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Post-accession report  
of Colombia to the Employment,  
labour and Social Affairs  
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## I. EXECUTIVE SUMMARY

In the presentation of Colombia's Third Post-Accession Report to the OECD's Employment, Labour, and Social Affairs Committee (ELSAC), the Colombian Ministry of Labour has strengthened its actions and developed policies and strategies for the benefit of Colombia's workers. In which are committed not only the Ministry of Labour of Colombia but also all entities and links related to the government of change. For this there must be a union to respond to the recommendations made by ELSAC in labour matters. In accordance with the above, this report represents the changes and advances that have taken place in the year 2022 and mainly in the second semester in which the government of President Gustavo Petro Urrego began.

The Government of President Gustavo Petro assumed the Presidency on August 7, 22, from that date, the Government of Change has been committed to structural changes in the country, as stated in the proposal of the National Development Plan that has been submitted to the Congress of the Republic.

Under this structure and considering that Colombia in social matters still has lags caused by the COVID 19 pandemic, one of them, the devastating effect that the confinement had on the labour market. In this context, the productive and institutional structure does not provide enough job and income opportunities, and most of the employed have low quality jobs, generating wide social inequalities. A labour reconversion and productive transformation is required. To respond to the transformation of the productive economy in terms of human capital and access to income generation opportunities, the country is working on several structural reforms with the Government of Change, which also responds to advance more quickly in the country's potential access commitments in the Employment Committee.

In this report you will find the lines of the reforms that fall under the responsibility of the Ministry of Labour.

The joint construction of structural reforms is carried out through social dialogue, for this we have been working with employers, trade unions and community proposals in the territories, the goal is to carry out a labour reform based on Article 53 of the political constitution that mandates the creation of the labour statute, for this we have received various inputs from the employment mission 2020-2021; alternative employment mission 2020-2021; supreme court of justice; ILO supervisory bodies, OECD Employment Committee -ELSAC, labour reform and legal reform Mexico, labour law in digital platforms Chile, labour reform Spain; model of negotiation by



branch in Argentina and the Forum on formalisation of Ministers of Labour that we held in Colombia in October last year and that I had the honour of receiving several Ministers who are present in this room.

Likewise, it is important to point out that the information submitted is part of the inter-institutional effort and joint work with the Attorney General's Office, the Ministry of the Interior, the Ministry of Defense, the Ministry of Commerce, Industry and Tourism, the Ministry of Health and Social Protection, the National Protection Unit and the different entities and Directorates of the Ministry of Labour.

## **1. Labour informality and outsourcing:**

### **a. Universal and adaptive social protection system**

The Social Protection System as a fundamental pillar of human security will lay the foundations for an adaptive system that provides a rapid response to different shocks that jeopardize the quality of life. To achieve this purpose, priority will be given to employment generation, complemented, if necessary, with monetary transfers to the poorest households. In addition, the instruments that cover the risks of unemployment and old age protection will be strengthened (page 60).

- **Financial protection in old age and healthy aging**

**A pension reform** will be conducted with a focus on guaranteeing the right, inclusive and equitable through the pillar system. National social dialogue scenarios will be generated, with the participation of all stakeholders: National Government, local governments, private sector, trade unions, business associations, academia, social organisations, and associations of the elderly. This reform will increase the coverage and progressiveness of the pension system both in the stage of saving or accumulation of rights and in the stage of decumulation or enjoyment of benefits. The management of the Colombian Pension Administrator - Colpensiones will be strengthened, and health contributions will be reduced from 12% to 10% for pensioners earning between two and three minimum wages. Likewise, the boards of directors of the pension fund management companies will have a seat for two representatives of the affiliates elected by them, as well as a representative of the pensioners' confederations, as agreed in the National Commission for the Coordination of Wage and Labour Policies.

- **Unemployment protection scheme**

An unemployment protection scheme will be designed by redefining the Mechanism for the Protection of the Unemployed -MPC, which will respond to the needs of the unemployed and unempoyed population, including formal and informal workers.



The gaps that exist in the different populations (such as young people, women, the elderly, people with disabilities and LGBTIQ+ people, among others) will be considered. This scheme will contemplate: (i) the exploration of new forms of financing for those who do not have access to the Family Subsidy System and (ii) new forms of action that allow universal support for: income coverage and services for the unemployed, productive labour insertion of those who do not have a formal job or are working in informal activities, and implementation of active and passive labour market policies that support reinsertion, job placement and entrepreneurship.

In addition, services for the unemployed will be promoted in areas where there are major unemployment problems, including small and medium-sized municipalities and rural areas.

- **Security and social protection in the Popular and Community Economy (EPC)**

EPC workers will have access to old age protection, occupational risk, and health care.

A specific route will be designed for access to social assistance plans, programs, and projects, including emergency care for the working people of the EPC and their access to the services that will be part of the National System of Care. A program will also be designed to ensure the transition to healthy and safe working conditions for those linked to popular economies. Adjustments will be made to the Labour Inspection, Surveillance and Control System.

The National Government will manage access to salaried jobs for workers in the popular and community economy, through actions that promote: (i) labour mobility; (ii) on-the-job training, skills certification, and access to education at all levels; and (iii) the promotion of employment pacts with the private sector. Finally, care services will be provided within the framework of the National System of Care for Life and Peace, with the respective monitoring and evaluation.

**Digital talent to increase labour productivity and people's employability.**

A comprehensive strategy will be designed and implemented to promote the use and appropriation of digital technologies. The proposal is to: (i) create digital skills training programs through public-private solutions that allow accelerating and reaching more people in the national territory with emphasis on programming, data science and bilingualism; (ii) prepare the workforce by generating incentives to promote technical, technological and professional development in areas related to ICTs, as well as aligning the supply of training in digital skills relevant to the needs of the productive sector; (iii) eliminate barriers that affect job placement in aspects related to the certification of digital



skills. This comprehensive strategy will be aligned with the provisions of CONPES 4023 on talent and digital skills.

### **Creation, expansion, and regulation of care services**

Care services will respond to different populations and promote their rights, to progressively move towards universal coverage.

(i) For people requiring care or support, social and health care, protection and promotion of rights, capacity building and self-care services will be offered; (ii) for unpaid caregivers, training and labour inclusion services and homologation of knowledge, capacity building for income generation; respite activities to provide welfare conditions; accessibility to public transportation, social services, guaranteed minimum security and social protection; (iii) for domestic workers, household workers and paid caregivers, decent work will be promoted, particularly a labour formalisation strategy that includes the Registry of Domestic Work Employers, administered by the Ministry of Labour, and incentives for affiliation to the Comprehensive Social Security System.

Similarly, this recommendation on Informality and labour outsourcing in Colombia presents actions to implement the employment generation policy and increase the level of employability of the population. For this purpose, the promotion of decent work, the creation of tax incentives and the improvement of mechanisms such as the public employment service to facilitate the interaction between labour supply and demand in the labour market have been allowed.

In accordance with the above, the National Government has been creating alternative insurance mechanisms for the informal population, such as the Transactional Affiliation System. This system is proposed as the instrument to register, report, and consult, in real time, the basic and complementary information data of the affiliates, the affiliation and its novelties in the Integral Social Security Systems and the Family Subsidy System. It also plans to use this system to make progress in the Labour Informality and Outsourcing component.

Additionally, one of the most important issues of this recommendation is to launch a program for young people in Colombia, especially to train them to have a formal job with all the social benefits.

Finally, the National Government will contribute to and implement the Progressive Plan for Social Protection and Guarantee of Rights for Young People in Colombia.

### **Labour Law Compliance:**



This section will discuss the efforts made by the Ministry of Labour to ensure adequate resources, capacities, and tools for the strengthening of the Labour Inspection System. It will describe the progress made to facilitate the performance of the work of labour inspectors, where one thousand one hundred and seventy-two (1,172) positions of labour inspectors have been filled, of which one (1) position of Inspector grade 13 of the Administrative Career; five hundred and forty-four (544) in provisional status; five hundred and eighty-three (583) linked to the Administrative Career, thirteen (13) of these in assignments and thirty-one (31) in probationary period, all legally and statutorily linked. It is also mentioned that the permanent education and training processes have been sustained for the officials who are part of the Inspection, Surveillance and Control (IVC) mission process, highlighting that the Virtual Campus is fully operational.

It is important to note that work has been underway to connect the new electronic case management system throughout the country to the electronic fine collection system. Likewise, the fines imposed are mentioned, noting that, in the year 2022, it was for a value of \$90,852,600.

Within the framework of administrative actions and in the development of the functions of inspection, surveillance and control, actions have been taken by the Territorial Directorates for noncompliance with labour, occupational risk, and pension regulations, as well as for the attention of the Ministry of Labour.

### **Collective Negotiation:**

The collective negotiation recommendations presented the following actions taken for the construction of social dialogue. First, in the constructive framework for social dialogue, through the promotion of a two-tier system of sectoral and firm negotiation, through the elaboration of rules on sectoral negotiation in the Labour Code, the Permanent Commission for Agreement on Wage and Labour Policies, a tripartite body created in Article 56 of the Political Constitution and developed in Law 278 of 1996, and particularly in session of October 24, 2022, it was agreed by all members to create the following subcommittees. - Subcommittee on Labour Reform - Subcommittee on Pension Reform - Subcommittee on Employment and Employability - Subcommittee on the Analysis of Decrees and Laws.

The current Government, through External Circular 078 of 2022, has mentioned that although the existence of collective negotiation agreements (and their coexistence with collective negotiation agreements or arbitration awards) are currently provided for and permitted in Colombian labour legislation, it is expected that "this may be modified in accordance with international commitments and the government's program", The Committee is concerned about the existence of numerous collective negotiation agreements or extra-legal benefits granted by the employer, whose access condition is not to be a member of a union, since it has pointed out that such



situations prevent the birth of new unions, stop the growth of existing ones or contribute to their destruction.

On the other hand, by extending collective negotiation agreements automatically to all employees of a company, not only to the members of the signatory unions and in accordance with the provisions of Article 470 of the Substantive Labour Code subrogated by Article 37 of Decree 2351 of 1965, the scope of application of the collective negotiation agreement is defined for the members of the union that have entered into the agreement and for those who adhere to it and when the union is a minority. It is important to point out that, by requiring that multiple unions in the same company form a negotiation team to guarantee a single collective negotiation agreement, it is stated that, with respect to the common points in the collective negotiation documents presented, these could be advanced in a single session with the union organisations that have included them and that, with respect to the different or non-common points, different sessions could be advanced within the single negotiation table.

The Colombian Government has guaranteed the right to strike as one of its rights enshrined in Article 56 of the Political 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), for which it fulfils fundamental purposes for the social rule of law such as: balancing relations between employers and workers, resolving collective economic conflicts in a peaceful manner and materializing respect for human dignity and workers' rights. In this sense, the strike is fundamental for the conformation of a democratic, participative, and pluralist State since it arises from the need to conduct labour conflicts through democratic channels.

Finally, it should be noted that the agreement on the minimum wage in force for the year 2023 is a clear example of the National Government's commitment to promote Social Dialogue, business soundness and the protection of the purchasing value of wages, where priority is given to the family basket of the most vulnerable.

### **Violence Against Trade Unionists:**

In the last recommendation, this report notes the progress that the country has made in fulfilling the commitment to protect specific populations such as union members. The document evidence that, for events that occurred between January 2017 and December 2022, significant progress has been made towards the clarification of homicides against trade unionists in up to 48.62% of the cases. Even though in 2022 there was a record of 15 cases of homicides (5 more cases compared to the 2021 report, according to the Attorney General's Office), this report evidences a greater clarification of cases in the framework in which the country's commitment is subscribed until achieving this figure is zero.



On the one hand, the report states that between 2011 and 2022, 73 convictions were handed down for homicides committed against trade unionists. On the other hand, it mentions the continuous work that the Attorney General's Office (FGN) has been developing in the strategy 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 entity.

Similarly, the commitment to strengthen the budget for the financing of programs for victims and witnesses, the strengthening of investigations for events prior to 2011, where 834 convictions have been issued for murders against trade unionists. Thus, investigative capacities have been strengthened to address the crime of threats against human rights defenders as an objective defined in the framework of the Strategy for Investigation and Prosecution of crimes against human rights defenders of the Attorney General's Office.

Now, this document states that in compliance with the STC-7641 ruling, Decree 003 of 2021 "Whereby 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", which sets out a series of parameters for exercising this right.

Finally, it is essential to indicate that both the Attorney General's Office 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 which, through the Ministry of Labour, a formal response has been sent.



## II. RECOMMENDATIONS:

### 1. LABOUR INFORMALITY AND OUTSOURCING

The Colombian government and especially the Ministry of Labour, in accordance with its mission, which corresponds to "*the formulation and adoption of policies, general plans, programs and projects for work, respect for fundamental rights, guarantees for workers (...)*", in conjunction with the National Government, have established concrete actions aimed at mitigating the problems of unemployment and informality throughout the national territory, as follows:

For the government, the Tax Incentive for the creation of employment for young people under 28 years old one of them Incorporated in the law 2010 of 2019, was regulated with Decree 392 of 2021 and Resolution 846 of 2021 "By means of which the issuance of the First Employment Certificate and the annualized registration of the certifications that accredit the First Employment" is regulated. This certificate of first employment is a procedural requirement for taxpayers who are obliged to file income and supplementary tax returns, to apply the deduction of up to 120% of the payments they make for salary, for young people, when it is their first job.

Another action that the Ministry of Labour led by Minister Gloria Ines Ramirez has implemented are measures aimed at generating formal employment. This measure seeks to provide state support to employers. This incentive corresponds to 25% of one (1) legal minimum monthly salary in force - 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, the support will be assigned to those who earn up to three (3) SMLMV.

Another Labour is the Public Policy for Informal Vendors. This has the essential purpose of being a tool for the development of solutions to the precarious situation of this sector and aims to expand the capabilities and opportunities of people towards conditions of equality and equity, reducing the levels of poverty and inequality.

In accordance with the above, the Public Policy on Informal Vendors is based on 3 axes:

- To reduce labour informality in the population engaged in informal sales in public spaces.
- Decrease the incidence of conflicts over the use and coexistence in public space.



- Increase the impact of programs targeting informal vendors.

Finally, it is important to mention that the Ministry of Labour has an institutional coordination strategy called the National Labour Formalisation Network - RNFL, which aims to:

*"(...) guarantee the consolidation of decent work, social security coverage for all and the development of active employment policies, through the promotion, training, guidance, accompaniment, follow-up and control of projects and activities aimed at the labour formalisation of workers in Colombia".*

The Ministry of Labour will seek to strengthen and give continuity to those public policies that are being implemented, considering the needs and priorities of each of the population groups, and the new labour challenges of the country. Likewise, the guidelines of the new National Development Plan - PND 2022 - 2026 will be considered for the design of new public employment policies to be implemented by this portfolio.

The draft National Development Plan submitted to the Congress of the Republic proposes the formulation and implementation of the DIGNIFICANT AND DECENT WORK PUBLIC POLICY, with a differential approach, which will have the following dimensions: the promotion of decent employment and income, the extension of social protection, the guarantee of fundamental labour rights, and the exercise of social dialogue and tripartism. In addition, it will incorporate specific plans, programs, and projects for working people in rural areas.

The national government will promote the formulation and participatory implementation of public policies for decent and dignified work at the departmental and municipal levels, as well as at the regional and other relevant levels. These policies will incorporate a specific focus on decent work for rural areas that will contribute to the implementation of the peace agreements and the closing of gender gaps.

Likewise, the same bill provides for the INCENTIVE FOR THE CREATION OF NEW FORMAL EMPLOYMENT. To give continuity to the measures aimed at the promotion, generation and protection of formal employment, the incentive for the generation of new employment defined in Article 24 of Law 2155 of 2021, may be extended until August 2026. The National Government will evaluate the relevance of its continuity, according to the results of the technical studies carried out by the sectorial public entities, and may redesign the requirements for access and permanence, the beneficiary populations, the amounts, and mechanisms for granting the incentive and other aspects necessary for its implementation.



### **1.1 Implementation of a single window for company registration that unifies procedures for the registration of new companies (Single Business Window) (Ventanilla Única Empresarial - VUE).**

The Single Business Window (Ventanilla Única Empresarial - VUE) is a technological platform that seeks to facilitate business activity in Colombia by progressively integrating the formalities and procedures required to open, operate, and close a business. The VUE reduces indirect costs related to the process of formally creating a business by simplifying the procedures that entrepreneurs must comply with, thanks to its integration into a single, virtual channel that saves time and money.

Currently, the VUE integrates 35 procedures, consultations and services associated with the business process. Among them, it facilitates registrations such as the commercial registration, the single tax registry (RUT) at the national level or the tax information registry at the municipal level (RIT), through the VUE you can process the departmental registration tax or access the application for registration and certification of health standards of INVIMA. For entrepreneurs in the tourism sector, the VUE also provides access to the National Tourism Registry (RNT). They can also make different queries such as tax obligations and land use, depending on the economic activity, information that allows entrepreneurs to make better decisions when starting up their business. Similarly, and with the support of the IDB, we worked on the first phase of the One-Stop Investment Window and its articulation with the VUE. In addition, it allows the insurance of workers in health and ARL, as well as the affiliation and registration in Family Compensation Funds and Pensions.

On the other hand, in addition to integrating and facilitating access to formalities and procedures, the VUE also includes information that directs the entrepreneur to find the offer available from the National Government to support its growth and consolidation process. Thus, for example, the entrepreneur who is in the VUE can go to the (*innovamos*) portal and apply to the available offer in terms of competitiveness and innovation or go to the (*Compra Lo Nuestro*) platform to approach potential buyers and access support services for the commercialization of their goods and services.

Today the VUE is available in 72 cities in Colombia, generating a better environment for companies of all sizes. This digital tool, since its creation and as of November 30, 2022, has facilitated the creation of more than 175 thousand companies.

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



Regarding the recommendation on labour informality and outsourcing and the design and implementation of a single affiliation system for the different social security systems, we would like to inform you that:

The **Transactional Affiliation System (SAT for its Spanish acronym)** 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**, as amended by Article 1 of Decree 1818 of 2019.

The Transactional Affiliation System - SAT, is defined as a set of processes, procedures, and instruments of a technical-administrative nature, available to the Ministry of Health and Social Protection to register, report and consult, in real time, the basic and complementary information data of the affiliates, the affiliation and their new developments 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 new developments, without prejudice to the platforms or other technological means available to the administrators of the General Pension System and the Family Subsidy System, which is administered

by the Ministry of Health and Social Protection, which defines the responsibility of each of the actors in the registration and reporting of information in the aforementioned System, according to the data structure and the magnetic or electronic means required to process the information.

The progress in the development and implementation of the General Social Security Health, Labour Risks and Pension Systems, as well as the Family Subsidy System, in the SAT is as follows:

### **Transactional Health Care Affiliation System**

In compliance with the provisions of Decree 2353 of 2015, compiled in Decree 780 of 2016, the Ministry issued Resolution 768 of 2018, which established the general conditions for the operation of the Transactional Affiliation System SAT in the General System of Social Security in Health, and the rules to be complied with by those involved in the affiliation, the reporting of new developments and relevant information for the operation of the system. This information system was created with the purpose of reducing the procedures for affiliation to the General System of Social Security in Health and its novelties; it came into operation gradually.

Thus, in 2018 with the issuance of the Resolution, with the role of natural person, it was possible for citizens to perform the novelty of EPS transfer; in 2019 the



functionalities of downward mobility or change of regime from contributory to subsidized, update of complementary data, update of contact data, inclusion and exclusion of beneficiaries, acquisition, and loss of conditions to contribute were incorporated.

In 2020, the need arose to make adjustments and new functionalities to comply with the provisions of new regulations such as Decree 064 of 2020 and Resolution 1128 of 2020, which prioritized and regulated the affiliation of the uninsured poor population, new-borns, minors and their family group, as well as the affiliation of Venezuelan migrants with a special residence permit (PEP), This new functionality is aimed at those people who meet the requirements and are not already affiliated, and is the instrument for achieving 100% coverage and/or guaranteeing continuity in health affiliation; This functionality incorporated new actors within the Transactional Affiliation System - SAT, such as territorial entities and Health Provider Institutions.

In the year 2021 to April 2022, with the issuance of: (i) Decree 216 of March 01, 2021, of Resolution 971 of April 28, 2021, through which the Temporary Statute of Protection for Venezuelan migrants under temporary protection regime is established and implemented; (ii) Resolution 405 of 2021, through which the IV methodology of the Sisbén is implemented in the subsidized health regime; (iii) Circular 039 of 2021 which reiterates obligations related to the guarantee of affiliation and permanence and inclusion in the Subsidized Regime on the occasion of the technical enlistment and transition between methodologies III and IV of the Sisbén; and, (iv) Decree 616 of 2020 by which the Solidarity Contribution

is regulated; new functionalities were implemented in the Transactional Affiliation System - SAT for the General System of Social Security in Health, and some functionalities that were in production were modified, such as:

- Affiliation of migrants with "Permiso por Protección Temporal -PPT" (Temporary Protection Permit) document,
- Accreditation of Migrants before the territorial entities,
- Withdrawal novelty to be reported by the territorial entities when the SISBEN survey is not completed and/or the Migrant does not comply with the accreditation,
  
- It incorporates the solidarity contribution as a mechanism for affiliation to the subsidized regime of the General Social Security Health System, among others.

During the years 2021 and 2022, the labour relationship initiation functionality was implemented, which went into production on May 2, 2022, to allow companies



created as of January 2020 to report the new labour relationship initiation to the health, pension, labour risk and family compensation fund systems in a single transaction.

YEAR	TARGET	RESULT	DESCRIPTION
2018	<ul style="list-style-type: none"> <li>Administrative act to adopt the rules and conditions for the operation of the Transactional Affiliation System - SAT.</li> <li>Define, develop, and progressively implement in production the functionalities for affiliation and health news.</li> <li>Validate operation and elaborate change controls and/or adjustments to the functionalities.</li> <li>To start the pilot test of Labour Relationship Initiation.</li> </ul>	<ul style="list-style-type: none"> <li>Resolution 768 of 2028 whereby the rules and conditions for the operation of the Transactional Affiliation System SAT-Health are adopted.</li> <li>12 Functionalities implemented and operating.</li> <li>Definition of required Change Controls.</li> <li>Start of the IRL Pilot Test with the Senate of the Republic.</li> </ul>	<p><b>Production Functionalities:</b></p> <ul style="list-style-type: none"> <li>Citizen Registration, Natural Person Registration, Legal Person Registration, EPS Transfer, Beneficiary Inclusion, Beneficiary Exclusion, Complementary Data Update, Hospitalization Report - Citizen, Hospitalization Report by the IPS, Hospitalization Report by the EPS, geographical affiliation capacity management and News Mailbox.</li> <li>Report of 691 Labour Relationship Initiations in the Senate in 2018.</li> </ul>
2019	<ul style="list-style-type: none"> <li>Define, develop and progressively implement in production the functionalities for affiliation and health news.</li> <li>Validate operation and elaborate change controls and/or adjustments to functionalities.</li> </ul>	<ul style="list-style-type: none"> <li>11 Functionalities implemented and operating</li> <li>Definition of required Change Controls</li> </ul>	<p><b>Production Functionalities:</b></p> <ul style="list-style-type: none"> <li>Update of Identity Document (evolution), Request for exclusion as spouse/permanent partner, Re-enrolment to an EPS, Acquisition of Conditions to Contribute, Loss of Conditions to Contribute, Mobility to Subsidized Regime, Consultations to: RETHUS, Health History (RIPS), Contributions to Pila, Affiliation to AFP, ARL, CCF, IPS Configuration, Validation of document supports, Delinquency Report and</li> </ul>



YEAR	TARGET	RESULT	DESCRIPTION
			Consultation Status of my health affiliation - SAT.
2020	<ul style="list-style-type: none"> <li>Define, develop, and implement in Production in a progressive way the functionalities for affiliation and health news.</li> <li>Validate operation and elaborate change controls and/or adjustments to functionalities.</li> <li>Pilot test with IPS and Territorial Entity for ex-officio affiliation.</li> </ul>	<ul style="list-style-type: none"> <li>Pilot test with one IPS and one Territorial entity</li> <li>2 Functionalities implemented and operating</li> <li>Definition of required Change Controls</li> </ul>	<p><b>Production Functionalities:</b> Ex-officio affiliation by IPS and Ex-officio affiliation by Territorial Entity.</p> <p><b>Note1:</b> Due to the state of emergency, it was necessary to provide training and technical assistance to all departments and IPS to put the 2 functionalities into production. By the end of 2020, the majority of the IPS and territorial entities of the municipal order were able to carry out official affiliation through SAT, with a total of 283,413 affiliations.</p> <p><b>Note2:</b> At the same time, developments are being developed for affiliation to the Labour Risks Administration, integrating it to SAT.</p>
2021	<ul style="list-style-type: none"> <li>Define, develop, and implement in Production in a progressive way the functionalities for affiliation and health news.</li> <li>Validate operation and elaborate change controls and/or adjustments to functionalities.</li> </ul>	<ul style="list-style-type: none"> <li>3 Functionalities implemented and operating</li> <li>Definition of required Change Controls</li> <li>Definition of new requirements that remain in the development stage as of the end of December.</li> </ul>	<p><b>Production Functionalities:</b></p> <ul style="list-style-type: none"> <li>Phase 2 of the functionality of Acquisition and Loss of Conditions to Contribute.</li> <li>Affiliation of Venezuelan migrants who regularize their situation in Colombia with a new registration and type of PPT document.</li> </ul> <p><b>Note1:</b> It required training and technical assistance to all departments to put into production.</p> <p><b>Note2:</b> At the same time, developments are being developed for affiliation to the Occupational Risk Management, Pension Fund Management and Family</p>



YEAR	TARGET	RESULT	DESCRIPTION
			Compensation Funds to integrate them transversally to SAT.
2022	<ul style="list-style-type: none"> <li>Define, develop, and progressively implement in production the functionalities for affiliation and health news.</li> <li>Validate operation and elaborate change controls and/or adjustments to functionalities.</li> </ul>	<ul style="list-style-type: none"> <li>4 Functionalities implemented and operating</li> <li>Definition of required Change Controls.</li> <li>Definition of new requirements that are pending development.</li> </ul>	<p><b>Production Functionalities:</b></p> <ul style="list-style-type: none"> <li>Report on Official Affiliation for Territorial Entities</li> <li>IPS Office Affiliation Report</li> <li>Functionality that allows the new form of affiliation to the SGSSS - "Solidarity Contribution" through SAT.</li> <li>Printed notification of the affiliation by Solidarity Contribution to the persons who access this type of affiliation.</li> </ul>

**Functionalities by role and progress status in the Transactional Affiliation System - SAT for the General Social Security Health System.**

Below is a detail of each of the functionalities required for the implementation of the Transactional Affiliation System - SAT for the General System of Social Security in Health according to the role.

**1. Production Functionalities:**

The functionalities currently in production in the Transactional Affiliation System - SAT for the General Social Security Health System are as follows:



ROLE	Functionality
<b>CITIZEN</b>	Citizen Registration
	Natural Person Registration
	Legal Entity Registration
	Natural Person Registration
	Legal Entity Registration
	Transfer of EPS
	Inclusion of beneficiaries
	Exclusion of beneficiaries
	Updating of complementary data
	Update of Identity Document (evolution)
	Application for exclusion as partner/permanent partner
	Re-rollment in an EPS
	Acquisition of Conditions for Quotation
	Internment Report - Citizen
	Loss of Quotation Conditions
	Mobility to Subsidized Regime
	Query Health Insurance Status
	Consultations to: RETHUS, Health History (RIPS), Stack Contributions, Affiliation to AFP, ARL, CCF.
	News Mailbox
<b>EPS</b>	IPS configuration
	Validation of document supports
	Default Report
	Hospitalization Report- EPS
<b>IPS ROLE</b>	Affiliation by IPS
	Hospitalization Report-IPS
	IPS Office Affiliation Report
<b>TERRITORIAL ENTITY</b>	Affiliation by Territorial Entity
	Migrant Affiliation with PPT
	Report on Official Affiliation for Territorial Entities
<b>SUPERSALUD</b>	Manage geographic membership capacity

**2. Functionalities developed by entering Production:**

The following is a list of the functionalities that have been developed by the Information and Communication Technology Office and are pending to be put into production:

ROLE	Functionality
<b>TERRITORIAL ENTITY</b>	Venezuelan Migrant Accreditation
	Registration of Retirement Novelty - Decree 064 by:



ROLE	Functionality
	<ul style="list-style-type: none"> <li>• No Sisbén survey</li> <li>• Not complying with the requirements for the Subsidized Regime</li> <li>• No migrant accreditation</li> </ul>
	Solidarity Contribution Membership

**3. Functionalities pending to be developed:**

Below is a list of the functionalities that are pending development by the Office of Information and Communication Technology:

Functionality
Institutional affiliation ICBF, Public Prosecutor's Office, INPEC, Indigenous Populations, Special Populations Territorial Entities
Guardianships - Judicial Rulings **
EPS Mass Retirement Assignments
Cancellation of news due to impersonation **
News reported by a guardian **
Country Exit Report **
Portability **
Individual Affiliation **
Excepted or special regimes report
News on Voluntary Plans
Reporting of census lists through SAT and not PISIS
Validation of Contributors
Cancellation of news due to change of status
Report of Deaths by the EPS from BDU A to SAT **
Administration Module
New IPS Update **
Query Status of Affiliates (ET, EPS and IPS) **
Provide Glosses to the EPS and Territorial Entities **
Updating of complementary and contact data by the Territorial Entity **
Exception to the permanence rule**
WEB Service SAT BDU A **
SAT Reports

\*\* The requirements for these functionalities have been sent to OTIC, but the Office has yet to validate them.

**Statistics on the operation of the Transactional Affiliation System in HEALTH between 2018 and June 2022.**



- Citizens who have registered in the Transactional Affiliation System

2018	2019	2020	2021	2022
583.082	1.155.732	1.141.794	1.324.960	622.237

- Employers registered in the Transactional Affiliation System

2018	2019	2020	2021	2022
2.459	408	6705	3436	622.237

- Number of transactions by Functionality that have been conducted in SAT as of June 2022:

Transaction	2018	2019	2020	2021	2022
Transfer of EPS	355.153	1.383.858	1.141.427	1.352.550	742.622
Membership by trade	0		316.479	459.406	389.271
Inclusion of beneficiaries	0	58.301	121.254	130.472	67.162
Updating complementary data	14.361	17.584	71.266	109.810	62.717
Acquisition of conditions for quotation	8.449		45.724	95.657	90.287
EPS re-registration	0	6.337	22.270	24.759	7.421
Affiliation to the Subsidized Regime	0		24.172	28.758	13.559
Loss of eligibility to quote	0		7.070	20.543	15.653
Exclusion of beneficiaries	0	3.590	5.606	6.063	3.979
Updating the identity document	585	3.099	3.162	1.940	700
Mobility to subsidized regime	0	71	818	876	920
Report of commencement of an employment relationship	701	448	337	297	163
Request exclusion as partner/permanent partner	0	137	165	215	147
Termination of employment	0		11	5	
Report of residence abroad	0		1		
<b>TOTAL</b>	<b>379.249</b>	<b>1.473.425</b>	<b>1.759.762</b>	<b>2.231.351</b>	<b>1.394.601</b>

It is recommended to:

- To give continuity to the development and implementation of SAT-Health functionalities to achieve the objective for which it was created.
- Strengthen the usability of SAT by the different stakeholders.
- Considering that SAT interacts with the BDUA (a system that is not designed for online work), strengthen the proposals for improvement in the



SAT/BDUA connectivity to achieve online updating in both ways and avoid differences in the information of the two (2) systems and the glosses that are generated by this difference.

- To continue to validate the causes of the glosses to implement corrective actions to reduce the percentage of glosses to a minimum.
- Continue to strengthen security in the Transactional Affiliation System.
- Continue to improve strategies for receiving information from reference sources.
- Request that the technology office of the Ministry of Health has the technological and human talent capacity to meet the proposed goals in a shorter time and with good quality that responds to all the systems that depend on it.

### **Transactional Affiliation System in Occupational Risks**

On November 1, 2018, Decree 2058 "Whereby Title 2 of Part 1 of Book 2 and Article 2.1.5.1. of Decree 780 of 2016, Sole Regulatory Decree of the Health and Social Protection Sector" was issued, defining in its article 1 that the Ministry of Health and Social Protection will create the Transactional Affiliation System to record and consult in real time, the basic and complementary information data of members, affiliation and their news in the Health and Labour Risks Social Security Systems.

It should be noted that the transactional affiliation system - SAT, for labour risks, allows directly to the contributor, whether natural or legal person, to make the affiliation virtually to the (SGRL) General System of Labour Risks, who may select the (ARL) Labour Risks Administrator of their preference and make the report of affiliation news, through the portal [www.miseguridadsocial.gov.co](http://www.miseguridadsocial.gov.co).

The developments for affiliation to the General Labour Risks System through the Transactional Affiliation System - SAT, were defined in 2 components. Component 1 lists the developments to be made in the SAT for the affiliation of dependent workers and students in training practice, and component 2 lists the developments to be made in the SAT for the affiliation of independent workers.

#### **Component 1: Dependent workers and students in training internships**

The developments of Component 1. "*Dependent workers and students in training practice*", were defined in 4 phases as follows:

##### **1. Phase 0. Incorporation of affiliation information and news of dependent workers and students in training practice.**

Phase 0. "*Incorporation of affiliation information and new developments of dependent workers and students in training practice*" was defined in two stages:



- Stage 1. The Labour Risks Administrators had to carry out the definitive uploading of information on the affiliation and new developments of dependent workers and students in training practice through the PISIS platform, this stage was carried out between June 13 and 18, 2020.
- Stage 2. The information uploaded by the ARLs was incorporated into the SAT database, and the information was validated and purged as of June 30, 2020, resulting in 877,195 affiliated companies with a total of 9,248,249 workers associated with them.

## 2. Phase 1. SAT-ARL Incoming Web Services

Phase 1. "*SAT-ARL Entry Web Services*" was defined in 2 steps:

- Stage 1. The SAT-ARL entry web services were structured, which will be made available to the Labour Risks Administrators for them to report new developments and keep the SAT database updated in the General Labour Risks System.
- Stage 2. The SAT-ARL entry web services were developed and implemented through Resolution 906 of June 11, 2020, which defined the web services and functionalities to be made available to ARLs and employers.

There are currently 13 web services in production, which are listed as follows:

1. Employer's affiliation to an ARL.
2. Headquarters News (Creation, Inactivation and Updating).
3. New Work Center (Creation, Inactivation and Updating);
4. Transfer of the ARL Employer.
5. Variation of the work center;
6. Retraction of affiliation or retraction of ARL employer transfer.
7. Beginning of an employment relationship or training practice.
8. Termination of an employment relationship or training practice.
9. Modification of the contribution base income.
10. Definitive withdrawal of the company from the SGRL (service that is currently turned off).
11. Report of arrears in the payment of contributions to the SGRL, payment agreements and non-compliance with payment agreement (service in stabilization stage);
12. Reclassification of the risk of a work center;
13. Correction of Contributor Type or Contributor Subtype.



To date, the Labour Risks Administrators have 5 web services for consultation, which are:

1. Consultation of Affiliated or Transferred Companies and their retractions.
2. Consultation of company structure.
3. Consultation of companies that may or may not be transferred to an ARL.
4. Consultation period of arrears.
5. Consultation of report of beginning and/or end of labour relations filed in the SAT.

The following is a list of the usability statistics of the web services of the Labour Risks Administrators:

<b>ARL web services usability statistics</b>	
<b>Web services</b>	<b>Transactions</b>
ARL Affiliation	687,348
Report Start of Employment Relationship ARL	9,156,732
Report Work Center News	443,524
Report News Headquarters	635,468
Report Employer Transfer Withdrawal	598
Report Termination of ARL Labour Relationship Report	8,760,749
Report Employer Transfer	18,236
Report Work Center Variation	332,090
Change BC	5,500,305
Delinquency Report	2,097,380
Transferable Employer Query	7,668
Report Permanent Withdrawal Company SGRL	151,034
Report Work Center Reclassification	665
Query Transferred Company	235
Query Company Structure	477
Query Delinquent Period	1,595
Report Cancellation of Labour Relationship ARL	341,566
Correction Type Contributor Subtype	2
<b>Grand total</b>	<b>28,195,672</b>

Source: ARL 2022-OTIC 2022 usability statistics.

The following table shows the number of companies affiliated to the General Occupational Risks System and the number of dependent workers currently affiliated to the General Occupational Risks System as of May of this year:



Affiliation information and news SGRL through SAT	
Type	Amount
Affiliated Companies	988,225
Affiliated Persons	10,882,681

Source: ARL 2022-OTIC 2022 usability statistics.

The technical reference documents for occupational risk insurers are published on the Ministry's web page, which are listed below:

- Detail validations incorporation Information.
- Services consumption guide.
- Infographics.
- Natural Person Manual.
- SAT Manual and SAT Manual V 1.1.
- SAT-ARL V22 20220326 Definition Document Structure of the SAT-ARL V22 Web Entry Services.

### 3. Phase 2. Employer functionalities legal entity and employer natural person.

On May 2 of this year, the Presidency of the Republic held the event called "Launching of the One-Stop Business Window (VUE)" within the framework of the National System of Competitiveness and Innovation, in which the mechanism of affiliation and reporting of new developments was made official to employers, especially those related to the beginning of the employment relationship of dependent workers through the SAT for companies created as of January 1, 2020.

Phase 2. "*Functionalities of the employer legal entity and employer natural person*" was defined in 2 steps:

- Stage 1. The SAT-ARL functionalities were structured, where it was defined that the functionalities are the structures provided for legal entity employers and natural person employers through which the transactions related to the General System of Integral Social Security can be carried out directly.

As of the issuance of Resolution 906 of 2020, the definition of requirements and technical specifications began, which have gradually allowed, as of the second half of 2021, to provide the service to the public.

- Stage 2. New functionalities were developed and implemented in compliance with Resolution 2945 of 2019, which defined that new companies created through the Ventanilla Única Empresarial-VUE as of January 1, 2020, could



carry out the process of affiliation to an ARL for free and voluntarily using the Sistema de Afiliación Transaccional-SAT, as well as the Initiation and Termination of the Labour Relationship IRL-TRL of dependent workers and students in formative practice.

There are currently 6 functionalities in production, which are:

1. Affiliation to the General System of Labour Risks.
2. Headquarters Administration (Creation, Inactivation and Updating).
3. Work Center Administration (Creation, Inactivation and Updating);
4. Retraction of affiliation to the General System of Labour Risks.
5. Beginning of a labour relationship;
6. Termination of labour relationship.

**4. Phase 3. SAT-ARL output web services.**

Phase 3. "SAT-ARL output web services" was defined in 2 stages:

- In stage 1, the SAT-ARL output web services are being structured and defined jointly by the Ministry of Health and Social Protection and the Labour Risk Administrators with the preparation of the technical document entitled "Structure of the SAT-ARL output web services".
- In stage 2, the development of the corresponding functionalities will begin, once the document "Structure of the SAT-ARL output web services" has been adopted.

**Component 2: Self-employed workers:**

This component includes self-employed workers who are obliged to be affiliated to the General Occupational Risk System and those whose affiliation to occupational risks is voluntary.

Targets and results:

YEAR	TARGET	SAT RL RESULT	NUMBER OF SAT-RL WEB FUNCTIONALITIES OR SERVICES PER YEAR	DESCRIPTION
2018	0%	0%	0	Decree 2058 of 1/11/2018, creates the SAT-RL.
2019	32%	13.91%	20	20 requirements made and developed for RL,



				equivalent to 100% compliance.
2020	38%	27.63%	40	40 requirements made and developed, including change control and glosses, which is equivalent to 100% compliance.
2021	12%	7.33%	11	11 requirements made and developed, including change control and glosses, which is equivalent to 100% compliance.
2022	18%	3.46	5	To date, 15 requirements are pending to complete the first stage of the project.

Note 1: The targets mentioned in this table correspond only to the (SGSSS) General Health Social Security System and the (SGRL) General Labour Risks System.

Note 2: The developments are in the stabilization stage, which oversees OTIC.

Note 3: The specifications can be consulted at the following link: [definicion-estructura-servicio-web-entrada-sat-arl.pdf](https://definicion-estructura-servicio-web-entrada-sat-arl.pdf) (minsalud.gov.co)

Note 4: The goals and progress are uploaded monthly to the SINERGIA platform provided by the DNP.

**Transactional Affiliation System - (SAT) General Pension System**

Through Decree 1818 of 2019, the General Pension System was incorporated into the Transactional Affiliation System - SAT, and through Resolution 1734 of 2020, the general conditions for the operation of the General Pension System in the Transactional Affiliation System - SAT were defined; and through Resolution 351 of 2021, modified by Resolution 1134 of 2021, the guidelines for the incorporation of information and interoperability of the General Pension System in relation to affiliation were defined.

The developments for the General Pension System through the Transactional Affiliation System - SAT, were defined in 3 phases, as follows:



Phase 1. Incorporation of affiliation information to the General Pension System in the SAT.

Phase 2. Pension administrators reporting to SAT. Administrators in production.

Phase 3. Citizen's processing pension enrolment using SAT.

**1. Phase 1. Incorporation of affiliation information to the General Pension System in the SAT.**

Beginning in the second half of 2021, the affiliation information of the General Pension System reported in the Single Registry of Affiliates - RUAF was incorporated into the SAT, a process that culminated in the first half of 2022.

**2. Phase 2. Pension administrators reporting to SAT. Administrators in production.**

With the start of production on May 2 of the labour relationship functionality, the SAT is now reporting to the General Pension System Administrators the list of workers for whom their employers have reported the start of the labour relationship.

**3. Phase 3. Citizen's processing pension enrolment using SAT.**

With the start of production on May 2, citizens can report through the SAT the application for affiliation to the General Pension System when they become dependent workers or acquire the status of self-employed workers.

Progress has been made in the following areas:

- Decree 1818 of October 7, 2019, which incorporated the *General Pension System and the Family Allowance System* into the *Transactional Affiliation System (SAT)*, was processed jointly with the Ministry of Labour.
- Resolution 1126 of 2020, which defines the general conditions for the operation of the Family Allowance in the Transactional Affiliation System - SAT, was processed jointly with the Ministry of Labour.
- Resolution 1734 of 2020, "Whereby the general conditions for the operation of the General Pension System in the Transactional Affiliation System - SAT" was processed jointly with the Ministry of Labour.
- Resolution 025 of January 14, 2021, "Whereby Article 10 of Resolution 1126 of 2020 is amended in relation to the deadline for the implementation of the Family Allowance System functionalities through the SAT" was processed jointly with the Ministry of Labour.

**Transactional Affiliation System (SAT) - Sistema de Subsidio Familiar (Family Allowance System)**



Through Decree 1818 of 2019, the Family Subsidy System was incorporated into the Transactional Affiliation System - SAT, and through Resolution 1126 of 2020, the general conditions for the operation of the Family Subsidy System in the SAT were defined; and through Resolution 083 of 2021, the guidelines for the incorporation of information and interoperability of the Family Subsidy System in the SAT were defined with respect to the roles of employer legal entity and employer natural person.

In the second half of 2021, the incorporation of the family subsidy information in the SAT was completed, and the information reporting web services to update the information incorporated were also put into operation.

On May 2, 2022, the functionality for the start of the labour relationship and the report of the new request for affiliation to a Family Compensation Fund for the first time in a department, a process that is being progressively advanced by the Family Compensation Funds, went into production.

It should be noted that during the second half of 2022, the SAT Transactional Affiliation System is undergoing a reengineering process to adjust to the new guidelines issued by the Ministry's senior management.

Regarding the indicators the progress as of 2022 in the proportion of informal workers employed, measured by social security affiliation, we have by systems:

**General Social Security Health System**

The General Social Security Health System (SGSSS) aims to regulate the essential public health service and create conditions of access for the entire resident population of the country, at all levels of care. The following table shows its distribution according to the condition of the affiliate, who have health insurance:

	<b>October 2022</b>
Contributory	23.479.989
Subsidized	25.558.394
Special	2.237.502
Total, Affiliates	51.275.885
Population DANE	51.79.885
Coverage	99,01%

Source: EPS, Ministry of Health and Social Protection, DANE.

As of October 2022, the national health insurance coverage is 99.01%, compared to the total population reported by the National Statistics Department (DANE for its Spanish acronym).



The number of contributors to the contributory regime of the General Social Security Health System is 15,221,172.

**General Labour Risks System**

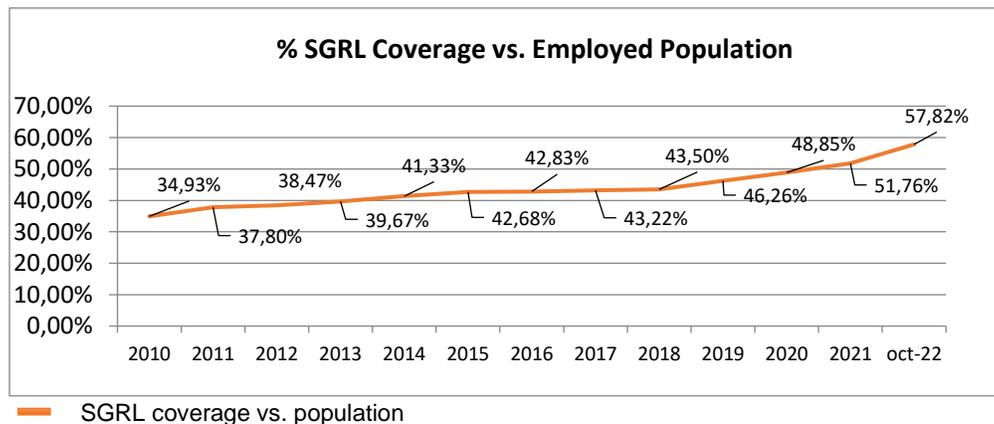
The purpose of the General System of Labour Risks is to prevent, protect and care for workers against the contingencies generated by occupational diseases and accidents at work, which may occur on occasion of or because of the work performed by the Colombian working population.

As of October 2022, the population affiliated to the General System of Labour Risks (SGRL) is 13,071,103; the following table shows its distribution according to the type of affiliate:

Number of affiliated companies SGRL	No. of dependent workers	No. self-employed	No. students	No. Independent Volunteer	Total, affiliates
1.102.235	10.948.491	1.182.431	633.536	306.645	13.071.103

Source: Labour Risks Administrators -Occupational Risks Sub-Directorate- Ministry of Health and Social Protection.

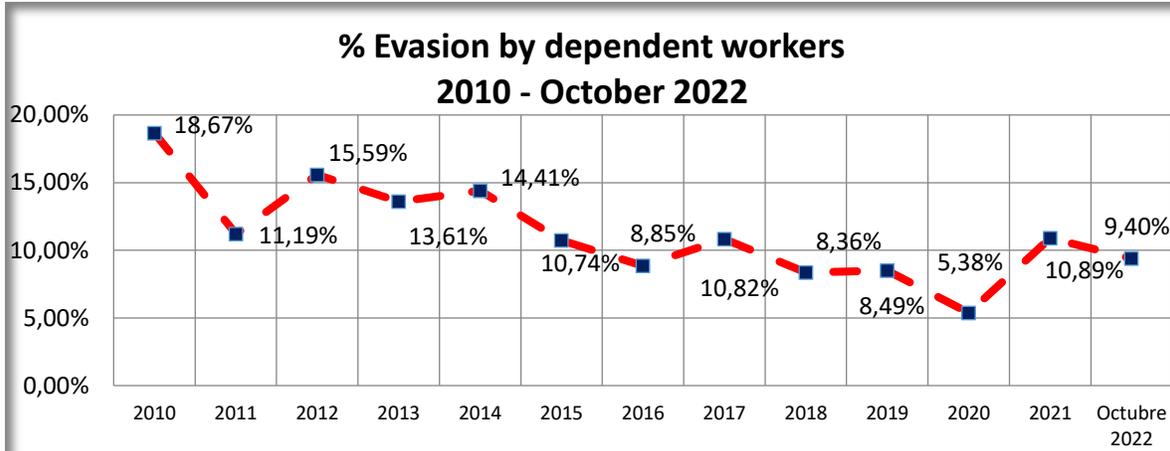
The percentage of coverage of members of the General Occupational Risks System compared to the employed population is 57.82%. The following illustration shows the behaviour from 2010 to October 2022:



Source: DANE; Occupational Risk System - Occupational Risks Sub-directorate, Ministry of Health and Social Protection.



Evasion of the General System of Labour Risks by dependent workers, i.e., workers who have an employer, is at 9.40. The following illustration shows the behaviour from 2010 to October 2022.



Source: DANE; Occupational Risk System - Occupational Risks sub-directorate, Ministry of Health, and Social Protection

### General Pension System

In the General Pension System made up of the two schemes: i) the Average Premium with Defined Benefit Solidarity Scheme and ii) the Individual Savings with Solidarity Scheme, as of September 2022, the number of members of the General Pension System is 25,363,322 members, of which 18,584,605 are in the individual savings scheme and 6,778,717 are in the average premium with defined benefit scheme.

	September 2022
System of Individual Savings with Welfare Benefit (RAIS)	18.584.605
Average premium scheme with defined benefit	6.778.717
<b>Total</b>	<b>25.363.322</b>

Source: Financial Superintendence of Colombia

In accordance with the monitoring of the process of entry into the Transactional Affiliation System (SAT for its Spanish acronym), the following results are presented:

#### **- RELEVANT FOLLOW-UP ISSUES:**



The Ministries of Labour and Health and Social Protection, advanced follow-up actions in the technical areas of the Family Compensation Funds, evidencing progress and providing recommendations for improvement and quality of the service.

During the month of December 2022, the group of Family Compensation Funds remains in the process of affiliation for the first time in the Transactional Registration System (SAT for its Spanish acronym) , was monitored in order to verify the status of their internal and external developments, scheduling the test meetings with the Ministry of Health requested by each of the funds, The purpose of these meetings was to learn the status of each one of them and to set specific dates for sending credentials in production of the Family Compensation Funds that have already certified their connection to the SISAFRITA testing platform (Platform or software where adjustments are made, tests with fictitious companies and with the CCF to validate the connection and the handling of the information).

**- LEVEL OF PROGRESS ACCORDING TO THE POPULATION AFFILIATED TO THE CCF:**

At present, the Family Compensation Funds in production status in the SAT First Time Registration process add 92.4% of the population registries with the system.

For their part, the Family Compensation Funds that are in the process of connection tests, Core, WS and data adjustments, account for 8.6% of the population affiliated to the system.

CCF STATUS	%Affiliated population
COMPENSATION FUNDS IN PRODUCTION	92,4%
COMPENSATION FUNDS CERTIFIED AND READY TO GO INTO PRODUCTION	4 %
COMPENSATION FUNDS IN CONNECTION TESTS	4,6%
COMPENSATION FUNDS IN THE PROCESS OF HIRING OR DEVELOPMENT IN HOUSE	0 %
TOTAL	100%

**CURRENT STATUS AND CHRONOGRAM OF ENTRY INTO THE SAT OF THE FAMILY COMPENSATION FUNDS:**

Considering the information provided in the working sessions by the Family Compensation Funds and the adjustments to the testing platform of the Ministry of Health and Social Protection (SISAFRITA), the entry schedule would have the following changes:



1. Funds that are in production status, i.e., those that are available in the Transactional Registration System (SAT for its Spanish acronym) and ready to develop the affiliation procedure for the first time.

COMPENSATION FUNDS IN PRODUCTION			
Code	City	Description - CCF	Date of production entry
22	BOGOTA	Colombian Family Subsidy Fund Colsubsidio	1/05/2022
24	BOGOTA	Family Compensation Fund COMPENSAR	1/05/2022
21	BOGOTA	Family Compensation Fund CAFAM	27/05/2022
34	VILLAVICENCIO	Family Compensation Fund COFREM	3/06/2022
03	MEDELLIN	Family Compensation Fund COMFENALCO ANTIOQUIA	3/06/2022
63	PUERTO ASÍS	Family Compensation Fund of Putumayo COMFAMILIAR PUTUMAYO	30/06/2022
13	FLORENCIA	Caquetá Family Compensation Fund COMFACA	15/07/2022
29	QUIBDÓ	Family Compensation Fund of Chocó COMFACHOCÓ	15/07/2022
39	BUCARAMANGA	Santander Family Subsidy Fund CAJASAN	15/07/2022
11	MANIZALES	Caldas Family Compensation Fund COMFACALDAS	15/07/2022
04	MEDELLIN	Family Compensation Fund COMFAMA ANTIOQUIA	30/07/2022
06	BARRANQUILLA	Family Compensation Fund of Barranquilla COMBARRANQUILLA	30/07/2022
07	BARRANQUILLA	Family Compensation Fund COMFAMILIAR ATLANTICO	30/07/2022
10	TUNJA	Family Compensation Fund of Boyacá COMFABOY	30/07/2022
15	VALLEDUPAR	Family Compensation Fund of Cesar COMFACESAR	30/07/2022
26	BOGOTA	Cundinamarca Family Compensation Fund COMFACUNDI	5/07/2022



35	PASTO	Family Compensation Fund of Nariño COMFAMILIAR NARIÑO	30/07/2022
43	QUINDIO	Compensation Fund COMFENALCO QUINDIO	30/07/2022
48	IBAGUÉ	Tolima Family Compensation Fund COMFATOLIMA	29/07/2022
50	IBAGUÉ	Tolima Family Compensation Fund - COMFENALCO TOLIMA	30/07/2022
56	CALI	Compensation Fund Comfenalco Valle Delagente	30/07/2022
30	RIOHACHA	Guajira Family Compensation Fund - COMFAGUAJIRA	03/08/2022
38	BARRANCABERMEJA	Barrancabermeja Family Compensation Fund CAFABA	20/08/2022
05	BARRANQUILLA	Family Compensation Fund CAJACOPI ATLANTICO	20/08/2022.
40	BUCARAMANGA	Family Compensation Fund COMFENALCO SANTANDER	20/08/2022
57	VALLE DEL CAUCA	Compensation Fund CONFANDI	12/08/2022
37	CÚCUTA	Family Compensation Fund of Norte de Santander COMFANORTE	9/10/2022
65	LETICIA	Family Compensation Fund of Amazonas CAFAMAZ	28/10/2022
32	NEIVA	Family Compensation Fund of Huila - COMFAMILIAR HUILA	28/10/2022
67	ARAUCA	Family Compensation Fund of Arauca COMFIAR	31/10/2022

The Family Compensation Funds that entered production are waiting to carry out the affiliation process for the first time in a productive environment (white march), this can only be done when an employer arrives to affiliate for the first time, it is to consider that this affiliation for the first time must be accompanied by the Ministries of Labour, Health, Commerce and CONFE- CAMARAS to validate its proper functioning, and it is registered with the usability database in each of the funds in the SAT platform.

2. The Family Compensation Funds that are in certified status, i.e., those that have complete developing and whose tests were approved by the Ministry of Health and Social Protection. It should be noted that the next step for these funds is to send to the Ministry of Health, the credentials for entry into production to be enabled by the OTIC ("The office of information technology



and communications is responsible for validating the information, generating the computer security protocols and the management of the data incorporated into the system that is already in production with accurate information").

<b>COMPENSATION FUNDS CERTIFIED AND READY TO GO INTO PRODUCTION</b>				
<b>Code</b>	<b>City</b>	<b>Description – CCF</b>	<b>Date of production entry</b>	<b>Remarks</b>
09	CARTAGEN A	Family Compensation Fund of Cartagena and Bolivar - COMFAMILIAR	Awaiting Ministry of Health guidelines	Internal CCF connection tests. Last communication on 20/12/2022.
08	CARTAGEN A	Family Compensation Fund of Fenalco - ANDI COMFENALCO CARTAGENA	Awaiting Ministry of Health guidelines	Internal CCF connection tests. Last communication on 20/12/2022
36	SAN JOSÉ DE CUCUTA	Eastern Colombia Family Compensation Fund - COMFAORIENTE	Awaiting Ministry of Health guidelines	Internal CCF connection tests. Last communication on 20/12/2022
14	POPAYAN	Cauca Family Compensation Fund - COMFACAUCA	Awaiting Ministry of Health guidelines	Internal CCF connection tests. Last communication on 20/12/2022
46	ESPINAL	Family Compensation Fund of South Tolima - CAFASUR	Awaiting Ministry of Health guidelines	Internal CCF connection tests. Last communication on 20/12/2022



3. The Family Compensation Funds that are in the testing stage are those that have carried out internal developments and are in the process of connecting with the Ministry of Health and Social Protection. It is important to note that the developments of these funds may be susceptible to changes.

<b>CAJAS EN PRUEBAS DE CONEXIÓN</b>				
Code	City	Description – CCF	Date of production entry	Remarks
02	MEDELLÍN	Camacol Family Compensation Fund COMFAMILIAR CAMACOL	Awaiting Ministry of Health guidelines	Internal CCF connection tests. Last communication 20/12/2022
16	MONTERIA	Family Compensation Fund of Córdoba COMFACOR	Awaiting Ministry of Health guidelines	Internal CCF connection tests. Last communication 20/12/2022
33	SANTA MARTA	Magdalena Family Compensation Fund CAJAMAG	Awaiting Ministry of Health guidelines	Internal CCF connection tests. Last communication 20/12/2022
41	SINCELEJO	Sucre Family Compensation Fund COMFASUCRE	Awaiting Ministry of Health guidelines	Internal CCF connection tests. Last communication 20/12/2022
64	SAN ANDRÉS ISLAS	Family Compensation Fund of San Andrés and Providencia Islands CAJASAI	Awaiting Ministry of Health guidelines	Internal CCF connection tests. Last communication 20/12/2022
68	BOGOTÁ	Family Compensation Fund for Farmers COMCAJA	Awaiting Ministry of Health guidelines	Pruebas de conexión internas CCF. Última comunicación 20/12/2022.



69	YOPAL	Casanare Family Compensation Fund COMFACASANARE	Awaiting Ministry of Health guidelines	Pruebas de conexión internas CCF. Última comunicación 20/12/2022.
44	PEREIRA	Risaralda Family Compensation Fund - COMFAMILIAR RISARALDA	Awaiting Ministry of Health guidelines	Pruebas de conexión internas CCF. Última comunicación 20/12/2022.

4. The Family Compensation Funds that are in a state of development, i.e., those that are in pre-contractual or contractual stages leading to the resolution of technological development needs with external suppliers or those whose development will be internal (in-house), at the moment there are no Family Compensation Funds in this state as they have passed the start-up phase.

**FINAL REMARKS (20 December 2022)**

- The family compensation funds are available and attentive to the way in which the new work and follow-up meetings with the Ministry of Health will be carried out due to the lack of human resources and attention from the Ministry of Health. Five compensation funds are pending DATA ("Information that is necessary to review the reliability of the system") CREDENTIALS ("They are the indicators of each CCF to identify themselves in the system or network") and CERTIFICATION ("It is to generate the approval by the Ministry of Health that they passed the tests and their connection is OK") all in order to go into production in the WS of affiliation for the first time.
- It was stipulated at the meeting held on 20 December 2022 with the 13 compensation funds (which are ready to go into production) that the commitments made to advance the said commitments could not be advanced due to the lack of human resources in the Ministry of Health at the time and consequently the schedule established with these 13 Family Compensation Funds was not met. The Ministry of Labour will continue to monitor and address the needs of each of the funds through the relevant bodies.

**1.3 Improve the link between what workers and employers must contribute to social security and the benefits and services they receive in return.**



As pointed out in the first part of the report, we are also working on a pension reform that guarantees the right to a pension for all older men and women and protects the contributions and the accumulated mandatory and voluntary savings, present and future, of Colombians; we want to build an equitable, solidarity-based old-age protection system with universal coverage, in line with the economic and social reality of our country, which respects the fiscal framework in the medium and long term.

The objective of any pension reform should not be to reduce expenditure, but to make a more efficient use of it to focus it on the most vulnerable population.

The pension reform aims at a transition towards a unified pension system that is mainly public, complementary, and non-competitive, and is based on three pillars:

- Basic solidarity pillar: a non-contributory pension voucher equivalent to half a minimum wage will be guaranteed for older men and women who are not currently entitled to a pension.

- Contributory pillar: all working people, including those with higher incomes, will be obliged to contribute to Colpensiones a sum calculated based on 1 to 4 SMLV, which will ensure a basic pension under the average premium scheme. People whose income is higher than 4 SMLV will freely decide where to contribute the surplus; the Pension Fund Administrators will participate in this pillar.

Voluntary supplementary savings: All those who want to supplement their pension will be able to save in a voluntary pension fund.

It is important to bear in mind that the Ministry of Labour aims to improve the link between what workers and employers must contribute to social security and the benefits and services they receive in return. It is also recommended to improve access to family compensation funds through campaigns that seek to increase their coverage and ensure that the employer guarantees all the services associated with workers' social security. It is also advisable to establish correlations between indicators of subsidized coverage and the most vulnerable population, to guarantee the adequate targeting of resources.

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

The Ministry of Labour recommends the growth of the National Network for Labour Formalisation to maintain guidance on good practices in decent work and workers' access to social security. To this end, the network relies on guidance to citizens, dissemination, and support for the Ministry of Labour's formalisation programmes. Currently, the network has reached 100%.



### **1.5 Strengthen the legal framework, as appropriate, to prohibit all forms of abusive subcontracting, including using cooperatives, trade union contracts and abusive subcontracting, including using cooperatives, union contracts and simplified and simplified joint stock companies.**

As noted in the previous report, Colombia has a broad regulatory framework, however, in the Government of Change, it is planned in the labour reform to address this problem, likewise in the bases proposed in the development plan it is found that to protect the rights of workers, the System of Labour Inspection, Surveillance and Control will be modernised and a special administrative sanctioning procedure will be implemented, through oral hearings. Fixed inspections will be increased in more municipalities in the country and the elite group of DVI gender equality will be strengthened to prevent discrimination, violence, and harassment of women and LGBTIQ+ people in the workplace. The administrative career of labour inspectors will be structured, and the number of positions will be increased according to ILO recommendations.

Virtual inspection will be implemented, mobile inspection will be improved in rural areas and PDET municipalities, and a programme for the transition to labour formality will be designed with an emphasis on the rural sector.

### **1.6 Ensure investigations of all forms of abusive subcontracting, especially in rural areas, and publish on an ongoing basis notification of complaints, investigations, and findings.**

The Ministry of Labour, through its Territorial Directorates, carries out the corresponding investigations to protect the rights of workers, and for this activity, it is strengthening the Labour Inspectors through training, so that they can carry out this activity in an appropriate manner.

In order to ensure that all complaints received due to abusive subcontracting are handled correctly, 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 in accordance with the content of Articles 74 of Law 1753 of 2015 and 63 of Law 1429 of 2010, as well as their Regulatory Decrees", through which hermeneutics guidelines were established, by the central level of the Ministry of Labour, for the application of labour regulations, which guide labour inspection in Colombia, which is exercised by the 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, the Ministry of Labour issued Resolution 2021 of 2018, which also establishes guidelines on Inspection, Surveillance and Control in labour



intermediation processes, considering Article 63 of Law 1429 of 2010 and other previously mentioned regulations. The importance of this Resolution of guidelines lies in the clarity that it allows the Labour and Social Security Inspector to obtain regarding the matter to be investigated, since it specifies when we are facing 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, subcontracting or "outsourcing", and specifies the difference between the aforementioned concepts, by determining that "outsourcing and labour intermediation are totally different concepts, but in the execution of both, the constitutional, legal and social security rights of the workers, as 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 that purpose and in specific circumstances established by law".

In addition, the Ministry of Labour and its respective inspectorates issue annual guidelines for the execution of inspection visits or inspection actions, with the aim of promoting prevention and protection, because thanks to the preventive approach, social dialogue and the protective principle, possible violations of labour standards such as abusive subcontracting can be detected and corrective measures can be adopted in a more timely manner, in defence of workers' rights and labour legality. Thus, through memorandum No. 1101 of 2022, guidelines were issued to focus the different inspection actions, by means of an analysis of different internal sources of the Ministry of Labour that provide elements to initially establish the economic sectors, the geographic sites, including urban and rural areas, with greater risk of violation of labour standards and the occupational health and safety system, so that the territorial directorates can better focus their actions in terms of inspection.

Now, with regard to the strategies associated with the approach to rural areas by the Labour Inspectorate, through Resolution 1854 of 2018, the Internal Working Group for the Protection of the Labour Rights of Rural Workers was established, in order to ensure the approach between the central sector of the administration with remote and remote regions and territories and to structure plans, programmes and projects that effectively protect the labour rights of rural workers.

Thus, the Ministry of Labour is implementing a special programme for the provision of the Mobile Labour Inspection service, the objective of which is to bring the Labour Inspection System closer to all regions of the country where labour relations exist, with special emphasis on the rural sector.

The priority of the Mobile Labour Inspection System is to develop the preventive function of labour in the rural sector, allowing the generation of optimal conditions for decent work in the remote regions of the country, especially in favour of those who are part of the rural sector or those who were part of the conflict as victims or reincorporated from the armed groups to civilian life. Even so, if in the development of the activities of the Mobile Inspection the labour authority observes conduct by employers that implies the infringement of labour regulations or occupational risks, the respective administrative actions will be initiated.



Finally, regarding the dissemination of the progress of investigations initiated at the national level, the Ministry of Labour has been issuing a quarterly bulletin showing statistical figures on its management through the Territorial Directorates, Special Offices, and the central level, with data disaggregated by sector and detailing the actions and results of the investigations carried out for the improper or illegal use of labour intermediation.

All statistical bulletins issued to date have been made available on the Entity's website at the following link:

<https://www.mintrabajo.gov.co/web/guest/relaciones-laborales/inspeccion-vigilancia-y-control/boletinvirtual-ivc>

Likewise, the Territorial Information System (SISINFO) provides online consultation for users with a SISINFO profile of all complaint notification supports. Complaint notifications are published on the website when the citations and notifications by notice of administrative acts have expired.

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

The administrative actions of the Labour Inspectorate are carried out in accordance with the regulated procedure provided for in the Code of Administrative Procedure and Administrative Disputes - Law 1437 of 2011 - and Law 1610 of 2013, the Labour Inspectorate Law.

The administrative sanctioning procedure is a regulated procedure, which in itself constitutes a set of stages and preclusive terms, from its initiation to the issuance of the administrative act of decision, including the formulation of charges, the discharges, the evidentiary period, the arguments of conclusion and issuance of the final administrative act and including the resolution of the appeals that are filed, tending to verify whether in a specific case there is evidence of violation of the labour regulations in force and if the infringement of the rule by the employer is proven, the respective sanction will be imposed.

Likewise, this Ministry carries out its actions under the principles of due process, efficiency, economy, speed, impartiality, transparency, and equality that govern administrative actions.

In addition, article 52 of Law 1437 of 2011 establishes the time limits for the administration to impose a sanction in use of the sanctioning power and Law 1610 of 2013 established the preclusive procedural terms for the different stages of the administrative sanctioning procedure, highlighting that technical inspection tools have been designed to promote the standardisation of investigation and sanctioning procedures.



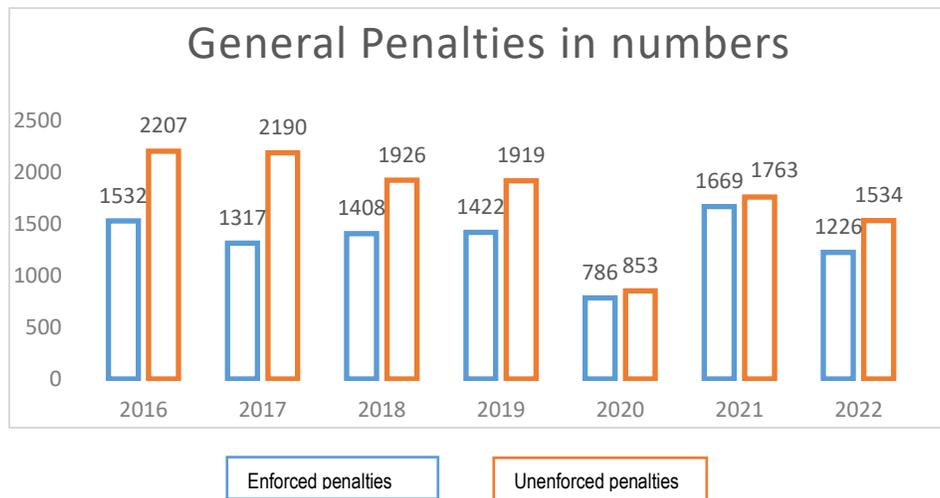
The Ministry has issued guidelines to ensure compliance with the terms established by Colombian regulations for its administrative procedures:

- 2015 memorandum on procedural stages - preliminary enquiry.
- 2015 memorandum on procedural stages - notifications
- 2015 memorandum on procedural stages - sanctioning administrative proceedings.
- 2016 memorandum of notification.

Likewise, internal procedures have been drawn up and updated, indicating the terms of advancing the different activities related to preliminary enquiries, administrative sanctioning procedures and appeals.

The Ministry of Labour has taken steps to monitor the progress of existing investigations in all areas, and follow-up reports are periodically shared with the territorial directors and the various internal group coordinators. It has also developed an annual administrative simplification plan.

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



In terms of penalties, the following is a statistical overview of the penalties imposed and enforced for violation of the rules for all infractions imposed by the Ministry of Labour in the year 2022:

**Table 1: Number of fines imposed and enforced for violation of labour regulations: Year 2022 (cut-off as of 31 October)**

Year	Enforced penalties		Unenforced penalties	
	Number	Value	Number	Value
2022	1534	44.331.735.170	1226	18.986.986.151



Source: Territorial Management Sub-directorate - Penalty base

The data of the related unenforced penalties corresponds to the penalties imposed in the year 2022 at the national level.

Specifically, in terms of investigations for labour intermediation, the following results have been obtained:

**Table 2: Number of fines imposed and enforced for labour brokering and abusive subcontracting: Year: 2022 (cut-off as of 31 October).**

Year	Unenforced penalties		Enforced penalties	
	Number	Value	Number	Value
2022	6	1.176.000.000	2	303.447.684

Source: Territorial Management Sub-directorate - Penalty base

Finally, as mentioned in the previous point, the dissemination of penalties in this specific area has been carried out through a quarterly bulletin which shows labour statistics and data disaggregated by sector, and which also details the actions and results of the investigations carried out for the improper or illegal use of labour intermediation.

### 1.8 Collect all outstanding fines for subcontracting violations within the legally established timeframe.

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

- The amount of the fines for the violation of the provisions related 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 fall under the competence of the labour authorities will be destined to the Fund for the Strengthening of Inspection, Surveillance and Control of Labour and Social Security FIVICOT, these from those that have become final after 01 January 2020.

Fines imposed prior to 01 January 2020 are collected by the National Apprenticeship Service SENA.

- In the case of penalties 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 in the direct settlement stage or for acts that violate the right to trade union association, shall also be destined 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 agreements are detailed.

2017	2018	2019
Number: 3,507 Amount enforced: \$27,869,262,803 Amount not enforceable: \$174,389,749,410 Amount of Labour Intermediation: \$113,804,518,789 Intermediation amount enforced labour: N/D Amount of Collective Agreements: N/A	Number: 3,334 Amount enforced: \$52,827,176,592 Amount not enforceable: \$71,631,781,945 Amount of Labour Intermediation: \$23,944,781,697 Intermediation amount enforced labour: \$15,709,041,638 Amount of Collective Agreements: N/A	Number: 3,341 Amount enforced: \$28,044,732,496 Amount not enforceable: \$55, 487,972,435 Amount of Labour Intermediation: \$10,264,348,414 Intermediation amount enforced labour: \$1,622,723,454 Amount of Collective Agreements: N/A
2020	2021	2022



<p>Number: 1,639 Amount enforced: \$14,523,595,570 Amount not enforceable: \$18,251,686,493 Amount of Labour Intermediation: \$2,141,839.320 Intermediation amount enforced labour. \$264,345,790 Amount of Collective Agreements \$759,976,187</p>	<p>Number: 3,432 Amount enforced: \$25,374,054,248 Amount not enforceable: \$41,696,970,689 Amount of Labour Intermediation: \$2,985,978,104 Intermediation amount enforced labour. \$741,710,912 Amount of Collective Agreements: 187,292,090</p>	<p>Number: 1,919 Amount enforced: \$26,759,810,495 Amount not enforceable: \$58,524,907,498 Amount of Labour Intermediation: \$4,651,255,566 Intermediation amount enforced labour: \$105,255,566 Amount of Collective Agreements: \$22,000,000</p>
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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.

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 on the part of an employer:

From the issuance of Decree 120 of 2020 article 2.2.2.3.2.10 and Joint Circular 014 of 2020, from 1 January 2020 the destination of the collection of fines imposed by the Ministry ceased to be part of the SENA budget and became the direct competence of the Ministry of Labour, under that aspect the SENA continued to collect only the administrative acts with perfection on 31 December 2019.

The following tables show the balances of the Ministry of Labour fines:

**BALANCES FINES MINISTRY OF LABOUR 2019 TO 2022**

<b>VALIDITY</b>	<b>BALANCE FINES MINISTRY OF LABOUR</b>
2019	\$ 91.331.271.668
2020	\$ 81.100.443.131
2021	\$ 71.612.135.854
2022	\$ 62.176.410.392



VALIDITY	INCOME FINES MINTRABAJO
2019	\$ 8.103.183.294
2020	\$ 2.511.988.195
2021	\$ 3.727.967.838
2022	\$ 2.475.705.050

According to the above, a decrease is reflected in the value in pesos of the fines registered in the SENA, and of the balance stated at the end of 2022, there is a portfolio under the insolvency regime with a value of \$4,450,677,473 pesos.

Similarly, through Law 1955 of May 25, 2019, which enacts the National Development Plan 2018-2022, "Pact for Colombia, Pact for Equity," one of the main objectives of which is to lay the foundations of legality, entrepreneurship, and equity, which, in the long run, will enable equal opportunities for all Colombians, in order to achieve Sustainable Development by 2030, the legislator established the Fund for the Strengthening of Labour and Social Security through Article 201.

Thus, as of January 1, 2020, the fines imposed have a specific destination: the Fund for the Strengthening of Labour and Social Security Inspection, Surveillance, and Control (FIVICOT).

The creation of FIVICOT is mainly due to the need to strengthen the functions of inspection, surveillance, and control carried out by the Ministry of Labour; however, there are also other aspects that motivated such a circumstance, such as, for example, international commitments arising from the free trade agreements signed by the country or the labour commitments assumed due to the recent entry into the Organisation for Economic Cooperation and Development (OECD); Therefore, as of 1 January 2020, the National Development Plan assigned to the Ministry of Labour the powers of collection and recovery of fines imposed on employers sanctioned for the violation of provisions relating to working conditions, the protection of workers in the exercise of their profession, and the right to free trade union association.

Similarly, and in compliance with the provisions of the aforementioned law, the National Government, through the Ministry of Labour, issued Decree 120 of January 28, 2020, by means of which Chapter 2 is added to Title 3 of Part 2 of Book 2 of Decree 1072 of 2015, the Sole Regulatory Decree of the Labour Sector, in relation to the general regulation of the Fund for the Strengthening of Labour and Social Security Inspection, Surveillance, and Control (FIVICOT).

With respect to the process of collection management and portfolio collection, it should be noted that the administrative procedure of coercive collection is a special procedure contained in articles 823 and following of the Tax Statute, which



empowers certain entities to directly enforce the credits in their favour, without the need to resort to the ordinary jurisdiction. Its purpose is to obtain the forced payment of the obligations in their favour when the debtor has been reluctant to voluntarily pay its obligations.

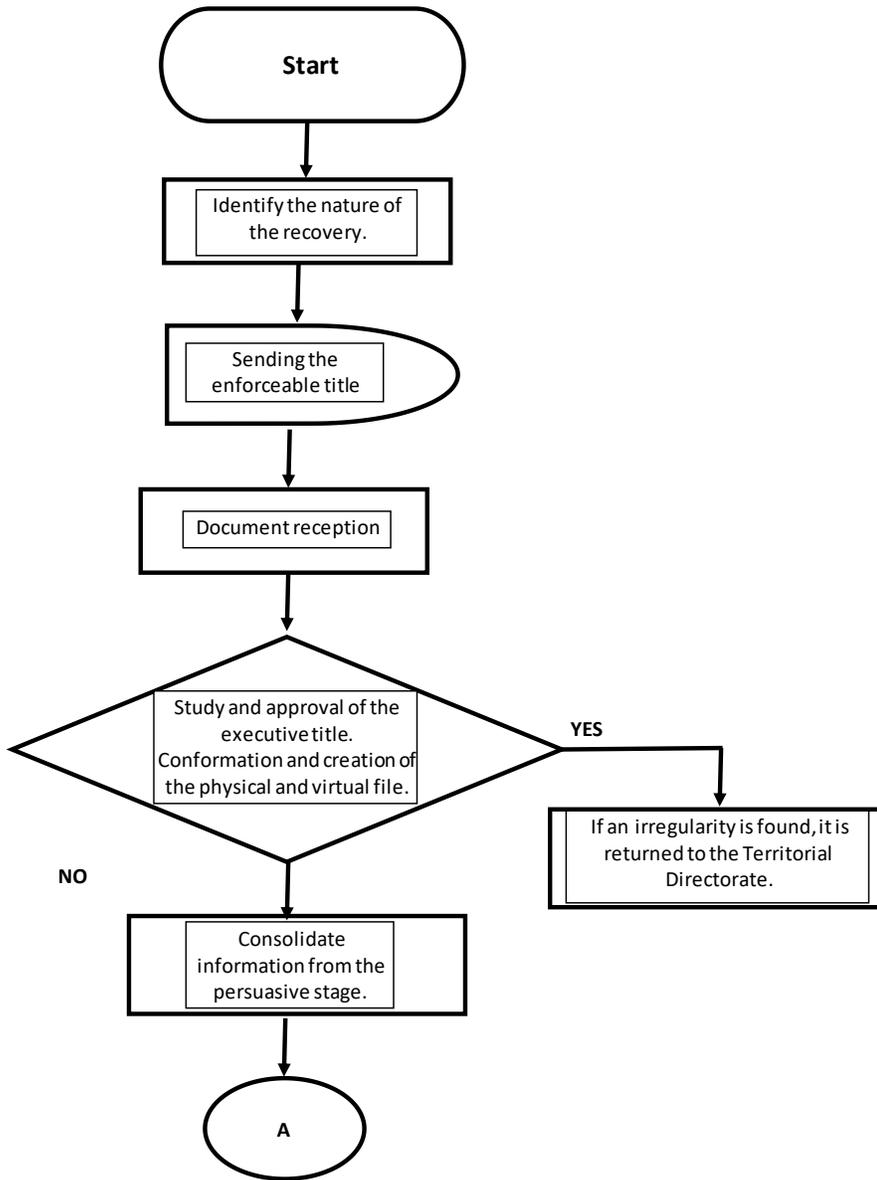
Law 1066 of 2006 establishes that public entities that are permanently in charge of the exercise of administrative activities and functions or the provision of state services and that within these must collect national or territorial public revenues or funds, must: "1. Establish through general regulations, by the highest authority or legal representative of the public entity, the Internal Regulations for the Collection of the Portfolio, subject to the provisions of this law, which must include the conditions relating to the conclusion of payment agreements".

In view of the above, the functions of the Internal Coactive Collection Working Group of the Legal Advisory Office of the Ministry of Labour (Resolution No., 02530 of June 20, 2014) consist of "executing the procedures for persuasive collection, coercive collection, and other procedures established in the law and in the regulations to manage the collection of obligations whose collection is assigned to the Ministry of Labour."

By Resolution 2628 of December 2, 2020, the Ministry of Labour adopted the internal regulations for portfolio collection, which include all the processes and times required for the persuasive and coercive collection of fines in favour of the different funds of the Ministry, including FIVICOT.



PORTFOLIO COLLECTION PROCEDURE



**Strategies to improve the collection of fines.**

-Issuance of guidelines for the management of the Territorial Directorates regarding their activities in the process of collecting the fines imposed.

- FIVICOT: Instructive Memorandum 12208 of 30 September 2020.
- OCCUPATIONAL RISKS: Circular 065 of 07 October 2020.



-Issuance of the Ministry of Labour's unified and standardised Internal Regulations for Portfolio Collection for all Funds. December 2020.

- Purchase of a software solution for persuasive and coercive collection management by the Ministry of Labour, adaptation, and implementation by December 2020.

-Drawing up of a functional requirements document for the integration between the Coactive Collection Information Systems and SISINFO (November 2020).

-Development and implementation of a web service that allows interoperability between the Coactive Collection Information Systems and SISINFO. (December 2020 and 2021).

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

During 2022, 83 formalisation agreements were signed, benefiting 3,586 workers. To verify compliance with the terms of the formalisation agreements signed, 157 monitoring and verification visits have been carried out.

The 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.

The Ministry of Labour issued Resolution 321 of 2013 to regulate labour formalisation agreements, and in Article 2°, numeral 7°, it is understood that its subscription will be viable “during the process of an administrative sanctioning action or prior to or after 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 the management of the territorial directors, formalise their workers with the application of this figure.

## **INFORMALITY INDICATORS AND OUTSOURCING**

### **1) Overview of newly adopted regulations and legislation, including the fight against extreme forms of poverty.**



**Summary Regulations and Legislation 2022:**

Legislation	Provision
Law 2208 of 2022	Whereby economic incentives are established to strengthen access and opportunities in employment and training for post-penitentiary probationers and other provisions are enacted - Second Chance Act. Provisions - Second Chance Act".
Law 2191 of 2022	By means of which labour disconnection is regulated - Labour Disconnection Law". of labour disconnection".
Decree 1427 of 5 August 2022	Decree "Whereby Title 3 of Part 2 of Part 2 of Book 2 of Decree 780 of 2016 is replaced, the economic benefits of the General System for Social Security in Health and other provisions are enacted.
Decree 1499 of 3 August 2022	Decree "Whereby articles 2.2.1.4.3 and 2.2.1.4.4 Decree 1083 of 2015, Sole Regulatory Decree of the Civil Service Sector, are amended in relation to the purpose and composition of the Roundtable "For public employment, the updating/expansion of the employment plants, the reduction of service contracts and ensuring decent and dignified work".
Decree 1227 of 18 July 2022	Decree "By which articles 2.2.1.5.3, 2.2.1.1.5.5, 2.2.1.5.8 and 2.2.1.5.9 are amended, and articles 2.2.1.1.5.15 to 2.2.1.1.5.25 are added to Decree 1072 of 2015, Sole Regulatory Decree of the Labour Sector, related to Teleworking".
Decree 1040 of 21 June 2022	The Decree added a paragraph to article 2.2.5.1.16 of Chapter 1 of Title 5 of Part 2 of Book 2 of Decree 1072 of 2015, Sole Regulatory Decree of the Labour Sector, for the purpose of regulating the value of the fees for the qualification of loss of working capacity of those who aspire to the Humanitarian Benefit for Victims of the Armed Conflict.



Decree 944 of 01 June 2022	Decree "Whereby Decree 1886 of 2015 is amended", which establishes the Safety Regulations for Underground Mining Works in Underground Mining Workings
Decree 801 of 16 May 2022	Decree "Whereby Chapter 6 is added to Title 9 of Part 2 of Book 2 of the Sole Regulatory Decree of the Labour Sector 1072 of 2015, and the Public Policy on Informal Vendors is adopted".
Decree 649 of 27 April 2022	Decree "Whereby Section 7 is added to Chapter 6 of Title 1 of Part 1 of Part 2 of Book 2 of Decree 1072 of 2015, the Sole Regulatory Decree of the Labour Sector, related to the circumstances and conditions for the enabling of work at home".
Decree 555 of 09 April 2022	Decree "Whereby Section 7 is added to Chapter 6 of Title 1 of Part 1 of Part 2 of Book 2 of Decree 1072 of 2015, the Sole Regulatory Decree of the Labour Sector, related to the circumstances and conditions for the enabling of work at home".
Decree 555 of 09 April 2022	Decree "Whereby Section 6 is added to Chapter 6 of Title 1, Part 2, Book 2 of Decree 1072 of 2015, Sole Regulatory Decree of the Labour Sector, and Article 17 of Law 2069 of 2020, and Law 2121 of 2021 and regulating remote work

**2) Informality:**

**(a) Share of informal workers employed (measured by social security affiliation)**

For the quarter August–October 2022, in the national total, the labour informality rate was 57.9%, compared to the same quarter of 2021, which presented a reduction of 0.2 percentage points. Informally employed persons increased by 889 thousand persons, which corresponds to 4.3 percentage points of the 7.7% variation between August - October 2021 and August-October 2022, and which, in absolute terms, represents 1 million 604 thousand persons. On the other hand, the labour formality rate was 40.6%, decreasing by 0.2 percentage points compared to the same quarter of 2021. The number of formally employed persons increased by 617 thousand, contributing to the increase in the number of employed persons by 3 percentage points. The reduction in both informality rates is partly due to the increase in the number of employed pensioners from 245 thousand to 343 thousand, with a contribution to the variation of 0.5 percentage points, see table 1.



Table 1. Formal and informal employment and rates of formality and informality, August–October 2021 and 2022.

Indicators of Labour Formality and Informality, quarter Aug – Oct 2022								
Employed	Quarter		Variations		Informal (does not contribute to pensions)	Formal (contribute to pensions)		
	aug-oct	aug-oct	aug-oct 2022/ aug-oct 2021					
<i>Figures in thousands</i>	2021	2022	abs	Contrib	ago-oct 2021	ago-oct 2022		
Formal (pension contributors)	8.475	9.092	617	3	12.061	12.950		
Informal (No pension contributions)	12.061		889	4,3	ago-oct 2021	ago-oct 2022		
Pensioned	245	343	98	0,5	8.475	9.092		
Total	20.781	22.385	1.604	7,7	ago-oct 2021	ago-oct 2022		
Rates %			pp		Labor Informality Rates		Labor formality Rates	
Labour formality rate	40,8	40,6	-0,2	↓	58,0	57,9	40,8	40,6
Informal employment rate	50	57,9	-0,2	↑	ago-oct 2021	ago-oct 2022	ago-oct 2021	ago-oct 2022
% Pensioners	1,2	1,5	0,4					

Regarding the behaviour by geographical domains, in the capitals there was an increase in the rate of labour informality from 50.5% to 50.8%, the number of informally employed increased by 779,000, and the number of formally employed increased by 572,000, with a greater increase in the number of informally employed than in the formally employed. While the informality rate in populated centres and dispersed rural areas decreased from 85.1% to 84.5%, the number of informally employed increased to a greater extent than the number of formally employed. Table 2.

Table 2: Indicators of Labour Formality and Informality, August–October 2022, by Zone.

Employed	Municipal capitals				Towns and Dispersed Rural Areas			
	Quarter		Variations		Quarter		Variations	
	aug-oct	aug-oct	aug-oct 2022/ aug-oct 2021		aug-oct	aug-oct	aug-oct 2022/ aug-oct 2021	
<i>Figures in thousands</i>	2021	2022	abs	Contrib pp	2021	2022	abs	Contrib pp
Formal (pension contributors)	7.825	8.397	572	3,5	649	695	45	1
Informal (No pension contributions)	8.218	8.997	779	4,8	3.843	3.953	109	2,4
Pensioned	221	312	91	0,6	24	32	8	0,2
Total	16.264	17.706	1.442	8,9	4.516	4.679	162	3,6
Rates %			pp		pp		pp	
Labour formality rate	48,1	47,4	-0,7	↓	14,4	14,4	0,5	↑
Informal employment rate	50,5	50,8	0,3	↓	85,1	85,1	-0,6	↑
% Pensioners	1,4	1,8	0,4		0,5	0,7	0,1	

Source: DANE- GEIH

For the quarter August–October 2022, women presented a labour informality rate of 55.6%, an increase of 1.0 percentage point compared to the same quarter one year ago (54.6%). Men presented a labour informality rate of 59.4%, a decrease of 0.8 percentage points compared to the same period analysed in 2021. Although the



number of employed women increased to a greater extent than employed men, the latter showed a greater increase in informality. In terms of formal employment, women increased by 380,000, while men increased by 237,000. Table 3.

Table 3: Formality and Informality Indicators, August–October 2022, by sex.

Indicators of labour force formality and informality, quarter Aug.–Oct. 2022								
Employed	Mujeres				Hombres			
	Quarter		Variations		Quarter		Variations	
	aug.-oct.	aug.-oct.	aug.-oct. 2022/ aug.- aug. 2021		aug.-oct.	aug.-oct.	aug.-aug. 2022/ aug.-aug. 2021	
<i>Figures in thousands</i>	2021	2022	abs	Contrib pp	2021	2022	abs	Contrib pp
Formal (pension contributors)	3.589	3.970	380	4,7	4.886	5.122	237	1,9
Informal (No pension contributions)	4.433	5.127	694	8,5	7.628	7.823	195	1,5
Pensioned	101	127	26	0,3	143	216	72	0,6
<b>Total</b>	<b>8.124</b>	<b>9.224</b>	<b>1.100</b>	<b>13,5</b>	<b>12.657</b>	<b>13.161</b>	<b>504</b>	<b>4</b>
<b>Rates %</b>			pp				pp	
Labour formality rate	44,2	43	-1,1	↓	38,6	38,9	0,3	↑
Informal employment rate	54,6	55,6	1	↑	60,3	59,4	-0,8	↑
% Pensioners	1,2	1,4	0,1		1,1	1,6	0,5	

Source: DANE- GEIH figures in thousands

The cities with the highest labour informality rate during the quarter of August–October 2022 are Riohacha, Cúcuta AM, Valledupar, and Sincelejo. While the cities with the lowest informality rate are: Bogotá, Manizales AM, and San Andres. The labour market in the centres and dispersed rural areas, as well as in other capitals, is highly informal. Table 4.

Table 4. Informality rate by city, quarter August - October 2022



City	Aug- Oct 2021	Aug- Oct 2022	Var pp
CPRD and other heads	72.7	72.9	0.2
riohacha	70.7	68.6	2.2
Cucuta AM	70.8	67.6	3.2
Valledupar	66.6	67.1	0.5
sincelejo	70.9	66.9	4.0
Santa Marta	63.3	64.0	0.7
Hunting	62.7	62.0	0.7
Cartagena	60.8	61.6	0.8
Barranquilla AM	59.1	60.2	1.0
Florence	59.2	59.3	0.1
<b>National Total</b>	58.0	57.9	0.2
Quibdó	66.2	56.5	\$9.6
Popayan	53.8	55.6	1.9
Villavicencio	54.6	55.4	0.8
Grass	54.8	54.4	0.5
Bucaramanga AM	50.8	49.9	\$0.9
ibagué	50.4	49.6	0.8
Neiva	50.1	49.2	\$1.0
<b>Cali AM</b>	45.4	45.8	0.4
Tunja	36.8	41.0	4.2
<b>Armenia</b>	45.3	41.0	4.4
Pereira AM	41.5	40.1	1.4
<b>Medellin AM</b>	33.6	36.5	2.9
Bogota	34.9	33.7	\$1.2
Manizales AM	30.7	33.6	2.9
San Andres	35.4	31.3	4.1

3) Subcontracting:

a. Total number of worker cooperatives and covered workers

2017	2018	2019	2020*	2021	2022
<b>Cooperatives : 430</b>	Cooperatives: 305	Cooperatives: 281	Cooperatives: 204	Cooperatives: 295	Cooperatives: 246
<b>Members: 35.768</b>	Members: 30.626	Members: 21.044	Members: 11.112	Members: 11.921	Members: 10.122

\*Figures for 2021 are cut off as of June 2022.  
Source: Superintendence of Solidarity Economy

b. Total number of union service contracts and workers covered.

As of December 19, 2022, 2,332 union contracts had been registered for the year 2022.

Workers: N/A



2017	2018	2019	2020	2021	2022
<b>Contracts:</b> 942	Contracts:1.1 03	Contracts: 1.945	Contracts: 1.121	Contracts: 2.779	Contracts: 2.332
<b>Employees:</b> N/A	Employees: N/A	Employees: N/A	Employees: N/A	Employees: 331.510	Employees: N/A

Source: Directorate for Inspection, Surveillance and Control

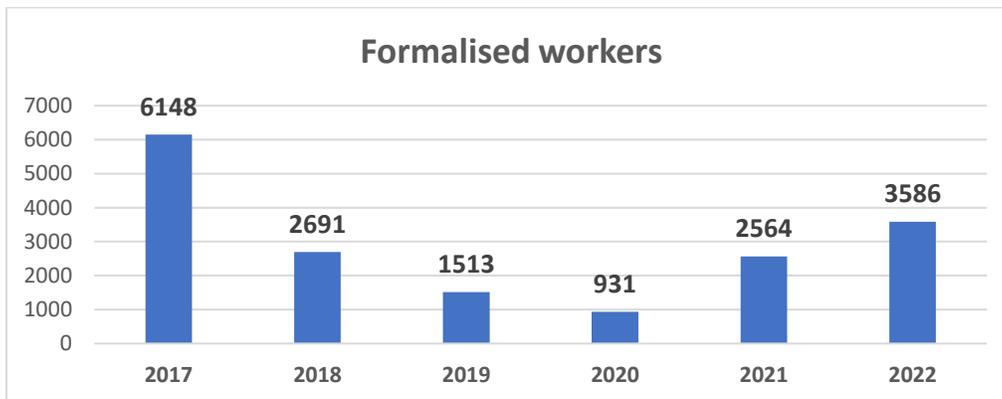
**c. Total number of temporary employment agencies and covered workers.**

In total of 473 agencies and 415,635 covered workers in 2022.

2017	2018	2019	2020	2021	2022
<b>ATT: N/A</b>	ATT:538	ATT: 581	ATT: 615	ATT: 697	ATT: 473
<b>Employees:</b> 463.880	Employees: 457.524	Employees: 415.059	Employees: 416.269	Employees: 501.403	Employees: 415.635

**4) Formalisation agreements**

**a. Number of formalisation agreements and workers covered.**



During 2022, as of December 14, 83 formalisation agreements had been signed, benefiting 3,586 workers. Source: Directorate of Inspection, Surveillance, and Control (IVC).

**b. Number of verification visits for formalisation agreements**

Year	Agreements signed	Follow-up visits
<b>2017</b>	49	220
<b>2018</b>	40	121
<b>2019</b>	35	69



<b>2020</b>	30	148
<b>2021</b>	53	279
<b>2022</b>	N/A	157

In order to verify compliance with the terms of the formalisation agreements signed, 157 monitoring and verification visits have been carried out during the year 2022 as of December 14. Source: Directorate of Inspection, Surveillance, and Control (IVC).

**5) Poverty and income inequality**

**a. relative income poverty indicator (using the OECD definition of 50% or less of median household income)**

This indicator measures the proportion of people whose incomes are below the minimum income basket. This indicator shows a relative monetary poverty in 2021 of 71.3. Likewise, the National Administrative Department of Statistics (DANE for its Spanish acronym) explains: "Relative monetary poverty is calculated with respect to the average per capita income per unit of expenditure. Households with per capita income per unit of expenditure lower than the country's average are considered to be in monetary poverty."

<b>Year</b>	<b>a. Incidence of household monetary poverty</b>
<b>2017</b>	35,2
<b>2018</b>	34,7
<b>2019</b>	35,7
<b>2020</b>	42,5
<b>2021</b>	71.3
<b>2022</b>	N/A

Source: DANE-GEIH - Calculations: Mintrabajo.

**c. An indicator of extreme income poverty**

Extreme monetary poverty between 2017 and 2019 showed an increase of 1.2 percentage points; this improvement is also associated with the deterioration of the unemployment rate, which affects household income. For the year 2021, it was 12.2. Likewise, the National Administrative Department of Statistics (DANE for its Spanish acronym) states that "the data on extreme monetary poverty are the official data on monetary poverty and correspond to the methodological update (updating the lines of extreme monetary poverty and monetary poverty) based on the information of the National Household Budget Survey (ENPH) 2016-2017, therefore, they are not comparable with the data of the MESEP series".



Year	b. Extreme income poverty indicator.
2017	8,4
2018	8,2
2019	9,6
2020	15,1
2021	12.2
2022	N/A

Source: DANE-GEIH

## 2.LABOUR LAW ENFORCEMENT:

Modern states exist to guarantee the life and rights of the people living under their sovereignty to achieve the social peace on which liberal constitutions and public institutions such as Colombia's have been built.

The ILO recommends that there should be one labour inspector for every 10 thousand economically active people, complying with the ILO standard would mean approximately tripling the number of inspectors existing today, this government seeks to advance in reaching the international standard and in the dignification of inspectors.

The country's labour problems such as precariousness, informality, discrimination, harassment, gender violence, legal and illegal outsourcing do not require more diagnoses, but they do require legal reforms and substantive administrative changes, in addition to the increase of personnel and resources of the ministry. International law, the Courts, the ILO in its recommendations, employment missions in past governments or the recent alternative mission, the OECD or the Inter-American Human Rights System have said what to do and that is really what is aspired to, to comply with the 1991 Labour Constitution, ratified international treaties and judicial rulings. As indicated by the ILO in its conventions 81 and 129 on labour inspection, the labour administration is mandated to ensure compliance with the rights of workers in compliance with the rules established by the constitution and the law as a social state of law, but from a vital commitment, political and legal with workers.

By complying with all the recommendations, jurisprudence, and international treaties, we will advance greatly against the violation of labour rights. This implies that the labour inspectorate will continue to transform dynamically and in the same way as the modes of production have been transformed, to comply as much as possible with the Constitutional and legal mandate and, later, with the provisions of the Development Plan, the labour reform, its regulations, and the administrative rules



that we will issue. During this period of government, we propose to make several changes. First, we will visit work sites and we will do so without prior notice, we will propose an alliance with the judicial branch to carry out inspections of companies or people who have been frequently sued for labour.

Secondly, the Ministry of Labour will use information systems, such as the PILA, DIAN and UGPP databases, for the purpose of carrying out preventive or reactive inspection activities related to individual economic and social security labour matters, such as payment of wages, social benefits, affiliation, and contributions to the general social security system, among others.

We will also prioritize commerce, call centres, health, transportation, and platforms where there is a repeated violation of labour rights. Inspection in domestic work will also be developed to promote formalization and decent work. There our "Elite Group of Labour Inspection for Gender Equality" will play a leading role.

This implies that virtual or documentary inspections will be complementary to on-site inspections, which should cover not only the company but the entire value chain, as suggested by international standards. We will maintain all our willingness and capacity to carry out preventive inspections and social dialogue roundtables with enterprises and workers through our territorial directorates and special offices.

### **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.**

In accordance with Article 3 of Law 1610 of 2013, the main functions of the Labour and Social Security Inspectorates are: The preventive, coercive or administrative police function, the conciliatory function, the improvement of labour regulations and, the accompaniment and guarantor of compliance with the labour standards of the general system of occupational risks and pensions.

The Preventive Function aims to ensure that all socio-labour regulations are fully complied with, adopting measures that guarantee labour rights and avoid possible conflicts between employers and workers.

Prevention should be conceived as a process that involves: persuading and advising to create a culture of compliance with the Law. In other words, prevention must:

- Focus inspection on economic activities and companies that are more vulnerable in compliance with the labour legal system.



- Act before problems occur or can be reduced and mitigated their negative effect.
- Induce actions that strengthen the protection of workers' rights and the competitiveness of the company.
- Promote greater collaboration between sectors.

The implementation of the **preventive inspection** system, considering the international standards in labour inspection defined by the International Labour Organisation (ILO), in conventions 81 and 129, has made it possible to see the role played by the Colombian inspection system in the eradication of all undeclared work.

Thus, in the first place, the mission of the inspection system will be demarcated, and the necessary topics that contribute to the role of labour inspectors in the different inspection models have been defined, in accordance with ILO guidelines and in accordance with the needs prevailing in Colombia.

**The Coercive or Administrative Police Function**, as labour police authorities, the coercive power is aimed at the possibility of requesting or punishing those responsible for non-observance or violation of a labour norm, always applying the principle of proportionality.

**The conciliation function** is the responsibility of the Labour Inspectors to intervene in the settlement of individual and collective labour disputes submitted to their consideration, to exhaust governmental remedies and in application of the principle of economy and procedural speed.

**The function of accompaniment and guarantor of compliance with the labour standards of the general system of occupational risks and pensions (SGRL and P)**, is based on the provisions of numeral 5 of article 3 of Law 1610 of 2013, which stipulates as a function of the labour and social security inspection to accompany and be guarantor of compliance with the labour standards of the SGRL and Pensions.

The new business models, as well as those of production, added to the environment of globalization and technological development, have led to the denaturalization of the social part that work implies, in such a way that arbitrary figures have been generated in some cases, which affect the basic constitutional rights of Colombian workers, causing effects beyond the merely individual field. generating social impacts and distorting the figure of decent work.

The Ministry of Labour has gradually developed a set of mechanisms aimed at strengthening labour inspection, aimed mainly at enabling labour and social security inspectors to cope with all these changes already listed with a view to providing comprehensive protection of the rights of workers in the country. Above all, those whose working conditions are more difficult or vulnerable.



The Ministry of Labour has developed and actively participated in the identification of standards related to the IVC process, to provide the actors of the IVC System with due security and unification of criteria in the application of labour standards and the labour sector.

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

Training was carried out, attended by officials from the Territorial Directorates, Special Offices and Central Level, as well as on specific topics demanded by ministry officials through their Territorial Directorates. It will continue next year in the cycle of training in which face-to-face will prevail.

### **2.1.3. Ensuring investigations in rural areas**

By Resolution number 1854 of 2018, the Working Group for the Protection of the Labour Rights of Rural Workers was created in the Ministry of Labour, assigning the following functions:

1. Coordinate the execution of plans, programs, and projects to develop policies for prevention, inspection, surveillance, and control of work in rural areas, defined by the Ministry.
2. Evaluate and monitor the implementation and compliance with prevention, inspection, surveillance, and work control plans in rural areas.
3. To keep track of the execution of activities related to prevention, inspection, surveillance, and labour control plans that seek to guarantee the rights of rural workers.

### **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.**

Labour inspectors hired on a provisional basis enjoy job stability according to the jurisprudence of the Supreme Court of Justice and the Constitutional Court. The Ministry of Labour increased the number of posts for labour inspectors throughout the national territory, which has represented an increase in the number of staff for these positions.

Currently, one thousand one hundred and seventy-two (1,172) positions of labour inspectors are filled, of which one (1) position of Inspector grade 13 of Administrative Career; five hundred and forty-four (544) provisionally; five hundred and eighty-three (583) linked in Administrative Career, thirteen (13) of these in assignments and thirty-one (31) in trial period, all legally and statutorily linked.



Referring to the above data, to occupy the position of labour inspector requires a professional degree in law, administration sciences, medicine, with a postgraduate degree in the modality of specialization in areas related to employment functions and seven (7) months of related professional experience.

Position	Type of appointment	No
Labour and Social Security Inspector 2003 - 13	Career	1
Labour and Social Security Inspector 2003 - 14	Career	583
	Career in charge	13
	Trial Period	31
	Provisional	544
	<b>Total</b>	<b>1172</b>

Source: Personnel Administration and Administrative Career Group - Human Talent Management Sub-Directorate.

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

On the new electronic case management system throughout the country and connect it to the electronic system for the collection of fines, it is necessary to oblige officials of the Ministry of Labour and participants in the process to collect fines imposed by the Ministry of Labour for the Occupational Risk Fund, by means of Circular 0029 of May 13, 2021, do so through the technological tool called BUTTON, based on the provisions of Article 91 of Decree 1295 of 1994, Article 13 of Law 1562 of 2012, Article 4 Decree 472 of 2015, Article 2124.8.3 of Decree 1072 of 2015, and Resolution 2628 of 2020 by means of which the Internal Regulation of Collection of Portfolio of the Ministry of Labour is issued.

The Joint Memorandum of Inspection, Surveillance and Control and Occupational Risks dated February 6, 2019, No. 5. paragraphs 1 and 2 and No. 6, which establishes the procedure for the collection of fines for the Occupational Risk Fund; procedures that are mandatory for officials of this Ministry and other participants in the process.

The territorial directors, those of the Special Offices and director of Occupational Risks, in accordance with the competences established by the generalities of the process and those of the sanctioning administrative procedure, will be the ones who sign the administrative acts.



The Trustee in charge of the administration of the resources of the Occupational Risk Fund, has a technological tool called BOTON this application is on the page of the Occupational Risk Fund of the Ministry of Labour.

To guarantee the continuity of the processes and procedures of the fines for violation of the rules of occupational risks destined to the Occupational Risk Fund, the territorial directors, and the Directors of Special Offices, must assign two officials, who will receive training and the manual for the management of the BOTON by the Trust Administrator.

To start with the load in the application (BOTON), they must continue with the following relationship:

- The resolutions-executive titles Resolution of Sanction, Reposition, Appeal, must contain a watermark and / or seal indicating that it is "**FIRST COPY AND LENDS EXECUTIVE MERIT**".
- The offices of summons to personal notification of the administrative act.
- The notification supports, whether personal, by notice or advertising.
- Proof of execution
- Act of formation of the Consortia and / or Temporary Unions.
- Certificate of RUES and Chamber of Commerce in force.

Likewise, monthly, will upload to the BOTON the documentary supports of:

- Decisions on executed fines
- Format for NON-EXECUTED RESOLUTIONS
- Resolutions REVOKING administrative sanctioning acts (each time they are submitted)

The National Learning Service (SENA) implemented an electronic collection system for the management of its portfolio, which was temporarily connected with the Ministry of Labour until the date of issuance of Decree 120 of 2020, this web service allowed the online reception of fines from the ministry to SENA and to have data on the online collection of these fines.

Currently, SENA continues with the online collection system, which allows online collection information at the national level for each of its concepts.

#### **Actions:**

### **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.

According to the Bulletin of the Ministry of Labour, corresponding to the second quarter of 2022, (April – June), within the framework of administrative actions and in development of the functions of Inspection, surveillance and control, actions have been taken by the Territorial Directorates, for non-compliance with labour standards, occupational risks and pensions, as well as, for the attention of the procedures in charge of the Ministry of Labour, the following:

The document discloses the Administrative Actions carried out by the Ministry and its Territorial Directorates and Special Offices from 2017, discriminated by Preliminary Inquiries and Administrative Investigations Initiated year by year until the second semester of 2022, according to statistical information obtained by Territorial Management-DASHBOARD-Statistical Application, as follows:

#### Administrative Proceedings:

Duration: 2017 -2022

Indicator	No
Preliminary Inquiries Initiated from April to June 2022	2.655
Administrative Labour Investigations Initiated from April to June 2022	511
Preliminary inquiries initiated in 2021	13390
Labour Administrative Investigations Initiated in 2021	2006
Preliminary inquiries opened in 2020 -	10146
Labour Administrative Investigations Initiated in 2020	1376
Preliminary inquiries initiated in 2019	13999
Labour Administrative Investigations Initiated in 2019	2584
Preliminary inquiries initiated in 2018	14592
Labour Administrative Investigations Initiated in 2018	3056
Preliminary investigations initiated in 2017	19052
Administrative Labour Investigations Initiated in 2017	3177

Source: Subdirectorate of Territorial Management-DASHBOARD-Statistical Application

On the other hand, it is important to emphasize that the Ministry of Labour invites you to read carefully the quarterly IVC and GT Bulletins, issued by this unit, which contain the statistical figures of its management through the Territorial Directorates, Special Offices and the central level, for the non-observance of labour standards, as well as the attention of procedures to citizens, all of which is available on the website of the Ministry of Labour.



<https://www.mintrabajo.gov.co/relaciones-labourales/inspeccion-vigilancia-y-control/subdireccion-de-inspeccion>

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

In accordance with the Manual of the Labour and Social Security Inspector, paragraph 2.3.1, the deadline for carrying out preliminary investigations, does not establish any time limit for carrying out the labour inspection, but in accordance with the systematic regulations, to decree the order for the formulation of charges, the existence of evidentiary elements that allow compliance with the content required by Article 47 of the CPACA. Therefore, if evidence other than that provided with the application is required, these will be carried out in accordance with article 10 of Law 1610 of 2013. That is, in a term not exceeding ten working days; therefore, the Labour Inspector must carry out the inspection within that period, to establish whether the administrative labour investigation is carried out or, failing that, the closure of the action is ordered.

### 2.3.3. Improving the collection of fines.

In accordance with the unified guidelines regarding the progress of administrative sanctioning processes and the imposition of fines in favour of the Fund for the Strengthening of the Inspection, Surveillance and Control of Labour and Social Security (FIVICOT) and the National Learning Service (SENA) by the Territorial Directorates, Special Offices and the Special Investigations Unit, the SENA Collection Group and portfolio have been collecting fines, a process that should be improved for collection and management.

### 2.3.4. Develop and implement a national inspection strategy.

The Ministry of Labour is working to strengthen the labour inspectorate to promote compliance with labour standards throughout Colombia. This strengthening seeks to strengthen the competencies of the labour inspectorate in Colombia, to promote compliance with fundamental rights, including safety and health at work.

The process seeks that labour inspectors ensure respect for and compliance with labour standards, to promote decent workspaces that also contribute to promoting social justice in the country.

In that order, the following objectives are achieved:

- Strengthening the competencies of labour inspection in Colombia



- Generate a culture of harmony, formalization, and respect for labour rights.
- Promote compliance with fundamental rights in the workplace, including occupational safety and health.

Fundamental labour rights, especially those relating to freedom of association and the effective recognition of the right to collective agreement, are expected to be guaranteed in the rural sector, the eradication of all forms of modern slavery, as well as labour.

One of the most effective ways to begin to formalise work in the field and thus improve the quality of life of workers and their families is through the strengthening of the technical capacities of the labour inspectorate. For this reason, the ILO, with the support of the European Union, is carrying out the project "Strengthening labour inspection to promote compliance with labour standards in the rural sector in Colombia".

In this regard, the validity of the commitment of the Labour Inspectorate and the transformations of the world of work require the development of new strategies and scope of the Labour Inspectorate, in such a way that they respond to new forms of labour relations and thereby achieve development goals with equity that contributes to justice and social peace.

## INDICATORS LABOUR LAW ENFORCEMENT

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

#### Summary of recently adopted regulations and legislation 2022.

Legislation	Disposition
Law 2208 of 2022	By means of which economic incentives are established to strengthen access and opportunities in employment and training for the post-prison population and other provisions are issued – Law of Second Chances."
Law 2191 of 2022	"By means of which the labour disconnection is regulated - law of disconnection from work"
Decree 1427 of 5 August 2022	Decree "By which Title 3 of Part 2 of Book 2 of Decree 780 of 2016 is replaced, the economic benefits of the General Social Security System in Health are regulated and other provisions are issued



Legislation	Disposition
Decree 1499 of 3 August 2022	Decree "By which the Articles 2.2.1.4.3 and 2.2.1.4.4 of Decree 1083 of 2015, Single Regulatory of the Public Service Sector, in relation to the purpose and conformation of the Bureau "For public employment, the updating / expansion of employment plants, the reduction of contracts for the provision of services and guarantee decent and decent work".
Decree 1227 of 18 July 2022	Decree "Amending Articles 2.2.1.5.3, 2.2.1.5.5, 2.2.1.5.8 and 2.2.1.5.9, and Articles 2.2.1.5.15 are added to 2.2.1.5.25 to Decree 1072 of 2015, the only Regulatory Decree of the Labour Sector, related to Teleworking"
Decree 1040 of 21 June 2022	Decree "By which a paragraph is added to the article 2.2.5.1.16 of Chapter 1 of Title 5 of part 2 of Book 2 of Decree 1072 of 2015, Sole Regulatory of the Labour Sector, for the purpose of regulating the value of the fees for the qualification of loss of work capacity of those who aspire to the Periodic Humanitarian Benefit for the Victims of the Conflict Armed."
Decree 944 of 01 June 2022	Decree "By which Decree 1886 of 2015 is modified" by which the Regulation of Safety at Work is established. Underground Mining
Decree 801 of 16 May 2022	Decree "By which Chapter 6 is added to Title 9 of Part 2 of Book 2 of the Single Regulatory Decree of the Labour Sector 1072 of 2015, and the Public Policy of Informal Vendors is adopted"
Decree 649 of 27 April 2022	Decree "By which Section 7 is added to Chapter 6 of Title 1 of Part 2 of book 2 of Decree 1072 of 2015, the only Regulatory of the Labour Sector, related to the circumstances and conditions for the authorization of work at home".



Decree 555 of 09 April 2022	Decree "By which Section 6 is added to Chapter 6 of Title 1, Part 2, Book 2 of Decree 1072 of 2015, Sole Regulatory of the Labour Sector, and regulates Article 17 of Law 2069 of 2020, and Law 2121 of 2021 and regulates remote work
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## 1 Labour Inspection

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

2017	2018	2019	2020	2021*
68 Career 22 In charge 766 Provisional	68 Career 22 In charge 6 Trial period 751 Provisional	206 Career 20 In charge 404 Trial Period 239 Provisional	600 Career 8 In charge 19 Trial Period 205 Provisional	581 Career 9 In charge 36 Trial Period 256 Provisional 22 Vacancies

Source: Ministry of Labour, Subdirectorate of Human Talent

\*Cut-off: December 17, 2021

According to the report of the Ministry of Labour, for the month of December 2022, the number of labour inspectors is one thousand one hundred and seventy-two (1,172), of which, one (1) Labour and Social Security Inspector Code 2003, Grade 13, legally and statutorily linked in administrative career; five hundred and eighty-three (583) Labour and Social Security Inspector Code 2003, Grade 14; thirteen (13) Inspector of Labour and Social Security Code 2003, Grade 14 in charge. It also shows the table below:

Position	Type of appointment	No
Labour and Social Security Inspector 2003 - 13	Career	1
Labour and Social Security Inspector 2003 - 14	Career	583
	Career in charge	13
	Trial period	31
	Provisional	544
<b>Total</b>		<b>1172</b>

Source: Personnel Administration and Administrative Career Group - Subdirectorate of Human Talent Management

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



2017	2018	2019	2020	2021	2022
869 Face-to-face quotas	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	1.911 Quotas

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

**2022:**

Training	Number of staff
Collective Agreement	159
IVC Protocol for Oil Palm Cultivation	48
IVC Protocol for Flower Cultivation	20
IVC Protocol for Open Pit Mining	66
IVC Protocol for Port Activities	53
IVC protocol cane cultivation	23
Administrative sanctioning procedure	245
Notification of Administrative Acts	96
Dosage of penalties	124
Workplace Harassment and the Role of the Labour Inspectorate	109
Dispute Resolution Mechanisms - Conciliation in Labour Matters	82
Deepening in Individual and Collective Labour Law	127
Deepening in Occupational Risks	113
Deepening in Occupational Health and Safety Management System	100
Union Contract	76
Structuring of Administrative Acts within the Administrative Sanctioning Procedure	108
Sanctions to be imposed by the Labour Inspectorate	105
Deepening in General Administrative Procedure	110
The Visit of the Labour Inspectorate - Administrative Ocular Inspection	119
Overview of the Ministry of Labour and Introduction to the Labour Inspection System	10



Fundamental labour rights	13
Basic elements of Constitutional and Administrative Law	15

Within the guidelines issued by the General Secretariat of the Ministry of Labour and in accordance with the provisions of numeral 42 of Article 38 of Law 1952 of January 28, 2019, by means of which the general disciplinary code is issued and Law 734 of 2002 and some provisions of Law 1474 of 2011 are repealed, related to disciplinary law, it is the duty of public servants to train and update themselves in the area where they perform their function, so through the Group of Training, Social Labour Welfare and Incentives and the Group for the Management of Training and Analysis of the Labour Inspectorate, training programs are continuously developed for Labour and Social Security Inspectors, in order to strengthen the individual and collective competencies of the public servants of the Ministry of Labour, through training activities in order to contribute to the fulfilment of the institutional missionally, improving the quality of the provision of service to citizens and the effective performance of the functions of their position.

The number of trained officials was 767, who carried out knowledge strengthening in the following topics inherent to the inspection process:

**Table 3: Consolidated participation of officials  
Virtual Campus courses Year 2022**

Module	No of officials
Basic elements of Individual and Collective Labour Law	16
Introduction to Social Security	16
General of the Prevention and Protection of Occupational Risks	10
Procedures by the Labour Inspectorate	13
General aspects of Labour Conciliation and Dispute Resolution	15
Introduction to Labour Formalization and Labour Intermediation	15
Information system	10

Source: Labour Inspectorate Training and Analysis Group Virtual Campus Platform

**c. Number of inspections and investigations (total and separate):**

2017	2018	2019	2020	2021
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Preliminary investigations: 19,052 Sanctioning procedures: 3,177	Preliminary enquiries: 14,592 Sanctioning procedures: 3,056	Preliminary investigations: 13,999 Sanctioning procedures: 2,584	Preliminary inquiries: 10,146 Sanctioning procedures: 1,376	Preliminary inquiries: 13,390 Sanctioning procedures: 2,006
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**Table 4: List of administrative actions Year 2022**

Indicator	Number
Inspections	13.207
Collective agreements	203
Preliminary inquiries	7.962
Investigations Initiated	1.574

Source: Subdirectorate of Territorial Management-DASHBOARD-Statistical Application and Subdirectorate of Inspection.

**D. Average time to complete investigations.**

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)

The following table illustrates the time in years of what it takes for a process from filing to completion.

**Table 5: Consolidated Territorial directorates duration of time investigation process.**

**Court as of November 30, 2022**

Territorial Directorate	Time in years	Territorial Directorate	Time in years	Territorial Directorate	Time years
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Territorial of Vichada	3,79	Territorial of Córdoba	2,25	Territorial of Magdalena	1,91
Special Units	3,57	Territorial of Nariño	2,18	Territorial of Quindío	1,91
Territorial of Cundinamarca	3,26	Territorial of Risaralda	2,11	Territorial of Tolima	1,75
Territorial of Boyacá	2,71	Territorial of Santander	2,07	Territorial of Chocó	1,65

Territorial Directorate	Time in years	Territorial Directorate	Time in years	Territorial Directorate	Time in years
Territorial of César	2,71	Territorial of Amazonas	2,06	Especial Office of Barrancabermeja	1,63
Territorial of Atlántico	2,68	Territorial of Valle del Cauca	2,05	Territorial of Arauca	1,63
Especial Office of Buenaventura	2,56	Territorial of Guaviare	2,02	Especial Office of Urabá - Apartado	1,6
Territorial of Cauca	2,54	Territorial of Vaupés	2	Territorial of La Guajira	1,56
Territorial of Antioquia	2,51	Territorial of Casanare	1,94	Territorial of Archipiélago de San Andrés	1,54
Territorial of Bogotá	2,46	Territorial of Putumayo	1,94	Territorial of Sucre	1,45



Territorial of Meta	2,46	Territorial of Huila	1,92	Territorial of Caldas	1,43
Territorial of Norte de Santander	2,29	Territorial of Caquetá	1,92	Territorial of Bolívar	1,41
	33,54			Territorial of Guainía	1,06
<b>Arithmetic average time: 2.12 years</b>					

Source: Subdirectorate of Territorial Management – SISINFO

### 3. Collection of Fines

In accordance with the provisions of Circular No. 0029 of 2021, the Territorial Directorates and Special Offices of the Ministry of Labour will comply with the processes and procedures, in accordance with current regulations and the guidelines established by the Ministry of Labour, in order to avoid ambiguous and/or incongruous decisions, therefore, it is necessary to comply with the following criteria:

#### a) Individualisation of the Sanctioned Person(s)

**Natural or legal person:** Name and surname, company name, identification number (NIT or identity document), economic activity, main and judicial address, city, email, and telephone (s), and / or last reported address.

**Companies or entities:** The name of the legal representative and / or whoever takes his place must be indicated, according to the updated information in the Certificate of Existence and Legal Representation of the Chamber of Commerce in force.

**Commercial Establishments:** Because they lack legal personality, their owner will be identified, with the citizenship or immigration card, in accordance with the provisions of articles 12 and 515 of Decree 410 of 1971 (Colombian Commercial Code).

**Public Entities:** The Institution or Public Entity must be indicated, indicating its Legal Representative or whoever takes its place and the NIT of the entity; likewise, in the case of sanctions to the Territorial Entities, it will be indicated if it is Department or Municipality with the corresponding NIT.

**Consortia:** From the beginning of the investigation until the final administrative act, the natural or legal persons that make it up must be individualized; Since they do not have legal personality, and that their responsibility and obligations fall jointly and severally, the fine applied must be global for the parties that comprise it, in accordance with the provisions of paragraph 1 of article 7 of Law 80 of 1993.



**Temporary Unions:** From the beginning of the investigation until the definitive administrative act, the natural or legal persons that make it up must be individualized as they lack legal personality and that their responsibility and obligations fall according to the degree of participation in it and demonstrated in the respective file, In accordance with the provisions of paragraph 1 of article 7 of Law 80 of 1993.

**b) Congruence of the administrative act.**

In the analysis of the facts, based on which the sanction is imposed, they must maintain a due congruence, between the infringed norms indicated in the Order of Formulation of Charges and those described in the Resolution that resolves the Administrative Sanctioning Process, applying the rules in force.

**c) Numbering of the administrative act.**

Administrative acts, called Orders and / or Resolutions, must be numbered, for a maximum of four (4) whole digits, (Example: Resolution No. 0001).

**d) Settlement of the fine imposed.**

For Constitutional, Legal and Jurisprudential reasons, when imposing the pecuniary sanction in an Administrative Sanctioning Process, the minimum legal monthly wages in force at the time of the occurrence of the facts must be considered. The Territorial Directorates, Special Offices, as well as the Ministry of Labour, shall have the power to verify and adjust the value of the fine when they deem it necessary.

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	Number: 3,334	Number: 3,341	Number: 1,639	Number: 3,432
Executed amount:				
\$27,869,262,803	\$52,827,176,592	\$28,044,732,496	\$14,523,595,570	\$25,374,054,248.
*	*	*	*	Amount not executed:
Amount not executed:	Amount not executed:	Amount not executed:	Amount not executed:	\$41,696,970,689
\$174,389,749,410*	\$71,631,781,945	\$55,487,972,435	\$18,251,686,493	Amount Labour Intermediation: \$
	*	*	*	2,985,978,104
Labour Intermediation Amount:	Labour Intermediation Amount:	Labour Intermediation Amount:	Labour Intermediation Amount:	Amount Labour Intermediation Executed:
\$113,804,518,789	\$23,944,781,697	\$10,264,348,414	\$2,406,185,110*	\$ 741,710,912
	*	*		



Amount Labour Intermediation Executed: N/A Amount of collective agreements: N/A	Amount Labour Intermediation Executed: \$15,709,041,638 * Amount of collective agreements: N/A	Amount Labour Intermediation Executed: \$1,622,723,454* Amount of collective agreements: N/A	Amount Labour Intermediation Executed: \$146,422,070* Amount of collective agreements: N/A	Amount of collective agreements: \$ 187,292,090
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**Source:** Ministry of Labour, Directorate of Inspection, Surveillance and Control (IVC)

Table 7: Consolidated fines-imposed Year 2022 (cut-off month of October).

	Indicator	Number	Value
	Abusive outsourcing	0	
	Misuse of collective agreements	1	\$\$90.852.600

**Source:** Subdirectorate of Territorial Management-DASHBOARD-Statistical Application

Once the consolidated base of sanctions with cut to October 31, 2022, of the sanctions imposed and enforceable by the concept; None have a collection report in 2022.

**b. Average time of collection of fines.**

The law establishes a maximum time of 5 years, to notify the payment order since the resolution imposing the sanction is duly executed and 5 additional years from that moment, to collect said money, that is, the process of coercive collection legally can have a maximum duration of 10 years.

**3. COLLECTIVE AGREEMENT**

Colombian law establishes that collective agreement is an instrument to regulate working conditions and guarantee trade union rights. This mechanism can be used by employers, organisations, and trade unions to demand fair wages and good working conditions.

In terms of social dialogue, this mechanism for discussion and consultation between actors in the world of work was highlighted. An achievement is the collective agreement between business associations and unions, was described as historic by Gloria Inés Ramírez, Minister of Labour, who said it was a historic agreement



because for the first time, Colombia reached an agreement to increase the minimum wage from \$ 1,000,000 to \$ 1,160,000 pesos, a growth of 16% over the previous year and the highest so far this century, where the reference is the protection of the purchasing value of the salary and priority is given to the family basket of the poor.

This is how, the government, within the framework of a tripartite space and as the basis of social dialogue based on the construction of a government of change, continues to advance in the proposals for labour and pension reforms that are proposed, analysed, and discussed with representatives of the unions, workers, and government. This tripartite space was addressed with the presentation of the topics for discussion of the Subcommittee on Labour Reform-Labour Statute, basically presenting 18 issues aimed at rural work, formalization, gender gaps, collective agreement, and work on digital platforms.

On the other hand, the pension reform under construction proposes that the most important pillars on which it will be based are the sustainability of the pension system, administrative efficiency, and equity

in the granting of benefits, guaranteeing constitutional purposes, the inalienable right to Social Security and progressive expansion of its coverage.

Likewise, the government expresses that the basis of the reforms is based on all sectors benefiting from what is regulated, since they are designed in solidarity and the focus on the rights of the most vulnerable.

**a. Build a constructive framework for social dialogue, by:**

**3.1.1. Promote a two-tier system of sectoral and firm agreement, through the development of rules on sectoral agreement in the Labour Code**

Within the framework of the Permanent Commission for Concertation of Wage and Labour Policies, a tripartite body created in article 56 of the Political Constitution and developed in Law 278 of 1996, and particularly in session of October 24, 2022, it was agreed by all the members the creation of the following subcommittees. - Subcommittee on Labour Reform - Subcommittee on Pension Reform - Subcommittee on Employment and Employability - Subcommittee on Analysis of Decrees and Laws.

On October 24, 2022, a plenary session of the Permanent Commission for Concertation on Wage and Labour Policies was held with the purpose of:



1. Arrange the technical secretariat.
2. Reactivate the Thematic Subcommittees of the CPCPSL and create new Subcommittees.
3. Present the 2023 Minimum Wage Consultation Calendar.

Among the subcommittees created are:

- Subcommittee on labour reform: It was installed on November 15, 2022, to agree on a work plan and build a technical document to be approved by the Permanent Commission of Concertation and present it as a bill via ordinary law. The Sub-Commission has met on the following dates:
  - November 22, 2022: Experts from the government and the trade union sector presented the conclusions and recommendations of technical studies in relation to a labour reform for Colombia.
  - November 29, 2022: The president of the Labour Cassation Chamber of the Supreme Court of Justice presented the most recent jurisprudence on labour issues, as well as made some proposals to consider in this subcommittee. In addition, an ILO representative made recommendations on Colombia's labour legislation.
  - December 6, 2022: the representative of the OECD referred to the recommendations of this organisation in labour matters and the expert Iván Daniel Jaramillo made a presentation regarding the labour bills that are currently before the Congress of the Republic.
  - December 13, 2022: Experts from Chile and Mexico presented the procedure by which they achieved their respective labour reforms.
  - December 21, 2022: The expert from Spain referred to the country's labour reform and for its part, Argentina for its part presented its collective agreement model.
  - January 17, 2023, the Government of Change as part of this Subcommittee presented the topics proposed for the labour reform, among which is multilevel collective agreement, strike in essential services.
  - January 24, 2023, the union, and union sector made their respective proposals for labour reform.

Thus, collective agreement by levels and the total prohibition of strikes in public services are issues that are being discussed and analysed within the Subcommittee on Labour Reform.

### **3.1.2. Eliminate the option to negotiate collective agreements.**

Nationally and internationally, collective agreements have been the subject of serious questioning, they are pointed out as instruments that violate the right of trade



union association and weaken the actions of trade unions. This has led Colombia to find we are facing a trend towards the elimination of the figure, which ignores the negative dimension of freedom of association, grants exclusivity to trade union organisations in the negotiation of better working conditions and is contrary to the concept of social dialogue proposed by the International Labour Organisation. Therefore, understanding that what is censored should be the abusive use of the collective agreement and not the very existence of the figure, it is recognized the need to expand its regulation and continue to sanction administratively and judicially the anti-union conduct that is generated by its inappropriate use.

For the Ministry of Labour, it is essential to guarantee social dialogue between tripartite actors, so 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 outstanding agreements at the end of the term of a collective agreement. Additionally, it regulates that, in the framework of collective negotiations with public employees, matters related to the principle of progressivity and the rule of non-regressivity will be considered.

Therefore, the Ministry of Labour issued administrative acts by which it grants functions to the Special Investigations Unit to carry out investigations related to illegal subcontracting and improper use of collective agreements and trade union contracts.

The current Government through External Circular 078 of 2022, has mentioned that although the existence of collective agreements (and their coexistence with collective labour agreements or arbitration awards) are currently provided for and allowed in Colombian labour legislation, it is expected that "this can be modified in accordance with international commitments and the government program." It is concerned about the existence of numerous collective agreements or extra-legal benefits granted by the employer, whose access status is not to be unionized, since it has indicated that such situations prevent the birth of new unions, stop the growth of existing ones, or contribute to their destruction.

In practice, it has happened that to avoid the procedure provided for in the law for the birth of this formal source of labour law, other expeditious and unilateral forms known as "benefit manuals" or "benefit plans" are used, among other denominations, which are nothing more than unilateral provisions that companies create, with extra-legal benefits, whose access condition is not to be unionized. The Constitutional Court, in judgments SU-569 and SU-570 of 1999, has had the opportunity to conclude that both instruments have identical material content and therefore,



whatever their denomination, they must be studied, considering the principle of the primacy of reality over formality.

The Labour Chamber of the Supreme Court considered that collective agreements cannot even be equal or equivalent to collective labour agreements, since it must be considered that the unionized worker contributes a union dues that the non-unionized worker does not pay and, in some cases, is a victim of discrimination and even anti-union violence. Therefore, collective agreements and arbitration awards must necessarily be superior in benefits and prerogatives than collective agreements, business benefit plans or extra-legal benefits whose access condition is not to be unionized.

It is important to note that the regulation on collective agreements is being analysed in the labour reform that is currently being discussed.

### **3.1.3 Automatically extend collective agreements to all employees of a company, not just members of signatory unions (erga omnes).**

In accordance with article 470 of the Substantive Labour Code, subrogated by article 37 of Decree 2351 of 1965, the scope of application of the collective agreement is defined for members of the trade union who have concluded the convention and for those who accede to it, when the trade union is a minority, as follows: "ARTICLE 470. FIELD OF APPLICATION. 1. When a trade union whose membership exceeds one third of the total number of workers in the enterprise is a party to the collective agreement, the rules of the convention shall extend to all workers of the enterprise, whether they are unionized. 2. The provisions of this article shall also apply when the number of members of the trade union exceeds the limit indicated after the signing of the convention..." On the application of the agreement by extension, its exclusions, and the extension to all workers because it was agreed, the Supreme Court of Justice ruled in the following terms: 2The law establishes the mandatory scope of application of a collective agreement. In principle, it is only applicable to the contractors themselves, to members of the trade union that concluded it, to adherents to the agreement and to those who subsequently join it; but it also orders its extension to all workers of the enterprise — when the contracting union groups more than a third of its staff and in the event that a governmental act so orders, subject to compliance with the provisions indicated in article 472 of the Substantive Labour Code. Exceptionally, for special reasons, the jurisprudence has admitted the exclusion from the scope, by agreement between the parties, of certain workers, generally managers of the company, given their character as representatives of the employer, or even without the need for express agreement, in the



case of legal representatives or negotiators of the employer. The regulation of events in which the conventional application is imperative by legal mandate does not in any way prevent the employer from entering the commitment to apply the benefits derived from it to workers who are not included in the scope of application established by law, unless the law expressly prohibits it for higher reasons, as is the case, for example, with the managerial staff of certain public entities. (Law 4 of 1992 which reads, *"By means of which the norms, objectives and criteria that the National Government must observe for the determination of the salary and benefit regime of public employees, of the members of the National Congress and of the Public Force and for the fixing of the social benefits of the Official Workers are indicated and other dispositions are dictated, in accordance with the provisions of article 150, paragraph 19, letters e) and f) of the Political Constitution."*)

Of course, it goes without saying that in cases where a non-unionized worker benefits from collective regulations, he must pay the corresponding ordinary union dues to the respective union during its validity; in this regard, Article 39 of Decree 2351 of 1965, subrogated by Law 50 of 1990 Article 68 determines: "ARTICLE 39.- Subrogated. L 50/90. Conventional profit fee. Non-unionized workers, because they benefit from the collective agreement, must pay the union, during its validity, a sum equal to the ordinary dues contributed by members of the union. In this regard, Decree 2264 of October 16, 2013, which regulates articles 400 of the Substantive Labour Code and 68 of Law 50 of 1990, establishes the following:

"Article 1. In order to ensure that trade union organisations can collect in a timely manner the dues fixed by law and the trade union statutes for their operation, the employer has the obligation to: (...) (c) Withhold and deliver to the trade union the sums that non-unionized workers must pay to them under the collective agreement under the terms of article 68 of Law 50 of 1990, unless there is an express waiver of the benefits of the agreement." (Underlined and highlighted outside the text) It follows from the regulations and jurisprudence indicated here that the deduction of the quota for conventional benefit established in article 39 of Decree 2351 of 1965, subrogated by article 68 of Law 50 of 1990, applies to the non-unionized worker who benefits from the collective agreement.

This aspect will also be subject to regulation within the labour reform that has been discussed.

**i. Require multiple unions in the same company to form an agreement team to secure a single collective agreement.**

Regarding the common points in the specifications presented, they could be advanced in a single session with the trade union organisations that have included them and, with respect to the different or non-common points, different sessions could be advanced within the single negotiating table, applying in turn the provisions



of article 2.2.2.4.8 of Decree 1072 of 2015, which contemplates the procedure to be followed when several trade union organisations attend the negotiation.

This procedure must be aligned by the existence of a unified list of demands in case of plurality of unions in the entity, that is, a single negotiating table where the parties to the Negotiating Committee and their advisors will appear to develop the conversations, discussions and debates on the points of the specifications, in order to achieve agreements on the case in the direct settlement stage, from which, a single Collective Agreement must result.

However, if such coordination activities have been carried out and it is not possible to unify the lists of applications, **collective agreement** must be carried out, considering:

The initiation of the collective agreement process does not require the presence of all trade union organisations, nor does it oblige the public entity to link them all, since article 2.2.2.4.5 of Decree 1072 of 2015, contemplates one or more trade union organisations as parties to the negotiation; in addition to this, none of the articles of Chapter 4 of the *ibid.* It establishes as a requirement for the initiation of collective agreement the participation of all trade union organisations, among other things by the principle or right of trade union autonomy which allows unions to self-determine and decide on the presentation of a list of demands.

### 3.1.5 Give the right to strike to the highest-level trade union organisations.

From the normative point of view, the strike is defined, with precision, in article 429 of the Substantive Labour Code (CST).

*Article 429. A strike is understood to mean the temporary and peaceful collective suspension of work, carried out by the workers of an establishment or enterprise for economic and professional purposes proposed to their employers and prior to the procedures established in this title.*

As can be read, the definition complies with establishing the requirements of the existence of the strike, namely, the collective suspension of work, in a peaceful, concerted, and temporary manner, with a purpose protected by law. All this is in line with the purely statistical definition provided by the ILO. In addition, the normative provision accounts for some requirements concerning the legality or validity of the strike, from which, for the time being, we can extract the following: the suspension of work must be peaceful, the motivation must be eminently economic and professional and, finally, the strike must comply with the formalities and procedures provided for in the law.



From the legal point of view, the strike in Colombia is defined in the Substantive Labour Code and has two modalities: (i) that derived from the collective labour dispute provided for in article 444 *ibidem* and (ii) that attributable to the employer for breach of its labour obligations. In addition to the above, the Labour Chamber explained that jurisprudence recognizes two other types of cessations of activities: (i) the so-called strike for solidarity and (ii) the one that is carried out to express positions on social, economic, or sectoral policies that directly affect the exercise of the corresponding activity or occupation. On the other hand, a strike can be validly driven by a union or by a coalition of non-union workers. In addition, cessations of activities are considered legitimate if they observe the legality and are carried out peacefully. However, when it is declared illegal in court, the employer is empowered to: (i) dismiss the workers who have intervened in the illegal dismissal, including those protected by trade union immunity, without the need to process the lifting of that protection; (ii) to sue the ordinary courts for the suspension or cancellation of the legal personality of the trade union; (iii) sue those responsible for the cessation to assess and obtain compensation for damages and (iv) not recognize or pay wages and labour credits for the time in which the service was not effectively provided.

In Colombia, the strike is not an absolute right, but a relative one, since it can be restricted by the general interest, the rights of others and when its exercise results in a disturbance of public order. This right must be exercised within the legal framework invoked by the Preamble, considering the prevalence of the general interest, and the understanding that every right has correlative duties, being an institute defined by constitutional and legal precepts.

However, the restrictions imposed by the legislator on the exercise of the right to strike cannot be arbitrary, nor ignore its legal significance, since they would make it completely inoperative:

*"The right to strike is restricted in two ways: its exercise is prohibited in the essential public services determined by the legislator and, obviously, in those indicated as such by the Constituent Assembly. In other cases, its exercise must be limited to the regulations made by the legislator. These limiting powers, which are delegated exclusively to the legislative body, however, cannot be developed arbitrarily; otherwise, the right to strike would cease to be a genuine right."*

Therefore, the Constitutional Court has established two conditions for the right to strike to be restricted: "In the first place, it is necessary that this is materially an essential public service. And, secondly, from the formal point of view, it is necessary that the legislator has expressly defined the activity as an essential public service and restricted the right to strike in it".



In addition, in more recent jurisprudence, this corporation has indicated that the restrictions imposed on the exercise of the right to strike must be necessary, indispensable, reasonable, and proportionate to the aim to be achieved, in order not to make it nugatory or impracticable, since if this is not the case, freedom of association would be violated.

In Colombia, the Law has limited the right to strike, inter alia, in the following services: Central Banking, social security related to health and payment of pensions, public home services, the administration of justice, the Service provided by the National Penitentiary Institute "INPEC", air, maritime, river, rail, mass and land public transport and its operation in the national territory. fire prevention and control, the activities of the Directorate of Customs and National Taxes (DIAN), among others.

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

Article 417 of the Substantive Labour Code establishes that..." All trade unions have, without limitation, the power to join or join in local, regional, national, professional, or industrial federations, and these in confederations. Federations and confederations have right {to recognition} of their own legal personality and the same powers of 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 Access of Colombia to the Committee on Employment, Labour and Social Affairs of the OECD, through judgment C-797 of 2000 of the Constitutional Court, there is such a restriction, recognizing such protests to the unions, since within its objective are: to represent the common interests of workers vis-à-vis the employer, This is manifested primarily in the composition of committees of various kinds, in the appointment of delegates or commissioners, in the presentation of lists of demands, in collective agreement 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.

The right of trade union association in Colombia is a fundamental right that constitutes a modality of the right of free association, since it consists of the free will or willingness of workers to formally constitute permanent organisations that identify them and unite them in defense of the common interests of a profession or trade. Without prior administrative authorization or interference or intervention by the state or employers, as enshrined in articles 39 and 55 of the Constitution.



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

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

It is worth noting that through Tutela Judgment 7928 of 2020, the Supreme Court of Justice states that company 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 norms must be understood in a broad sense and not limited to the category of "salaried employees" or "subordinates", so that, under this argument, it is reiterated, self-employed workers cannot be excluded from enterprise unions, on pain of violating the right to freedom of association and equality. Interpretation that is consistent with what is enshrined in ILO Convention 87, 66, an international instrument that has binding force and that is part of the constitutional block, within the domestic legal system."

On the other hand, about 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 unionization, on the understanding that it also applies to workers over 12 years of age and under 14 years of age. If they work exceptionally under special conditions of protection.

*It's like this, like .... "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, provided that 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, especially if it is children who have their rights guaranteed in a primary way. The essential requirement of social right as we have 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 a missionary relationship, through labour intermediation companies legalized as the so-called 'temporary' do have the right to join a union. In addition, temporary service companies are obliged to negotiate the lists of demands submitted by workers who have sent on mission the companies that hired their services and who are part of an industrial union.*



***i. Systematic collection of data on collective agreement to track developments.***

*With the support of the Government of Canada, the register on the negotiations is under development.*

*collective in companies to monitor their evolution. In accordance with this, the Ministry of Labour has been developing the TRADE UNION FILE INFORMATION SYSTEM – SIAS, which has the following main characteristics:*

- Development and implementation of the SIAS to guarantee the protection of trade union rights provided for in the Colombian Constitution and laws.
- Coverage: National for approximately 12,350 trade union organisations.
- Annual growth rate: 10 to 15% for new organisations or adding existing information.
- Contracted organisation: National Digital Government Agency – MINTIC Colombia and the International Labour Organisation.
- Start and end date: September 2019 – December 2021.
- Project status: Final tests, MINTRABAJO user training, implementation.

Benefits of SIAS:

- It allows the creation of Trade Union Organisations.
- It maintains reliable information on its statutes, pacts, conventions, agreements, contracts, and other actions.
- It issues all the certifications required by the Trade Union Organisations.
- Generates reports and statistics on the subject.

General advantages:

- Modular in-line system supported by state-of-the-art technologies.
- Structure based on microservices.
- Oriented to the direct management of the users of the Trade Union Organisations.
- Simplification and streamlining of procedures.
- Instant information generation.



### 3.2. Colombia should consider alternatives to a total ban on strikes in essential services (e.g., strikes conditioned on a minimum service requirement) and consider reintroducing mediation into the collective dispute resolution process.

*The Government of Colombia has guaranteed the right to strike as one of its rights, which is 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 fulfils fundamental purposes for the social State 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 great 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 Asis, Hospital Rosario Pumarejo de López) giving scope of application to Judgment 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 strengthened collective agreement, Colombia should consider a gradual adjustment in the very high minimum wage to return it to its original role of wage floor rather than wage standard.**

By virtue of this recommendation, the first thing that should be stated is that the minimum wage in Colombia is unique for the entire national territory and has always fluctuated above the CPI, the above to guarantee the purchasing power of workers.

However, the conclusion of the current legal minimum wage is a function of the Permanent Commission for Concertation on Wage and Labour Policies, a tripartite body created in article 56 of the Political Charter. This Commission was regulated by Law 278 of 1996, in its numeral d) of article 2 established precisely as one of its main tasks, that of fixing in a concerted manner the minimum wage.

In turn, Article 8 establishes the steps to be followed for the fixing of the Minimum Wage as follows:

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

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

*When consensus is not definitively reached on the fixing of the minimum wage, for the immediately following year, no later than December 30 of each year, the government shall determine it taking into account as parameters the inflation target for 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)."*

Thus, the norm is clear in indicating which are the stages that must be evacuated to set in a concerted manner the Minimum Legal Wage in force for each annuity. However, it was established that, if until December 30 of each year there is no agreement on the subject, it will be the National Government that will establish it based on parameters such as the inflation target for the following year, productivity, the contribution of wages to national income, the increase in GDP and the CPI for the year that ends.

This regulation was the subject of a study of constitutionality 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 together those that must be considered to set the minimum wage to avoid a loss of purchasing power over it. On that occasion the Corporation expressed:

(...)

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

*Moreover, the Court agrees with the statement made by the Attorney General of the Nation in the sense that the Government, in the hypothesis of the norm, must weigh the factors contained therein, but that, in any case, the salary adjustment that it decrees can never be less 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 provision that is the subject 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 challenged 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 what has been said, 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 stated; 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 and supported reasons in which the Government's decree is issued and guided in the light of the constitutional principles that have already been recalled."*

(...)

It is clear then that the fixing of the minimum wage at one stage or another obeys the regulations and jurisprudence of the Constitutional Court related above, which are clear in inferring that it is all the factors described above that must be considered for the annual increase of the legal monthly minimum wage, factors to which the same level of weighting must be given.

Within this framework, the CPCPSL, through tripartite dialogue, employers' organisations, workers, and other government entities, advanced the process of negotiation and agreement on the 2023 minimum wage. The following were the concerted actions:

- In relation to the regulated price, DANE and BANCO DE LA REPUBLICA were monitored to place greater emphasis on the behaviour of public services within regulated ones.
- The variation of the Consumer Price Index - CPI, which represents the national total caused inflation, for 2022 was calculated at a value of 12.3%, estimated by the Bank of the Republic
- The variation of November 2022 with respect to November 2021 (annual variation) was 12.53%
- The Consumer Price Index for Low Income was 14.34%.



- On the other hand, the Subcommittee on Productivity agreed by consensus on Total Factor Productivity of 1.24%, period January to September.
- The National Administrative Department of Statistics – DANE, reports measurements on the contribution of wages in national income, measured through the share of compensation to employees within the national income corresponding to 32.1% for the first half of 2022; and the official figure of the last data of the Gross Domestic Product - GDP published, of the third quarter of 2022, at 9.4%.
- In a session of December 15, the members of the Permanent Commission for Concertation of Wage and Labour Policies, in consensus and unanimously, set in a concerted manner, the minimum wage for the year 2023, at One million one hundred and sixty thousand pesos (\$ 1,160,000), increase of 16% and the Transportation Assistance in One Hundred and forty thousand six hundred and six pesos (\$ 140,606), increase of 20%, for which Decree 2613 of December 28, 2022 was issued.
- On the other hand, measures to protect the purchasing value of the minimum wage, the following measures were take: Issuance by the Ministry of Finance of the Decree that allows to deindex elements and activities that are tied to the minimum wage without justification, the first 60 articles are co-payments in health, prepaid medicine, notarial expenses, fines, tuition, transport services, among others.

According to the figures of the last agreement of the permanent commission for the agreement of wage and labour policies, it was registered that by 2023 an increase of 16% of the minimum wage was evidenced, that is, an agreement was reached to increase from 1,000,000 to 1,160,000 pesos. The agreement in turn includes a 20% increase in the transportation subsidy, this subsidy is given to all workers who receive up to two monthly minimum wages and after the increase, in 2023 it reached 140,000 pesos. In short, the agreement translates into a total increase of 1,300,000 pesos between minimum wage and transportation subsidy and this figure was agreed on December 15, 2022, by employers, workers, and government, within the framework of the Permanent Commission for Concertation of Wage and Labour Policies.

The measure, which came into force as of January 1, 2023, "directly benefits 3.42 million employed people who receive a minimum wage, that is, 15.7% of the economically active population in the country, according to figures from the National Administrative Department of Statistics (DANE).



Minister Gloria Ramírez Ríos explained: "This time the minimum wage is protected regardless of the figure and for this we took five measures to protect it. The first is the de-indexation of the elements and activities that are tied to the minimum wage without justification and that allows these first 60 articles, where there are co-payments in health, prepaid medicine, notary expenses, fines, tuition, transportation services, among others, that were tied to the minimum wage." The other measures are related to energy tariffs, pharmaceutical prices, and usury rate revision.

The agreement of the minimum wage in force for the year 2023, is a clear example of the commitment of the purpose of the National Government to promote Social Dialogue, business solidity and the protection of the purchasing value of the salary where the family basket of the most vulnerable is prioritized.

## COLLECTIVE AGREEMENT INDICATORS

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

#### Summary of Regulations and Legislation 2022

- Resolution 1126 of 2020. By which the general conditions for the operation of the Family Subsidy System in the Transactional Affiliation System (SAT for its Spanish acronym) are defined. Chapter II. General rules of the operation of the Family Subsidy System in the Transactional Affiliation System. Article 5. Operation of the Family Subsidy System in the Transactional Affiliation System. Users registered in the 31-web portal [Error! Invalid hyperlink reference.](#) carry out affiliation transactions, report news and queries to the SSF, according to the roles and levels of access assigned to them in accordance with the terms established in current regulations.
- Resolution 025 of 2021. By which article 10 of Resolution 1126 of 2020 is modified with the term of operation 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. MinSalud modifies the deadline for the entry into operation of the Family Subsidy System through the SAT and establishes that during the first semester 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 come into operation.
- Resolution 083 of 2021. By which the guidelines for the incorporation of the information and the interoperability of the SAT Family Subsidy System are defined, with respect to the roles employer legal person and employer natural person. This resolution highlights:



- Obligations are established at the head of the CCFs 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, which establishes the guidelines for the exercise of the preventive function in the form 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 establishing 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 by means of which the agreements agreed in the collective agreement 2021-2023 are adopted, concluded between the Trade Union Organisations 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 employment placement services.
- Resolution 3162 of 2021 amending and adopting the Specific Manual of Operation and Labour Competencies for jobs of the personnel plant of the Ministry of 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 minimum legal monthly wages in force and units of tax value 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.

**ii. Number of collective agreements in the private and public sectors) Total and recently signed).**

It is important to specify that in the private sector they are called Collective Agreements and in the public sector they are called Public Sector Collective Agreement Agreements and have different regulations.

Collective agreements						
	2017	2018	2019	2020	2021	2022
Private sector	380	490	572	194	273	372
Public sector	431	314	314	314	311	40
<b>Total</b>	<b>811</b>	<b>804</b>	<b>886</b>	<b>508</b>	<b>584</b>	<b>412</b>

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.**

Regarding the number of workers covered by collective agreements in the private and public sectors, the Trade Union Archive Group reports that it does not keep any statistics on this matter, since trade union organisations, in accordance with their trade union autonomy, are not obliged to report on this matter.

**iv. Number of collective agreements in the private and public sectors (total and recently signed).**

Regarding the number of workers covered by collective agreements in the private and public sectors, the Trade Union Archive Group states that it does not keep any statistics on the subject, since trade union organisations, in accordance with their trade union autonomy, are not obliged to report on this matter.

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

Regarding the number of workers covered by collective agreements in the private and public sectors, the Trade Union Archive Group reports that it does not keep any



statistics on this matter, since trade union organisations, in accordance with their trade union autonomy, are not obliged to report on this matter.

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

2017	2018	2019	2020	2021	2022
38	89	87	64	126	142

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

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

On the number of strikes and duration in Colombia, this Ministry does not keep a record of strikes carried out by trade union organisations, nor the duration of these, for this reason, on this question, does not appear statistics on the subject.

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

The Special Commission for the Treatment of Disputes before the ILO, known as CETCOIT, is a tripartite space where the different cases between employers' organisations, workers and the conciliation body are discussed, of which they join in continuous conciliation efforts of agreements for the resolution of these.

The focal points to be discussed within the spaces for dialogue are framed in ILO Conventions 87, 98, 151 and 154 ratified by Colombia in the framework of collective agreement, the right to rest and freedom of association; The foregoing, as a requirement for opening the space for dialogue in the Subcommittee.

The technical secretariat of CETCOIT is represented by the Technical Secretariat of the Commission for Concertation of Wage and Labour Policies who is chaired by the Ministry of Labour, which shows that for the validity of fiscal year 2022 there were 25 subcommittees carried out.

It is important to highlight the relevance of this space, since it allows mitigating the presentation of cases before international entities, to establish mediations around dialogue and representing credibility for all parties, resulting in agreements around the conflicts presented among themselves.

**SOCIAL DIALOGUE**

Social dialogue is a tool to promote agreement between the components of labour and wage material in Colombia, which is developed through the Permanent



Commission on Wage and Labour Policies. The main reason for this space is attributed to encourage good labour relations generating the solution of collective labour conflicts.

However, for the formation of the CETCOIT space it is important to mention the corresponding participation of each office of the Ministry of Labour according to its powers:

### **Office of Cooperation and International Relations**

The OCRI, as the area responsible for establishing direct communication with the ILO and international organisations, has the following functions in accordance with Article 10 of Decree 4108 of 2011:

8. Carry out the necessary actions to support and address relations with the International Labour Organisation (ILO) and other international organisations in the *field of labour and employment, in accordance with the guidelines of the Minister and the National Government.*

13. *Propose actions, in coordination with the competent entities, for the resolution of disputes in labour and employment, in accordance with treaties, conventions and international agreements.*

From the above, it is important to highlight the specific tasks that it develops in front of the CETCOIT space where in turn it monitors the conventions or pronouncements that the ILO transmits for the applicability of the regulations in the dialogue space.

### **Sub directorate for the Promotion of Social Organisation**

In the Directorate of Fundamental Labour Rights, focal themes are developed around social dialogue and decent work, in turn it has the Sub directorate for the Promotion of Social Organisation where it is based on the participation of the spaces of the dialogue tables and that for the space of consultation that takes place in the CETCOIT, participates in the monitoring and follow-up of conflicts that are presented through the Permanent Commission on Wage and Labour Policies. The foregoing within the framework of the functions in accordance with Article 26 of Decree 4108 of 2011, highlighting the main tasks in said space:

1. *Implement and monitor policy and regulatory guidelines on social dialogue and collective agreement in the country.*
2. *Implement plans and programs that contribute to guaranteeing the right of association, freedom of association, collective agreement, complying with*



*international agreements, treaties and other recommendations given to the country.*

3. *Promote the signing of tripartite agreements between the Government, employers, and workers, which contribute to the transformation of labour relations in the country.*

**CASES FILED 2022**

No.	UNION	COMPANY	CONCEPT PROCESS	STATUS	ACTIONS TO BE CARRIED OUT
U	Sie social	Administrati ve Department for Social Prosperity/ DPS	Freedom of association, trade union, collective agreement	Pending	Schedule session with the parties
2	Attract	Attorney General's Office	Freedom of association, collective agreement, right of association	Pending	Schedule session with the parties
3	Sintraincolbest	Incolbest	Collective agreement, rights of association	Pending	Schedule session with the parties
4	Sintraoficol/Yopal Sub directive	Aqueduct, Sewerage and Yopal Toilet	Collective agreement, rights of association	Pending	Schedule session with the parties
5	ILO Case 3020 (Cut Cauca-Secretary of Education of Cauca)	Governmen t of Cauca- Secretary of Education of Cauca	Collective agreement.	Pending	Schedule session with the parties
6	Sunet, Sub directive La Mesa	Mayor's Office of La Mesa	Collective agreement.	Pending	Schedule session with the parties
7	Sunet, Subdirective Rovira	Mayor's Office of Rovira	Freedom of association, collective agreement.	Closed	Pending Closing Act without agreement
8	Case 3103-Anthoc Cauca Section	Hospital San Jose De Popayán	Freedom of association, collective agreement.	Pending	Issuance of concept to council of state
9	Sindidepartamental	Mayor's Office of Socorro, Santander	Collective agreement.	Pending	Schedule session with the parties



10	Use	Secretary of Education of Santander	Collective agreement.	Pending	Results of communication s and facilitator review
11	Sintraenfi	My Bank	Freedom of association, collective agreement.	Pending	Schedule session with the parties
12	Sintraenfi Sunet, Sub directive Tocancipá	Mayor's Office of Tocancipá	Collective agreement.	Closed	November 1 subscription minutes of Closing with agreement
13	Sintrafuac-Sinprofuac	Autonomous University of Colombia	Collective agreement.	Pending	Schedule session with the parties
14	Sintraensp	Emcali	Freedom of association, collective agreement.	Closed	Pending Closing Act without agreement
15	Utrasinunp	Temporary Union Excellence	Collective agreement.	Pending	Subscription to the closing minutes
16	Ugetrans Colombia	Unimetro Cali	Freedom of association, collective agreement.	Pending	Schedule session with the parties
17	Sunet, Anapoima Subdirectiva	Mayor's Office of Anapoima	Freedom of association, collective agreement.	Pending	08 November follow-up
18	Unisercti-Asonal Judicial	General Prosecutor's Office from The Nation	Collective agreement.	Pending	Schedule session with the parties
19	Sinrachia	Mayor's Office of Chía	Freedom of association, collective agreement.	Pending	Schedule session with the parties
20	Cut	Secretary of Education of Bogota	Freedom of association, collective agreement, right of association	Pending	Schedule session with the parties
21	Sintraflexospring	Flexospring	Right of association, freedom of association, collective agreement.	Pending	Schedule session with the parties
22	Sintraong'S	Cootramin	Freedom of association	Pending	Schedule session with the parties
23	Sintraclinu	New Clinic	Right of association, freedom of association, collective agreement.	Pending	Schedule session with the parties
24	Use	Independence Drilling	Right of association, freedom of association	Pending	Schedule session with the parties



25	Trade Union Association of Public Servants of the Department of Risaralda	Government of Risaralda	Collective agreement	Pending	Schedule session with the parties
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According to the results, it is observed that 25 cases were presented in 2022, of which 2 were closed without agreement and 1 with an agreement agreed by the parties in conflict, however 22 are still open considering that CETCOIT is without a facilitator to convene the parties and activate the spaces for dialogue.

### CASE STUDIES - RESULTS

The percentage resulting from the analysis of the cases presented to CETCOIT is listed below:

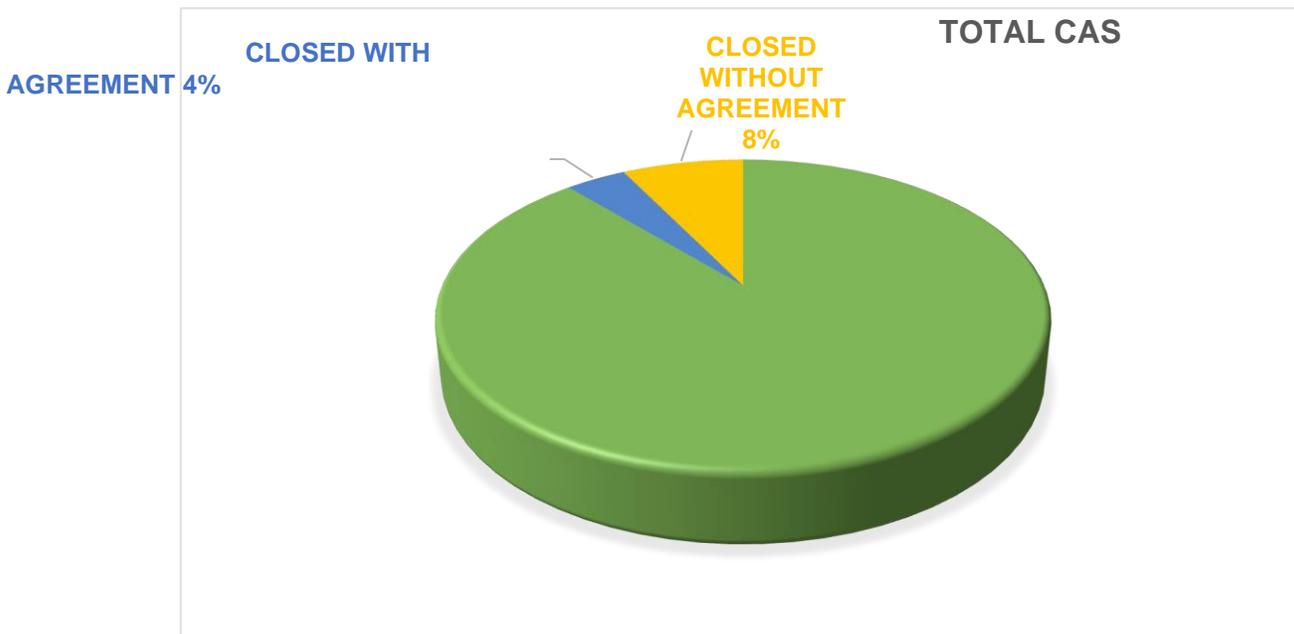


Illustration 1 CASES IN

2022



CASES PER YEAR	AGREEMENT	NO AGREEMENT	PENDINGS	TOTAL CASES
2017	4	8	0	19
2018	12	4	0	16
2019	19	1	0	20
2020	12	1	7	20
2021	14	0	10	24
2022	1	2	23	26
<b>Total</b>	<b>69</b>	<b>16</b>	<b>40</b>	<b>125</b>

Source: Directorate of Inspection, Surveillance and Control

## 4. VIOLENCE AGAINST TRADE UNIONISTS

According to Colombian trade union centres such as the CUT and the CTC, the country has been characterized over the past 30 years by marked impunity for more than 3,000 murdered trade unionists. This has led to the focus on solutions or measures that reduce the violence that these unions are going through. For this reason, one of the most important purposes of Colombia as a world power of life, is to lay the foundations for "the country to become a leader in the protection of life, based on the construction of a new social contract that promotes the overcoming of injustices and historical exclusions, the non-repetition of the conflict, the change of our way of relating to the environment, and a productive transformation based on knowledge and harmony with nature". Thus, the government of President Gustavo Petro has committed to promoting initiatives and mechanisms that safeguard the integrity of trade unionists in the national territory, strengthening protection programs for leaders and financial resources for the National Protection Unit. In addition, the government of change has ratified its commitment to respect freedom of association, the right to association and the right to organize. A strong commitment has been made to continue complying with international recommendations on labour and the defense of Human Rights.

### 4.1 Develop a vision of zero tolerance for violence and killings against trade unionists through an adequate plan to advance reforms and actions in line with the conventions ratified with the ILO.

By resolution 0439 of May 25, 2022, the "Booklet for the Investigation and Prosecution of the Crime of Violation of the Rights of Assembly and Association" was adopted within the Attorney General's Office. The Primer is divided into two main components.

The first concerns the fundamentals of the rights of association, trade union association, strike and collective agreement. This part explains the rights of trade



union, trade unionism, trade union immunity, the right to negotiate, collective agreement, and trade union contracts. The second is more focused on the investigation and prosecution of the crime of violation of the rights of assembly and association, detailing the content and scope of the crime, the structure of the criminal type, the normative elements and the characteristics of the criminal type.

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

It is important to note that once the resolution was issued, the booklet was communicated to the country's Trade Union Confederations, making known, among other topics, the concepts and mechanisms of legal protection of trade unions. In the same sense, it was distributed to the prosecutors of the entity and in a particular way in the regions with the highest concentration of cases, the booklet was presented to each of the prosecutors.

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

To begin with, it is important to mention that the budget allocated to the National Protection Unit for the implementation of protection measures is a global bag of resources that are used according to the demand of the requests for protection filed with the UNP, which go through a risk analysis study and may increase or decrease depending on the result of the study. these protection measures are granted and implemented to their beneficiaries through an administrative act, which accepts the recommendations issued by the Committee for Risk Assessment and Recommendation of Measures — CERREM, made up of:

- Ministry of the Interior.
- Presidential Delegate of the Human Rights Program. National Victims Unit.
- National Police.
- Office of the Attorney-General of the Nation. Office of the Attorney General of the Nation. Office of the Ombudsman.
- Representative of the United Nations High Commissioner for Human Rights. A delegate from UNHCR — UN Refugee Agency.
- Four (4) delegates from the Prevention and Protection Program).

##### 4.2.2 Implementing, with close collaboration of trade unions, the newly developed collective protection mechanism for trade unionists at risk.

NUMBER OF APPLICATIONS FOR PROTECTION DEALT WITH - 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
GRAND TOTAL	61	2	63

BENEFICIARIES WITH PROTECTION MEASURES IMPLEMENTED									
POPULATION RISK 3. UNION LEADERS									
POPULATION	NUMBER OF BENEFICIARIES WITH IMPLEMENTED MEASURES	MEDIA	VESTS	BELLBOY	PROTECTIVE MEN	ARMORED VEHICLES	CONVENTIONAL VEHICLES	TRASP SUPPORT	RELOCATION SUPPORT
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
Overall total	313	172	186	68	175	36	41	6	10

**Trade Union Leaders and Activists with protection measures.**

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

In compliance with the institutional commitment to prioritize the effects suffered by specific populations such as human rights defenders and unionized persons, the Attorney General's Office continues with the implementation of the Strategies described in the first and second follow-up reports presented to the OECD in previous years. As reported in the progress reports, addressing victimization against these populations is an institutional objective defined from the Strategic Direction Plan 2020-2024 "Results in the Street and in the Territories".

Information that rests in the databases of the Implementation Group of measures in relation to the benefits of union leaders, which have protection measures implemented for the years, 2018, 2019, 2020 and 2021.



The Office of the Prosecutor General continues to implement the tools and institutional mechanisms that make it possible to deal with each crime according to its particularities, and it also continues to strengthen the Strategy for the Investigation and Prosecution of Homicides against Trade Unionized Persons and Human Rights Defenders, including trade union leaders. 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.<sup>1</sup>

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

The Office of the Prosecutor continues with the implementation of the different strategies described in the reports submitted in 2021 and 2022, the strategy for investigating and prosecuting crimes against human rights defenders and the follow-up to homicides committed against unionized persons continue to be a priority issue for the Entity.

During 2022, in addition to the units indicated in the previous report, the Special Investigation Unit supported some cases of homicides against union leaders, within the framework of the implementation of the strategy for investigating and prosecuting crimes against human rights defenders. The delegate for Territorial Security continued with homicide cases in which the person belonged to a union but did not exercise any type of leadership work.

Regarding the procedural results for the crime of homicide against trade unionists, the response to recommendation 4.3.1 will explain in detail the cumulative behaviour of this crime from January 1, 2017, to December 15, 2022.

#### **Actions executed during 2022.**

- **Training.**

With the support of the Directorate of Higher Studies, a specific training course was created and is being held for prosecutors and case investigators to develop tools

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<sup>1</sup> In certain circumstances, unionized persons may have a dual status. On the one hand, they access 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 members of the trade union, they can carry out work to promote and defend human rights; in this case, in addition to being a trade unionist, she 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 exercise activities to defend human rights. This is why Some cases of homicide are reported by organizations that follow the behaviour of killings against unionized people – regardless of leadership – while others are reported by those that follow the behaviour of homicides against human rights defenders; Sometimes, several victims are reported from both perspectives, as trade unionists and as defenders.



that allow them to understand aspects related to the issue of the crime of Violation of the Rights of Assembly and Association (Article 200 C.P).

During the year 2022, the training was carried out, which had the participation of servers of the entity assigned to the different Sectional Directorates of the country and was dictated by trainers of the Attorney General's Office of the Nation and servants assigned to the Ministry of Labour. The topics discussed are strategic and adjusted to the need evidenced by the Directorate of Higher Studies in the target population. The agenda focused on the following topics:

- Foundations on collective labour rights.
- Investigation and prosecution of crimes related to the violation of the rights to free assembly and association.
- Day of good practices Investigation and prosecution of crimes related to the violation of the rights to free assembly and association.
- Conciliation techniques in cases of violation of the rights to freedom of assembly and association.
- Abbreviated Special Criminal Procedure.

#### **4.3.2 Demonstrating tangible progress in solving all crimes against trade unionists and securing convictions where appropriate.**

##### **I. Killing of trade unionists**

On this subject it is important to indicate the actions in which they were registered during the year 2022.

- Articulation, within the Office of the Attorney-General of the Nation, between the strategies for investigating homicides against unionized persons, human rights defenders, and intentional homicide.
- A prosecutor was appointed from the national level to carry out the procedural impulse to the cases of trade unionists, who oversees carrying out the procedural impulse for the clarification.
- Follow-up to cases from the Office of the Deputy Attorney General of the Nation.
- Approval and adoption of the protocol for victimological characterization for serious human rights violations, issued in 2022.

##### **Research advances**

The Attorney General's Office designed a 100-hour virtual course for the prosecution of crimes against human rights defenders, aimed at prosecutors and assistant prosecutors. The course has 5 modules and was received by 143 officials.



- Human Rights, incorporation of the differential approach in criminal investigation.
- Strategic development of the case.
- Preliminary hearings.
- Early Terminations
- Trial hearings (Accusation, Preparatory and Oral Trial).

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

Conciliation is an effective mechanism to guarantee people's right of access to justice in criminal matters and to resolve legal disputes quickly and without delay. In this regard, it is necessary to reiterate that, according to Colombian procedural law, a conciliation agreement has the same legal effects as a judgment, that is: i) it resolves the conflict between the parties and ii) establishes judicially enforceable obligations.

According to the Colombian Constitutional Court, "Judicial conciliation is an alternative means to the resolution of the conflict, through a decision or ruling. In this sense, it is a special way of ending the process, being the third party who directs this kind of conciliation the judge of the case, who in addition to proposing formulas of settlement, approves or validates what was agreed by the parties, granting it the effectiveness of *res judicata*. In some cases, such conciliation operates as a procedural requirement."<sup>2</sup>

In the area of criminal law, conciliation is an exception, since the investigation and prosecution of crimes is the exclusive obligation of the State and complies with the actions of the Office of the Attorney-General of the Nation; Conciliation allows affected parties to participate in the resolution of the dispute and seeks to promote social peace. It is important to note that conciliation decentralizes access to justice because it can be held in multiple victim care centres, in front of a prosecutor, in private or public conciliation centres, before conciliators in equity or before public servants authorized by law for that purpose.

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 Criminal Code.

## II. Article 200 Violation of the rights of assembly and association:

### a. Nature of the offence

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<sup>2</sup> Constitutional Court [Decision C-902/08](#)



It is important to recall that article 200 of the Criminal Code criminalizes the violation of the rights of assembly and association. This offence was created to protect the right to freedom of association in the context of labour relations, especially regarding unionized workers.<sup>3</sup>

This offence punishes the following conducts:

(i) preventing a lawful assembly, (ii) disturbing a lawful assembly, (iii) preventing the exercise of rights under labour laws, (iv) disturbing the exercise of rights under labour laws and, finally, (v) retaliating on a legitimate strike, assembly, or association. Hence, the unlawful act is configured, not only by obstructing the legitimate meetings of workers or their demonstrations, but by grossly violating the rights granted to them by law or by taking decisions against them on the occasion of their trade union status and activity."<sup>4</sup>

The complaint for the offence of violation of the rights of assembly and association must be filed by a unionized or non-unionized worker or by a trade union organisation (complainant) that considers that it is dealing with the occurrence of this crime, within a period not exceeding 6 months after the occurrence of the fact; It must be indicated against whom the complaint is filed, for this case against an employer or managers or even employees who have participated in the event (defendants).<sup>5</sup>

Conciliation is mandatory and must be carried out before the corresponding prosecutor, in a conciliation centre or before a conciliator, the unjustified non-attendance of the complainant will be understood as withdrawal of his claim. If there is agreement in the conciliation, the case will be archived, and the conciliation act has the effect of *res judicata* when the parties reach agreements on their claims.

### **Attention and development of urgent acts of investigation.**

As part of the strategy of the National Working Group on Threats (GTNA), specifically, in the attention of urgent acts of investigation for the prosecution of the crime of threats against human rights defenders and other specific populations, from January 1, 2022 to November 21, 2022, 1,148 citizens were assisted, for facts presented throughout the country, of which 39 correspond to leaders and/or

<sup>3</sup> By legal provision this fault is chargeable and requires conciliation as a procedural requirement. Since 2017, since the enactment of Law 1826, the crime of violation of the rights of assembly and association has an abbreviated special criminal procedure that allows the process to advance in a shorter period since it modifies and suppresses some actions of the traditional procedure. Likewise, this crime is chargeable, and conciliation is a procedural requirement in order to be able to bring criminal action.

<sup>4</sup> File: 11001310405620080002202, Superior Court of the Judicial District of Bogotá, Criminal Chamber. Two (2) August two thousand and twelve (2012). MP. Luis Mariano Rodríguez Roa.

<sup>5</sup> During criminal proceedings, the complainant may voluntarily withdraw from the proceedings, and may terminate the proceedings by signing an agreement or conciliation with the prosecutor up to the investigation stage or with the judge at the trial stage. The participation of the victim is essential for the advancement of this.



members of trade union organisations and to whom priority attention has been given. Likewise, the GTNA has carried out exhaustive investigative work to guarantee the collection and preservation in a timely manner of the material evidence, physical evidence and/or legally obtained information.

Of the 39 cases dealt with, **17 were given urgent acts.**

According to the complainants, the most recurrent threat modalities were as follows:

Modality	Number of Cases
Pamphlet	14
Direct/Personal	13
Text message	7
Call	5
WhatsApp	4
Social Network	3
Others (funeral wreath, email, follow-ups, etc.)	9

From the cases received, it was evident that the complainants belong to trade unions of:

- Teachers
- USE
- Migration Colombia- OSEMCO
- SINTRAMINAL-. Drummond Workers Collective

### Progress in investigations

As part of the process of institutional strengthening and accompaniment to the 35 Sectional Directorates of the FGN, in 2022 the GTNA supported the cases that oversee prominent prosecutors of the investigations in which the most recurrent modalities under which the threats were executed were identified. Based on the findings, methodological plans were developed, orders were issued to the judicial police and evaluation of cases to achieve procedural progress. With this support, the immediate investigation of this crime is guaranteed to contribute to the adoption of protection measures and to the rapid and effective prosecution, always deploying investigative tasks in order to identify and identify the alleged responsible for the threatening facts exhausting due diligence.

Specifically, in the three situations prioritized by the Threats Group (mining and energy sector, education sector and Valle del Cauca), the work of analysis and investigative activities continues as follows:



- The analysis of the threats against trade unionists who are part of these sectors and region continues.
- In the case of the sectors, the areas with the highest concentration of threats against trade unionists have been analysed, for example, in the energy mining sector, an exhaustive review of the facts of threats against members of the USO in Barrancabermeja was carried out.
- Analysis of criminal actors in the area with alleged responsibility in the events.
- Analysis of threat modality, WhatsApp, Facebook, phone call, pamphlet, among others.

As a result of this support in a case of victimization against a **union leader of the Association of Teachers and Education Workers in Cauca (Asoinca)**, and during the year, the effective clarification of the threatening act was achieved, as well as the **identification of the author of it. An arrest warrant was issued against this person by order of a judge.**

The Attorney General's Office continues to comply with the recommendations of the OECD, the Entity will continue to promote the various strategies that allow addressing the affectations in which the victim is a unionized person or the same union.

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

In response to the above-mentioned recommendation, it should be pointed out to his Office that the personnel assigned to the Mobile Anti-Riot Squadrons, now the Dialogue and Maintenance of Order Unit (UNDMO), at no time exercise violence against the trade unionist sectors; considering the mission conferred for this specialty, established in the second article of Resolution 03684 of November 11, 2022, as follows:

(...) "ARTICLE 2. MISSION. The Dialogue and Maintenance of Order Unit is the unit of the National Deputy Chief of the Police Service responsible for attending meetings with public demonstrations and peaceful protests and strikes when the circumstances of time, manner and place so warrant; as well

as intervening in situations of disturbance of public order such as riots, riots, riots or any other criminal activity, violent or contrary to coexistence, derived from the agglomeration of people in public or private spaces of the national territory, for the restoration of the exercise of public rights and freedoms. " (...)



For this reason, the staff of the Institution is respectful and guarantor of the provisions of article 37 of the Political Constitution of Colombia of 1991, regarding that all parts of the people may assemble and demonstrate publicly and peacefully. Only the law may expressly establish the cases in which the exercise of this right may be limited. In the same sense, the institution applies Article 15, first sentence

of the American Convention on Human Rights, which is that the right of assembly and demonstration must be practiced peacefully and without weapons.

Consistent with this, the current institutional doctrine, including Resolution 03002 of July 29, 2017 "Manual for the service of demonstrations and riot control" in its article 2 defines this manual "as the instrument of the service of accompaniment, prevention and intervention of meetings and / or public demonstrations, as well as procedures where agglomerations arise that may generate disturbances, embodying in it the main foundations and parameters of action that must be assimilated in a permanent way, seeking to optimize resources, time and institutional response capacity".

However, in compliance with Judgment STC-7641, Decree 003 of 2021 was issued "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", in which a series of parameters were established to exercise this right, where it is established:

(...) "Article 34. Performance of the Mobile Anti-Riot Squadron – ESMAD. **The intervention of the Mobile Anti-Riot Squadron – ESMAD will be understood as the last resort and the last resort to control acts of violence committed by specific people or foci within a peaceful demonstration.**

The members of the ESMAD will be able to implement the operational plans and procedures established prior to the development of the peaceful demonstration, which must comply with the principles of legality, necessity, and proportionality. Therefore, the following requirements must be met:

1. **The personnel will be in strategic places that allow timely action against acts of violence to restore coexistence, their action will be ordered by the district or municipal mayors.**
2. The commander of the sections of the ESMAD and the Available Force Groups destined to the intervention in demonstrations, will have direct communication with the Unified Command Post – PMU.
3. Once the members of the ESMAD regain control of the situation and their withdrawal from the place is ordered, if force has been used, they must submit a report addressed to their superiors.

**Paragraph 1. The intervention of the Mobile Anti-Riot Squadron – ESMAD, should be considered the last ratio for the restoration of the conditions of**



**coexistence and citizen security. Before their intervention, the instances of dialogue and mediation must be exhausted.**

Paragraph 2. The National Directorate of Schools of the National Police will strengthen the academic and extension programs for personnel who enter the Institution and to carry out training for promotion

and subjects that promote knowledge of the use of the outside, tactics and techniques for the correct police intervention, the accompaniment and guarantee of public demonstrations and the control of disturbances. (...) (Bold and underlined outside the original text).

In this sense, the action of the Unit for Dialogue and Maintenance of Order, in a public demonstration, should be understood as the last resort and the last resort to control acts of violence committed by specific persons or foci within it. To carry out this control, article 3 *ejusdem*, establishes as a principle the Prevention, which developed that prior to a public and peaceful demonstration will be planned and organized by the National Police the service, and personal integrity of any person.

In addition to the above, for any type of action of the UNDMO in this context, dialogue and mediation should always prevail as alternative mechanisms for conflict resolution, which will guarantee respect for Human Rights and other fundamental prerogatives of the human being.

It should be noted that, to order the intervention of the Minimum Specialized Intervention Devices, authorization must be requested from the Director General of the National Police.

On the other hand, with regard to "recently adopted regulations and legislation", the actions carried out by the Dialogue and Maintenance of Order Unit are deployed in order to respect and protect human rights and fundamental freedoms at all times, in particular when considering the possibility of resorting to the use of force, Under this understanding, the exercise of the police activity deployed from the UNDMO obeys the following legal orientation:

**International**

- International Pact on Civil and Political Rights, articles 2, 6, 7, 9 and 13
- International Pact on Economic, Social and Cultural Rights, articles 8.1, 8.2 and 12.
- Convention against Torture, preamble, paragraphs 4 and 6; Articles 1, 2 and 4.
- American Convention on Human Rights, Articles 2, 4, 5, 7 and 27.
- Universal Declaration of Human Rights, articles 3 and 5.
- Code of Conduct for Law Enforcement Officials. Resolution 34/169 of 17 December 1979. United Nations.



- Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Eighth United Nations Congress, 1990.
- American Declaration of the Rights and Duties of Man.
- Convention on the Prohibition of the Development, Production, Stockpiling and Destruction of Chemical Weapons and on Their Destruction, Paris January 1993.

### **National**

- Political Constitution of Colombia articles 2, 6, 11, 12, 13, 81, 90, 93, 122, 213, 216, 218 and 222.
- Law 62 of 1993, Articles 1, 3, 9, 10, 12, 13, 16, 17 and 19
- Law 525 of 1999, approving the "Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction" done in Paris on January 13, 1993.
- Law 599 of 2000 "By which the Colombian Penal Code is issued".
- Law 906 of 2004 "By which the Code of Criminal Procedure is issued".
- Law 1801 July 29, 2016, articles 10, 11, 12, 13, 14, 16, 17, 20, 21, 22, 149, 154, 155, 156, 157, 163, 166 and 167.
- Decree 003 of January 5, 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".

### **Institutional Doctrine**

- Resolution 00912 of 2009 "By which the Police Service Regulations are issued".
- Resolution 03002 of June 29, 2017 "For which the manual for service in demonstrations and riot control for the National Police is issued."
- Resolution 02903 of June 23, 2017 "By which the Regulation for the use of force and the use of weapons, ammunition, elements and less lethal devices is issued, by the National Police".
- Resolution 01681 of May 28, 2021 "By which the verification protocol is adopted in cases of capture and transfer of people, during the development of any Rally, meeting or act of protests signed between the Attorney General's Office and the National Police."
- Resolution 01716 of June 31, 2021 "By which the parameters of the use of weapons, ammunition, elements and less lethal devices for the provision of police service are established".



- Resolution 03684 of November 11, 2022 "By which the organic structure of the Dialogue and Maintenance of Order Unit is defined, the functions of its internal dependencies are determined, and other provisions are dictated".
- Instruction 001 JESEP-UNADI 70 OF September 22, 2022 "Criteria for the identification of riot gear, used by National Police personnel".
- Procedures 1CS-PR-006 "Support judicial or police authorities in the development of evictions"; 1CS-PR-0008 "Riot Control" and 1CS-PRO-0010 "Accompaniment and Intervention in Demonstrations".
- Guide 3EC-GU-0001 "Practical guide to the basic police tactical system".
- Guide 1CS-GU-0011 "Guide for the use of weapons, ammunition, elements and less lethal devices in the National Police".

Finally, it is important to reiterate that the action of the personnel assigned to the Unit for Dialogue and Maintenance of Order (UNDMO) will be the last ratio, under the precept that the use of force as the material, necessary, proportional and rational means used by the uniformed personnel of the National Police; in this sense, it is the last physical resort to protect the life and physical integrity of people, including their own, without prior written order, to prevent, prevent or overcome the threat or disturbance of coexistence and public safety, in accordance with the Law.

#### **Criteria for the identification of riot control equipment used by National Police personnel.**

Uniformity and corporate image is one of the guidelines for the direction of the National Police, therefore, through the Regulations on Uniforms, Insignia, Decorations and Badges, the parameters and criteria for the identification of uniforms and accessories used by personnel have been standardized, in order to provide a police service with guarantee and transparency; this regulatory document includes the elements that may be used by the Basic Minimum Intervention Devices (DMIB) formed in metropolitan and police departments, as stipulated in resolution 03002 of June 29, 2017 #Por which the manual for service in demonstrations and riot control for the National Police is issued "in its article 20, as well as, the Minimum Specialized Intervention Devices (DMIE), made up of the uniformed assigned to the Mobile Anti-Riot Squadron (ESMAD) or the unit that takes its place, when within the framework of their functions they are committed to the attention of police reasons, related to riot control, which will allow to provide protection and security when performing the tasks of the service.

Therefore, it is established that the personnel that make up the Basic Minimum Intervention Devices -DMIB assigned to metropolitan and police department, who provide their services for the accompaniment of demonstrations, evictions, riots, mass creep events, riots, will use green body protectors with uniform No. 4 or 5 while black protectors and coveralls with special properties, they will only be used by the



personnel assigned to the Mobile Anti-Riot Squadrons or the Unit that takes their place, to exercise the activity of riot control, under the identification characteristics established in the annex to this instruction; however, in the event of service needs (Public Demonstration – Strikes), officials assigned to this group may also use green body protectors, with the black coveralls typical of the specialty.

The control, supervision and instruction of what is determined by this administrative act, will be in charge of the commanders of the region, metropolitan and police departments, as well as, by the commander of the unit of Mobile Anti-Riot Squadrons or the unit that replaces it, leaving a record of what has been done through minutes or reports of activities, which will be reviewed by the institutional command and control entities that require them. With the issuance of this administrative act, the provisions of Instruction 004 DISEC-UNDADI 70 OF MARCH 9, 2021, ARE LEFT WITHOUT EFFECT.

## INDICATORS OF VIOLENCE AGAINST TRADE UNIONISTS

### 1. General description of recently adopted regulations and legislation.

For this year the only legislation recently adopted is Decree 1064 of 2022 by which some articles of book 2, part 4, title 1, chapter 2 of Decree 1066 of 2015 are modified, the only regulatory decree of the administrative sector of the interior, in relation to the programs of Prevention and Protection of the rights to life, the freedom and security of individuals, groups and communities.

#### 1. Number of reported cases of homicides and different types of violence against union members and leaders.

So far in 2022, the Attorney General's Office has learned of 15 cases of homicides against unionized persons that are being investigated in the ordinary jurisdiction and, so far, investigative progress has been made towards clarification in 53.33% of the cases.<sup>6</sup>

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

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<sup>6</sup> The indicator of progress in the clarification includes only those cases in which the Prosecutor's Office has managed to determine the conditions of 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 to authorize the arrest warrant. This indicator includes cases at the investigation stage with a valid arrest warrant, indictment, trial and in which a conviction has been issued or has been precluded for the death of the suspect.



**Results 2017 – 2022.**

Between January 1, 2017, and December 15, 2022, the Attorney General's Office reported 112 cases, and investigates in the ordinary jurisdiction a total of 109 cases with 112 victims, 3 cases are investigated in the Special Indigenous Jurisdiction. The application of the Entity's investigative strategies has allowed progress to be made in clarifying 48.62% (53 cases) of the homicides investigated in the ordinary jurisdiction.<sup>7</sup>

It is important to note that during 2022 significant progress has been made towards clarifying the homicides against trade unionists in the study period. For the year 2021 the advance stood at 43.16% with 41 cases with progress and for this year as indicated above we have advanced towards 48.62%, which indicates an increase of 5.46 percentage points.

The following are the investigative and judicialization advances.

**Killings of trade unionists 2017-2022**

Year	Inquiry	Investigation with arrest warrant	Imputation	Judgment	Enforcement of sentences	Archived	Preclusion of death indicted	Total <sup>8</sup>
2017	8	1	1	2	5	2	1	20
2018	16	1	0	7	7	0	1	32
2019	10	2	1	4	0	0	0	17
2020	6	1	1	4	2	0	1	15
2021	7	1	1	1	0	0	0	10
2022	7	4	3	1	0	0	0	15
<b>Total</b>	<b>54</b>	<b>10</b>	<b>7</b>	<b>19</b>	<b>14</b>	<b>2</b>	<b>3</b>	<b>109</b>

- Of the 14 cases in execution of sentences, 17 convictions were pronounced.
- With the implementation of the actions defined in 2022, a greater clarification of the cases is evident.
- For the period 2017 -2022 the areas most affected continue to be Cauca (31 cases) and Valle del Cauca (18 cases)
- Of the 109 cases of homicides against trade unionists, it has been identified that in 33 of these the victim was a person who exercised leadership work, that is, he was a human rights defender, the following table shows the procedural progress.

<sup>7</sup> This information was obtained from a consultation carried out by the Subdirectorate of Policies and Strategy to the SPOA information system and the comparison of the information with the Sectional Directorates of the Public Prosecutor's Office, Reports of the National Trade Union School and corroboration by the Ministry of Labour through the trade union register.

<sup>8</sup> These data may vary from year to year depending on the characterization of the victims and the update that has been given in the SPOA information system.



Stage	Cases
Enforcement of sentences	5
Judgment	6
Imputation	3
Investigation with arrest warrant	4
Preclusion by death	2
<b>TOTAL</b>	<b>20</b>

Events between 2016-2022

Therefore, in the cases of trade union leaders, **60.60% progress has been made towards clarification.**

### Convictions

As has been reported on several occasions, the Attorney-General's Office continues to investigate events that occurred in periods other than the one studied. Regarding convictions for the crime of homicide, the following are available:

- By facts 2011 -2022: 73 convictions
- For events prior to 2011: 834 convictions<sup>9</sup>

## 2. National Protection Unit

### to. Budget for trade unionists (total and per person).

As mentioned above, we allow ourselves to relate the budget that was allocated to meet the protection measures assigned to population P/ESG0 03 — union leaders or activists as of October 31, 2022.

<b>01. JANUARY</b>	<b>\$ 3,011,637,630</b>	<b>\$ 3,011,637,630</b>
<b>0.2 FEBRUARY</b>	<b>\$ 2,900,306,669</b>	<b>\$ 2,900,306,669</b>
<b>03. MARCH</b>	<b>\$ 3,086,847,266</b>	<b>\$ 3,086,847,266</b>
<b>0.4 APRIL</b>	<b>\$ 3,004,804,333</b>	<b>\$ 3,004,804,333</b>
<b>0.5 MAY</b>	<b>\$ 3,070,689,362</b>	<b>\$ 3,070,689,362</b>

<sup>9</sup> Events from 1988 to 2010



0.6 JUNE	\$ 3,036,145,248	\$ 3,036,145,248
0.7 JULY	\$ 3,009,371,087	\$ 3,009,371,087
0.8 AUGUST	\$ 3,083,437,615	\$ 3,083,437,615
0.9 SEPTEMBER	\$ 3,073,917,339	\$ 3,073,917,339
10. OCTOBER	\$ 3,101,220,945	\$ 3,101,220,945
<b>Total</b>	<b>\$30,378,377,495</b>	<b>\$30,378,377,495</b>

**Source:** Planning and Information Advisory Office (OAPI) Control Board — Power BI, cut-off date: October 31, 2022.

However, it is appropriate to clarify that in accordance with the privacy and confidentiality policies of the information, the National Protection Unit is authorized to provide detailed information on the costs of the measures for protected.

**b. Number of trade unions receiving protection (individual protection versus collective protection).**

**INDIVIDUAL PROTECTION MEASURES AND SHARED SCHEMES.**

DEPARTMENT	PROTECTED	MEDIA	PROTECTIVE VESTS	SUPPORT BUTTONS	PROTECTIVE MEN	CONVENTIONAL VEHICLES	ARMORED VEHICLES
ANTIOQUIA	11	8	9	2	8	2	2
ARAUCA	9	4	5	1	11	3	0
ATLANTIC	9	6	7	3	6	2	0
BOGOTA	3 9	1 9	33	6	5 8	11	13
BOLIVAR	10	10	9	2	9	3	0
BOYACA	4	4	4	0	8	4	0
CALDAS	2	0	2	0	3	1	0
JACKET	2	2	2	0	0	0	0
CAUCA	1 5	12	14	1	18	4	4
CEASE	1	9	9	3	16	7	0
CORDOBA	0 3	3	2	0	3	0	0
CUNDINAMARCA	3	2	3	2	1	0	0
HUILA	3	2	1	2	0	0	0



LA GUAJIRA	1	1	1	0	0	0	0
CUPCAKE	7	4	7	0	1	0	0
GOAL	14	13	11	4	12	2	2

DEPARTMENT	PROTECTED	MEDIA	PROTECTIVE VESTS	SUPPORT BUTTONS	PROTECTIVE MEN	CONVENTIONAL VEHICLES	ARMORED VEHICLES
NARIÑO	2	1	2	0	1	0	0
NORTE DE SANTANDER	19	11	15	7	19	3	4
PUTUMAYO	7	0	6	0	5	0	1
RISARALDA	5	2	4	0	3	0	1
SANTANDER	2	20	1	4	23	8	1
SUCRE	2	1	2	0	0	0	0
TOLIMA	5	4	4	3	2	0	1
VALLE DEL CAUCA	47	36	4	13	45	9	7
GRAN TOTAL	251	174	211	53	252	59	36

Source: Protection Branch Deadline: 05 November 2022

**COLLECTIVE PROTECTION MEASURES.**

DEPARTAMENT	COLLECTIVES	PROTECTIVE MEN	CONVENTIONAL VEHICLES
ANTIOQUIA	1	20	10

Source: Protection Subdirectorate. Cut-off date: November 05, 2022.

**C. Average time needed to complete the risk assessment process.**



The average time to complete the risk assessment process is 30 days from the moment the applicant or protected person gives the express, free, and voluntary manifestation of the acceptance or not of their link to the protection program, until the case is scheduled to the Committee for Risk Assessment and Recommendation of Measures (CERREM) in accordance with the provisions of Decree 1139 of 2021 **ARTICLE 2.4.1.2.40.**

Finally, it should be noted that the information and documents sent are reserved within the framework of the Prevention and Protection Program developed by Decree 1066 of 2015, in accordance with the provisions of the Political Constitution article 15 and Law 594 of 2000 article 27; whenever it contains personal and intimate information. Its access transfers to the official who knows it, the obligation of reservation in accordance with article 20 of Law 57 of 1985 and articles 2.4.1.2.2. numeral 13, as well as 2.4.1.2.47 numeral 3 of Decree 1066 of 2015. Failure to comply will result in the criminal and disciplinary actions indicated in the Criminal Code Law 599 of 2000, article 418 and in the General Disciplinary Code Law 1952 of 2019, articles 39 numeral 18, 55 numeral 1, in accordance with article 192 numeral 4. Therefore, these documents and information should not be part of archives to which the public has access.

### **3. Attorney General's Office**

#### **to. Budget of the Office of the Prosecutor.**

As indicated in the previous report, the Attorney General's Office does not have a budget allocated to deal with specific programs or themes. The budget of the Entity is destined to the attention of two main concepts: operation and investment.

Regarding the operation of the Entity, for the year 2022 the Attorney General's Office had a budget of 4,218,350,300,000 Colombian pesos (approximately 827,452,000 Euros). With these resources, the Entity must cover personnel expenses, acquire goods and services, finance the program of protection

for victims and witnesses, pay the social benefits of the servants of the Prosecutor's Office and pay the judgments of sentences and conciliations.<sup>10</sup>

It is important to note that this information is public and can be consulted by anyone. In the particular case, the Prosecutor's Office, in accordance with Article 74 of Law 1474 of 2011 and Article 9 literal b of Law 1712 of 2014, publishes information on the budget, budget execution and financial statements on its website:

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<sup>10</sup> Exchange rate December 15, 2022, 5,098 Colombian pesos per 1 Euro.



<https://www.fiscalia.gov.co/colombia/transparencia-y-acceso-a-informacion-publica/#1519681728030-88388c84-a4a4>

At the same time, as indicated in the previous reports, the investigation and prosecution of crimes committed against unionized persons is supported by several units. This, since the exercise of criminal action in these cases requires a coordinated and articulated action of the entire institution and, in that sense, it is difficult to quantify the budget allocated to the application of the Strategy, since it intervenes, occasionally, some officials who support the work of the prosecutors assigned to know the subject.

**b. Number of prosecutors assigned exclusively to crimes against trade unions.**

For the year 2022, complementary to the above, two prosecutors were highlighted to promote active cases for the crime of violation of the rights of assembly and association, in support of the sections with the highest number of complaints for the crime of assembly and association. Likewise, these prosecutors were highlighted to provide impetus to the cases under investigation in order to strengthen the transfers of indictments, cases in trial and cases susceptible to conciliation (it is important to remember that for this prosecutable crime the pre-procedural stage is indispensable, so the requirement of the summons to conciliation must be met).

Within this framework, the following activities stand out:

- Accompaniment to seven Sectional Directorates (regional offices of the Prosecutor's Office) Bogotá, Medellín, Santander, Cali, Valle del Cauca, Atlántico, Bolívar, and Magdalena Medio.
- A support prosecutor who has knowledge and experience in the subject of crime and in the technique of the early termination mechanism such as conciliation was highlighted.
- During the visits, it was possible to convene and develop conciliation days, in which legal representatives of companies and trade unions participated.
- A review of 116 cases investigating violations of the rights of assembly and association was carried out to give procedural impetus to these files and to guide the prosecutor of the case to issue orders to the judicial police as appropriate.
- The Booklet was disseminated in each of the prioritized sectional directorates of the sectional branches and with the unions and representatives of companies attending the conciliation hearings.



### **c. Number of judicial police investigators supporting these prosecutors.**

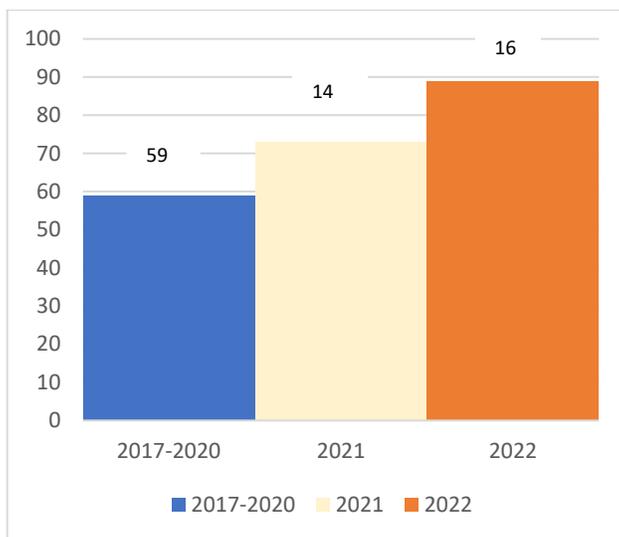
The complexity of addressing threats against human rights defenders and specific populations has involved delving into the occurrence of the events with a specialized work team in the field and supporting the sectional directorates to strengthen the issue. Therefore, the following actions continue to be strengthened:

- Adequacy of the criminal type of threats, article 188E.
- Issuance resolution 0775 of 2021 creating the Threats Group in the Human Rights Directorate. It currently has 10 prosecutors with judicial police and analysts, responsible for supporting the sectional directorates where threats against the population targeted by this strategy occur.
- 24/7 hotlines to know the cases at the same time of occurrence of the facts. (Urgent acts)
- Specialization of the investigative activity with respect to the modality of the threat.
- A course was designed for judicial police (investigators) throughout the country, responsible for investigating threats to deepen investigative activities that will allow us to prosecute those responsible for the facts:

Specifically, regarding trade unionists, the three prioritized situations continue to be addressed: the education sector with emphasis on FECODE; energy mining sector; and Valle del Cauca. For the investigation of these situations, a prosecutor has been assigned to address the facts related to these issues.

### **4. Prosecuting crimes against trade unionists**

In the study period, 2017 – 2022, the Attorney General's Office managed to bring to conciliation with agreement between the parties 89 cases for the crime of violation of the rights of assembly and association. As explained, these agreements have the same effects as a judgment, that is, it settles the dispute and establishes judicially enforceable obligations. This is an important advance to highlight, considering that cumulatively 2017 – 2020 the prosecution had reached 59 cases with conciliation, for the year 2021 it reached 14 additional conciliations and on December 15, 2022, 16 additional conciliations, which means increases of 22% per year, after the quarantine period decreed by the COVID-19 pandemic.



### Cases in Trial

According to the latest report of the SPOA Information System, there is a record of 4 cases in trial. The date of denunciation of these processes is as follows:

Year of complaint	Number of Processes
2017	1
2018	1
2019	1
2020	1

The events were presented in Quindío, Valle del Cauca, Tolima against the unions of the security, food, and education sectors.

### Cases with sentences

For the crime of violation of the rights of assembly and association, there are 4 final acquittals. The events occurred in Cauca, Caldas, and Quindío against unions in the energy, food and public sectors. It is important to note that these sentences were



appealed by the Attorney-General's Office and finally the judge's superior decided to maintain the acquittals.

### Results 2017-2022

During the years 2017 to December 15, 2022, the Attorney General's Office received 1,243 cases, regarding these 1,035 cases are already completed, that is, 83.27% of the processes, the grounds for termination per year are indicated below:

- 3 cases acquittals, appealed.
- In 89 cases, a settlement was reached with conciliation. For these cases, the parties, in front of the prosecutor, agreed to end the criminal process under the fulfilment of conditions in the same way agreed. It is very important to indicate that the conciliation agreement has the same effects of a judgment issued by a judge, which generates specific obligations for the parties. Conciliation between the parties is fundamental in the forms of termination of cases since it contributes to labour peace.
- 121 processes terminated due to withdrawal of the worker or the complainant trade union organisation. This data is important, because these are cases that had a negotiated solution between the worker and the company.
- 606 cases (58.55%) archived. In 54.95% of these cases, it was established that the criminal conduct did not exist. In 31.19 per cent of the cases, the file was filed as an illegitimate plaintiff.
- Other causes: 216 cases completed the investigation for termination of the criminal action, for preclusion, extinction of the complaint, among others.

Due to events that occurred between 2017 and December 15, 2022, 208 active cases were identified, of which 149 cases are in the pre-procedural stage, susceptible to conciliation, 54 in investigation and 4 cases in the trial stage.<sup>1112</sup>

### Ensuring timely resolution of cases of violence and threats against trade unionists, including the hiring of a third labour judge

The strengthening of investigative capacities for the investigation of 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 the Nation.

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<sup>11</sup> The procedural management data is delivered accumulated and not per year, which means that the results in the cases have been obtained during the entire period, not in a year.

<sup>12</sup> Regarding the figures delivered, it must be considered that the SPOA information system is a dynamic system and the figures recorded in it may vary from one query to another from the daily updating exercises carried out by the entity; The figures given in previous opportunities may not coincide exactly.



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- Specialization of the investigative activity with respect to the modality of the threat.
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Specifically, regarding trade unionists, the three prioritized situations continue to be addressed: the education sector with emphasis on FECODE; energy mining sector; and Valle del Cauca. For the investigation of these situations, a prosecutor has been assigned to address the facts related to these issues.

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



**MINISTERIO DEL TRABAJO**

**2023**