakness.

- On the other hand, progress was also made in the formulation and adoption of the **public policy of the solidarity economy sector** – Document CONPES 4051 of 2021 and in the creation of the Intersectoral Commission of this sector, through Decree 1340 of 2020. This body, which integrates all sectors of government, as well as trade union representatives of solidarity organizations, aims to monitor both the implementation of public policy and become a space for discussion of the strategies and actions necessary to address the problems of the solidarity sector in all areas.

### Protect labour rights of subcontracted workers by:

#### *1.5. Strengthening the legal framework, as appropriate, to prohibit all forms of abusive subcontracting, including through the use of co-operatives, union service contracts and simplified stock companies;*

In Colombia, the legal framework regarding Subcontracting is mainly based on the provisions of Law 1429 of 2010 "Whereby the Law of Formalisation and Employment Generation is enacted" and Law 50 of 1990, Article 71 and Decree 4369 of 2006, now incorporated in the Unique Regulatory Decree No. 1072 of 2015. It is important to highlight that this activity is not allowed to any natural or legal person that is not duly accredited as a Temporary Service Company through an authorisation granted by this Ministry and will only be carried out in cases where the Law has authorised it.

On the other hand, there is an intermediation service in the management and placement of employment contained in Article 95 of Law 50 of 1990 and developed through Article 2.2.6.1.2.17 of Decree 1072 of 2015, whose objective is to register applicants and suppliers of labour and vacancies, make occupational orientation, pre-select and refer the suppliers to the applicants for labour and thus generate an employment relationship with the third party that contracts the service, without the intermediary acquiring any labour responsibility whatsoever. The companies that provide this type of service must comply with the legal and regulatory norms on the matter. Public and private employment management and placement agencies nowadays provide this service, and those who do not accredit themselves as



such are in breach of the law. In any case, the agency does not have the status of employer, since the claimant for the labour force is the one that holds this status.

Regarding the Associated Worker Cooperatives, the regulatory Decree No. 2025 of 2011 was issued, this decree by Ruling No. 11001-03-25-000-2011-00390-00 of 19<sup>th</sup> February 2018 was declared null and void Articles 2, first and third clause of Article 4, 5, 9 and 10, such situation does not prevent the proper execution of the Labour Inspection in matters of labour intermediation. With regard to Decree 583 of 2016, which addressed the figure of labour outsourcing, by judgment N°11001-03-25-000-2016-00485-00 of 6 July 2017, the 4<sup>th</sup> and 6<sup>th</sup> paragraphs of Article 1 were declared null and void. In this regard, the National Government decided, by Decree 683 of 18 April 2018, to repeal Decree 583 of 2016.

Under the above circumstances, Resolution 2021 of 2018 was issued on 9<sup>th</sup> May 2018, which establishes guidelines on Inspection, Surveillance and Control in labour intermediation processes in light of Article 63 of Law 1429 of 2010 and other aforementioned regulations. Since its issuance, this resolution has allowed Colombia to have unity of matter regarding the concept of labour intermediation among all tripartite actors and has allowed the effective development of the processes of Labour Inspection in matters of Labour Intermediation both in the case of Associated Worker Cooperatives, Union Contracts and other forms such as Simplified Joint Stock Companies.

On the other hand, we continued to develop the figure of Labour Formalisation Agreements, as a tool to promote labour formality and normalise the labour relations of those who could be affected by anomalous situations.

#### ***1.6. Ensuring investigations of all abusive subcontracting, especially in rural areas, and publishing on an ongoing basis notification of complaints, investigations, and outcomes;***

The Ministry of Labour, through the Directorate of Inspection, Surveillance, Control and Territorial Management, carries out the corresponding investigations through its Territorial Directorates in order to protect the rights of workers, and Labour Inspectors have been trained to carry out such investigations properly.

For the purpose of ensuring that all complaints received, regarding the issue of abusive subcontracting, are properly advanced and taking into account the different parameters established by Colombian Law, the Ministry of Labour initially issued Resolution 5670 of 29 December 2016, "By which guidelines are established regarding the Inspection, Surveillance and Control to be carried out regarding the content of Articles 7 4 of Law 1753 of 2015 and 63 of Law 1429 of 2010, as well as their Regulatory Decrees". Through which hermeneutic guidelines were established by the central level of the Ministry of Labour for the application of labour standards that guide labour inspection in Colombia, that is carried out by the Directorate of Inspection, Surveillance, Control and Territorial Management of this Ministry, through the Territorial Labour Directorates, the Special Investigations Unit and therefore, all labour inspectors and other officials who are part of them, in order to harmonise legal criteria and guarantee the rights of workers in Colombia.

Subsequently, and given certain regulatory changes, the Ministry of Labour issued Resolution 2021 of 2018, which also establishes guidelines on the Inspection, Surveillance and Control of labour intermediation processes in light of Article 63 of Law 1429 of 2010 and other aforementioned regulations. Since its issuance, this resolution has allowed Colombia to have unity of matter regarding the concept of labour intermediation among all tripartite actors and has allowed the effective development of labour inspection processes in the field of labour intermediation both in the case of worker cooperatives, union contracts and other forms such as simplified joint stock companies. This Resolution is still in force at the date of this report.

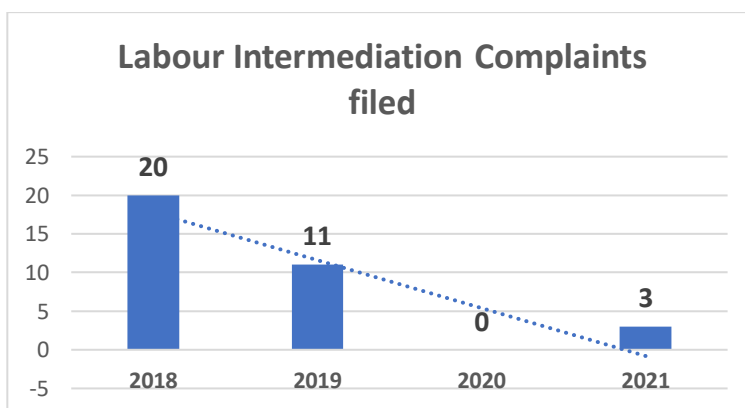
The regulatory changes that motivated this update in the guidelines were mainly generated by Ruling N° 11001-03-25-000-2011-00390-00 of 19 February 2018, which declared null and void articles 2, first and third clause of article 4, 5, 9 and 10, of Decree 2025 of 2010 and Ruling N°11001-03-25-000-2016-00485-00 of 6 July 2017, which declared null and void paragraphs 4 and 6 of article 1 of Decree 583 of 2016, which led the National Government to decide, by means of Decree 683 of 18 April 2018, to repeal Decree 583 of 2016.



The importance of this Resolution of guidelines is that it allows the Labour and Social Security Inspector to have clarity regarding the matter to be investigated. They specify when the inspectors are faced with a situation of authorised labour intermediation, when there is a situation of illegal labour intermediation (abusive subcontracting); it also establishes how the figure of outsourcing is conceptualised in Colombia. The guidelines point out the difference between Subcontracting or "outsourcing", and labour intermediation, which are totally different figures, but recall that in the execution of both, it must always guarantee that the work is carried out in accordance with the law, considering that the constitutional, legal and social security rights of the workers, enshrined in the labour regulations in force, must always be guaranteed. In outsourcing, goods and services are provided to a third party, but not personnel. In labour intermediation, personnel are provided through companies authorised for this purpose and in specific circumstances established by law.

In addition, the guidelines establish the step-by-step procedure that the Labour Inspector must follow to identify in which situations illegal labour intermediation is actually taking place, the procedure to follow and the types of sanctions to which those responsible for committing such an infraction will be accountable.

We believe that thanks to the actions taken by the Ministry of Labour, especially in the years 2015 – 2017, the problem associated with the improper use of these figures has decreased significantly in our country, without this implying that it has been effectively eradicated in its entirety and that no complaints are still received regarding this issue. However, it is clear that in the last four years, the number of complaints received has decreased notably, as can be seen in the following statistical graph:



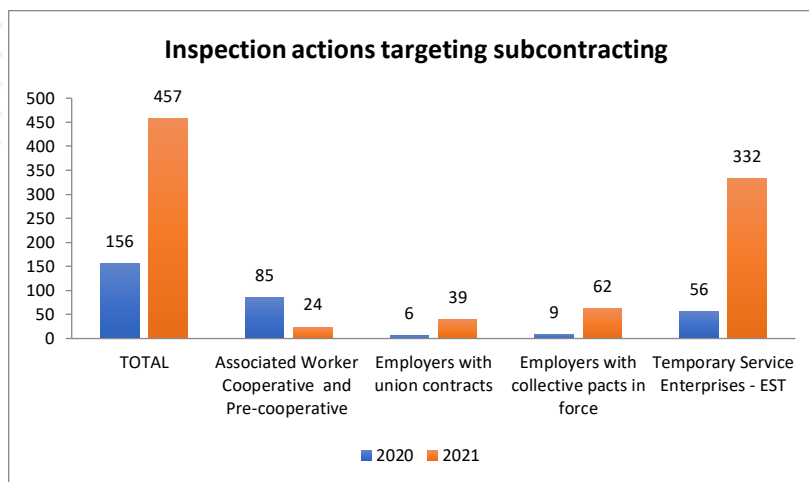
With regard to the sanctioning effects of the investigations carried out in this area, the results over the last three years are detailed below:

SANCTIONS FOR LABOUR INTERMEDIATION						
YEAR	2019		2020		2021 (January-December)	
	NUMBER	VALUE (COP)	NUMBER	VALUE (COP)	NUMBER	VALUE (COP)
NON-EXECUTED	48	\$8.641.624.960 (€1.888.206,45)*	14	\$ 2.141.839.320 (€ 467.994,72)*	16	\$ 2.985.978.104 (€ 652.440,15)*
EXECUTED	32	\$1.622.723.454 (€ 354.567)*	11	\$264.345.790 (€ 57.759,90)*	12	\$ 741.710.912 (€162.064,81)*

\*Exchange rate: € 1 EUR = COP \$ 4.529,99 - Reference values of the Bank of the Republic: 18/01/22 Banrep.gov.co

Although complaints about illegal labour intermediation or subcontracting have been decreasing every year, the Ministry of Labour has not ceased to carry out verification activities in the different sectors, mainly in those that are key for Colombian exports, in order to verify compliance with the regulations established in these matters. The behaviour over the last two years and the efforts made to increase actions are shown below:

[www.mintrabajo.gov.co](http://www.mintrabajo.gov.co)



YEAR	TOTAL	Associated Worker Cooperative and Pre-cooperative	Employers with union contracts	Employers with collective pacts in force	Temporary Service Enterprises - EST
2020	156	85	6	9	56
2021	457	24	39	62	332
TOTAL	613	109	45	71	388

**Inspection actions with compliance plans:**

YEAR	Associated Worker Cooperative and Pre-cooperative	Temporary Service Enterprises - EST
2020	3	0
2021	0	18
TOTAL	3	18

It is important to note that in 2020 and 2021 the Ministry of Labour focused its efforts on the monitoring of Temporary Service Companies as authorised agents in the field of labour intermediation, with the aim of strengthening compliance with the rules and achieving a proactive approach with the sector, some of the actions taken are listed below:

- The Pact for Decent Work was signed on the 16<sup>th</sup> July 2021, with the participation of President Iván Duque.
- Within the commitment of the national government entities, in reference to technical accompaniment, we have held 4 conferences with the participation or attendance of 675 people.
- An online form was created for the CSOs to fill out the needs for accompaniment Website to consult the pact and conference reports.
- Working group with ESTs that provide services to the flower sector, 14 January 2022 - Virtual Zoom Platform.
- Working group on the alignment of concepts and interpretation of standards, on 18 and 25 January 2022 - Virtual Teams Platform.

- Training of inspectors on the figure of the EST, temporality of the service vs. temporality of the worker, dates 9 February 2022 - Virtual.
- Conference to employers on the figure of the EST, date 16 February 2022 - Medellín.
- Working group on the scope of responsibilities in the area of occupational hazards. Date 25 January 2022 - IVC Room.
- Conference on occupational hazards for ESTs and user companies. Date 17 February 2022 - Cartagena.

Regarding the strategies associated with the approach to rural areas by the Labour Inspectorate, these are explained in greater detail in a later section.

Finally, with regard to the dissemination of the progress of investigations initiated at the national level, the Ministry of Labour, through the IVC Directorate, has been issuing a quarterly bulletin in which labour statistics and data disaggregated by sector are shown and which also details the actions and results of the investigations carried out for the improper or illegal use of labour intermediation. The first statistical bulletin was published on 10 October 2017 and has been published periodically since that date.

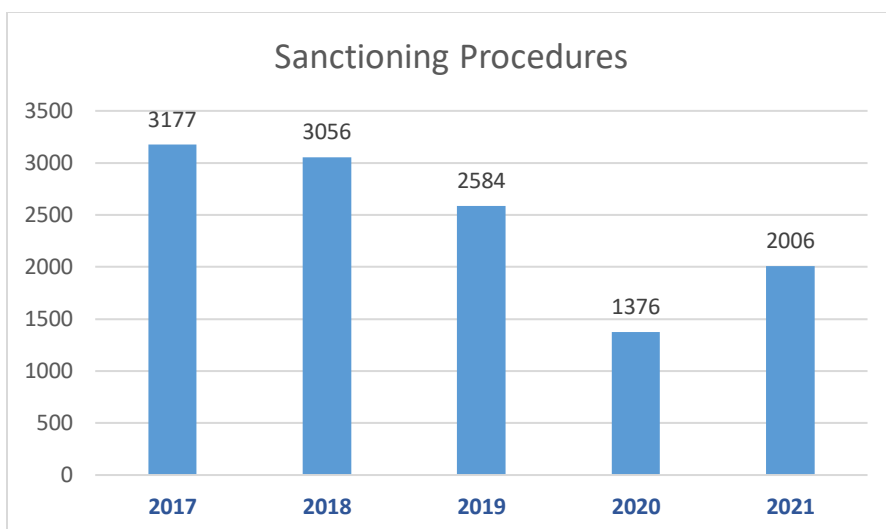
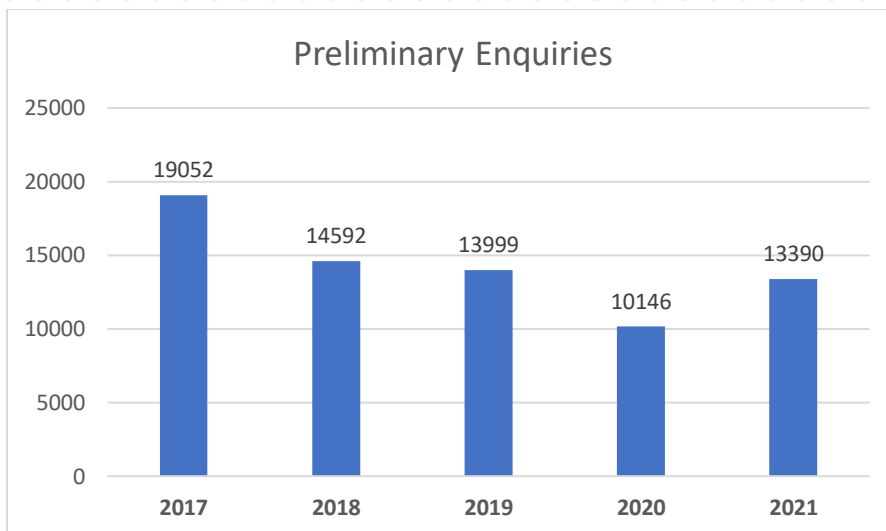
All statistical bulletins issued to date have been made available on the Entity's website through the following link: <https://www.mintrabajo.gov.co/web/guest/relaciones-laborales/inspeccion-vigilancia-y-control/boletin-virtual-ivc>

### ***1.7. Resolving existing investigations regarding abusive subcontracting in a timely manner, imposing fines where appropriate and publishing the results on an ongoing basis;***

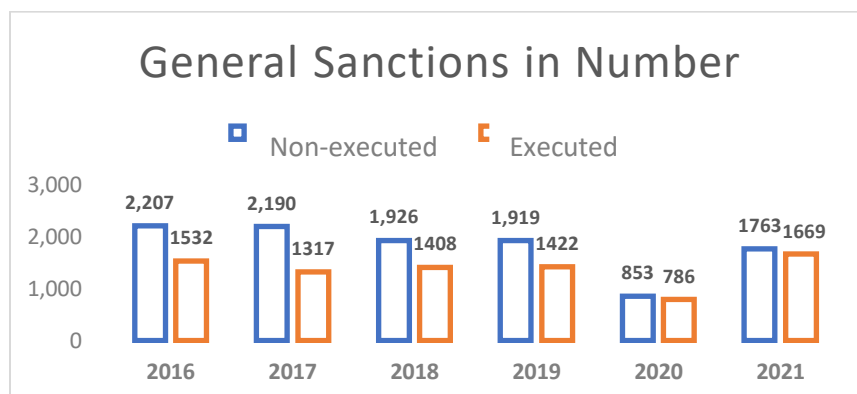
It is important to note that the administrative proceedings carried out by the Labour Inspectorate, regardless of the matter or infraction they deal with, are developed following the same procedure regulated by law, in particular by the Code of Administrative Procedure and Administrative Disputes - Law 1437 of 2011 - and Law 1610 of 2013, the Labour Inspectorate Law. By legal provision, up to 291 days is the time limit for the development of sanctioning procedures where a preliminary enquiry has not been advanced.

The Labour Inspectorate has a strong commitment to comply with the terms established by Colombian regulations regarding its administrative procedures and has been adjusting its processes and structures for this purpose. However, it is necessary to point out that the last three years (2019, 2020 and 2021) have been particularly complex for the Labour Inspectorate, since in 2019, there was a change in the staffing of Labour Inspectors as a result of the Competition for the Provision of Positions, which made the execution of sanctioning procedures very difficult until all the positions were filled and in 2020 and 2021. The Pandemic situation caused by COVID-19 also had an impact on the development of the administrative sanctioning procedures, since the mandatory quarantines, it was necessary to suspend the procedural terms of the administrative proceedings in charge of the Ministry of Labour in general and the gradual return has been made difficult by the presence of new variants and peaks of contagion that hinder the direct intervention of the Labour Inspectorate.

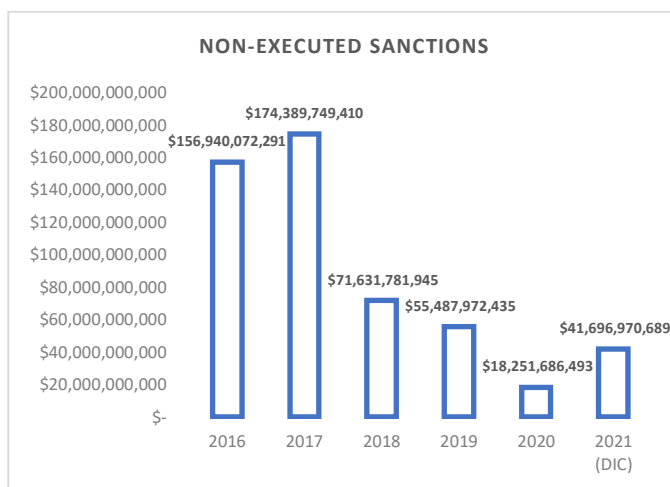
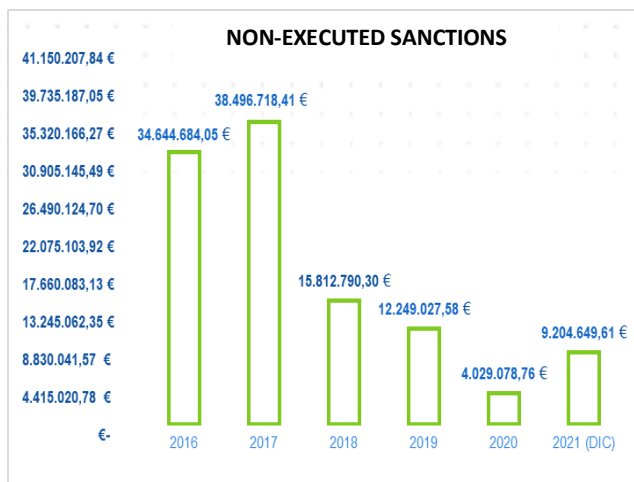
We proceed to detail the number of actions carried out by the Ministry of Labour in a comparative manner, aimed at verifying alleged violations of Colombian labour regulations in all areas and sectors of the economy:



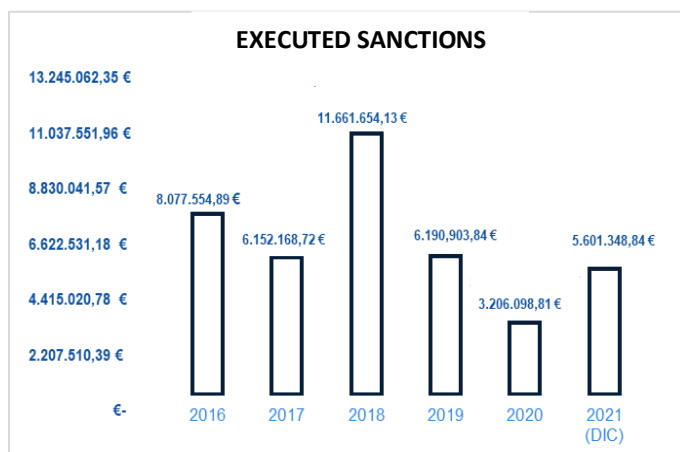
In addition, the general statistical behaviour of penalties for all offences imposed by the Ministry of Labour is shown below, with a comparison by year:

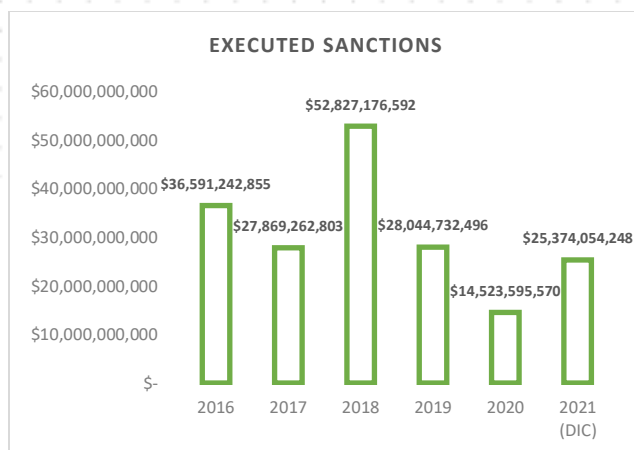


\*2021 as of 31st December 2021



\*Exchange rate: € 1 EUR = COP \$ 4.529,99 - Reference values of the Bank of the Republic: 18/01/22 Banrep.gov.co





\*Exchange rate: € 1 EUR = COP \$ 4.529,99 - Reference values of the Bank of the Republic: 18/01/22 Banrep.gov.co

Similarly, the ten most recurrent sanctions that have been imposed in 2020 and 2021 are set out below, from which it is possible to extract which are the infringements that mostly occur in Colombian labour relations:

ÍTEM	REASONS
1	For violation of occupational health, hygiene and industrial safety regulations
2	For evasion and avoidance of the general social security system - pensions
3	For failure to comply with the requirements of the ministry (art. 486 Labour Code).
4	For fatal accident at work
5	For non-payment of social benefits
6	For evasion and avoidance of the general social security system - occupational hazards
7	For evasion and avoidance of the general social security system - parafiscal taxes
8	For non-payment of allowances
9	For non-payment of minimum wage
10	Violation of the maximum legal working day

With regard to specific areas of research other than subcontracting, which have already been dealt with in the previous point, the following results are obtained:

### Sanctions - Acts Violating the Right to Trade Union Membership

AÑO	2019		2020		2021 (January-December)	
	NUMBER	VALUE (COP)	NUMBER	VALUE (COP)	NUMBER	VALUE (COP)
NON-EXECUTED	42	\$ 3.394.025.116 (€749.234,57)*	17	\$ 1.946.117.275 (€429.607,41)*	23	\$ 2.827.319.748 (€624.133,77)*
EXECUTED	41	\$ 7.835.682.563 (€1.729.735,07)*	9	\$ 991.950.860 (€218.974,18)*	28	\$ 2.344.018.208 (€517.444,46)*

\*Exchange rate: € 1 EUR = COP \$ 4.529,99 - Reference values of the Bank of the Republic: 18/01/22 Banrep.gov.co

### Sanctions - Misuse of Collective Pacts Agreements

	2020	2021 (DIC)

NON EXECUTED SANCTIONS	3	COP \$ 126.147.097 (€27.847,10)*	3	COP \$ 104.480.490 (€23.064,18)*
EXECUTED SANCTIONS	3	COP \$ 633.829.090 (€139.918,43)*	1	COP \$ 82.811.600 (€18.280,75)*

\*Exchange rate: € 1EUR = COP \$ 4.529,99 - Reference values of the Bank of the Republic: 18/01/22 Banrep.gov.co

### 1.8. Collecting all outstanding fines for subcontracting violations within the legally mandated time frames;

As a reference for information, it is important to specify the destination of the fines imposed by the Ministry of Labour for the different infractions that may occur from the employer:

- The amount of the fines for the violation of the provisions relating to working conditions, as well as the protection of workers in the exercise of their profession and the right to free trade union association and other social norms that so establish that are within the competence of the labour authorities will be destined to the Fund for the Strengthening for the Inspection, Surveillance and Control of Labour and Social Security FIVICOT, these from those that have been enforced after 1<sup>st</sup> January 2020.

The National Apprenticeship Service SENA collects fines imposed prior to 1st January 2020.

- In the case of sanctions related to Occupational Risks, the fine will be destined to the Occupational Risks Fund.
- In the case of penalties related to evasion and avoidance of the pension system, the fine will be destined to the Pension Solidarity Fund.
- Fines for refusal to provide information shall be in favour of the National Treasury.

Similarly, the amount of the fines imposed for refusal or evasion of the initiation of talks at the direct settlement stage or for acts that violate the right to trade union association shall be allocated in the same way to the Fund for the Strengthening of Labour and Social Security Inspection, Surveillance and Control (FIVICOT).

As can be seen, not all the fines imposed by the Ministry of Labour have a single destination, since, depending on the matter, they will have a specific destination and the use of these resources also has a specific connotation.



First, the number and amount of fines imposed both in total and separately for illegal subcontracting and misuse of collective bargaining agreements are detailed in:

2017	2018	2019
Number: 3.507 Executed Amount: COP \$27.869.262.803 <b>(EUR € 6.152.155,14)*</b> Non-executed Amount: COP\$174.389.749.410 <b>(EUR € 38.496.633,42)*</b> Labour Intermediation Amount: COP\$113.804.518.789 <b>(EUR € 25.122.410,32)*</b> Executed Labour Intermediation Amount: N/D Collective Pacts Amount: N/D	Number: 3.334 Executed Amount: COP\$52.827.176.592 <b>(EUR € 11.661.628,38)*</b> Non-executed Amount: COP\$71.631.781.945 <b>(EUR € 158.12.755,39)*</b> Labour Intermediation Amount: COP\$23.944.781.697 <b>(EUR € 5.285.823,77)*</b> Executed Labour Intermediation Amount: COP\$15.709.041.638 <b>(EUR € 3.467.779,61)*</b> Collective Pacts Amount: N/D	Number: 3.341 Executed Amount: COP\$28.044.732.496 <b>(EUR € 6.190.890,17)*</b> Non-executed Amount: COP\$55.487.972.435 <b>(EUR € 12.249.000,53)*</b> Labour Intermediation Amount: COP\$10.264.348.414 <b>(EUR € 2.265.860,57)*</b> Executed Labour Intermediation Amount: COP\$1.622.723.454 <b>(EUR € 358.217,09)*</b> Collective Pacts Amount: N/D

2020	2021
Number: 1.639 Executed Amount: COP \$ 14.523.595.570 <b>(EUR € 3.206.091,73)*</b> Non-executed Amount: COP \$18.251.686.493 <b>(EUR €4.029.069,86)*</b> Labour Intermediation Amount: COP \$ 2.141.839.320 <b>(EUR € 472.812,21)*</b> Executed Labour Intermediation Amount: COP \$ 264.345.790 <b>(EUR € 58.354,47)*</b> Collective Pacts Amount: COP \$ 759.976.187 <b>(EUR € 167.765,16)*</b>	Number: 3.432 Executed Amount: COP \$25.374.054.248 <b>(EUR € 5.601.336,47)*</b> Non-executed Amount: COP \$ 41.696.970.689 <b>(EUR € 9.204.629,29)*</b> Labour Intermediation Amount: COP \$ 2.985.978.104 <b>(EUR € 659.156,31)*</b> Executed Labour Intermediation Amount: COP \$ 741.710.912 <b>(EUR € 163.733,09)*</b> Collective Pacts Amount: COP \$ 187.292.090 <b>(EUR € 41.344,83)*</b>

In the case of fines imposed for violation of labour regulations, as explained above, there are two specific recipients and therefore two collection agents. Fines for SENA are collected directly by SENA with its own infrastructure and personnel. Fines destined for the Fund for the Strengthening of Labour and Social Security Inspection, Surveillance and Control FIVICOT are collected directly by the Ministry of Labour, which administers the fund.

Therefore, the following is a detail of the progress made in collection management by each of the responsible parties:



## **Collection Management by SENA**

According to the information provided by SENA, Total fines listed in the National Apprenticeship Service - SENA as of 31st December 2021: 3611, the total collected in the year 2021 corresponds to COP \$3,640,164,903.00 (EUR € 803.568.41) \*, and balance to capital receivable of fines listed in the National Apprenticeship Service - SENA as of 31 December 2021 corresponds to COP \$ 71,608,478,165.00 (EUR € 15.807.611.074)\*.

\***Exchange rate:** € 1 EUR = COP \$ 4.529,99 - Reference values of the Bank of the Republic: 18/01/22 Banrep.gov.co

## **Collection Management by FIVICOT**

### **Collection of All Pending Fines for Subcontracting Violations within the Legally Established Times.**

After the Colombian National Government sanctioned Law 1955 of 25 May 2019, which issued the National Development Plan 2018-2022, "Pact for Colombia, Pact for Equity" and created the "Fund for the Strengthening of Labour and Social Security Inspection, Surveillance and Control (FIVICOT), as a special account of the Nation, without legal personality, attached to the Ministry of Labour (...)", which would be made up of "the fines collected by the National Fund for the Strengthening of Labour and Social Security Inspection, Surveillance and Control (FIVICOT), as a special account of the Nation, without legal personality, attached to the Ministry of Labour (...)", which would be made up of "the fines imposed by the administrative labour authorities from the first (1st) of January 2020, for the violation of the provisions relating to working conditions, as well as the protection of workers in the exercise of their profession and the right to free trade union association. " (article 201), the Ministry of Labour programmed and executed the following four (4) activities related to the process of collecting the fines:

### **Regulation of the Fund**

In accordance with the provisions of Law 1955 of 25 May 2019, the Ministry of Labour issued Decree 120 of 28 January 2020, which regulated the Fund for the Strengthening of Labour and Social Security Inspection, Surveillance and Control (Fivicot).

Article 2.2.2.3.2.2.5 of the decree stipulated that "The collection and recovery of the fines referred to in the previous article shall be the responsibility of the respective area of the Ministry of Labour to which this function has been assigned".

### **Collection and recovery of fines**

In accordance with numeral 6 of article 8 of Decree 4108 of 2011 and Resolution No. 02530 of June 20, 2014 of the Ministry of Labour, the Coactive Collection Group of the Legal Advisory Office of the Ministry of Labour is responsible for "1. To advance, in accordance with the law and regulations, the actions aimed at managing the collection of clear, express and enforceable obligations in favour of the Ministry of Labour that are referred to the Group for collection". 2. Execute the procedures of persuasive collection, coercive collection and other procedures established in the law and regulations to manage the collection of obligations whose collection is assigned to the Ministry of Labour (...)".

In order to guarantee the principles of legality, due process and guarantee of rights, the Ministry of Labour updated and complemented the procedure for the collection and recovery of fines imposed in favour of the Ministry of Labour, by issuing Resolution No. 2628 of 2 December 2020, which adopts the Internal Regulations for the Collection of the Ministry of Labour's Portfolio. The collection regulation is composed of X chapters, and incorporates in a single document all matters relating to the coercive collection procedure, from the persuasive collection stage, through the coercive collection stage, to the termination of the process, and including the flowchart of all stages.

### **Strengthening the Coercive Collection Group**

In accordance with the attributions given to the evaluation committee of the Fund for the Strengthening of Labour and Social Security Inspection, Surveillance and Control (FIVICOT), through Resolution 306 of 10 February 2021, which

states in its seventh article that "the coercive collection group of the legal advisory office of the Ministry of Labour will be in charge of advancing the process of persuasive and coercive collection of the fines imposed in favour of the Fund. For the confirmation, operation and maintenance of this team, a percentage of the resources collected by the Fund will be allocated annually. When there are no collections or when the same are insufficient, these may be solved with resources from the Ministry of Labour", in session I of the evaluation committee dated 09/04/2021, the sum of \$294,768,000 pesos was allocated to strengthen the coercive collection group of the Legal Advisory Office of the Ministry of Labour.

With the aforementioned resources, 13 contractors were hired who, since the second half of May 2021, have been promoting the coercive collection processes brought to the attention of the coercive collection group.

### Purchase and implementation of Coercive Collection software

As a result of a bidding process, the Ministry of Labour acquired in August 2020, a software that assists in the process of collection management of fines imposed in favour of the Ministry of Labour, while ensuring the security of information and integration with other applications of the entity.

With this legal, human and technological infrastructure, the Coercive Collection Group of the Legal Advisory Office carried out the following activities:

1. In 2020 came to the knowledge of the Group of Coactive Collection of the Legal Advisory Office, a total of 96 enforceable sanctions destined for the Fund for the Strengthening of the Inspection, Surveillance, and Control of Labour and Social Security (FIVICOT), which became 96 processes of coercive collection in the amount of COP \$ 1,348,218,161 (**EUR € 297.619,90**)\*.
2. In the same way, and with respect to the year 2021, a total of 737 enforced penalties were brought to the attention of the Coactive Collection Group of the Legal Advisory Office for the Fund for the Strengthening of Inspection, Surveillance and Control of Labour and Social Security (FIVICOT), broken down as follows: 1) 198 for the year 2020 for a value of COP \$4.296.606.480 (**EUR € 948.478,25**)\* and 2) 539 for the year 2021 for a value of COP \$ 7.801.510.239 (**EUR € 1.722.187,69**)\* - which were converted into 737 coercive collection processes for an amount of COP \$ 12.098.116.719 (**€2.670.665,94**)\*. (Information as of 31/12/2021)
3. The total portfolio at 31/12/2021 of the Fund for the Strengthening of Labour and Social Security Inspection, Surveillance and Control (FIVICOT) is COP \$13.446.334.880 (**EUR € 2.968.285,84**)\*, with 833 active coercive collection processes.
4. The Coactive Collection Group has achieved the promotion of 100% of the processes under its charge. In this regard, the status of all processes according to the coercive collection application as of 31/12/2021 is as follows:

N.º	STATUS	AMOUNT	% OF THE NUMBER OF PROCESSES	VALUE
1	In persuasive collection	636	76%	COP \$10.073.940.301 <b>(EUR € 2.223.827,88)*</b>
2	Payment orders	43	5%	COP\$ 498.911.929 <b>(EUR € 110.135,08)*</b>
3	Payment agreements	2	0%	COP\$ 6.972.737 <b>(EUR €1.539,23)*</b>
5	In other proceedings	152	18%	COP\$2.866.509.913 <b>(EUR €632.783,64)*</b>
<b>TOTAL</b>		<b>833</b>		<b>COP \$13.446.334.880</b> <b>(EUR €2.968.285,84)*</b>

Source: Coercive collection application.

### III. IMPROVEMENT IN THE FINES COLLECTION.

From 2020 to 2021, the Coercive Collection Group has managed to recover resources for a value of COP\$4,386,040,508 (**EUR € 968.220,86**)\* of the total of the processes opened for the Fund for the Strengthening of Labour and Social Security Inspection, Surveillance and Control (FIVICOT).

This means that out of the total portfolio COP \$13,446,334,880 (**EUR € 2.968.285,84**)\* 33% has been recovered.

COLLECTION FOR THE FUND FOR THE STRENGTHENING OF LABOUR AND SOCIAL SECURITY INSPECTION, SURVEILLANCE AND CONTROL (FIVICOT)	
<b>Año</b>	
<b>2020</b>	COP \$1.487.949.268 – <b>EUR €328.465,62*</b>
<b>2021</b>	COP \$2.898.091.240 – <b>EUR €639.755,24*</b>
<b>TOTAL</b>	COP \$4.386.040.508 – <b>EUR €968.220,86*</b>

\***Exchange rate:** € 1 EUR = COP \$ 4.529,99 - Reference values of the Bank of the Republic: 18/01/22 Banrep.gov.co

#### 1.9. *Require companies to formalize employees working under abusive outsourcing through regular employment contracts that provide access to all basic labour rights;*

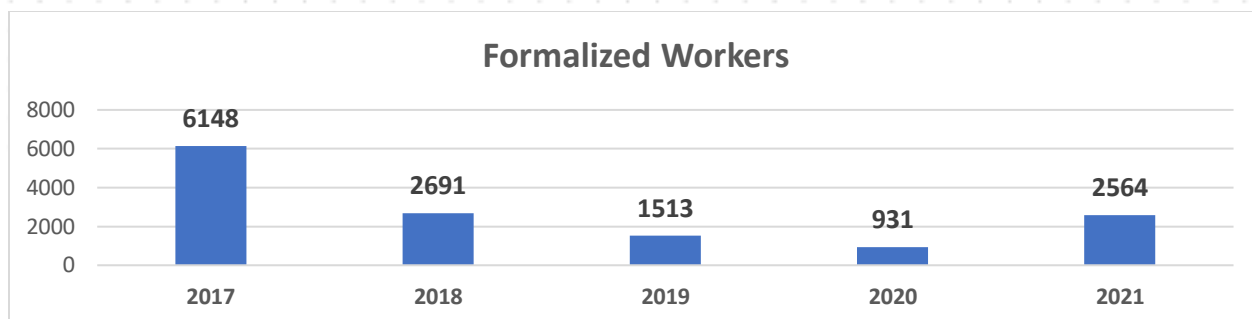
The national government's policies include labour formalisation in different scenarios, including labour formalisation agreements within the framework of the inspection, surveillance and control carried out by the Ministry of Labour. A strategy continues to be developed to strengthen the work carried out by the Directorate of Inspection, Surveillance, Control and Territorial Management in this area, with support to each of the territorial directorates and the monitoring of the agreements in force.

From the analysis of Resolution 321 of 2013 issued by the Ministry of Labour to regulate labour formalisation agreements, in its article 2° which refers to the conditions and requirements for its implementation, numeral seven 7°, it is understood that its subscription will be viable "during the processing of an administrative sanctioning action or prior or subsequent to it". This means that this figure is not exclusive within an administrative process and that, as has been happening, both investigated employers and others by their own intention and management of the territorial directors formalise their workers with the application of this figure.

From 2012 to 2021, 417 formalisation agreements have been signed, benefiting 44,234 workers. To verify compliance with the terms of the formalisation agreements signed, 1,562 monitoring and verification visits have been carried out.

In 2020, 30 agreements and 931 formalised workers were reached, and in 2021, 53 agreements and 2,564 formalised workers.

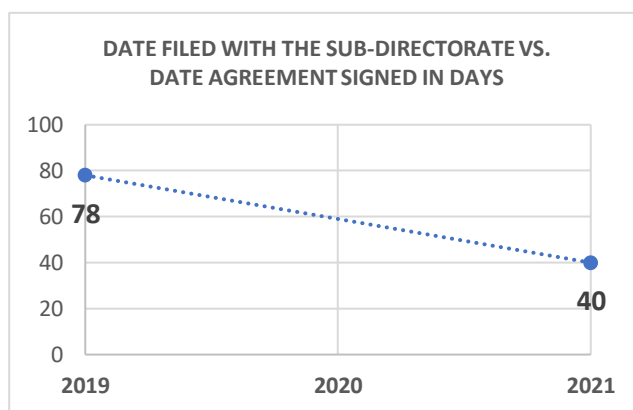
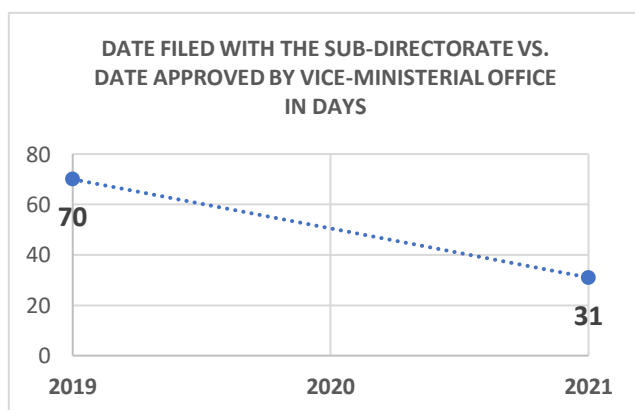
Below please find is a yearly comparison of formalised workers:



The behaviour of the agreements signed and the follow-up visits to them carried out in the different years is detailed below:

Year	Agreements Signed	Follow-up visits
2017	49	220
2018	40	121
2019	35	69
2020	30	148
2021	53	279

It is also important to highlight that labour formalization agreements are increasingly being managed in a more agile way within the Ministry of Labour, so that workers can find their labour rights satisfied more quickly.



On the other hand, it is important to point out that the Ministry, as part of its strategy, has been orienting its actions towards the achievement of labour formalisation agreements with regard to workers linked through ESTs, work cooperatives or union contracts. The achievements obtained in the period 2018 to 2021 are detailed below:

- EST: 56 AFLs signed - 5861 workers benefited (Out of the AFLs signed, 1486 of the workers were hired by the User Company under an indefinite-term contract, 4231 under a fixed-term contract and 44 under a work or labour contract).
- Associated Worker Cooperative: 2 AFLs signed -61 workers benefited, who were hired under fixed-term employment contracts.
- Union contract: 3 AFLs signed -208 workers benefited (168 of the workers were hired by the contracting company through an indefinite-term contract and 40 through a fixed-term contract).
- EST and Trade Union Contract: 2 AFLs signed - 89 workers benefited (As a result of the AFLs signed, 15 of the workers were hired by the user company under an indefinite-term contract and 74 under a fixed-term contract).

Another important aspect to highlight is that labour formalisation has been included as an element of vital importance within the Public Policy of Labour Inspection, Surveillance and Control adopted by the National Government, which has materialised and oriented the strategy for achieving an increase in formality. The key aspects of this strategy are set out below:

	Development of a monitoring mechanism through the PILA.
1. Review the regulations and procedures for labour formalization agreements and consider broadening their scope.	Identification of sectors to be prioritised by each D.T. or E.O. with emphasis on export sectors.
2. Generate incentives to encourage the signing of labour formalization agreements that are linked to economic development and employment generation policies and programs.	Publication and implementation of a technical annex in the SIG for the AFL procedure.  AFL Success Stories Event - Decent Work Day
3. Establish mechanisms to monitor compliance with labour formalization agreements.	Carry out visits according to the monitoring calendar of the AFLs in force.  Identify and establish indicators of the management carried out by the D.T. and OE.
4. To develop and articulate the concept and strategies of labour formalization with other institutions.	Issue guidelines on how to identify in inspections when there is outsourcing, intermediation or improper contracting. Issue guidelines or booklet for the formalization of ESE workers.  Manage integration and articulation with committees, assemblies or any other organisation working for labour formalization in the territory.  Virtual meeting with employers in the economic sectors that make most use of EST.
5. Strengthen the capacity to identify illegal labour intermediation and other forms of contracting that violate workers' rights.	Checklist for Labour Inspectors, through which they can contribute to identify in the inspections when there is outsourcing, intermediation or improper contracting.  Verify the sectors in which there are more processes or sanctions for intermediation, outsourcing or undue contracting, by D.T. or O.E. (SISINFO reports).  Inclusion in the plans of the D.T. and O.E. of a special line on the health sector, supporting compliance with the guidelines given by Circular 007 of 2020 issued by the Attorney General's Office.



	Identify why CSPs are being sanctioned in order to design preventive actions.
6. Strengthen strategic alliances with actors to identify economic sectors at risk of labour rights violations.	Working-table with trade unions or confederations of workers in critical sectors.

## INDICATORS OF INFORMALITY AND SUBCONTRACTING

### 1) Overview of recently adopted regulations and legislation, including combating extreme forms of poverty;

#### Summary of Regulations and Legislation 2021

- **Resolution 1126 of 2020.** Whereby the general conditions for the operation of the Family Subsidy System in the Transactional Affiliation System - SAT are defined. Chapter II. General rules for the operation of the Family Subsidy System in the Transactional Affiliation System. Article 5. Operation of the Family Allowance System in the Transactional Affiliation System. The users registered in the web portal [www.miseguridadsocial.gov.co](http://www.miseguridadsocial.gov.co), will be able to carry out affiliation transactions, report news and queries to the FSS, according to the roles and access levels assigned to them in accordance with the terms established in the regulations in force.
- **Resolution 025 of 2021.** Whereby article 10 of Resolution 1126 of 2020 is amended with the deadline for the implementation of the functionalities of the Family Subsidy System through the SAT. The deadlines established for the entry into operation of the functionalities of the Family Subsidy System through the SAT are extended. The Ministry of Health modifies the deadline for the entry into operation of the Family Subsidy System through the SAT, and establishes that during the first half of 2021 the process of validation and purging of affiliates to the family subsidy system will be carried out and from the second half of the year the functionalities will enter into operation.
- **Resolution 083 of 2021.** Whereby the guidelines are defined for the incorporation of information and the interoperability of the Family Subsidy System SAT, with respect to the roles of employer legal entity and employer natural person. This resolution highlights:
  - Obligations are established for CCFs and employers.
  - The formats for the reporting of information are established.
  - It determines that all entities participating in the access, registration, consultation, flow and consolidation of information (especially CCFs and employers) will be responsible for compliance with data protection regulations.
- **Resolution 772 of 7 April 2021,** which establishes the guidelines for the exercise of the preventive function in the prior notice modality.
- **Resolution 0315 of 2021** establishes the new conformation of the Bogotá Territorial Directorate and guidelines for the application of the new structure.
- **Resolution 0996 of 2021** which establishes the guidelines for assigning the coordinators of the Internal Working Groups of the Territorial Directorates and Special Offices and of the Central Level except for the General Secretariat and its dependencies and the Office of the Minister and its dependencies of the Ministry of Labour.
- **Resolution 1369 of 2021** adopting the agreements reached in the collective bargaining 2021-2023, concluded between the Trade Union Organizations and the Ministry of Labour.
- **Resolution 2232 of 2021** by which Resolution 3999 of 2015 issued by the Ministry of Labour is repealed and the legal, technical and operational conditions for the provision and scope of employment management and placement services are defined.

- **Resolution 3162 of 2021** which amends and adopts the Specific Manual of Functioning and Labour Competencies for jobs in the Ministry of Labour's staff.
- **Resolution 3238 of 2021** which modifies and adopts the Specific Manual of Functions and Labour Competencies for employees of the Ministry of Labour staff, in particular the functions of Labour Inspectors.
- **Resolution 3455 of 2021** which reassigns competencies to the Territorial Directorates and Spatial Offices and Labour Inspectorates.
- **Resolution 4277 of 2021** which adopts the equivalence between current legal monthly minimum wages and tax value units for fines imposed by the Ministry of Labour.
- **Circular 0029 of 2021** defines the processing and collection of fines imposed by the Ministry of Labour for the Occupational Risk Fund.

## 2) Informality:

### a) Share of informal workers in total Employment; (measured by affiliation to social security);

Year	To. Proportion of informal workers employed (measured by social security affiliation)
2017	60,6
2018	60,8
2019	60,7
2020	59,8
2021	61,6

Source: DANE-GEIH Calculations: Ministry of Labour

## 3) Subcontracting:

### a) Total number of partner labour cooperatives and covered workers;

2017	2018	2019	2020*	2021
<b>Cooperatives:</b> 430	Cooperatives: 305	Cooperatives: 281	Cooperatives: 204	Cooperatives: 295
<b>Associated:</b> 35.768	Associated: 30.626	Associated: 21.044	Associated: 11.112	Associated: 11.921

\*Figures for 2021 have a cut-off date of June 2021.

Source: Superintendency of Solidarity

### b) Total number of union service contracts and covered workers;

2017	2018	2019	2020	2021
<b>Contracts: 942</b> <b>Workers: N/D</b>	Contracts: 1.103 Workers: N/D	Contracts: 1.945 Workers: N/D	Contracts: 1.121 Workers: N/D	Contracts: 2.779 Workers: 331.510

Source: Directorate of Inspection, Surveillance and Control

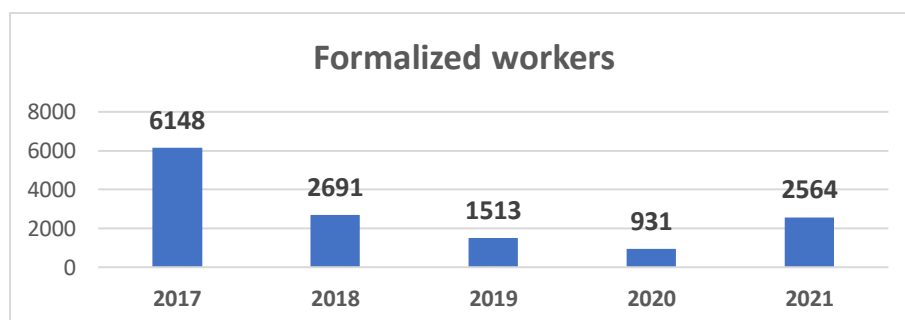
### c) Total number of temporary work agencies and covered workers;

2017	2018	2019	2020	2021
ATT: N/D	ATT:538	ATT: 581	ATT: 615	ATT: 697
Workers: 463.880	Workers: 457.524	Workers: 415.059	Workers: 416.269	Workers: 501.403

Source: ACOSSET and Directorate of Inspection, Surveillance and Control.

#### 4) Formalisation agreements

##### a. Number of formalization agreements and covered workers;



Source: Directorate of Inspection, Surveillance and Control.

##### b) Number of verification visits for formalization agreements

Year	Agreements Signed	Follow-up visits
2017	49	220
2018	40	121
2019	35	69
2020	30	148
2021	53	279

Source: Directorate of Inspection, Surveillance and Control.

#### 5) Poverty and income inequality

##### a. Indicator of relative income poverty (using the OECD definition of 50% or less of median household income);

This indicator measures the proportion of people who have incomes below the minimum household income. This indicator shows a decline between 2017 and 2019 from 35.2% to 35.7%, i.e. the proportion of people earning less than the minimum household income has increased. For the year 2020, the effect of the consequences of the pandemic, there will be a large increase of 6.8pp more than in 2019, i.e. 42.5% of the population is below the poverty line.





Year	To. Relative income poverty indicator (using OECD definition of 50% or less of average household income).
2017	35,2
2018	34,7
2019	35,7
2020	42,5
2021	N.D

Source: DANE-GEIH - Calculations: Ministry of Labour

### b) Indicator of extreme income poverty

Extreme monetary poverty between 2017 and 2019 presented an increase of 1.2pp, this improvement is also associated with the deterioration of the unemployment rate that affects household income. By 2020, the increase is quite large at 5.5pp, reaching 15.1%.

Year	b. Indicator of extreme income poverty.
2017	8,4
2018	8,2
2019	9,6
2020	15,1
2021	N.D

Source: DANE-GEIH

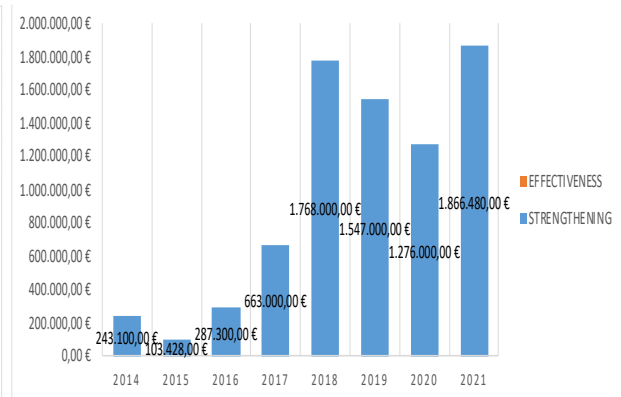
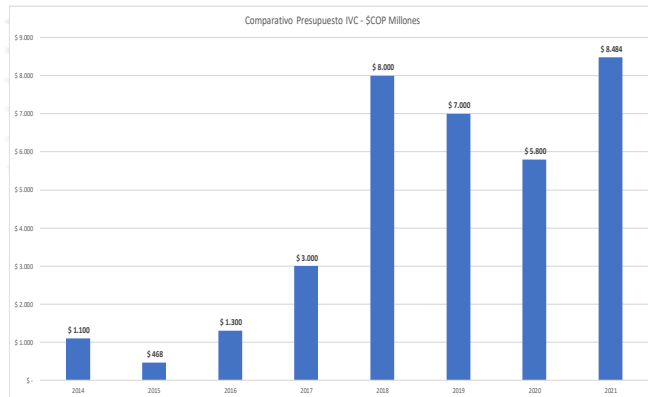
## 2. LABOUR LAW ENFORCEMENT

Further strengthen the labour inspection system by:

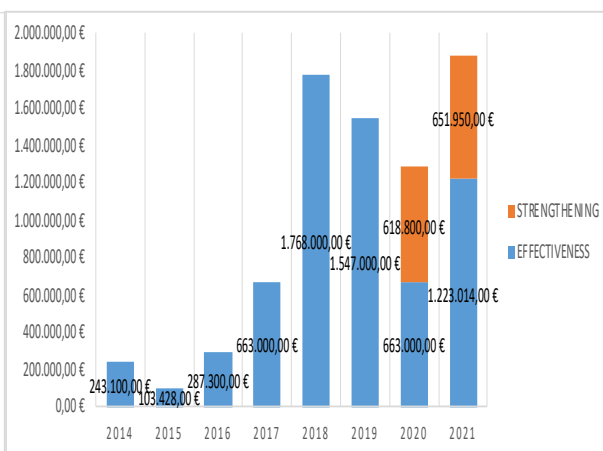
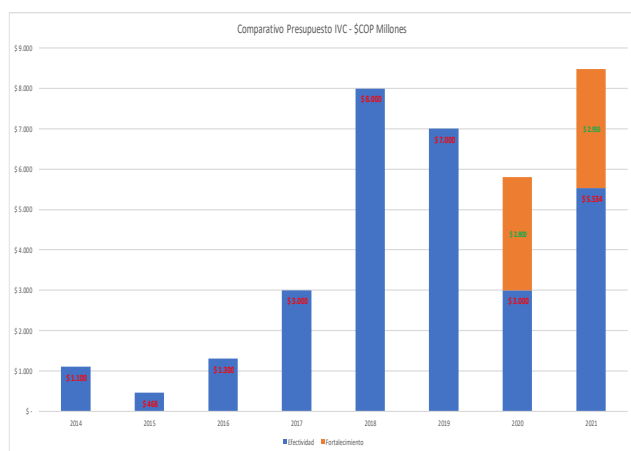
### 2.1. Ensuring the adequacy of resources and enabling policy initiatives for the labour inspectorate to:

#### 2.1.1. Allow labour inspectors to properly execute their tasks;

Despite the current budgetary restrictions of the National Government and the strong impact that COVID-19 has had on budgetary use, the budget allocated to the Ministry of Labour for the fulfilment of its mission has been sustained. In this regard, the Directorate of Inspection, Surveillance, Control and Territorial Management was allocated \$8 billion COP for 2018 (approx. € 1.766.008.313 EUR), \$7 billion COP for 2019 (approx. € 1.545.257.274 EUR), \$5.8 billion COP for 2020 (approx. € 1.280.356.027 EUR), and \$8.4 billion COP for 2021 (approx. € 1.854.308.729 EUR), so that the Labour Inspectorate can carry out its tasks properly. It is worth noting that the Colombian government, understanding the importance of the Ministry of Labour's Labour Inspection System, has significantly increased the resources allocated to the DVI Directorate, as shown in the following chart:

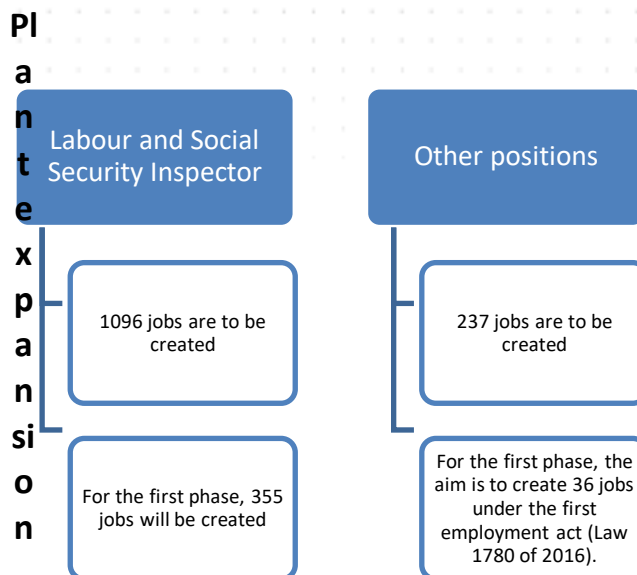


It is important to point out that the budget for 2020 was \$5,800,000,000 COP (approx. € 1.280.356 EUR), of which \$2,800,000,000 COP (approx. € 618.103 EUR), were subject to the result of the collection obtained in the Fund for the Strengthening of Inspection, Surveillance and Control of Labour and Social Security Standards FIVICOT. 000) were subject to the result of collection obtained in the Fund for the Strengthening of the Inspection, Surveillance and Control of Labour and Social Security Standards FIVICOT and given the current situation due to the Pandemic of COVID - 19, which has prevented such collection, the Directorate of Inspection, Surveillance, Control and Territorial Management has only had this year with \$3,000,000,000,000 COP (approx. € 662.253.117 EUR). Similarly, for the year 2021, of the \$8,484,000,000,000 COP (approx. € 1.872.851.816 EUR), \$5,534,000,000 COP (approx. € 1.221.636 EUR) correspond to direct allocation within the general budget of the Nation. And they were subject to the collection result obtained in the Fund for the Strengthening of the Inspection, Surveillance and Control of Labour and Social Security Standards FIVICOT \$2.950.000.000.000 COP (approx. € 651.215.565 EUR); for a better understanding of the budgetary detail, it is explained in the following graph:



**Exchange rate:** € 1 EUR = COP \$ 4.529,99 - Reference values of the Bank of the Republic: 18/01/22 Banrep.gov.co

On the other hand, it is important to highlight the efforts that the Ministry of Labour has been making to increase the Labour Inspectorate staff, as well as other support positions for the Inspectorate, which has led to an additional budget of approximately \$ 29,926,940,691 COP for the year 2022 (Approx. € 6,606,403 EUR), which will be used for the first phase of the increase in staff, as follows:



**2.1.2. Continue offering regular training programmes for all labour inspectors (irrespective of their contract type);**

Within the IVC Directorate, the Internal Working Group for the Management of Labour Inspection Training and Analysis was created by Resolution 3783 of 29 September 2017. The main objective of the Group, without being the only one, is to provide training to Labour Inspectors and to prioritise virtual training for 2019.

To this purpose, a Training Plan for the Labour Inspectorate has been designed and delivered, which seeks to reorganise the way in which it is carried out, to provide initial training to newly hired officials, as well as the establishment of a permanent training or professionalisation system that allows for the enhancement of the competencies of the Labour Inspectors and their specialisation in the areas that correspond to their function.

In compliance with the provisions of the Memorandum of Understanding signed with the USA (MU: MOL Funds - numeral ii, paragraph c), with the support of the ILO, the construction (2018) and implementation (2019) of a Virtual Campus for the Training of Labour Inspectors has been carried out, which is now fully operational.

In the previous report, a detailed account was made of all the processes carried out in previous years to materialise this training and specialised training for Labour and Social Security Inspectors, so the basic comparative information is detailed below, as well as the management carried out in 2021.

2017	2018	2019	2020	2021
869 Quotas in person.	1.395 Quotas in person.	1.164 Quotas in person. 6.726 Virtual Quotas.	254 Quotas in person. 2.261 Virtual Quotas.	1.376 Virtual Quotas.



Course No.	Course Name - Under the MOU	2020	2021
		No. of inspectors trained	No. of inspectors trained
1	General Overview of the Ministry of Labour and Introduction to the Labour Inspection System	136	45
2	Fundamental labour rights	107	28
3	Basic Elements of Constitutional and Administrative Law	69	39
4	Basic Elements of Individual and Collective Labour Law	57	39
5	Introduction to Social Security	85	36
6	Generalities of Occupational Risk Prevention and Protection	58	45
7	Procedures in charge of the Labour Inspectorate	62	32
8	General aspects of Labour Conciliation and Dispute Settlement	58	254
9	Introduction to Labour Formalization and Labour Intermediation	57	36
10	Information system	72	34

Course No.	NEW COURSES - Developed by the Ministry of Labour	No. of inspectors trained 2020	No. of inspectors trained 2021
1	Telework	34	Not launched
2	In-depth study of Fundamental Rights	104	14
3	Induction and re-induction of Institutional processes	323	561
4	Strengthening of Trade Union Leaders	32	Not launched
5	In-depth training in Social Security and Social Protection	171	21
6	In-depth study on Occupational Health and Safety Management System	198	26
7	In-depth training in General Administrative Procedure	225	34
8	The declaration of parties and third parties within the law of evidence and its application by the labour inspectorate.	164	51
9	Structuring of administrative acts within the administrative sanctioning procedure.	249	81

Source: IVC Directorate

### 2.1.3. Ensuring investigations in rural areas

The purpose of the Mobile Labour Inspection is to take the Labour Inspection System to all regions of the country where labour relations exist, with emphasis on the rural sector and in municipalities that have been designated in the Development Programme with a Territorial Approach (PDET – Planes de Desarrollo con enfoque territorial), the latter

being the beneficiaries of the 10-year sub-regional programme for the integral transformation of the rural sphere, through which the instruments of the Integral Rural Reform are implemented more rapidly in the territories most affected by the armed conflict, poverty, illicit economies and institutional weakness, which is included in the Colombian State's Progressive Plan for Social Protection.

The Directorate of Inspection, Surveillance, Control and Territorial Management organised intervention plans under two models of operation, which will allow for a constant rapprochement between employers, workers and rural communities in general and the Ministry of Labour.

**Operational Model - Cycle of Integrated Intervention:**

This model is developed through intervention cycles that last approximately 5 weeks and has territorial management teams that together with the Territorial Directorate and/or Special Office will lead the presence in the territory.

The proposed model, due to its duration and focus, is determined to be implemented in the 171 PDET municipalities prioritised by the Presidency of the Republic and, in accordance with the Progressive Plan, its goals are distributed according to the following table:

INTEGRAL INTERVENTION									
	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10
	2018	2019	2020	2021	2022	2023	2024	2025	2026
<b>PERCENTAGE</b>	12%	18%	10%	10%	10%	10%	10%	10%	10%
<b>SUM OF PERCENTAGES</b>	12%	30%	40%	50%	60%	70%	80%	90%	100%
<b>TOTAL MUNICIPALITIES</b>	21	51	68	85	102	119	136	153	171
<b>MUNICIPALITIES PER YEAR</b>	21	30	17	17	17	17	17	17	18

The particularities of the model were detailed in the first report presented by the country, which gives an account of the different activities carried out to achieve rapprochement with rural communities. However, those whose importance stands out are highlighted:

- Labour rights monitors are trained in general labour rights issues and respond to the implementation of the training of trainers model that allows the topics of interest for training to be replicated at the territorial level in an appropriate and agile manner.
- Rural communities are sensitised and trained, particularly students in grades 10 and 11 (school), members of Community Action Boards, workers and employers in general, through a special training process (training of trainers model), trained in general topics that can be replicated at the territorial level in an appropriate and agile manner and that allows for the immersion of communities and the appropriation of topics related to labour rights and the ways in which citizens can interact with the Ministry of Labour, for the protection of these rights.
- The implementation of this strategy is carried out under the concept of highly participatory learning and dialogue of knowledge, which allows the strengthening of knowledge management and institutional and

territorial development of the different labour and work actors, as well as those of health and safety at work, over which the Ministry of Labour has competence.

- Carrying out Inspection, Surveillance and Control Services Fairs in the company of the Labour Sector, where the comprehensive range of services offered by the Labour Sector is made known to all the citizens of the municipality in question. During the fair, forms are filled out to show the participation of citizens and the reasons for their enquiries.
- Attention of the Mobile Labour Inspection Office. This is carried out in a period of between 2 and 4 days, providing the rural areas intervened with labour orientation services, preventive assistance and inspection procedures to citizens with their respective characterisation and follow-up of their complaints (if any) from the Central Level of the Ministry of Labour.

### **Operational Model - Inspection Brigade**

The Inspection Brigade model consists of a day of promotion and information on the routes of attention in Inspection, Surveillance and Control by the Ministry of Labour, organization of working groups with employers and/or communities and/or local authorities to deal with problems related to labour issues. In addition to this, it is leading the call for labour sector entities and other national, departmental and municipal entities to make a state presence in the municipalities.

In accordance with the Progressive Plan for Social Protection, the goals specified in the following table will be developed for this model:

		PERCENTAGE	SUM OF PERCENTAGES	MUNICIPALITIES PER YEAR	TOTAL MUNICIPALITIES TO INTERVENE:
YEAR 1	2017				
YEAR 2	2018	5%	5%	25	25
YEAR 3	2019	9%	14%	45	70
YEAR 4	2020	7%	21%	35	105
YEAR 5	2021	7%	28%	35	140
YEAR 6	2022	7%	35%	35	175
YEAR 7	2023	7%	42%	35	210
YEAR 8	2024	7%	49%	35	245
YEAR 9	2025	7%	56%	35	280
YEAR 10	2026	7%	63%	35	315
YEAR 11	2027	7%	70%	35	350
YEAR 12	2028	7%	77%	35	385
YEAR 13	2029	7%	84%	35	420
YEAR 14	2030	7%	91%	35	455
YEAR 15	2031	9%	100%	45	500

The results of the implementation of these Mobile Inspection Models in the Colombian territory are many, however, the following is a statistical summary of the intervention achieved:

Year	Inspection Brigades	Integral Intervention	Trained Labour Monitors
2017	0	6	0
2018	35	21	2258
2019	51	33	3460
2020	25	18	921
2021	38	17	1077

#### 2.1.4. End permanent recruitment for labour inspectors who passed the career exam and keep the number of labour inspectors in line with international standards.

##### Announcement 428 of 2016

In 2021, 18 probationary appointments were made through Call 428 of 2016. Similarly, 5 (five) appointments were made by court order, of which one (1) corresponds to the Territorial Directorate of Norte de Santander and four (4) to the Territorial Directorate of Huila.

##### Efforts to Expand the Staffing Level

About the need to expand the staff of the Ministry of Labour, especially in order to increase the number of Labour and Social Security Inspector positions, Colombia has ratified Conventions 81 concerning labour inspection in industry and commerce, adopted by Law 23 of 1967, and 129 concerning labour inspection in agriculture, adopted by Law 47 of 1975.

In 2014, when the case of Colombia was examined under Convention 81 by the ILO Committee on the Application of Standards, the workers pointed out that the Government should express a commitment to increase the number of Labour and Social Security Inspectors with a view to reaching at least 2,000 jobs in the staffing table of the Entity.

Taking into account the diagnosis made by this Entity in 2019, it is necessary to increase the number of positions with the title of INSPECTOR OF LABOUR AND SOCIAL SECURITY, the administrative support staff for the fulfilment of the functions of inspection, surveillance, control, attention to citizens and occupational risks, and in the same way the positions that the Law of First Employment indicates at the time of modification of the personnel plant, as follows:

POSITION	POSTS TO BE CREATED	NOTE
LABOUR AND SOCIAL SECURITY INSPECTOR CODE 2003 GRADE 14	1096	STRENGTHENING INSPECTION, MONITORING, CONTROL REQUIREMENT ILO/OECD/US/CANADA
SPECIALISED PROFESSIONAL CODE 2028 GRADE 14	51	ADMINISTRATIVE SUPPORT REQUIREMENT ILO/OECD/US/CANADA
UNIVERSITY PROFESSIONAL CODE 2044 GRADE 09	76	ADMINISTRATIVE SUPPORT REQUIREMENT ILO/OECD/US/CANADA
UNIVERSITY PROFESSIONAL CODE 2044 GRADE 01	60	ARTICLE 14 LAW 1780 OF 2016
ADMINISTRATIVE TECHNICIAN CODE 3124 GRADE 14	24	(FIRST EMPLOYMENT LAW)
ADMINISTRATIVE TECHNICIAN CODE 3124 GRADE 10	26	ARTICLE 14 LAW 1780 OF 2016

### Management Carried out by the Administration

- In 2019, a technical study was carried out by the Francisco José de Caldas District University, whose objective was to strengthen and specialize the internal structure of the Entity, with the creation of jobs that allow expanding the operational capacities of the different areas.
- By letter of November 27, 2020, two offices were sent, one to the Ministry of Finance and Public Credit and DAPRE, in order to request the budgetary viability to continue with the corresponding procedure before the DAFP to advance the analysis of the technical study of Institutional redesign of the Ministry of Labour, expansion of the plant.
- By letter of December 17, 2020, the Director of the Administrative Department of the Presidency of the Republic, where a favourable concept is issued for the realization of the reform, subject to the effective budgetary appropriations derived from the announced sources of financing and to the technical and budgetary concepts issued by the Administrative Department of the Public Function and the Ministry of Finance and Public Credit respectively.
- By letter of February 17, 2021, the study of the expansion of the Entity's plant was filed with the Administrative Department of the Public Function.
- In accordance with the meetings held with the DAFP, the request for the concept of budgetary viability to the Ministry of Finance and Credit was reiterated on April 23, 2021.
- By means of official letter no. 08SE2021420100000028660 of May 11, 2021, Minister Ángel Custodio Cabrera Báez reiterates to DAPRE, the need for the budgetary guarantee for the expansion of the staff of this ministerial entity.
- Thus, by letter OFI21-00081319 / IDM13000000 of June 2, 2021, the Administrative Department of the Presidency of the Republic – DAPRE, reiterates the favourable concept to continue with the corresponding efforts aimed at obtaining the respective budgetary and technical viabilities to advance a first phase of the reform.
- Minister Ángel Custodio Cabrera Báez reiterates to DAPRE the need for the budgetary guarantee for the expansion of the personnel plant of this ministerial entity, by means of an official letter of September 18, 2021, informing that the first phase would have a cost of \$ 4076 USD.
- Through OFI21-00136931/IDM13000000 of September 27, 2021, the DAPRE, reiterates that for the first phase 2022, in which it is proposed to create 200 jobs of Labour and Social Security Inspector, and 10% of positions for



youth employment, for a total cost of \$ 4076 USD, giving favourable concept to continue with the corresponding efforts aimed at obtaining the respective budgetary and technical viabilities to advance a first phase of the reform.

- In September, Bill 158/2021-C 096/2021-S was presented to the Congress of the Republic, proposing to add to the General Budget of the Nation in force 2022, the sum of \$ 4076 USD, in section 3601 Ministry of Labour, A. Operating Budget; for the creation of 200 positions of labour and social security inspector and 20 positions of Administrative Technician in compliance with Law 1780 of 2016, and article 196 of Law 1955 of 2018.
- By means of an official document with file No. OFI21-00166277 /IDM13000000 of December 1, 2021, a favourable concept is issued by the Administrative Department of the Presidency of the Republic – DAPRE, to continue with the procedures before the competent instances, aimed at obtaining the respective budgetary and technical viabilities to advance a first phase of the reform of modification of the personnel plant of the Ministry of Labour, with the creation of 355 jobs as Labour and Social Security Inspector and 36 university professionals grade 01. (Law 1780 of 2016 – First Employment Law)
- By means of official letter no. 2-2021-068534 of December 26, 2021, the Ministry of Finance and Public Credit, issues a favourable concept of budgetary viability to advance the first phase of modification of the personnel plant of the Ministry of Labour with the creation of 355 jobs of Labour and Social Security Inspector and 36 university professionals' grade 01. (Law 1780 of 2016 – First Employment Law)
- On December 29, the documents were sent to the Administrative Department of the Public Function – DAFP, with whom the plant expansion project has been working.

## Budget

The annual budget required for the expansion of the staff at 2021 costs amounts to the sum of ONE HUNDRED AND NINE THOUSAND THREE HUNDRED AND NINETEEN MILLION NINE HUNDRED AND FIFTY-EIGHT THOUSAND SIX HUNDRED AND FIFTEEN COP \$109.319.958.615 (Approx. 24,642,308 Eur), with average projected values to 2024, bearing in mind that it is required to carry out such an increase in a staggered manner, which this Ministry proposes from 2021 to 2024, according to the urgent need for compliance with agreements with international organizations by the National Government.

The above value is distributed as follows:

POSITION	POSITIONS TO BE CREATED	TOTAL VALUE (COP) Approx. EUR
LABOUR AND SOCIAL SECURITY INSPECTOR CODE 2003 GRADE 14	1096	\$ 95.031.116.980 COP (€ 21,327,735 EUR)
SPECIALIZED PROFESSIONAL CODE 2028 GRADE 14	51	\$ 4.405.863.084 COP (€ 988,663 EUR)
UNIVERSITY PROFESSIONAL CODE 2044 GRADE 09	76	\$ 4.950.461.233 COP (€ 1,110,945 EUR)
UNIVERSITY PROFESSIONAL CODE 2044 GRADE 01	59	\$ 2.507.289.403 COP (€ 562,667 EUR)
ADMINISTRATIVE TECHNICIAN CODE 3124 GRADE 14	24	\$ 1.136.418.792 COP (€ 255,026 EUR)
ADMINISTRATIVE TECHNICIAN CODE 3124 GRADE 10	26	\$ 995.150.002 COP (223,317 EUR)
<b>OVERALL TOTAL</b>	<b>1332</b>	<b>\$ 109.026.299.495 COP</b> <b>(€ 24,642,308 EUR)</b>

A first stage will begin in the face of the increase in the positions of Inspector of Labour and Social Security and University Professionals grade 01, starting with 355 jobs with the name inspector of Labour and Social Security and 36 University Professionals grade 01, in accordance with the provisions of Law 1780 of 2016 (Law of first employment).

### **Progress by the Sub directorate of Human Talent Management**

- From the Sub directorate of Human Talent Management, the analysis and technical tables have been carried out with the Ministry of Finance and Public Credit.
- It has been decided to increase the staff of the Ministry of Labour progressively from this year, in accordance with the recommendations that are given by the Administrative Department of the Public Function and the Ministry of Finance and Public Credit.
- First, the expansion of the plant will begin with the creation of 200 jobs of Labour and Social Security Inspector, 20 Administrative Technicians in compliance with the First Employment Law (Law 1780 of 2016).
- For this first phase, an approximate budget of \$16.000.000.000 COP (Approx. € 3,590,681 EUR) is required.
- The study of the first stage for the expansion of 355 jobs with the name Inspector of Labour and Social Security and 36 University Professionals grade 01 was carried out, which has a cost of \$ 29.926.940.691 COP (Approx. € 6,717,521 EUR) with values in force to 2021.
- Referral to the Ministry of Finance and Public Credit of the request for budgetary viability by file no. 1-2021-111924 of December 15, 2021.

### **Report of Staff Labour and Social Security Inspectors 2021**

Currently, the staff of the Ministry of Labour has 903 jobs of Labour and Social Security Inspector Code 2003 Grade 14 and 1 job of Labour and Social Security Inspector Code 2003 Grade 13, of which 581 are administrative career, 9 are in charge, 36 in probationary, 256 in provisionally and 22 vacancies.

The 904 jobs of Labour and Social Security Inspector are distributed as follows: 831 jobs are in the Territorial Directorates and 73 jobs in Central Level.

### **Appointments of the Employment of Labour Inspector for the Validity 2021**

During the year 2021, 89 appointments of Labour and Social Security Inspectors were made, of which 68 were appointed provisionally, 17 in the probationary period by Call 428 of 2016 and 4 in the career in charge. It should be noted that 19 appointments were made at the Central Level, and 70 appointments in the Territorial Directorates

### **Custom Processes 2021**

During the 2021 term, 4 assignment processes have been carried out, in the First Assignment Process, 33 jobs of Labour and Social Security Inspector were offered, of which 1 public servant of Administrative Career was in charge in this job and 32 jobs were deserted to be provided in Provisionally.

In the Second Process of Assignments, 5 jobs of Labour and Social Security Inspector were offered, of which 2 public servants of Administrative Career were commissioned in this job and 3 jobs were deserted to be provided in Provision.

In the Third Process of Assignments, 5 jobs of Labour and Social Security Inspector were offered, of which 1 public servant of Administrative Career was in charge in this job and 4 jobs were deserted to be provided in Provision.

In the Fourth Assignment Process, no Labour and Social Security Inspector jobs were offered, and in the Fifth Assignment Process, 11 Labour and Social Security Inspector jobs were offered.

At the end of this information, January 18, 2022, within the staff of the Ministry of Labour, it was evident that 62 public servants who hold administrative career rights, whose titular position is the employment of Labour and Social Security Inspector, are in charge of other jobs.

### Resignations of the employment of labour and social security inspector for the 2021 term

In the validity of 2021 (January – December) 37 resignations have been accepted for the employment of Labour and Social Security Inspector of the personnel plant of the Ministry of Labour, of a total of 37 resignations presented in the same period, of which 5 correspond to the Central Level and 32 to the Territorial Directorates.

### 2.2. Using the new management system for cases throughout the national territory and connecting the system with the electronic system for collecting fines.

The IVC Information System (SISINFO) was implemented in 33 Territorial Directorates, 3 Special Labour Offices (Barrancabermeja, Urabá and Buenaventura) and in all the Municipal Inspections.

As of December 2020, the IVC Information System (SISINFO) was implemented 100%, as a result of the joint institutional exercise during the periods of November and December 2018 and 2019, human talent, economic resources and incorporation of a specific task in the action plan of the Inspection Directorate were available, Surveillance, Control and Territorial Management, which allowed technical visits and training of the new municipal inspectors appointed on the occasion of the contest.

Similarly, the Ministry of Labour has taken the tool made by the ILO and has been making improvements in the operation of the platform, launching in mid-2020 the SISINFO V. 3.0 which allows Labour Inspectors to develop their activities on the platform in a simple way.



Likewise, resolution 3599 of 2017 established the mandatory use of the SISINFO Information System and specifically in accordance with the provisions of article 4, which states that all administrative actions related to preliminary inquiries and sanctioning administrative procedures will be advanced and processed in the Inspection Information System, Surveillance and Control, without distinction. The General Directors, the Territorial Directors and the Coordinators of working groups, are responsible for verifying that the administrative actions that are of their spring are

registered in the Inspection, Surveillance and Control Information System, for which they must comply with the instructions given to them by the Inspection Directorate, Surveillance, Control and Territorial Management.

Currently the SISINFO platform has the information load that is detailed below:

Files in SISINFO	
ACTIVE	35.182
COMPLETED	56.906
<b>Total</b>	<b>92.088</b>

In addition to the above, the integration between the Inspection Information System, SISINFO Surveillance with the SENA Collection and Portfolio Information System (SIREC) was implemented in 100% of the Territorial Directorates of the Ministry of Labour and for the output to production and currently the integration management between SISINFO and the Collection System of the Ministry of Labour is being advanced in order to potentiate the collection of fines destined for FIVICOT. The development of this new bridge module was completed in December 2021 and its one hundred percent functional implementation is expected in March 2022.

### 2.3. Strengthen the deterrent effect of labour inspection by:

#### 2.3.1. Increasing the number of inspections and investigations per year, and making this information available to the public on a yearly basis;

##### Year 2021 Report

By means of Memorandum No. 08SI2021331000001422 of January 29, 2021, the guidelines for the comprehensive inspection plan were formulated, which includes advancing the inspection actions, which should not only be limited to face-to-face visits, but also the analysis of inspection under documentary requirements and / or virtual meetings, when required. The above, due to the declaration of Health Emergency due to the pandemic with COVID-19, which requires social distancing and prioritizes the use of technological tools to continue with inspection activities.

In the elaboration of the comprehensive inspection plan for 2021, preventive inspection actions, general and specific inspection actions were included, establishing a joint goal by type of inspection and defined for each territorial direction.

It is important to note that since 2020 no goal has been established for reactive inspections, these were carried out in accordance with the demand of complaints and / or complaints in relation to a preliminary investigation and / or administrative sanctioning process which are reported through the IVC SISINFO Information System. However, the Sub directorate of Inspection, within the guidelines of the comprehensive inspection plan, established the guidelines for carrying out visits in addition to preventive visits of a general and specific nature.

By means of Memorandum No. 08SI20213310000018166 of November 12, 2021, the Planning Guidelines in inspection actions to prioritized export sectors were formulated, In view of the relevance of the labour commitments acquired by the Government of Colombia on the occasion of the Trade Promotion Agreement between the United States and Colombia, it is necessary to reiterate and expand the guidelines given on prevention actions, inspection, surveillance and control of employers in the prioritized export sectors: flower cultivation, sugar, palm grower, mining and port. The territorial directorates and special offices must identify which companies carry out the economic activities referred to above, within their jurisdiction, in order to plan and execute the inspection actions. To this end, work tables will be held

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in which the following actors will be able to provide inputs for the programming of inspection actions that will be carried out in 2022:

- Trade unions/workers' representatives
- Employers/guilds
- Ministries/competent entities
- Labour and social security inspectors.

Likewise, under the guidelines issued in Memorandum No.2025 of February 11, 2021, it is specified to carry out special follow-up in the inspection of current union contracts. Next, we have the following inspection actions to employers with union contracts carried out in the validity of the year 2021:

The following is the number of inspection actions carried out in the period from January to December 2021, in coordination with the reports to the Sub directorate of Territorial Management:

### INSPECTION ACTIONS DURING 2021

TERRITORIAL DIRECTION	TOTAL PROGRAMMED GOAL	REPORTED PREVENTIVE INSPECTIONS	GENERAL CARAC INSPECTIONS	SPECIFIC INSPECTIONS REPORTED	TOTAL INSPECTIONS	%COMPLIANCE
RISARALDA	500	708	563	79	1350	270%
URABA-APARTADÓ	100	66	109	65	240	240%
CAQUETÁ	140	208	39	18	265	189%
SAN ANDRES	20	20	8	5	33	165%
ARAUCA	100	94	46	20	160	160%
BUENAVENTURA	40	16	17	30	63	158%
GUAINIA	20	20	6	4	30	150%
CASANARE	100	104	33	10	147	147%
ANTIOQUIA*	700	248	585	155	988	141%
NORTH SANTANDER	300	299	90	28	417	139%
CALDAS	380	255	258	6	519	137%
CHOCO	160	173	22	22	217	136%
GUAVIARE	20	7	6	13	26	130%
CUNDINAMARCA	480	166	196	210	572	119%
VALLEY	600	129	385	192	706	118%
BOYACÁ	400	210	233	18	461	115%
SANTANDER	480	229	179	139	547	114%
SUCRE	260	59	219	17	295	113%
PUTUMAYO	160	85	61	31	177	111%
GUAJIRA	280	129	60	120	309	110%
MAGDALENA*	320	227	35	90	352	110%
TOLIMA	440	260	112	112	484	110%
HUILA	320	174	138	32	344	108%
CAUCA	380	233	147	26	406	107%
BOLIVAR	260	119	93	65	277	107%
NARIÑO	280	185	92	14	291	104%
QUINDIO	260	137	39	94	270	104%
AMAZON	30	9	15	7	31	103%
CESAR*	500	240	219	52	511	102%



ATLANTIC	720	310	275	145	730	101%
BARRANCABERMEJA	240	132	85	23	240	100%
VICHADA	20	2	18	0	20	100%
GOAL	320	81	124	111	316	99%
CORDOBA*	440	14	369	35	418	95%
BOGOTA	1600	1077	128	190	1395	87%
VAUPES	20	5	5	5	15	75%
<b>TOTAL</b>	<b>11.390</b>	<b>6.430</b>	<b>5.009</b>	<b>2.183</b>	<b>13.622</b>	<b>120%</b>

In summary, national consolidated inspections carried out in 2021. January - December.

SCHEDULED*	CUMULATIVE OUTPUTS	% COMPLIANCE
11.390	13.622	120%

**Source:** Sub directorate of Inspection

The information on preventive inspections carried out at the national level is disaggregated below by economic sector:

**PREVENTIVE INSPECTION ACTIONS CARRIED OUT BY ECONOMIC SECTOR  
JANUARY – DECEMBER 2021**

ECONOMIC SECTOR	QUANTITY
SECTION G WHOLESALE RETAIL TRADE	2026
SECTION Q HEALTH CARE AND SOCIAL ASSISTANCE	727
SECTION F CONSTRUCTION	586
SECTION I ACCOMMODATION AND FOOD SERVICES	528
SECTION C MANUFACTURING INDUSTRIES	502
SECTION S SERVICE ACTIVITIES	373
SECTION H TRANSPORT AND STORAGE	309
SECTION R ARTISTIC ENTERTAINMENT ACTIVITIES	139
SECTION N ADMINISTRATIVE SUPPORT SERVICES ACTIVITIES	123
PRIVATE SECURITY SURVEILLANCE	122
SECTION B MINING AND QUARRYING	105
AGRICULTURE LIVESTOCK HUNTING FISHING	104
SECTION P EDUCATION	99
SECTION OR PUBLIC ADMINISTRATION AND DEFENCE	88
TEMPORARY SERVICE COMPANY EST	87
HYDROCARBONS	68
SECTION J INFORMATION AND COMMUNICATIONS	64



INDUSTRY ACTIVITIES	62
SECTION M TECHNICAL SCIENTIFIC PROFESSIONAL ACTIVITIES	57
SECTION K FINANCIAL AND INSURANCE ACTIVITIES	54
SECTION L REAL ESTATE ACTIVITIES	43
PALM CULTIVATION	38
HARBOURS	23
SECTION AND DISTRIBUTION WASTEWATER TREATMENT ENVIRONMENTAL SANITATION ACTIVITIES	20
SECTION D ELECTRICITY SUPPLY GAS STEAM	19
FLOWER CULTIVATION	15
ADVERTISING	10
SECTION OR ACTIVITIES OF OFFSHORE ORGANIZATIONS AND ENTITIES	10
VETERINARY ACTIVITIES	7
ASSOCIATED WORK COOPERATIVE	7
RIVER TRANSPORT	7
ACTIVITIES OF EMPLOYEE UNIONS	4
ARL OCCUPATIONAL RISK MANAGERS	2
SUGAR	2
<b>TOTAL</b>	<b>6.430</b>

**Source:** Sub directorate of Territorial Management. OneDrive inspection actions.

Information on preventive inspections carried out at the national level by export economic sector:

### PREVENTIVE INSPECTION ACTIONS CARRIED OUT BY EXPORT ECONOMIC SECTOR YEAR 2021

ECONOMIC SECTOR	PREVENTIVE INSPECTIONS CARRIED OUT
SECTION B_EXPLORACIÓN_DE_MINAS AND QUARRIES	65
HYDROCARBONS	41
PALM CULTIVATION	10
HARBOURS	8
SUGAR	2
FLOWER CULTIVATION	1
<b>TOTAL</b>	<b>127</b>

**Source:** Sub directorate of Territorial Management. OneDrive inspection actions.

The information on the general inspections carried out at the national level by economic sector is broken down below:

GENERAL INSPECTION ACTIONS CARRIED OUT BY ECONOMIC SECTOR. JANUARY – DECEMBER 2021

GENERAL INSPECTIONS CARRIED OUT	GENERAL INSPECTIONS CARRIED OUT
SECTION G WHOLESALE RETAIL TRADE	1332
SECTION C MANUFACTURING INDUSTRIES	613
SECTION F CONSTRUCTION	581
SECTION Q HEALTH CARE AND SOCIAL ASSISTANCE	422
SECTION I ACCOMMODATION AND FOOD SERVICES	330
SECTION S SERVICE ACTIVITIES	270
SECTION H TRANSPORT AND STORAGE	233
SECTION B MINING AND QUARRYING	219
PRIVATE SECURITY SURVEILLANCE	115
HYDROCARBONS	97
SECTION N ADMINISTRATIVE SUPPORT SERVICES ACTIVITIES	95
AGRICULTURE LIVESTOCK HUNTING FISHING	94
SECTION P EDUCATION	89
SECTION K FINANCIAL AND INSURANCE ACTIVITIES	66
INDUSTRY ACTIVITIES	59
SECTION M TECHNICAL SCIENTIFIC PROFESSIONAL ACTIVITIES	58
TEMPORARY SERVICE COMPANY EST	53
SECTION OR PUBLIC ADMINISTRATION AND DEFENCE	41
SECTION L REAL ESTATE ACTIVITIES	40
SECTION J INFORMATION AND COMMUNICATIONS	36
SECTION D ELECTRICITY SUPPLY GAS STEAM	30
HARBOURS	27
SECTION AND DISTRIBUTION WASTEWATER TREATMENT ENVIRONMENTAL SANITATION ACTIVITIES	20
FLOWER CULTIVATION	19
SECTION R ARTISTIC ENTERTAINMENT ACTIVITIES	19
PALM CULTIVATION	18
ASSOCIATED WORK COOPERATIVE	9
SUGAR	7



ARL OCCUPATIONAL RISK MANAGERS	5
VETERINARY ACTIVITIES	4
RIVER TRANSPORT	3
ADVERTISING	2

**Source:** Sub directorate of Territorial Management. OneDrive inspection actions.

Information on general inspections carried out at the national level by export economic sector:

### GENERAL INSPECTION ACTIONS CARRIED OUT BY EXPORT ECONOMIC SECTOR. JANUARY – DECEMBER 2021

ECONOMIC SECTOR	GENERAL INSPECTIONS CARRIED OUT
SECTION B_EXPLORACIÓN_DE_MINAS AND QUARRIES	138
HYDROCARBONS	97
EXPLORACIÓN_DE_MINAS AND QUARRIES	81
HARBOURS	27
FLOWER CULTIVATION	19
PALM CULTIVATION	18
SUGAR	7
<b>TOTAL</b>	<b>387</b>

**Source:** Sub directorate of Territorial Management. OneDrive inspection actions.

#### 2.3.2. Completing labour inspections within the established timeframes;

It is important to note that the administrative actions that are carried out by the Labour Inspectorate, regardless of the matter or infraction on which they are concerned, are carried out following the same procedure regulated by the Law, by the Code of Administrative Procedure and Administrative Litigation – Law 1437 of 2011 – and Law 1610 of 2013, Labour Inspection Act. The advanced procedure was detailed in the first part of this document.

In any case, the Labour Inspectorate has a strong commitment to comply with the terms indicated by Colombian regulations regarding its administrative procedures and has been adjusting its processes and structures for this purpose. However, it is necessary to point out that the last two years (2019 and 2020) have been particularly complex for the Labour Inspectorate, since in 2019, the change in the staff of Labour Inspectors was presented as a result of the Contest for the Provision of Positions carried out, which made it quite difficult to execute the sanctioning procedures until all the positions were filled; in 2020, the situation of the Pandemic caused by COVID-19 impacted the development of administrative sanctioning procedures, since due to the isolations ordered in effect of quarantine, it became necessary to suspend the procedural terms of the administrative actions carried out by the Ministry of Labour in general.

It seeks to improve the labour law inspection system to ensure that inspections comply with legal procedures and deadlines and are carried out in accordance with a national inspection strategy aimed at sectors at risk.

The commitment of the Ministry of Labour through the IVC Directorate has been reflected in the preparation, publication, and fulfilment of each one of the manuals that have been issued for use by labour inspectors in the performance of their functions. To date we have 4 inspection guides for inclusion in the inspection manual, whose use is mandatory according to Resolution 1309 of 2013 which are: dosage of sanctions, sanctioning administrative procedure, ambiguous and disguised labour relations and acts that violate trade union rights. So far, the first two guides developed by the ILO have been incorporated into the Manual of the Labour and Social Security Inspector. The two missing ones will be incorporated into the update of the Manual that has been carried out. The ILO undertook to update the guide entitled "Ambiguous and disguised labour relations" as well as the checklists associated with it.

To date, the Manual of the Labour Inspector has been 100 per cent updated, however, due to recent changes in the structure of the Labour Inspectorate and the functions of the Labour Inspectors, a process of conditioning certain subjects has begun.

### 2.3.3. Improving the collection of fines.

Considering the recommendations made within the framework of Colombia's post-accession commitments before the OECD Committee on Employment, Labour and Social Affairs, the Legal Advisory Office of the Ministry of Labour presents the progress made regarding the "Collection of all outstanding fines for subcontracting violations within the legally established times" (1.8), "improvement in the collection of fines" (2.3.3) and "indicators of collection of fines" (3).

#### Collection of All Outstanding Fines for Misuse of Subcontracting Within Legally Established Times

After the National Government of Colombia sanctioned Law 1955 of May 25, 2019, through which the National Development Plan 2018-2022, "Pact for Colombia, pact for equity" was issued and the "Fund for the Strengthening of the Inspection, Surveillance, and Control of Labour and Social Security (Fivicot) was created, as a special account of the Nation, without legal personality, attached to the Ministry of Labour (...)", which would be made up of "the fines imposed by the administrative labour authorities as of the first (1st) of January 2020, for the violation of the provisions relating to working conditions, as well as the protection of workers in the exercise of their profession and the right to free trade union association." (Article 201), the Ministry of Labour programmed and executed the following four (4) activities related to the process of collecting fines:

##### Regulation of the Fund

In development of what is regulated in Law 1955 of May 25, 2019, the Ministry of Labour issued Decree 120 of January 28, 2020, which regulated the Fund for the Strengthening of Inspection, Surveillance, and Control of Labour and Social Security (FIVICOT).

Article 2.2.3.2.5 of the decree provided that "The collection and collection of the fines referred to in the previous article shall be in charge of the respective area of the Ministry of Labour to which such function has been assigned."

##### Collection and Collection of Fines

In accordance with paragraph 6 of article 8 of Decree 4108 of 2011 and Resolution No. 02530 of June 20, 2014 of the Ministry of Labour, the Coercive Collection Group of the Legal Advisory Office of the Ministry of Labour is responsible for "1. To carry out, in accordance with the law and regulations, the actions aimed at managing the collection of clear, express, and enforceable obligations in favour of the Ministry of Labour that are sent to the Group for collection." 2. Execute the procedures of persuasive collection, coercive collection



and other procedures established in the law and in the regulations to manage the collection of the obligations whose collection is assigned to the Ministry of Labour (...)".

To guarantee the principles of legality, due process and guarantee of rights, the Ministry of Labour updated and supplemented the procedure for collecting and collecting fines imposed in favour of the Ministry of Labour, by issuing Resolution No. 2628 of December 2, 2020, by which the Internal Regulations for Portfolio Collection of the Ministry of Labour are adopted. The collection regulation is composed of X chapters and incorporates in a single document all matters related to the coercive collection procedure, from the stage of persuasive collection, through the stage of coercive collection, until the completion of the process, and including the flowchart of all stages.

### **Strengthening the Coercive Collection Group**

In accordance with the attributions given to the evaluation committee of the Fund for the Strengthening of the Inspection, Surveillance, and Control of Labour and Social Security (FIVICOT), through Resolution 306 of February 10, 2021, which states in its seventh article that "the coercive collection group of the legal advisory office of the Ministry of Labour will be in charge of advancing the process of persuasive and coercive collection of the fines imposed in favour of the Fund. For the confirmation, operation and maintenance of this equipment, a percentage of the resources collected by the Fund will be allocated annually. When there is no collection or it is insufficient, these may be solved with resources from the Ministry of Labour", in session I of the evaluation committee dated 09/04/2021, the sum of de \$294.768.000 COP (Approx. 66,150 Eur) was allocated, to strengthen the coercive collection group of the Legal Advisory Office of the Ministry of Labour.

With the aforementioned resources, 13 contractors were hired who, since the second half of May 2021, promote the coercive collection processes related to the knowledge of the coercive collection group.

### **Purchase and commissioning of the Coercive Collection software**

As a result of a bidding process, the Ministry of Labour acquired in August 2020, a Software that provides help in the process of managing the collection of fines imposed in favour of the Ministry of Labour, while guaranteeing the security of information and integration with other applications of the entity.

### **With this legal, human and technological infrastructure, the Coercive Collection Group of the Legal Advisory Office carried out the following management:**

1. During the 2020 term, a total of 96 enforceable sanctions for the Fund for the Strengthening of the Inspection, Surveillance, and Control of Labour and Social Security (FIVICOT) came to the attention of the Coercive Collection Group of the OAJ, which became 96 coercive collection processes for \$ 1,348,218,161. COP. (Approx. € 302.555,88 EUR)
2. In the same way, and with respect to the year 2021, a total of 737 enforceable sanctions for the Fund for the Strengthening of Inspection, Surveillance, and Control of Labour and Social Security (FIVICOT) came to the attention of the Coercive Collection Group of the OAJ – discriminated against as follows: 1) 198 of the year 2020 worth \$ 4,296,606,480 COP (Approx. € 964.185,77 EUR) and 2) 539 of the year 2021 worth 7,801,510,239 (Approx. 1.750.649,15Eur) -which became 737 coercive collection process in the amount of \$ 12,098,116,719 COP. (Approx. € 2.714.849,44 COP) (Information with cut 31/12/2021).
3. In total, the portfolio as of 12/31/2021 of the Fund for the Strengthening of the Inspection, Surveillance, and Control of Labour and Social Security (FIVICOT), is \$13,446,334,880 COP (Approx. 3.017.705,10 EUR), with 833 active coercive collection processes.
4. The Coercive Collection Group has achieved the promotion of 100% of the processes under its charge. In this sense, the status of all processes according to the coercive collection application as of 12/31/2021 is as follows

N.º	STATUS	QUANTITY	% THE NUMBER OF PROCESSES	VALUE
1	In persuasive collection	636	76%	\$ 10.073.940.301 COP (€2.260.840,58 EUR) *
2	Payment order	43	5%	\$ 498.911.929 COP (€111.955,46 EUR) *
3	Payment Agreements	2	0%	\$ 6.972.737 COP (€1.564,68 EUR) *
5	In other actions	152	18%	\$2.866.509.913 COP (€643.824,1 EUR) *
TOTAL		833		\$13.446.334.880 COP (€3.017.323,62 EUR) *

Source: Coercive collection application.

\*Exchange rate: € 1 EUR = COP \$ 4.529,99 - Reference values of the Bank of the Republic: 18/01/22 Banrep.gov.co

### Improvement in the Collection of Fines

From 2020 to 2021, the Coercive Collection Group has managed to recover resources worth \$4,386,040,508 COP (Approx. € 983.967,63 EUR) of the total processes opened for the Fund for the Strengthening of Inspection, Surveillance, and Control of Labour and Social Security (FIVICOT).

This means that of the total portfolio (\$13,446,334,880 COP) (Approx. € 3.017.313,62 EUR), 33% has been recovered.

COLLECTION FROM THE FUND FOR THE STRENGTHENING OF THE INSPECTION, SURVEILLANCE, AND CONTROL OF LABOUR AND SOCIAL SECURITY (FIVICOT)	
Year	
2020	\$1.487.949.268 COP (€333.860,61 EUR) *
2021	\$2.898.091.240 COP (€650.263,11 EUR) *
TOTAL	\$4.386.040.508 COP (€983.957,34 EUR) *

\*Exchange rate: € 1 EUR = COP \$ 4.529,99 - Reference values of the Bank of the Republic: 18/01/22 Banrep.gov.co

### Information Reported by SENA

According to the information provided by SENA, Total fines listed in the National Learning Service – SENA as of December 31, 2021: 3611, the total collected in 2021 corresponds to \$3,640,164,903.00 COP (Approx. € 817.172,25 EUR), and capital receivable balance of fines listed in the National Learning Service – SENA as of December 31 - 2021, corresponds to \$ 71,608,478,165.00 COP (Approx. € 16.074.301,51 EUR).

#### 2.3.4. Developing and implementing a national inspection strategy

Annually, the Directorate of Inspection, Surveillance, Control and Territorial Management, through the Sub directorate of Inspection, prepares a comprehensive inspection plan each year, through which the development of the different inspection actions is planned, focusing its activities on the priority sectors identified in the action plan and on the sectors with high labour conflict detected by the territorial directorates through their labour risk analysis. For this work, goals are set for the Territorial Directorates which permanently report the results obtained.

In order to continue strengthening the national inspection strategy, the Directorate of IVC and Territorial Management with the accompaniment of the Military University of Colombia, developed three documents necessary to harmonize the IVC system of the Labour sector, which are:

- Inter-institutional Action Plan for the implementation of the public policy of IVC in labour matters that includes External Instances, Matrix of functions, goals and results, Value Chain and Internal Organizational Unit of IVC.
- National and Regional Map of Occupational Risk including the result for each of the 36-territorial headquarters with the document of indices of labour conflict by sectors of the economy.
- National Inspection Plan, structured in three basic pillars: Promotion, Protection and Prevention.

All this definition of strategy concluded with the formulation of the Public Policy of Inspection, Surveillance and Control of Work "Committed to decent work 2020 -2030" developing diagnostic activities, compilation of information and construction of lines of action to consolidate a System of Prevention, Inspection, Surveillance and Control of reliable, timely, strategic, preventive and proactive action with territorial relevance. This Policy was adopted by Resolution 345 of February 11, 2020, "By means of which the Public Policy of Inspection, Surveillance and Control of Work "Committed to decent work 2020 -2030" is adopted.

The integrity of public action is supported by the monitoring of the principles of public policy, so the main lines of action to be deployed in the execution of Public Policy are the following:

1. **LINE 1.** Towards a System of Prevention, Inspection, Surveillance and Labour Control: Reliable, timely, strategic, autonomous, with territorial relevance.
2. **LINE 2.** Generation of a new normative support for the regulation of the world of work and especially the development of the Labour Inspection and its functions.
3. **LINE 3.** Generation of management and governance mechanisms for the Prevention, Inspection, Surveillance and Control System.
4. **LINE 4.** Cultural transformation oriented towards respecting and guaranteeing workers' rights.
5. **LINE 5.** Promotion and strengthening of trade union freedoms and the right of association.
6. **LINE 6.** Strengthening of formalization and employment policies

From the previous development, each year proceeds to the construction of the Annual Inspection Plan, which seeks the development of the powers of labour administrative police of which the labour and social security inspectors are invested, under article 3 of Law 1610 of 2013 and article 486 of the CST.

To preparing the plan and setting the goals of the Territorial Directorates, the following information is taken into account:

- Number of inspectors (provided) who, in the performance of their duties, are authorized to carry out inspection visits. (Human Talent Office Report)

- Economic sectors prioritized by the Territorial Directors. (Occupational Risk Analysis).
- Percentage of incidence of the economic sector. (Occupational Risk Analysis)
- Critical sectors contemplated in Free Trade Agreements.

The guidelines established in the Annual Inspection Plan develop a series of objectives and principles with the focus of labour inspection, among which the following stand out:

#### Objectives:

- Expand the spectrum in the exercise of the functions of Prevention, Inspection, Surveillance and Control, in the face of new forms of relationship at work.
- Orient the Labour Inspectorate from a reactive – coercive model to a model that also integrates prevention, based on the promotion of rights, duties and social dialogue.

#### Principles:

- **Protective Principle:** The authorities must strive for the protection of the weakest part of labour relations, in order to generate conditions of equity and promote fair actions. The duty of protection of work by the State implies that the institutions generate and develop mechanisms that allow an agile and timely response capacity in the protection and guarantee of the exercise of both freedoms and rights, in the individual and collective relationship of work.
- **Social dialogue:** Dialogue between the State, workers and employers constitutes a fundamental strategy for the joint construction of a more just and equitable world of work, where diversity of interests, divergence and conflict find solutions in democratic deliberation and contribute to peacebuilding processes. The State, as responsible for and guarantor of workers' rights, shall strengthen its leading role within the framework of the governance of the functions of Labour Inspection.
- **Prevention:** The action of the Colombian State will be aimed at strengthening the mechanisms that ensure fair and dignified conditions in labour relations, for this purpose it will focus its action on a preventive approach that allows to face the risks of violation of the rights of workers.
- **Labour peace:** It is the development of decent working conditions for the guarantee of the balance of labour relations, building a scenario of equity and justice, in which workers and employers have guarantees for the exercise of their rights and the necessary conditions for the development of social dialogue.

These objectives specify the structuring axes of the IVC system of prevention and protection, because thanks to the preventive modality, social dialogue and the protective principle, it will be possible to detect possible violations of labour standards and adopt corrective measures in a more timely manner, in defines of workers' rights and labour legality.

It should be noted that the Constitution uses the terms inspection, surveillance and control, but neither the constituent nor the legislator has adopted a single definition applicable to all areas of law. In judgment C-570 of 2012, the



Constitutional Court concluded that the functions of inspection, surveillance and control are characterized by the following:

- The inspection function relates to the possibility of requesting and/or verifying information or documents held by the entities subject to control;
- Surveillance refers to the monitoring and evaluation of the activities of the supervised authority;
- Control in the strict sense refers to the possibility of the entity exercising the function of ordering corrective measures, which can lead to the revocation of the decision of the controlled party and the imposition of sanctions.

In the case of labour inspection, ILO Conventions 081 and 129 set out the powers of labour and social security inspectors, which are also applicable in Colombia:

“(i) Labour inspectors who duly prove their identity shall be authorised:

(a) to enter freely and without prior notice, at any time of the day or night, in any establishment subject to inspection;

(b) to enter any place during the day, when they have a reasonable reason to assume that it is subject to inspection; and

(c) to enter any place during the day, when they have a reasonable reason to assume that it is subject to inspection; and

(i) to question, alone or before witnesses, the employer or the staff of the company on any matter relating to the application of the legal provisions;

(ii) to require the production of books, records or other documents which national legislation on working conditions requires to be kept, in order to verify that they are in conformity with the provisions of law, and to obtain copies or extracts thereof;

(iii) to require the placement of notices required by legal provisions;

(iv) to take or take samples of substances and materials used or handled in the establishment, for the purpose of analysis, provided that the employer or his representative is notified that the substances or materials have been taken or removed for that purpose.

2. When carrying out an inspection visit, the inspector shall notify the employer or his representative of his presence, unless he considers that such notification would prejudice the success of his duties.”

The High Courts have indicated that the inspection function is related to the possibility of requesting and verifying information or documents held by the subjects to control, in order to collect the necessary evidence to determine if the investigated entities are complying with their legal obligations (Judgment C-165/19), so that in the actions of inspection

and surveillance may be required the presentation of accounting books and other private documents (Constitution Policy article 15 (4)).

In order to be able to identify and process the inspection actions that are part of the Annual Inspection Plan, the following classification criteria have been adopted:

CRITERIA	TYPE	DESCRIPCIÓN
By origin	Proactive	They are those initiated ex officio, without a complaint or external alert to the ministry.
	Reactive (complaint or complaint)	They are the actions initiated on the occasion of a complaint or an alert of violation of labour legislation.
By purpose	Preventive	They are aimed at advising workers and employers on the most effective way to comply with legal provisions. They seek the adoption of timely corrective and preventive measures so that labour standards are not violated or the violation ceases, as well as avoiding the escalation of conflicts, by facilitating spaces for dialogue between the parties and giving prior notice before proceeding with coercive actions.
	Protective	Actions for this purpose entail the act of protecting, favouring and defending the rights and guarantees of workers in accordance with Article 9 of the CST.
By the subject	Individual rights	The action falls on individual labour rights.
	Collective rights	Action falls on collective labour rights.
By the approach	Labour standards	The action falls on labour standards.
	Occupational hazards	The action falls on occupational risks.
By scope	General	They seek to establish the degree of compliance with labour standards in a general way. To this end, the most frequent violations have been identified for violation of obligations by employers.
	Specific	They focus on alerts of possible violation of labour standards, depending on the type of employer or activity that is carried out and also a functional issue of surveillance in regulatory compliance.
	Specialized	They fall on companies that carry out complex activities that require specialized knowledge to make a correct inspection, for example, in the hydrocarbons, mining, electrical, etc. sector.
By the Modality	Face-to-face	The action is carried out through a face-to-face visit to the place of execution of the employment relationship.
	Virtual	The action is executed through the channels available thanks to information and communication technologies.
	Documental	The action is advanced through requirements and responses made and given with documentary supports.
	Mixed	Inspection actions that combine face-to-face with documentary requirements.
By the executor	Singular	These are the actions carried out only by inspectors of the Ministry of Labour.



	Joint	They are the actions carried out in an articulated way with the participation of other public entities with competences over the inspected.
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## INDICATORS LABOUR LAW ENFORCEMENT

### 1) Summary of recently adopted regulations and legislation

#### Summary of recently adopted regulations and legislation 2021

- **Resolution 1126 of 2020.** By which the general conditions for the operation of the Family Subsidy System in the Transactional Affiliation System – SAT are defined. Chapter II. General rules of the operation of the Family Allowance System in the Transactional Affiliation System. Article 5. Operation of the Family Allowance System in the Transactional Affiliation System. Users registered in the web portal **¡Error! Referencia de hipervínculo no válida.** carry out the transactions of affiliation, report of news and queries to the SSF, according to the roles and levels of access that are assigned to them in accordance with the terms established in the current regulations.
- **Resolution 025 of 2021.** By which Article 10 of Resolution 1126 of 2020 is modified with the deadline for putting into operation the functionalities of the Family Subsidy System through the SAT. The deadlines established for the entry into operation of the functionalities of the Family Allowance System through the SAT are extended. Ministry of Health and Social Protection modifies the deadline for the entry into operation of the Family Subsidy System through the SAT, and establishes that during the first half of 2021 the process of validation and purification of affiliates to the family subsidy system will be carried out and from the second semester the functionalities will enter into operation.
- **Resolution 083 of 2021.** By which the guidelines for the incorporation of information and interoperability of the SAT Family Subsidy System are defined, with respect to the roles of employer legal person and employer natural person. This resolution highlights:
  - Obligations are established at the head of the CCF and employers.
  - The formats for reporting information are established.
  - It is determined that all entities involved in the access, registration, consultation, flow and consolidation of information (CCF and employers, especially), will be responsible for compliance with data protection regulations.
- **Resolution 772** of April 7, 2021 that establishes the guideline for the exercise of the preventive function in the modality of prior notice.
- **Resolution 0315** of 2021 establishes the new conformation of the Bogotá Territorial Directorate and guidelines for the application of the new structure.
- **Resolution 0996** of 2021 which establishes the guidelines to assign the coordinators of the Internal Working Groups of the Territorial Directorates and Special Offices and the Central Level, except for the General Secretary and its dependencies and the Office of the Minister and its dependencies of the Ministry of Labour.
- **Resolution 1369** of 2021 by means of which the agreements agreed in the collective bargaining 2021-2023 are adopted, concluding between the Trade Union Organizations and the Ministry of Labour.
- **Resolution 2232** of 2021 repealing Resolution 3999 of 2015 issued by the Ministry of Labour and defining the legal, technical and operational conditions for the provision and scope of management and job placement services.
- **Resolution 3162** of 2021 by which modifies and adopts the Specific Manual of the Operation and Labour Competences for jobs of the personnel plant of the Ministry of the Labour.



- **Resolution 3238** of 2021 amending and adopting the Specific Manual of Labour Functions and Competencies for employees of the personnel plant of the Ministry of Labour, in particular the functions of labour inspectors.
- **Resolution 3455** of 2021 which again assigns the competences to the Territorial Directorates and Space Offices and Labour Inspections.
- **Resolution 4277** of 2021 which adopts the equivalence between legal monthly minimum wages in force and units of tax value for the fines imposed by the Ministry of Labour.
- **Circular 0029** of 2021 defines the processing and collection of fines imposed by the Ministry of Labour for the Occupational Risks Fund.
- **Decree 144** of 2022 by which 355 positions of Labour and Social Security Inspector are created.

## 2) Labour Inspection

### a. Number of inspectors and the type of contract.

2017	2018	2019	2020	2021*
<b>68 Career</b>	68 Career	206 Career	600 Career	581 Career
<b>22 In Charge</b>	22 In Charge	20 in charge	8 in charge	9 in charge
<b>766 Provisional</b>	6 Trial Period 751 Provisional	404 Trial Period 239 Provisional	19 Trial Period 205 Provisional	36 Trial Period 256 Provisional 22 Vacancy

Source: Ministry of Labour, Sub directorate of Human Talent

\*As of December 17, 2021

### b. Number of inspectors participating in training.

2017	2018	2019	2020	2021
<b>869 Face to face quotas</b>	1.395 Face to face quotas	1.164 Face to face quotas 6.726 Virtual quotas	254 Face to face quotas 2.261 Virtual quotas	1.376 virtual quotas

Source: Ministry of Labour, Directorate of Inspection, Surveillance and Control (IVC)

### c. Number of inspections and investigations (total and separate for abusive subcontracting and collective use of collective pacts).

2017	2018	2019	2020	2021
<b>Preliminary Inquiries: 19,052</b>	Preliminary Inquiries: 14,592	Preliminary Inquiries: 13,999	Preliminary Inquiries: 10,146	Preliminary Inquiries: 13,390
<b>Sanctioning Procedures: 3,177</b>	Sanctioning Procedures: 3,056	Sanctioning Procedures: 2,584	Sanctioning Procedures: 1,376	Sanctioning Procedures: 2,006

Distribution Inspections by theme year 2021

PRELIMINARY INQUIRIES 2021 (January-December)	
LABOR INTERMEDIATION	3
ATTACKING BEHAVIORS	32

ADMINISTRATIVE INVESTIGATIONS 2021 (January-December)	
LABOR INTERMEDIATION	2
ATTACKING BEHAVIORS	19

Source: Ministry of Labour, Directorate of Inspection, Surveillance and Control (IVC)

d. *Average time to complete investigations*<sup>6</sup>.

2017	2018	2019	2020	2021
Up to 291 days by legal provision in sanctioning procedures where a preliminary investigation has not been carried out.	Up to 291 days by legal provision in sanctioning procedures where a preliminary investigation has not been carried out.	Up to 291 days by legal provision in sanctioning procedures where a preliminary investigation has not been carried out.	Up to 291 days by legal provision in sanctioning procedures where a preliminary investigation has not been carried out.	Up to 291 days by legal provision in sanctioning procedures where a preliminary investigation has not been carried out.

Source: Ministry of Labour, Directorate of Inspection, Surveillance and Control (IVC)

3) *Collection of Fines*

a. *Number and amount of fines imposed (total and separately for abusive subcontracting and misuse of collective agreements).*

2017	2018	2019	2020	2021
Number: 3.507 Executed Amount: \$27,869,262,803* (€ 6.253.572,84)*	Number: 3.334 Executed Amount: \$52,827,176,592* (€ 11.853.325,67) **	Number: 3.341 Executed Amount: \$28,044,732,496* (€ 6.293.257,48) **	Number: 1.639 Executed Amount: \$14,523,595,570* (€ 3.259.294,82) **	Number: 3.432 Executed Amount: \$25,374,054,248* (€ 5.693.997,30) **

<sup>6</sup> The average time shown in the indicator corresponds to the average value calculated on the standard defined in the Law, this is so, because the processes are subject to terms that escape the control of the Labor Inspectorate. However, if in addition to this value, you want to know the real average time in which the files are resolved from the beginning of the action until its completion, the average value at the date of this report is estimated at 547 days.

Non-Enforceable Amount: \$174,389,749,410* (€ 39.131.246,81) ** Labour Intermediation Amount: \$113,804,518,789* (€ 25.537.682,13) ** Amount of Labour Intermediation Executed: N/A Collective Pacts Amount: N/A	Non-Enforceable Amount: \$71,631,781,945* (€ 16.075.095,93) ** Labour Intermediation Amount: \$23,944,781,697* (€ 5.373.517,91) ** Amount of Labour Intermediation Enforced: \$15,709,041,638* (€ 3.525.311,59) ** Collective Pacts Amount: N/A	Non-Enforceable Amount: \$55,487,972,435* (€ 12.452.150,23) ** Labour Intermediation Amount: \$10,264,348,414* (€ 2.303.491,79) ** Amount of Labour Intermediation Enforced: \$1,622,723,454* (€ 364.166,34) ** Collective Pacts Amount: N/A	Non-Enforceable Amount: \$18,251,686,493* (€ 4.094.348,58) ** Labour Intermediation Amount: \$2,406,185,110* (€ 539.918,56)** Amount of Labour Intermediation Enforced: \$146,422,070* (€ 32.848,03) ** Collective Pacts Amount: N/A	Non-Enforceable Amount: \$41,696,970,689* (€ 9.357.108,71) ** Labour Intermediation Amount: \$ 2,985,978,104* (€ 670.017,01) ** Amount of Labour Intermediation Enforced: \$ 741,710,912* (€ 166.430,87) ** Amount of Collective Pacts: \$ 187,292,090* (€ 42.030,81) **
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**\*Values in COP (Colombian Pesos)**

**\*\*Exchange rate:** € 1 EUR = COP \$ 4.529,99 - Reference values of the Bank of the Republic: 18/01/22

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Source: Ministry of Labour, Directorate of Inspection, Surveillance and Control (IVC)

**b. Number and amount of collection of fines (total and separately for abusive subcontracting and misuse of collective agreements).**

2017	2018	2019	2020	2021
\$ 13.711.076.751 COP (€ 3.026.734 EUR) *	\$ 15.156.636.936 COP (€ 3.345.843 EUR) *	\$ 8.855.358.578 COP (€ 1.954.829 EUR) *	\$ 3.297.780.311 COP (€ 727.988 EUR) *	\$3.640.164.903 COP (€ 803.570 EUR) *

\*Reference Values Average Exchange Rate 18/01/22 Banrep.gov.co

Total, fines in the National Learning Service–SENA as of 31/12/21: 3,611

Capital balance for collecting fines in the National Learning Service-SENA at 31/12/21: \$ 71,608,478,165 COP  
(€ 15,807,645 EUR)\*

**\*Exchange rate:** € 1 EUR = COP \$ 4.529,99 - Reference values of the Bank of the Republic: 18/01/22

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Source: Ministry of Labour, Directorate of Inspection, Surveillance and Control (IVC)



### c. *Average time of collection of fines.*

In accordance with Resolution No. 2628 of December 2, 2020, by which the Internal Regulations of Portfolio Collection of the Ministry of Labour are adopted, the first part of the coercive collection process – known as the persuasive collection stage – has a maximum duration of 45 business days. (Point 2 of Chapter IV).

At this stage, the aim is to invite the debtor to cancel the obligations under his charge and in favour of the Ministry of Labour, voluntarily and in advance, either immediately or through the conclusion of payment agreement formulas.

The second part of the coercive collection process – known as the coercive collection stage – is the stage that seeks to obtain the immediate and expeditious collection of clear, express and enforceable obligations in favour of the Ministry of Labour, through the coercive collection powers that public entities have, in accordance with the Tax Statute. The decisions taken within it have the character of administrative acts of a particular, procedural or definitive nature, as the case may be, and are subject to the judicial control established in article 835 of the Tax Statute consistent with article 101 of the Code of Administrative Procedure and Administrative Litigation, only for those cases provided for by law.

In accordance with article 817 of the Tax Statute, the limitation period for the action to collect obligations in favour of the Ministry of Labour is five (5) years, which will be counted from the execution of administrative acts that contain legally enforceable obligations in favour of the Ministry of Labour.

Source: Ministry of Labour, Directorate of Inspection, Surveillance and Control (IVC)

## 3. COLLECTIVE BARGAINING

### 3.1. *Build a constructive framework for social dialogue by:*

#### 3.1.1. **Promoting a two-tier system of sectoral and firm-level negotiation, by elaborating the regulations on sectoral bargaining in the Labour Code;**

The collective convention, in Colombia, can be said to be a legal act of mandatory compliance between those who subscribe to it, that is, between those who are bound by an employment relationship, under penalty of incurring responsibility for its non-compliance, as provided for in article 468 of the Substantive Labour Code. That is, both the employer and the workers are obliged, as it is the fulfilment of agreements that result from collective bargaining, in which the guiding conditions of the employment contracts that continue in the head of each of the affiliates until the termination of the contract are established, an event in which the responsibility disappears.

#### 3.1.2. **Eliminating the option to negotiate collective agreements;**

For the Ministry of Labour, it is essential to guarantee social dialogue between tripartite actors, which is why a series of regulatory measures have been taken to improve the effectiveness of social dialogue and labour negotiations in the country. The Ministry of Labour issued Decree 1631 of 2021 by means of which it modifies the Single Regulatory Decree 1072 of 2015, in what has to do with the continuation of the rights recognized in collective agreements or that are contained in administrative acts. A guarantee is also established to comply with the agreements pending at the end of the validity of a collective agreement. Additionally, it regulates that, in the framework of collective bargaining with public employees, what is related to the principle of progressivity and the rule of non-regressiveness will be taken into account.

It is specified that Convention 98 does not require collective bargaining to be carried out only through trade unions, on the contrary, it determines that workers' membership of a trade union is voluntary. On the other hand, the recognition



of the right to collective bargaining totally excluding non-unionized workers would violate this same agreement by establishing an unjustified difference to the detriment of workers not represented by a trade union organization.

The use of legally authorized but sometimes misused schemes such as "collective bargaining agreements" and "union contracts" is being closely monitored, sanctioned when necessary and their impact on trade union association is under study in accordance with the considerations of the OECD, the United States and Canada.

The Ministry of Labour therefore issued administrative acts granting functions to the Special Investigations Unit to carry out investigations related to illegal subcontracting and misuse of Collective Pacts and Trade Union Contracts and by which the number of members of the Special Investigations Unit is increased to 15.

### **3.1.3. Extending collective agreements automatically to all employees of a company, not only to the members of the signatory trade unions (erga omnes);**

In Colombia, there is already a legal provision providing for what is recommended by the OECD within the Substantive Labour Code, as noted in Article 471 on extension to third parties:

1. Where a trade union whose members exceed one third of the total workers of the undertaking is a party to the collective convention, the rules of the convention extend to all workers thereof, whether unionized or not.
2. The provisions of this article also apply where the number of members of the trade union exceeds the limit indicated, after the signing of the convention.

### **3.1.4. Requiring multiple trade unions in the same company to form a bargaining team to ensure a single collective agreement;**

Despite the fact that a possible reform of collective bargaining processes by branch of economic activity and treatment of such negotiation by collective labour agreements with representative trade union organizations, applicable not only to the company but to economic groups, was discussed and analysed in the highest tripartite social dialogue table, such as the PERMANENT COMMISSION FOR THE CONCERTATION OF WAGE AND LABOR POLICIES, regions, economic sectors, and even nationally, are some of the proposals to the text of the project that would modify Decree 089 of 2014, which deals with social dialogue and negotiation in the private sector.

In Colombia, collective bargaining is the materialization of the right to trade union association, it is the most important scenario for organized workers in search of social and labour demands through the lists of demands.

With the issuance of Decree 089 of 2014, currently in force, the dynamics of the presentation of these specifications and their negotiating commissions are maintained when there are two or more trade union organizations in the same company. The decree aims to put an end to the alleged complications of collective bargaining with multiple unions without it being, under any circumstances transgressing freedom, autonomy, and union representativeness, but on the contrary, it attends to the principles of effectiveness, speed and efficiency to achieve the purposes of collective bargaining, generating specific in the dialogue in the conversations, generating uniqueness of the collective conflict.

The Colombian Government insists on generating more efficiency in the negotiations of the private sector, generating a space for joint and consolidated negotiation, to join forces between the employer and worker parties of the private sector under a single negotiation that covers the largest number of people benefited from the signing of agreements.

### 3.1.5. Giving the right to strike to higher-level trade union organisations

Article 417 of the Substantive Labour Code stipulates that ..." All trade unions have, without limitation, the power to join or join local, regional, national, professional or industrial federations, and these in confederations. Federations and confederations have the right {to recognition} of their own legal personality and the same powers as trade unions, except for the declaration of a strike, which is the exclusive responsibility, when authorized by law, of the respective trade unions or groups of workers directly or indirectly concerned."

*Protected by this legal prerogative, in a jurisprudential manner, as stated in the First Report Post Colombia's access to the Committee on Employment, Labour and Social Affairs of the OECD, the honourable Constitutional Court of Colombia by judgment C-797 of 2000, there is such a restriction, recognizing such protests to the unions, since within its objective are: represent the common interests of workers vis-à-vis the employer, which is manifested primarily in the integration of commissions of different kinds, in the appointment of delegates or commissioners, in the presentation of lists of demands, in collective bargaining and the conclusion of collective agreements and collective agreements, in the declaration of strike and the appointment of arbitrators in accordance with the provisions of articles 373 and 374 of the Substantive Labour Code.*

### 3.1.6. Ensuring that all workers, irrespective of the legal status under which they work, can join trade unions in practice;

The right of trade union association in Colombia is a fundamental right, which constitutes a form of the right of free association, as it consists of the free will or willingness of workers to formally constitute permanent organizations that identify them and unite them in defence of the common interests of profession or trade, without prior authorization of an administrative nature or the interference or intervention of the State or employers, as enshrined in articles 39 and 55 of the Constitution.

Corollary to the foregoing, the Government of Colombia ratifies the formation, affiliation, drafting of its own statutes and documentary deposit of trade union organizations, whatever the categorization of workers, whether dependent or independent.

Article 39 of the Constitution excluded only members of the security forces, to preserve their absolute impartiality, since the primary function they perform is the defence of sovereignty, independence, the integrity of the territory and the constitutional order.

It is worth noting that by Means of "Tutela" Judgment 7928 of 2020, the Supreme Court of Justice states that unions can be integrated by people who are linked through the modality of civil or commercial contracting that provide services to the same company.

On this different approach, in application of Convention 87, the High Corporation concludes:

*"Thus, the term 'workers' provided for in both rules must be understood in a broad sense and not limited to the category of 'salaried employees' or 'subordinates', so that, under that argument, it is iterated, independent workers cannot be excluded from enterprise unions, on pain of violating the right to freedom of association and equality. Interpretation that*

*is in harmony with what is enshrined in ILO Convention 87, an international instrument that has binding force and that is part of the constitutional block, within the domestic legal system."*

On the other hand, regarding **the "legal status under which they work"** it should be noted that the Constitutional Court in its Judgment C-1188/05 declared article 383 of the Substantive Labour Code enforceable, protecting their right to organize, on the understanding that it also applies to those workers over 12 years of age and under 14 years of age, if they work exceptionally under special conditions of protection.

*It is like this, as .... "The Court will declare the constitutionality of the norm, on the understanding that this provision also applies to workers over 12 years of age and under 14, as long as they work exceptionally under special conditions of protection. There is therefore no reasonable criterion for a normative classification, in which a group of workers is discriminated against, even more so if it is children who are guaranteed their rights in a primary way. The essential requirement of social law as has been seen is the need to participate in the protection of their rights that would be none other than those that can only be guaranteed collectively..."*

Finally, we ratify the guarantee that workers who have missionary linking, through legalized labour intermediation companies such as the so-called 'temporary' ones, do have the right to join a union. In addition, temporary service agencies are obliged to negotiate the lists of demands submitted by workers who have sent on mission to the companies that hired their services and who are part of an industrial union.

### 3.1.7. Systematically collecting data on collective bargaining to track evolution.

With the support of the Government of Canada, the register on collective bargaining in companies is under development to track evolution.

In accordance with this, the Ministry of Labour has been developing the SINDICAL FILE INFORMATION SYSTEM – SIAS, which has as its main characteristics:

- Development and implementation of SIAS to ensure the protection of trade union rights provided for in the Colombian Constitution and Laws.
- Coverage: National for approximately 12,350 Trade Union Organizations.
- Annual growth rate: 10 to 15% by new Organizations or addition of existing information.
- Contracted organization: National Digital Government Agency – MINTIC Colombia and the International Labour Organization.
- Start and End Date: September 2019 – December 2021.
- Project status: Final tests, MINTRABAJO user training, implementation.

#### Benefits of SIAS:

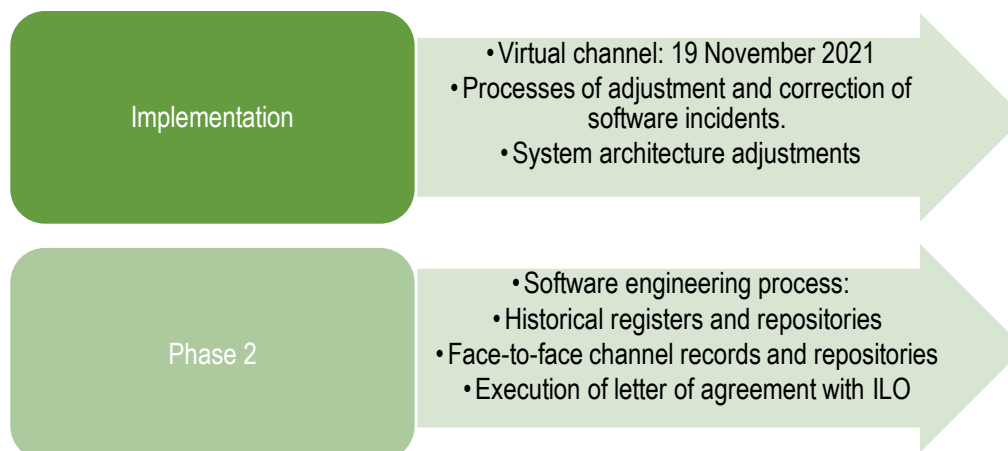
- Create Trade Union Organizations.
- It maintains reliable information about its statutes, pacts, agreements, agreements, contracts and other actions.
- Issues all certifications required by Trade Union Organizations.
- Generates reports and statistics on the subject.

#### General advantages:

- In-line modular system supported by state-of-the-art technologies.



- Structure based on microservices.
- Oriented to the direct management of users of Trade Union Organizations.
- Simplification and speeding up of formalities.
- Instant information generation



**3.2. In addition, Colombia should reflect on alternatives to the full prohibition of strikes in essential services (e.g. strikes conditioned on a minimum-service requirement) and consider reintroducing mediation in the collective dispute resolution process.**

The Government of Colombia has guaranteed the right to strike as one of its rights enshrined in article 56 of the Constitution. This right is closely related to the constitutional principles of solidarity, dignity and participation (CP art. 1) and to the realization of a just social order (CP art. 2), which is why it fulfils fundamental purposes for the social rule of law such as: balancing relations between employers and workers, resolving collective economic conflicts peacefully and materializing respect for human dignity and workers' rights.

In this sense, the strike is fundamental for the formation of a democratic, participatory, and pluralistic State, since it arises from the need to conduct labour conflicts through democratic channels.

It has also been pointed out that the strike is a right that responds "to the public utility, to the general interest of a State that conceives itself as a social, constitutional and democratic State of Law, insofar as it is aimed at making effective

the rights of the vast majority of salaried workers and seeking a greater balance, justice and equity in labour relations typical of a capitalist economic model based on labour-capital dynamics.

Thus, the Ministry of Labour, through the different spaces of social dialogue, has accompanied strikes in essential public services, such as in the health sector (Hospital San Francisco de Asís, Hospital Rosario Pumarejo de López) giving scope of application to Sentence 1680 of 2020, due to causes attributable to the employer, for non-payment of wages and social benefits, without the prior procedures of articles 444 and 445 of the C.S.T. This criterion changes when considering the strike is possible in the minimum services.

### 3.3. With better social dialogue and reinforced collective bargaining, Colombia could consider a gradual adjustment of the very high minimum wage to bring it back to its original role of wage floor instead of wage norm.

#### From a conceptual scope

The Minimum Wage in Colombia *"is the one that every worker has the right to receive to provide for their normal needs and those of their family, in the material, moral and cultural order."* (article 145 of the Substantive Labour Code)

Then the minimum wage is the minimum amount of remuneration that an employer is obliged to pay its workers for the personal provision of the service for a certain period and that allows to meet their needs and those of their family. Therefore, the minimum wage has 4 purposes:

1. Guarantee the Worker that lower wages are not paid that affect their fundamental rights.
2. Guarantee the purchasing power of workers.
3. Guarantee the vital and mobile minimum and the dignified life of the workers.
4. Overcoming poverty rates and reducing inequality.

The minimum wage in Colombia, in accordance with the current legal provision, is unique for the entire national territory and fixed for each year.

#### From a legal and jurisprudential field

The minimum wage in Colombia applies from the following regulations:

**Article 25 of the Political Constitution of Colombia:** Establishes that Work is a Right and a Social Obligation and enjoys all its modalities of special protection of the State ...

-. **Article 53 of the Political Constitution of Colombia** establishes as one of the fundamental minimum principles in labour matters a minimum vital and mobile remuneration proportional to the quantity and quality of work.

**Article 145 of the Substantive Labour Code:** *"Minimum wage is that which every worker has the right to receive in order to meet his normal needs and those of his family, in the material, moral and cultural order."*



It also establishes that in order to set the minimum wage, the cost of living, the modalities of work, the economic capacity of the employer and the conditions of each region and activity must be taken into account.

**Ley 278 of 1996:** By means of which the Permanent Commission for the Concertation of Wage and Labour Policies is created, established in article 56 of the Political Constitution. Among its functions is to set in a concerted manner the minimum wage of a general nature, considering that a decent quality of life must be guaranteed for the worker and his family.

Article 8 of Law 278 of 1996 provides:

**"ARTICLE 8.** *The decisions of the commission shall be taken by consensus. The vote of each representative sector shall be that of a majority of its members.*

**PARAGRAPH.** *For the fixing of the minimum wage, the commission must decide no later than the fifteenth (15th) of December. If it is not possible to conclude, the party or parties who do not agree must, compulsorily, explain in writing the reasons for the proviso within forty-eight (48) hours. The parties have the obligation to study these caveats and to establish their position vis-à-vis them within the next forty-eight (48) hours. Again, the commission must meet to seek consensus according to the elements of judgment that had been received before the thirty (30) of December.*

*When consensus is definitely not reached in the setting of the minimum wage, for the immediately following year, no later than December thirty (30) of each year, the government will determine it taking into account as parameters the inflation target of the following year set by the Board of the Bank of the Republic and the productivity agreed by the tripartite productivity committee coordinated by the Ministry of Labour and Social Security; in addition, the contribution of wages to national income, the increase in gross domestic product (GDP) and the consumer price index (CPI)."*

In Colombia, to date, there has been no reform since the issuance of Law 278 of 1996 regarding the methodology, calculation, and procedure for setting the minimum wage.

The Salary Readjustment in Colombia is carried out recognizing the loss of purchasing power of money and is updated every year. The annual adjustment is carried out in accordance with the factors set forth in article 8 of the Law 278 of 1996, i.e. the CPI, GDP, productivity and the contribution of wages to national income, in addition to factors set out in national case-law (judgment C-815 of 1999).

In such a way that the norm indicates what is the procedure and the respective stages that must be evacuated to fix in a concerted manner the Legal Minimum Wage in force for each annuity. In this sense, the Permanent Commission for the Coordination of Wage and Labour Policies must meet as many times as appropriate, until December 15 of each year, to try to seek consensus on the percentage increase in the salary allocation that will govern the following year.

If there is no such agreement as to the salary amount, the parties that do not agree must express in writing the reasons for their disagreement so that, no later than December 30, the Permanent Commission of Concertation seeks to reach a consensus. However, the rule provided that if until December 30 of each year there is no agreement on the subject, it will be the Government who will establish it based on parameters such as the inflation target of the following year, labour productivity, the contribution of wages to national income, the increase in GDP and the CPI of the year that ends.

The regulations for setting the minimum wage were the subject of a constitutional study through Judgment C-815 of 1999, in which the Honourable Constitutional Court took up the criteria contemplated in the norm to conclude that these are the parameters that must be considered to set the minimum wage within the subsidiary power that falls on the National Government.

On that occasion the Corporation expressed:

(...)

*"Thus, a legal provision that obliges the Government to translate the periodic increases in the minimum wage on the sole basis of inflation calculated, planned or programmed for the following year would violate the Constitution, forgetting the real inflation that has taken place in the previous year and that has effectively affected the income of workers.*

*Moreover, the Court agrees with the statement made by the Office of the Inspector General of the Nation that the Government, in the hypothesis of the norm, must weigh the factors contained in it, but that, in any case, the salary adjustment that it decrees can never be lower than the percentage of the CPI of the year that expires. And this is because, as the Public Ministry says, the Government is obliged to ensure that the salary maintains its purchasing power, in such a way as to guarantee the vital and mobile minimum to the workers and those who depend on them. Otherwise, it violates article 53 of the Constitution.*

*It happens that the substantive provision of the process is not limited exclusively to the expressions demanded but contains other elements no less essential for its understanding and effects, which are incorporated into the contested to form a set of parameters and factors that the Executive must take into account when setting the minimum wage, and that this Corporation must also consider to establish its constitutionality.*

*According to the above, the contested legal fragment cannot be read in isolation, decomposed or removed from the context of the article, which must be understood and applied in a way that offers a comprehensive meaning. That is, the inflation expected for the following year cannot be the only factor on which the Government's motivation to set the amount of the new minimum wage is based. This must progress, to maintain and increase the purchasing power of the currency in the hands of the workers, taking into account, with the same importance and incidence, the other parameters that the accused article contemplates: the real inflation of the period that ends, measured through the Consumer Price Index (CPI), which indicates the minimum of the increase, as said; the productivity agreed by the Tripartite Productivity Committee coordinated by the Ministry of Labour; the contribution of wages to national income and the increase in gross domestic product (GDP); all this must be included in the express motivation with support in which the Government decree is issued and oriented in the light of the constitutional principles that have already been recalled."*

(...)

As explained in the related judgment, for the determination of the salary allocation all the factors provided for in the norm must be considered and not only one of them. The factors for the determination of the Minimum Wage should not be understood in an additive way, because neither jurisprudence nor the law make such an interpretation. These factors are as follows:

1. **CONSUMER PRICE INDEX -CPI-** The price index in the economy. The Commission notes this indicator as follows:

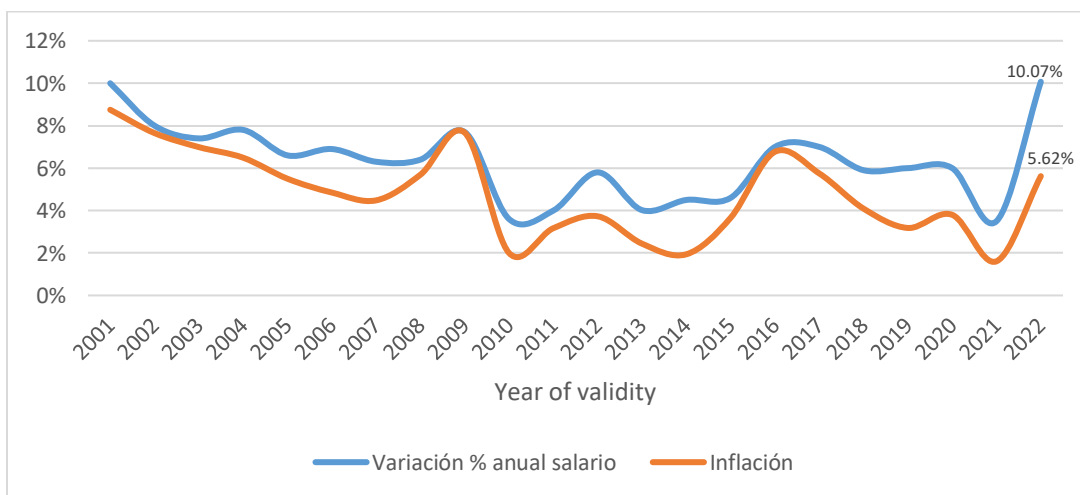


- a. CPI calendar year January – November of the year in which it is traded.
  - b. Inflation projection for the current year and the following year set by the Board of the Bank of the Republic.
  - c. Annual CPI: by order of the Council of State, the decree must be motivated not only by reacting the CPI year run but also the annual CPI or last 12 months that is also published by the National Administrative Department of Statistics (DANE).
2. **VARIATION OF LABOR PRODUCTIVITY:** The labour productivity data taken by the Permanent Commission of Concertation is the Total Productivity of the Factors and is calculated based on the KLEMS methodology (Kapital, Labour, Energy, Material, Services) which was adopted since 2019 by Colombia through DANE.
  3. **GROSS DOMESTIC PRODUCT:** The series of Gross Domestic Product that is taken, incorporates the data of the GDP observed for the period January – November, as well as the data of the GDP projected for the year in process.

It can then be determined that, at the time of setting the minimum wage, the concept of minimum, vital and mobile wage has always been respected, understood as an allowance that is in accordance with the decent living conditions of the worker and that maintains his purchasing power. In other words, the minimum allowance that assures the worker his basic needs and that is adjusted annually according to the variation of the cost of living. Therefore, it cannot be concluded that in Colombia such an allocation is high, since it obeys a series of parameters that cannot be ignored, under penalty of incurring in breach of the norm.

However, from the economic point of view, it should be mentioned that the variation in the minimum wage has always been above the percentages of inflation observed annually as shown in Graph 1. This does not imply, in any way, that this allocation has a high behaviour, but that the annual determination of the amount of the salary has always respected the minimum parameters to ensure that the purchasing power of the workers' money is not lost, according to the level of prices to the economy and the variation of productivity.

**Graph 1: Last 15 years' variation between minimum wage and consumer price index.**



Source: DANE, CPCPSL Technical Secretariat.

It should be reiterated that the fixing of the minimum wage in a concerted or unilateral manner obeys the aforementioned factors, being important to mention that historically a minimum wage has been defined that is above the CPI, that is, the minimum wage always fluctuates according to the variation of the CPI, this ensures the conservation of the purchasing power of workers.

### From the Social Dialogue

Under the provisions of Law 278 of 1996, the negotiation of the minimum wage is a function that corresponds to the Permanent Commission for the Coordination of Wage and Labour Policies, a body composed in a tripartite manner of employers, workers, and the National Government.

Between November and December of each year, the Permanent Commission for the Coordination of Wage and Labour Policies meets not only to approve the negotiation heater in a tripartite manner but to make every effort to reach an agreement on the minimum wage for the following year. These actions of guarantee in the social dialogue are essential steps to maintain good relations between the parties as they want an agreement to be reached or not. In addition, the foregoing occurs in compliance with Convention 144 of the International Labour Organization on "tripartite consultation" that we have ratified with that organization to promote and strengthen tripartite social dialogue in scenarios or decisions of national relevance or impact such as the fixing of the minimum wage.

Since the Permanent Commission for the Coordination of Wage and Labour Policies was created, agreement has been reached eight times for the fixing of the minimum wage in Colombia. The remaining fourteen, although social dialogue between the parties was guaranteed and all possible efforts were made within a framework of good relations between employers and trade unions, no agreements were reached. See Table 1.

The last agreement reached by the Permanent Commission for the Concertation of Wage and Labour Policies was in December 2021, which agreed to an increase in the minimum wage in the sum of TWO HUNDRED AND TWENTY THOUSAND AND SEVENTY-FIVE EUROS ( 220.75 EUR / \$1,000,000), which represents an increase of 10.07% for the 2022 term, said proposal was condensed into Decree 1724 of December 15, 2021, which decreed the minimum wage in force for the year.

The agreement of the minimum wage in force for the year 2022, is a clear example of the commitment of the purpose of the National Government to promote Social Dialogue and give relevance to this tripartite instance of Constitutional character

### INDICATORS OF COLLECTIVE BARGAINING

#### i. Overview of newly adopted regulations and legislation;

#### Summary of Regulations and Legislation 2021

There is not additional information compare to the First Pots-accession Report.

#### ii. Number of collective agreements in the private sector and in the public sector (total and newly signed);

Collective agreements				
2017	2018	2019	2020	2021

<b>Private Sector</b>	380	490	572	194	273
<b>Public Sector</b>	431	314	314	314	311
<b>Total</b>	911	804	886	987	584

Source: Ministry of Labour, Directorate of Inspection, Surveillance and Control (IVC)

**iii. Number of workers covered by collective agreements in the private sector and in the public sector;**

It is important to note that in the private sector they are called Collective Conventions (*Convenciones Colectivas*) and in the public sector they are called Public Sector Collective Bargaining Agreements (*Acuerdos Colectivos de Negociación del Sector Público*) and have different regulations.

TYPE OF DEPOSIT	PRIVATE	PUBLIC
<b>COLLECTIVE CONVENTIONS</b>	271	8
<b>COLLECTIVE BARGAINING AGREEMENTS</b>	2	303

The collective bargaining of the public sector with all the central offices of the country that allowed to benefit about 1,200,000 public servants. However, it is not possible to specify the number of workers covered in the private sector since the Trade Union Archiving Group does not keep a record of this information.

**iv. Number of collective pacts in the private sector and in the public sector (total and newly signed);**

Collective Pacts					
	2017	2018	2019	2020	2021
Private Sector	141	192	203	90	114

It is important to clarify that only in the private sector are collective pacts signed. The Trade Union Archive does not keep a register of benefited workers.

**v. Number of workers covered by collective pacts in the private sector and in the public sector;**

The Trade Union Archives does not keep records of workers covered by collective agreements.

**vi. Number of arbitration tribunals convened and resolved**

2017	2018	2019	2020	2021
38	89	87	64	126

Source: Directorate of Inspection, Surveillance and Control

**vii. Number of strikes and duration;**

The OBSERVATORY OF SOCIO-LABOUR CONFLICTS - OCSL collects data on events such as strikes, although it is clarified that they are not official data, because open sources are included in the collection. In this sense, I consider the inclusion, in the section on collective bargaining, which deals with social dialogue indicators, of some data:

- The Directorate of Fundamental Rights has an Observatory of Socio-labour Conflicts, an internal tool for information, characterization, and analysis, which offers inputs to assist in the management of socio-labour conflict in the Ministry of Labour; performs permanent monitoring of conflict events on social networks, websites, press and alternative information portals; It also has, as a source of information, the reports of the directorates and territorial offices of the Ministry of Labour. The OCSL records the information in the SIOC information platform, where the events of interest of the Ministry of Labour are recorded, they are classified according to their origin (causes), sector (according to the actor that must meet the demands or claims), scope and geographical location and type of event.
- In 2021, 2300 events were recorded, the information was systematized and classified in the SIOC information system, which served as an input to produce reports in the required time periods.
- In 2021, the OCSL prepared 48 weekly reports, 11 monthly reports and a final report on national and regional socio-labour conflict, which were sent to the different instances of the Ministry of Labour with competence in dealing with conflicts: office of the Minister, Vice Ministry of Labour Relations and Inspection, Directorate of Inspection, Surveillance and Control and Directorate of Fundamental Rights. Days of socialization of the characterization of events of socio-labour conflict were carried out before 1. the links of the observatory in the territorial offices of the Ministry of Labour, 2. the IVC Directorate 3. the Directorate of Fundamental Rights - Sub directorate for the Promotion of Social Organization. 4. The Directorate of Fundamental Rights and ETH team.
- The OCSL has links in all the Territorial Directorates and Special Offices of the Ministry of Labour and carries out permanent training to all the links for the report of conflict information to the observatory and the loading of information on its SIOC information platform. In 2021, 6 meetings were held to update the protocol for the use of the Information System of the Conflict Observatory - SIOC (which was socialized in 2020) and technical assistance; There the guidelines for loading information into the system were reinforced: type of information that is loaded, indications for the classification of events and writing, among others, and users were updated, according to confirmation of the DT; these spaces had the participation of 43 delegates from 29 directorates and territorial offices.

viii. *CETCOIT: Number of active cases and their stages, and number of closed cases and their results.*

CASES PER YEAR	AGREEMENT	NO DEAL	PENDING	TOTAL CASES	% EFFICIENCY PER YEAR
2017	11	8	0	19	58%
2018	12	4	0	16	75%
2019	19	1	0	20	95%
2020	12	1	7	20	60%
2021	14	0	10	24	59%



TOTAL	68	14	17	99	68%
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Source: Directorate for Fundamental Rights

## 4. CRIMES AGAINST TRADE UNIONISTS

### 4.1. Draw up a zero vision for violence and homicides against trade unionists through an adequate plan of further reforms and actions in line with ratified ILO conventions.

In compliance with the institutional commitment to prioritise attention to the victimisation of specific populations such as human rights defenders and trade unionists, the Office of the Attorney General of Colombia continues to implement the strategies described in the first monitoring report submitted to the OECD in 2021. As reported in the first progress report, addressing victimisation against these populations is an institutional objective defined in the Strategic Direction Plan 2020-2024 "Results on the Street and in the Territories".

The Office of the Attorney General of Colombia continues to implement the institutional tools and mechanisms to address each crime according to its particularities, as well as to strengthen the Strategy for the Investigation and Prosecution of homicides against trade unionists and human rights defenders, including trade union leaders<sup>7</sup>. In terms of threats, as will be reported in this document, the entity adopted working measures that allowed the strengthening of the institutional response to this phenomenon.

In 2021, the Office of the Attorney General of Colombia was aware of 11 cases of homicides against trade unionists, 1 case is known by the authorities of the Special Indigenous Jurisdiction, 10 are being investigated in the ordinary jurisdiction and, so far, investigative progress has been made towards the clarification<sup>8</sup> of 30% of the cases.

Finally, the Office of the Attorney General of Colombia continues to monitor the crime of violation of the rights of assembly and association, deploying actions for its procedural promotion, as well as for the qualification of the prosecutors' knowledge.

<sup>7</sup> In certain circumstances, unionized people may have a dual status. On the one hand, they have access to constitutional protection for being members of unions, this condition is only verified with affiliation to any union. On the other hand, in addition to being affiliated with the union, they can carry out work to promote and defend human rights; In this case, in addition to being a trade unionist, they will be considered a human rights defender, in accordance with the provisions of the United Nations Resolution on Human Rights Defenders. In this sense, it is important to clarify that not all unionized people have this double condition, since it only applies to those who carry out activities in defense of human rights. This is why some cases of homicide are reported by the organizations that follow the behavior of homicides against unionized people – regardless of the leadership – while others are reported by those that follow the behavior of homicides against human rights defenders. ; Sometimes, several victims are reported from both perspectives, as trade unionists and as defenders.

<sup>8</sup> The indicator of progress in clarification includes only those cases in which the Prosecutor's Office has been able to determine the conditions of the manner, time and place in which the events occurred, has identified the alleged perpetrator and, at a minimum, has managed to get a Judge of the Republic authorizes the arrest warrant. This indicator includes cases in the investigation stage with a valid arrest warrant, imputation, trial and in which a conviction has been issued or they have been precluded due to the death of the accused.

## 4.2 Further strengthen the protection programme for trade union members and leaders by:

### 4.2.1 Maintaining adequate financial resources for the National Protection Unit;

#### Budget for the National Protection Unit.

VALIDITY	CURRENT APPROPRIATION	BUDGET EXECUTED
2017	634.002.488.671	615.461.317.271
2018	830.363.870.243	741.385.075.517
2019	975.657.602.251	895.509.800.644
2020	1.108.813.887.817	943.342.871.883
2021	1.269.738.717.016	1.002.256.031.957

#### Budget allocated for the protection of trade unionists.

YEAR	CURRENT APPROPRIATION NPU	BUDGET FOR THE PROTECTION OF TRADE UNIONISTS	%
2017	634.002.488.671	54.149.635.293	9%
2018	830.363.870.243	42.889.000.054	5%
2019	975.657.602.251	39.986.188.070	4%
2020	1.108.813.887.817	37.452.967.731	3%
2021	1.269.738.717.016	33.936.648.164	3%

- Risk level assessments- Year: 2012 to 2021:

NUMBER OF RISK LEVEL ASSESSMENTS CARRIED OUT-TRADE UNIONISTS							
Year	WEIGHTING						TOTAL
	EXTRAORDINARY		EXTREME		ORDINARY		
2012	281	37%	0	0%	478	63%	759
2013	204	37%	1	0%	342	63%	547
2014	349	62%	0	0%	218	38%	567
2015	324	69%	0	0%	144	31%	468
2016	235	65%	0	0%	124	35%	359
2017	273	57%	1	0%	209	43%	483
2018	280	63%	0	0%	167	37%	447
2019	149	60%	0	0%	100	40%	249
2020	168	60%	3	1%	111	39%	282
2021	199	51%	2	1%	191	49%	392
<b>TOTAL</b>	<b>2462</b>	<b>6</b>	<b>7</b>	<b>0</b>	<b>2084</b>	<b>4</b>	<b>4553</b>

**Source:** Consola SER. Sub directorate of Risk Assessment, Cut-off date of January 1 from 2012 to December 31, 2021.

- **Type of Study Conducted Year 2021:**

SUBPOPULATION	TOTAL
3.1 Trade Union Leader	363
3.2 Trade Union Activist	29
<b>TOTAL</b>	<b>392</b>

**Source:** Consola SER. Sub directorate of Risk Assessment, Cut-off date of January 1

TYPE OF STUDY	TOTAL
Return by CERREM	8
Risk Assessment Other Application	47
Risk assessment first time	110
Re-evaluation by temporality	202
Revaluation by Supervening Facts	25
<b>TOTAL</b>	<b>392</b>

**Source:** Consola SER. Sub directorate of Risk Assessment, Cut-off date from January 01 to December 31, 2021.

- **Risk level assessments based on threat, by: Origin:**

ORIGEN	AÑO 2021
UNKNOWN	230
ILLEGAL ARMED GROUP	20
ARMED SUBVERSION	2
COMMON CRIME	3
ORGANIZED CRIME	2

**Source:** Console SER. Risk Assessments Sub-Directorate, Period: January 1st 2021 to December 31th 2021.

Information that rests in the databases of the Group for the Implementation of Measures, in relation to the union leader beneficiaries, who have protection measures implemented for the years 2018, 2019, 2020 and 2021.

BENEFICIARIES WITH IMPLEMENTED PROTECTION MEASURES POPULATION RISK 3. UNION LEADERS									
POPULATION	NUMBER OF BENEFICIARIES WITH IMPLEMENTED MEASURES	MEDIA	VESTS	ALARMS	MEN OF PROTECTION	ARMoured VEHICLES	CONVENTIONAL VEHICLES	TRANSPORT SUPPORT	RELOCATION
2018	73	74	57	23	40	7	7	0	3
2019	77	53	50	24	56	11	15	0	2
2020	119	17	40	15	28	7	11	6	5
2021	44	28	39	6	51	11	8	0	0



Total overall	313	172	186	68	175	36	41	6	10
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**Union leaders and Activists with protective measures.**

YEAR	NUMBER OF BENEFICIARIES WITH MEASURES	FEMALE	MALE	COLLECTIVE
2018	371	38	333	-
2019	299	36	263	-
2020	296	34	262	-
2021	256	29	226	1

Source: National Protection Unit

**4.2.2 Implementing, in close collaboration with trade unions, the recently developed collective protection mechanism for at-risk trade unionists.**

PROTECTION REQUEST ATTENDED - COLLECTIVE ROUTE			
YEAR	ROUTE START		TOTAL
	NO	YES	
YEAR 2017	0	0	0
YEAR 2018	16	2	18
YEAR 2019	8	0	8
YEAR 2020	11	0	11
YEAR 2021	26	0	26
OVERALL TOTAL	61	2	63

Source: Citizen Service Group. Period: January 1st 2021 to December 31th 2021

**Union organizations that have requested a collective protection route:**

NAME OF THE GROUP	STATUS
Colombian Federation of Education Workers- FECODE	WITHDRAWAL
National Union of Agricultural Industry Workers - SINTRAINAGRO	CLOSED
National Ethnic Union of Workers of the Educational Sector of Colombia - SINETRASECOL	WITHDRAWAL
Confederation of the Colombian Labour Trade Union CENTRAL C.T.U. USCTRAB	OPEN
Norte de Santander Sub directorate, Unitary Central of Workers (CUT)	OPEN
Colombian Association of flight attendants and others	OPEN

Source: National Protection Unit

### **4.3 Demonstrate progress in reducing impunity rates for both violence and threats against trade unionists and crimes against the right to freedom of association and collective bargaining by:**

#### **4.3.1. Ensuring that investigations of crimes against trade unionists are a priority for the government and maintaining the Elite Group responsible for the investigation of crimes against trade unionists in the Prosecutor General's Office.;**

The Office of the Attorney General of Colombia, continues with the implementation of the different strategies described in the report submitted in the year 2021, the strategy of investigation and prosecution of crimes against human rights defenders and the monitoring of homicides committed against trade unionists, continue to be a priority issue for the institution.

During the year 2021, in addition to the agencies mentioned in the previous report, the Special Investigation Unit was supported in the attention of some cases of homicides against trade union leaders, in the framework of the implementation of the strategy for the investigation and prosecution of crimes against human rights defenders. The Delegate for Territorial Security continued with homicide cases in which the person belonged to a trade union, but did not exercise any type of leadership work.

In the procedural results for the crime of homicide against trade unionists, the cumulative behaviour of this crime from 1 January 2017 to 31 December 2021 will be explained in detail.

#### **Budget**

As indicated in the previous report, the Office of the Attorney General of Colombia does not have a budget allocated to specific programmes or issues. The entity's budget is allocated to two main areas: operation and investment.

With regard to the functioning of the entity, for the year 2021 the Attorney General's Office had a budget of 4,056,603,300,000 COP (approximately 924,476,595 Euros<sup>9</sup>). With these resources, the entity must cover staff costs, procure goods and services, finance the victim and witness protection programme, pay the social benefits of the Office's employees, and pay judgments and conciliations.

It is important to note that this information is public and can be consulted by anyone. In the particular case, the Attorney General's Office, in accordance with article 74 of Law 1474 of 2011 and article 9 (b) of Law 1712 of 2014, publishes information on the budget, budget execution and financial statements on its website: <https://www.fiscalia.gov.co/colombia/transparencia-y-acceso-a-informacion-publica/#1519681728030-88388c84-a4a4>

As mentioned in the explanation of the strategies, the investigation and prosecution of crimes committed against union members involves the cooperation of several units. This is because the exercise of criminal action in these cases requires coordinated and articulated action by the whole institution, and in this sense, it is very difficult to quantify the budget allocated to the implementation of the Strategy, given that it occasionally involves some officials who support the work of the prosecutors assigned to know the subject matter.

<sup>9</sup> Exchange rate 25 February 2022, 4,388 COP to 1 Eur.

#### 4.3.2 Demonstrating tangible progress in the resolution of all crimes against trade unionists, securing convictions where appropriate.;

##### I. Homicide against trade unionists

###### - Investigative advances

The Attorney General's Office was informed of 98 cases involving 100<sup>10</sup> trade unionists who were victims of homicides, and is investigating a total of 95 cases involving 97 victims<sup>11</sup> in the ordinary jurisdiction. These events occurred between 1 January 2017 and 31 December 2021. The implementation of the Entity's investigative strategies has allowed progress to be made in the clarification of 43.16% (41 cases) of homicides as follows:

- 13 cases in execution of sentences with 16 sentences.
- 16 cases on trial
- 3 cases with indictments
- 8 cases under investigation with arrest warrant in force
- 1 case precluded

It is important to note that the procedural progress is reported with a cut-off date of 31 December 2021, i.e. a case that occurred in 2017 has had a longer investigation period than a case that occurred in 2021.

It is important to remember that during 2017 to 2021 for homicides committed against trade unionists, 16 sentences have been handed down in 13 cases. However, during this same period, the Attorney General's Office has spared no effort in continuing investigations for events prior to 2017, and 156 convictions have been handed down for homicides against trade unionists.

For the analysis, the association of cases and the design of investigative projects that it consolidates to address complex situations, the Attorney General's Office uses a methodology for the investigation of homicides attributable to criminal organisations designed by the Special Investigation Unit. This methodology is part of the strategy for the investigation and prosecution of crimes against human rights defenders and is currently being applied by the entity to other specific populations.

The methodology is composed of three parts: progress in clarification, sustainability and consolidation:

- a. Investigative progress towards clarification<sup>12</sup>: this is the first step of the investigation and consists of clarifying the homicides that occur against specific populations, identifying the perpetrator of the conduct and, if

<sup>10</sup> This data was obtained from a consultation carried out by the Sub-Directorate of Policies and Strategy in the SPOA information system and the comparison of the information with the Sectional Directorates of the Prosecutor's Office, reports from the National Trade Union School and corroboration by the Ministry of Labour through the trade union register.

<sup>11</sup> One of the cases reported was closed on the grounds that the conduct was atypical, i.e. in accordance with Article 79 of the Colombian Code of Criminal Procedure, "When the Prosecutor's Office becomes aware of a fact for which it finds that there are no grounds or factual circumstances that allow it to be characterised as a crime, or indicate its possible existence as such, it shall order the proceedings to be closed. However, if new evidence emerges, the investigation shall be resumed as long as the criminal action has not been extinguished". For this reason it will not be considered in the statistics. Additionally, two cases are being investigated by the Special Indigenous Jurisdiction.

<sup>12</sup> The indicator of progress in clarification only includes cases in which the Prosecutor General's Office has been able to determine the conditions of manner, time and place in which the events occurred, has identified the alleged perpetrator and, at the very least, has been able to get a judge to authorise the arrest warrant. This indicator includes cases in the investigation stage with an arrest warrant in force, indictment, trial and those in which a conviction has been issued or which have been precluded due to the death of the accused.



applicable, his or her co-perpetrators, the criminal organisation responsible (if applicable) as well as the conditions of manner, time and place in which the events occurred. At this point, the characterisation of the victim through the victimological profile has become of paramount importance in the framework of the Strategy.

- b. Sustainability: based on the progress in the clarification of the cases, a strategic analysis is carried out to define whether or not there are elements that allow for linking or associating some investigations, specifically, whether or not patterns are identified in the occurrence of the crimes, either from the actions of the perpetrator or from the quality of the victim, which includes the environment of their victimisation and the relationship with their work as a human rights defender or trade union leader. On this point, an adequate characterisation of the victim and the territory, from the villages to the municipalities and departments, is vital.
- c. Consolidation: in this last point, coordination is carried out with the Attorney General's Office, and processes are structured that allow for an impact on those responsible for the crimes, regardless of their position within the criminal organisations. The impact against criminal organisations is oriented towards the three dimensions of the criminal phenomenon (armed structure, financial structure and mechanisms for controlling the population).

This methodology allows criminal responsibility to be attributed to the different levels of command within criminal organisations, not only in a specific act but also in situations of victimisation - known as investigative projects within the Attorney General's Office - that involve the effects suffered by specific populations and the civilian population, as the case may be.

Currently, the Attorney General's Office continues to analyse the murders of trade unionists in the departments of Cauca and Valle del Cauca in order to determine whether they can be linked to these investigative projects. It should be noted that the linking of a case to this initiative depends on structural factors such as the perpetrator of the acts, the time frame of the conduct and the georeferencing.

## **I. Article 200 violation of the rights of assembly and association:**

### **a. Nature of the offence**

It is important to recall that Article 200 of the Penal Code criminalises the violation of the rights of assembly and association. This offence was created<sup>13</sup> in order to protect the right to freedom of association in the framework of labour relations, especially with regard to unionised workers.

This offence punishes the following conducts:

(i) preventing a lawful assembly, (ii) disrupting a lawful assembly, (iii) preventing the exercise of the rights granted by labour laws, (iv) disrupting the exercise of the rights granted by labour laws and, finally (v) retaliating on the grounds of lawful strike, assembly or association. Hence, the offence is constituted not only by obstructing legitimate meetings

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<sup>13</sup> By law, this crime can be prosecuted and requires conciliation as a procedural requirement. Since 2017, with the enactment of Law 1826, the crime of violation of the rights of assembly and association has a special abbreviated criminal procedure that allows the process to move forward in a shorter period of time since it modifies and eliminates some actions of the traditional procedure. Likewise, this crime can be prosecuted and conciliation is a procedural requirement in order to be able to exercise the criminal action.



of workers or their demonstrations, but also by grossly violating the rights granted to them by law or taking decisions against them on the grounds of their trade union status and activity<sup>14</sup>.

The complaint for the offence of violation of the rights of assembly and association must be filed by a unionised or non-unionised worker or by a trade union organisation (complainant)<sup>15</sup> that considers that it is facing the occurrence of this offence, within a period not exceeding 6 months of the occurrence of the event; it must be indicated against whom the complaint is filed, in this case against an employer or managers or even employees who have participated in the event (complainants).

Conciliation is compulsory and must take place before the corresponding public prosecutor, in a conciliation centre or before a conciliator; the unjustified non-attendance of the complainant will be understood as an abandonment of the claim. If there is an agreement in the conciliation, the case will be closed and the conciliation act has the effect of res judicata when the parties reach an agreement on their claims.

### **Actions implemented during the year 2021.**

#### **- Training.**

As mentioned in the report submitted in 2021, with the support of the Directorate of Advanced Studies, a specific training course was created and carried out for prosecutors and investigators of cases to develop tools that allow them to understand aspects related to the subject of the crime of Violation of the Rights of Assembly and Association (Art. 200 C.P).

The course was given by trainers from the Attorney General's Office and officials from the Ministry of Labour, and was attended by 49 of the entity's employees from the different Sectional Directorates of the country. The topics covered were highly strategic and tailored to the needs identified by the Directorate of Advanced Studies in the target population. The agenda developed consisted of the following topics:

- Fundamentals of collective labour rights.
- Investigation and prosecution of crimes related to the violation of the rights to freedom of assembly and association.
- Investigation and prosecution of crimes related to the violation of the rights to freedom of assembly and association.
- Conciliation techniques in cases of violation of the rights to freedom of assembly and association.
- Special abbreviated procedure.

#### **- Accompaniment days.**

In consideration of the isolation measures caused by COVID - 19, once the face-to-face work was authorised, the Attorney General's Office decided to develop concrete actions to promote the investigation of the crime of violation of the rights of assembly and association through the review of active files in the areas of the country where the majority of cases related to the crime of Article 200 occur. Thus, in addition to the design and development of the training course, the following activities were carried out during the months of October and November 2021:

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<sup>14</sup> Case file: 11001310405620080002202, Superior Court of the Judicial District of Bogotá, Criminal Court. August 02, 2012. MP. Luis Mariano Rodríguez Roa.

<sup>15</sup> During the criminal process, the complainant can voluntarily withdraw from the process, as well as terminate it by signing an agreement or conciliation with the attorney until the investigation stage or with the judge at the trial stage. The participation of the victim is fundamental to the progress of the case.





- Accompaniment to seven Sectional Directorates (regional offices of the Prosecutor's Office) Bogotá, Medellín, Santander, Cali, Atlántico, Bolívar and Magdalena Medio.
- A support prosecutor with knowledge and experience in the area of crime and in the technique of early termination mechanisms such as conciliation was highlighted.
- During the visits, conciliation sessions were convened and held, with the participation of legal representatives of the companies and trade unions.
- A review was carried out of 95 processes in which the violation of the rights of assembly and association is being investigated in order to give procedural impetus to these files and to guide the prosecutor in the case so that he can issue orders to the judicial police as appropriate.

#### **b. Universe of cases and investigative advances.**

The Attorney General's Office, in the period between 2017 and 2021, received a total of 1,094 complaints for the crime of Violation of the Rights of Assembly and Association. 885 cases have been completed and 209 are active, i.e. 19.1% of the cases<sup>16</sup>.

In the crime under analysis, the following actions were carried out for the termination of the criminal action of the processes that entered the Prosecutor's Office, from the first of January 2017 to December 31, 2021<sup>17</sup>:

- In 73 cases, an agreement with conciliation was reached. For these cases, the parties, in front of the attorney, agreed to terminate the criminal proceedings under the fulfilment of similarly agreed conditions. It is very important to point out that the conciliation agreement has the same effects as a sentence pronounced by a judge, which generates specific obligations for the parties. Conciliation between the parties is fundamental in the forms of termination of cases, given that it contributes to labour peace.

- 107 proceedings terminated by withdrawal of the worker or of the complainant trade union organisation. This is important, as these are cases in which a negotiated solution was found between the worker and the company.

- In 75 of the cases, the proceedings were terminated due to connexity, i.e. the prosecutor took the decision to continue the investigation under another criminal report that shared the same facts, in order to analyse the situation jointly.

- 512 cases (46.8%) were closed. In 55.86% of these cases, it was established that the criminal conduct did not exist. In 28.9% of the cases, the case was closed due to illegitimate complainant.

- Other causes: 115 cases ended the investigation due to termination of the criminal action, preclusion, extinction of the complaint, among others.

For events that occurred between 2017 and 2021, 209 active cases were identified, of which 139 cases are in the pre-procedural stage, susceptible to conciliation, 65 are under investigation and 5 cases are in the trial stage. 35 prosecutors' offices are active in active proceedings, of which one prosecutor has been assigned to the areas with the highest number of cases<sup>18</sup>.

<sup>16</sup> About the figures provided, it should be borne in mind that the SPOA information system is a dynamic system and the figures recorded in it may vary from one consultation to another as a result of the daily updating exercises carried out by the entity; the figures provided on previous occasions may not coincide exactly.

<sup>17</sup> Procedural management data is provided on a cumulative basis and not by year, which means that the results in the cases have been obtained over the whole period, not in one year.

<sup>18</sup> In previous years, it had been reported that 3 prosecutors had been assigned to deal with Article 200 crimes. Currently, given that the number of active cases has decreased, 1 prosecutor has been assigned, using the same criteria, i.e. areas with the highest concentration of cases.

#### 4.3.3 Ensuring the timely resolution of cases of violence and threats against unionists, including by hiring a third labour judge.;

Strengthening investigative capacities to deal with the crime of threats against human rights defenders is an objective defined within the framework of the Strategy for the Investigation and Prosecution of crimes against human rights defenders of the Office of the Attorney General of Colombia. The investigation of this crime represents a real challenge for the Institution's work team.

The Attorney General's Office designed and has been developing since 2016, the Strategy for the Investigation and Prosecution of crimes against human rights defenders. And as of 2020, in order to contribute to guaranteeing the right of access to justice, this strategy has been strengthened by the Attorney General.

Within the framework of the global process of strengthening the Strategy for the Investigation and Prosecution of crimes against human rights defenders, the Attorney General of the Nation issued Resolution 0-0775 of April 29, 2021 "By means of which adopts a National Working Group for the prioritization, support and immediate response to the investigation of threats against human rights defenders or other specific populations, modifies Resolution 01223 of November 19, 2020 and creates a coordination mechanism between the National Group and Sectional Directions".

The Resolution strengthens the National Working Group for the Investigation of Threats against Human Rights Defenders and, in addition, creates a coordination mechanism between the National Working Group and the prosecutors assigned to the Sectional Directorates for dealing with threats against human rights defenders. of human rights. In order to achieve a better internal articulation, the Resolution defines precise functions for the prosecutors of the Working Group, for the Coordinator of the Group, for the prosecutors in charge of knowing threats in the Sectional Directorates and for the Sectional Directors.

With this new Resolution, the figure of support by the National Working Group towards the Sectional Directions of the Delegate for Territorial Security is ratified. The Sectional Directors may request the support of the prosecutors of the National Working Group when they deem it pertinent. With the figure of support, the prosecutors of the National Working Group are empowered to carry out urgent acts, complementary acts, preliminary hearings, as well as any other action necessary to clarify the facts.

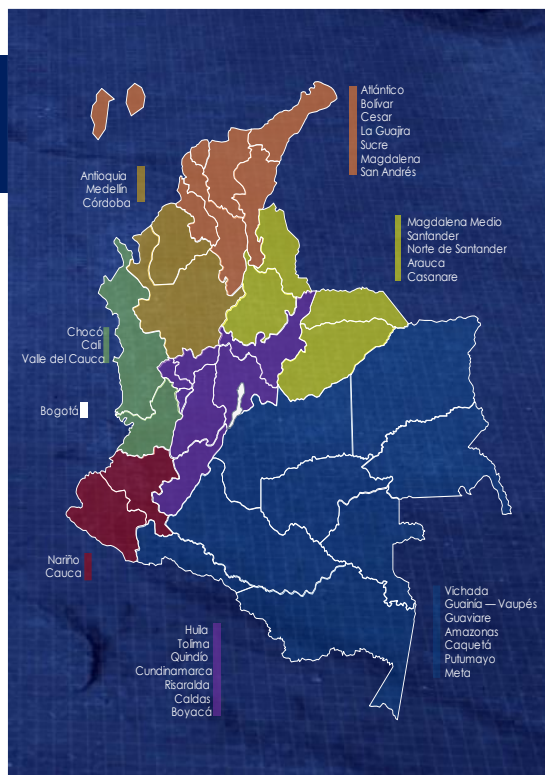
Likewise, the Resolution adopts measures to continue with the early intervention of complaints of threats against human rights defenders. Among the measures adopted, it is worth highlighting the designation of Prosecutors assigned to deal with threats against human rights defenders in the sections where this crime has been identified as occurring most frequently: Antioquia, Cauca, Caquetá, Córdoba, Chocó, Magdalena, North Santander and Valle del Cauca

This Resolution is issued after a judicious review of the Strategy for the Investigation and Prosecution of threats against human rights defenders that the Entity had been carrying out for some time. With the measures adopted, it is intended to regionalize the research model that has allowed relevant results to be obtained in relation to threats against human rights defenders and other specific populations.

## Regionalisation Strategy for Investigation and Prosecution of threats against human rights defenders and specific populations.

### REGIONS - NATIONAL THREAT TASK FORCE

REGIONS	OFFICE IN CHARGE
Southwest	Attorney 131
North	Attorney 214
Northeastern	Attorney 125
Pacific	Attorney 217
Bogotá	Attorney 227
South	Attorney 218
Northwestern	Attorney 219
Central	Attorney 223



During the year 2021, the National Working Group will have 10 prosecutors, the strengthening of the group has allowed the specialisation of some prosecutors in specific issues, and ONE office has been designated solely for the attention of prioritised situations, including threats against trade unionists, as reported in the report for the year 2021. With the regionalisation of the Strategy, the Attorney General's Office is committed to providing the territories with sufficient technical capacity to investigate threats against human rights defenders and specific populations.

### Progress in analytical investigations.

The National Working Group for the investigation of threats has made progress in defining the situations that affect union members. Thus, as reported in the report submitted in 2021, three priority situations were defined about threats against trade unionists: 1) Threats against trade unions in Valle del Cauca. 2) Threats against trade unions belonging to the natural resource extraction sector. 3) Threats against trade unions belonging to the education sector.

During 2021, progress was made in assessing the feasibility of carrying out case associations for each of the prioritised situations, and the criminal news that will be the object of promotion in 2022 was identified and prioritised. Likewise, support prosecutors from the National Task Force were appointed for each of the situations.

With regard to threats against members of the Executive Committee of the Colombian Federation of Educators (FECODE), the National Working Group for the investigation of threats prioritised the cases in which the victims belong to the Executive Committee, for which a first report of association of cases was prepared, through which it was possible to identify a total of four criminal news items that were prioritised, these are the threats that were committed in the framework of social mobilisations and opposition positions to the national government during 2019 and 2020. These prosecution files already have the accompaniment and support of a Prosecutor from the National Working Group.



Faced with the situation generated by threats against trade union leaders belonging to unions or associations related to the hydrocarbons sector, the National Working Group prioritised several criminal reports of threats to trade unionists. Now with regard to threats made against union leaders belonging to unions or associations related to the hydrocarbons sector, such as members of the multi-channel union organisation Drummond, Carbones del Cerrejón, Sintraminercol, Union of Workers of the Oil Industry and Sindispetrol, these news items have already been prioritised and are accompanied by a prosecutor from the Group.

Finally, with regard to the threats to which trade unionists in Valle del Cauca have been subjected, the working group identified ten criminal news items based on a report of cases carried out by the group's analysts, news items that have been prioritised and which are accompanied by a prosecutor from the group.

#### **4.3.4 Publicly releasing on a yearly basis statistic on the investigation and prosecution of crimes, as well as the case timelines;**

As noted in the previous year's report, information on sentences for crimes committed against trade unionists is published on the website of the Office of the Attorney General of Colombia. Anyone can access this data by entering the following link:

<https://www.fiscalia.gov.co/colombia/servicios-de-informacion-al-ciudadano/consultas/sentencias-crimenescontra-sindicalistas/>

The data reported in this report will be updated annually and will be published as agreed with the OECD in the formal opinion of March 21, 2018.

#### **4.4 Evaluate the effectiveness of the mandatory conciliation phase as required by the criminal proceedings for Article 200 of the Criminal Code.**

In the report presented in 2021, the Attorney General's Office explained the effectiveness of the mandatory conciliation phase as a procedural requirement in the investigation and prosecution of article 200 of the Penal Code.

#### **4.5. Critically and independently examine the role of the Mobile Anti-Riot Squad (ESMAD) and its excessive use of force. In cooperation with the social partners, take steps to address the pending recommendations on serious and urgent cases in the ILO Committee on Freedom of Association on violence against trade unionists;**

Within the framework of the Colombia-Canada Labour Cooperation Action Plan 2018-2021, the Ministry of Defense, National presented the fourth report of Colombia in the framework of the commitments derived from the Plan in reference, in which it indicates that with respect to the commitment of preparation of the independent report on the role played by ESMAD in social protests, on November 4, 2021, the Terms of Reference prepared by the Ministry of National Defense for the preparation of the report were submitted. Additionally, it mentions that on January 28, 2022, Association Agreement No. 003 was signed between the Ministry of National Defense and the Universidad del Rosario, in which the report in question was projected, and which is expected develop in the first half of 2022.

Likewise, for the 2021 term, the institution drafted doctrinal documents that guided the attention service to public demonstrations and intervention of disturbances, as follows:

- Temporary Operating Directive 005 DIPON-DISEC-23.2 dated 03/01/2021 "Institutional parameters for the activation of the system for anticipation and attention to public demonstrations and disturbance control in the national territory". Document whose purpose is to establish the guidelines that guide the support service for demonstrations and riot

control, so as to provide guarantees for those who exercise the right of assembly and public and peaceful demonstration; as well as guarantee the rights of other citizens who do not participate in these activities.

- Instruction 004 DISEC-ESMAD dated on 03/09/2021, "Criteria for the identification of anti-riot equipment used by National Police personnel".
- Resolution 01716 dated on 05/31/2021, "By which the parameters for the use of less lethal weapons, ammunition, elements and devices for the provision of police service are established."
- Instruction 011 dated 06/07/2021, "Essential aspects for the materialization of the police use of force in public demonstration scenarios".
- Instruction 012 dated 07/08/2021, "Parameters of police action in the framework of public demonstrations".
- Guide Code 1CS-GU-0011 "For the use of less lethal weapons, ammunition, elements and devices, in the National Police."

Regulations for intervention protocols The service in demonstrations and riot control by the National Police is provided in accordance with the provisions of the "Manual for service in demonstrations and riot control" and in the "Regulations for the use of force and the use of less lethal weapons, ammunition, elements and devices".

Accompanying by the Control Entities It is important to highlight the accompaniment by the control entities before and during the service in demonstrations and riot control, where the accompaniment of the Public Ministry (Attorney General's Office, Ombudsman's Office of Colombia and Municipal Personerías) and the coexistence managers of the mayors' offices in the demonstrations and, if necessary, as observers against the actions of the Colombian National Police. Likewise, the Public Ministry verifies the staffing elements and the identification of the personnel, as well as in conflict situations the instances of persuasion, dialogue and mediation are exhausted through the coexistence managers. Likewise, the Institution has accepted the recommendations made by the Office of the Delegate Attorney for the Defence of Human Rights, who have reviewed the different ESMAD procedures. Finally, the process of incorporating the officials that make up this squad is subject to the search for a suitable profile for action in the procedures of the use of force and demonstrations and high levels of tolerance to aggression. ESMAD members.

For the year 2021, the ESMAD reached 5,297 uniformed personnel, of which 5,140 correspond to men and 157 to women, as follows:

The Mobile Anti-riot Squad 2021	
Gender	Total personnel ESMAD
Male	5.140
Female	157
Total	5.297

## Training

The Mobile Anti-Riot Squads have played a fundamental role in controlling violent acts carried out by crowds. In these twenty-two years, this operational group has managed to position itself as a benchmark for other police forces in the world, it has also received recognition from governments and institutions, which highlight the interventions and the work that the men and women who carry it out every day make up. The ESMAD has reached a high level of professionalization, to the point that from there the Doctrine is generated on issues related to the attention of the service

in demonstrations, riot control, use of less lethal devices and weapons, among others. Likewise, the uniformed officers that make up the ESMAD are perfecting their profiles through academic training that allows them to strengthen their capacities in cognitive and practical terms. In this sense, between January 1 and December 31, 2021, the ESMAD carried out training in national programs, as follows:

### National training programs

In 2021, 9,332 ESMAD members were trained on various topics at the national level, as follows:

#. TRAINED	ACADEMIC EVENT	PROVIDER
1.363	Update seminar on crowd management and control	DINAE Temporary Administrative Directive 015 "Annual Plan for Training, Continuing Education and Research (PAE) for National Police Personnel 2021"
45	Instructor Course Management and Crowd Control	
517	Crowd and riot control course for citizen security	
45	Teaching Techniques Seminar	
43	Diploma update Course in Life Support and Evacuation in Emergencies	
45	Life Support and Emergency Evacuation Course	
35	Diploma in Strategy Planning and Tactics for Commanders of Anti-riot Groups	
1.528	Diploma in Human Rights and Police service	
28	Training in the use and handling of the VENOM multiple electric launcher	
543	Protocols for the Guarantee of the Right to Protest and the Press	
492	Social Protest in the Framework of Human Rights	The Ombudsman's Office
156	District Human Rights Education Program for Peace and Reconciliation	Secretary of Government
36	Talk on Gender Violence Prevention Focused on Human Rights, First Aid, Psychological Support	International Rescue Organization Committee.
65	Use of Force Regulations	Office of the Inspector General of Colombia
131	Human Rights Principles and their History	Human Rights Delegation Metropolitan Area of Bucaramanga
120	Training on the Right to Mobilization and Peaceful Protest	The Ombudsman's Office Regional Branch Antioquia



137	International human right	The Ombudsman's Office Regional Branch Antioquia and UN officials from the city of Medellín Antioquia.
7	Seminar Workshop "Human Rights and the Legitimate Use of Force, in the Framework of Peaceful Protest"	United Nations (UN)
3	Master in Pedagogy of Human Rights	Sergio Arboleda University
30	Human Rights and their approaches	Pontificia Universidad Javeriana de Cali
100	Workshops use of force and maintenance of public order	International Committee of the Red Cross
200	Human Rights and International Humanitarian Law with a Gender Approach	EAFIT University
1.890	Seminar workshop "Mechanisms for the Protection of Human Rights and Populations of Special Constitutional Protection in Colombia"	EAFIT University
700	Workshop on Human Rights of persons deprived of liberty with a differential approach	Virtual Mode Cartagena University
700	Workshop on prevention of acts of torture against persons deprived of liberty	Virtual Mode Cartagena University
11	Technology in pre-hospital care	Nueva Granada Military University
40	Human Rights	Personería de Bogotá
197	Human Rights	Secretary of Government
57	Trainer of trainers Human Rights	The Ombudsman's Office
68	English training	Canadian College

Likewise, during the 2021 term, 7,554 officials of the National Model of Community Surveillance by Quadrants, available forces and personnel of the Police Directorates were trained on issues related to public and peaceful demonstrations, the control of Riots and violent acts that occur in crowds of people like this:

Type of program	Type of event	Unit	# Trained staff
Seminar	For the Public Safety Demonstration and Riot Control Service	Metropolitan and Police Departments	7.554



Note: considering the global crisis due to the COVID-19 virus pandemic, some face-to-face academic events were suspended due to force majeure.

In 2021, the ESMAD carried out 18,918 police services, of which 16,670 were preventive and 2,248 with intervention to control citizen disturbances related to crowds of people, which corresponded to 11.8% of the total respect to the total of its prevention services, as follows:

UNIT	SERVICES / PREVENTION	PROCEDURES /USE OF FORCE	TOTAL
RADIS 1	3.407	1.018	4.425
RADIS 2	1.487	69	1.556
RADIS 3	841	146	987
RADIS 4	3.268	532	3.800
RADIS 5	1.550	139	1.689
RADIS 6	3.110	278	3.388
RADIS 7	611	13	624
RADIS 8	2.396	53	2.449
<b>OVERALL TOTAL</b>	<b>16.670</b>	<b>2.248</b>	<b>18.918</b>

\*RADIS: Police Regional Branches where there are ESMAD groups.

The interventions of the ESMAD through the use of force are established in 11.8% compared to the total of the services in which this riot group was committed.

Aspects of interest:

In compliance with national laws and regulations, for this case Decree 003 of 2021 "By which the Protocol of preventive, concomitant and subsequent actions is issued, called "STATUTE OF REACTION, USE AND VERIFICATION OF THE LEGITIMATE FORCE OF THE STATE AND PROTECTION OF THE RIGHT TO PEACEFUL CITIZEN PROTEST", the Mobile Anti-riot Squad documented 1,509 accompaniments by control entities, in which the identification, provision of weapons, ammunition, elements and less lethal devices were verified.





### *RADIS (Regional Anti-Riot Squads)*

RADIS 1	RADIS 2	RADIS 3	RADIS 4	RADIS 5	RADIS 6	RADIS 7	RADIS 8	TOTAL
418	93	80	191	167	375	71	114	1.509

In 2021, the information application "Information system for the registration of police actions - SIRAP" was implemented, whose purpose was to store the information on the procedures carried out by the ESMAD from the start date of the National Strike.

125 cameras for riot helmets were enabled, with which video streaming was made through the Facebook Live social network, a space where the legality and need to carry out riot control procedures was demonstrated, due to behaviours contrary to coexistence and infractions of criminal law, by people who gathered violently.

Through psychosocial support groups, in 2021, 1,173 Police officers have been impacted, through the deployment of activities to address mental health, well-being and emotional discharge issues.

Source: Ministry of Defence

## INDICATORS OF CRIMES AGAINST TRADE UNIONISTS

### I. Overview of newly adopted regulations and legislation.

#### Overview of adopted regulations and legislation in 2021

- **Decree 1139 of 23 September 2021** - "Whereby some articles of Book 2, Part 4, Title 1, Chapters 2, 3, 4, and 5 and an article of Title 3, Chapter 7 of Decree 1066 of 2015, Sole Regulatory Decree of the Administrative Sector of the Interior, are amended with reference to the Programmes for Prevention and Protection of the rights to life, liberty, integrity and security of persons, groups and communities".
- ii. **Number of reported cases of homicides and different types of violence against trade union members and leaders.**

In 2021, the Attorney General's Office was aware of 11 cases of homicides against union members, 1 case is known by the authorities of the Special Indigenous Jurisdiction, 10 are investigated in the ordinary jurisdiction and, to date, they have been investigative progress towards clarification in 30% of cases.



## iii. National Protection Unit:

## a. Budget for trade unionists (total and per head);

	DATE: 31/12/2018	DATE: 31/12/2019	DATE: 31/12/2020	DATE: 31/12/2021
TOTAL NUMBER OF UNION MEMBERS	370	299	299	255
TOTAL NUMBER OF UNP PROTECTED PERSONS	7433	8316	7561	7987
	DATE: 31/12/2018	DATE: 31/12/2019	DATE: 31/12/2020	DATE: 131/12/21
INVESTMENT FOR THE PROTECTION OF TRADE UNIONISTS	€ 9.467.770	€ 8.826.973	€ 7.525.838	€ 7.491.550
INVESTMENT FOR THE TOTAL NUMBER OF UNP PROTECTED PERSONS	€ 152.781.699	€ 197.349.550	€ 207.370.342	€ 280.296.141

## a. Number of trade unionists receiving protection (individual protection versus collective protection); a);

b. Number of trade unionists receiving protection (individual protection)	2017	2018	2019	2020	2021
RISK-3. Union leaders or activists. (numeral 3 article 2.4.1.2.6. of Decree 1066 of 2015)	405	369	299	296	255

## b. Average time needed for completion of the risk assessment process;

In accordance with the regulatory framework of the programme for the prevention and protection of the rights to life Integrity and security led by the National Protection Unit, Decree 1139 of 2021 Article 14 which amended Article 2.4.1.2.40. of Book 2, Part 4, Title 1, Chapter 2 of Decree 1066 of 2015, Sole Regulatory Decree, Administrative Sector of the Interior, which will read as follows:

"Article 2.4.1.2.40. Ordinary procedure of the protection programme. The ordinary procedure of the protection programme is as follows: numeral 4 "Submission of the result of the risk assessment to CERREM within a period not exceeding 30 working days, counted from the time when the applicant expressed his/her consent to be linked to the programme".



#### iv. Attorney General's Office

##### a. Budget of Attorney General's Office

Regarding the operation of the Entity, for the year 2021 the Attorney General's Office had a budget of 4,056,603,300,000 COP (approximately 924,476,595 Euros).

#### v. Prosecution of crimes against trade unionists:

##### a. Number of active cases related to violence and threats against trade unionists, and their respective stages in the justice system;

The Attorney General's Office was informed of 98 cases involving 100 trade unionists who were victims of homicides and is investigating a total of 95 cases involving 97 victims in the ordinary jurisdiction. These events occurred between 1 January 2017 and 31 December 2021. The implementation of the Entity's investigative strategies has allowed progress to be made in the clarification of 43.16% (41 cases) of homicides as follows:

- 13 cases in execution of sentences with 16 sentences.
- 16 cases on trial
- 3 cases with indictments
- 8 cases under investigation with arrest warrant in force
- 1 case precluded

##### b. Number of active cases related to crimes against the right to freedom of association and collective bargaining (Art. 200), and their respective stages in the justice system;

#### Active proceedings and terminated proceedings Art. 200 disaggregated by year of complaint

Year	Active cases	Terminated cases	Grand total
2017	16	298	314
2018	23	196	219
2019	45	223	268
2020	39	92	131
2021	86	76	162
Grand Total	209	885	1094

Source: SPOA, consultation December 31, 2021.

##### c. Number of closed cases related to violence and threats against trade unionists, and their outcomes;

See information referred to in item a. of this point (clarification cases).

##### d. Number of closed cases related to crimes against the right to freedom of association and collective bargaining (Art. 200) and their outcomes.

See information referred to in item b. of this point (terminated cases).