

Messrs.  
Comité Maritime International  
Sub-Committee on Maritime Law and Refugee Migration at Sea  
Attn: Valeria Eboli

VIA EMAIL

Ref: Venezuela reply on SC Maritime Law  
and Refugee Migration at Sea - Questionnaire

Date: 31 May 2022

Dear Valeria,

We refer to your email dated 18 April 2022, regarding the above questionnaire. Please see below the reply from the Venezuelan Maritime Law Association:

**THE CURRENT REFUGEE and MIGRANT CRISIS**

**A. What measures were taken by your jurisdiction in relation to massive refugee/migrant flows?**

The Constitution of the Bolivarian Republic of Venezuela, in its article 69, recognizes and guarantees the rights of refuge and asylum to non-nationals.

*“Article 69. The Bolivarian Republic of Venezuela recognizes and guarantees the right to asylum and shelter.*

*The extradition of Venezuelan men and women is prohibited”*

As to the refugee and migratory contingent may concern, Venezuelan legislation and policies aim to guarantee the equal treatment, integration and respect of the human condition of every refugee. Specific provisions of these principles are stipulated in the Organic Law of Refugees and Asylees (hereinafter referred to as the “LORA”)<sup>1</sup> and its Regulations<sup>2</sup>.

Articles 2.1, 3 and 5 of the LORA recognize the right of any person to request refuge and regulate the limits and procedure to do so:

*“Article 2.- Fundamental principles. The Bolivarian Republic of Venezuela recognizes and guarantees the right of asylum and refuge, in accordance with the following principles:*

*“1. Anyone can apply for refuge in the Bolivarian Republic of Venezuela, due to well-founded fears to be persecuted for the reasons and conditions established in the Protocol of 1967 on the Statute of Refugees.*

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<sup>1</sup> Ley Orgánica de Refugiados o Refugiadas y Asilados o Asiladas. Official Gazette of the Bolivarian Republic of Venezuela number 37.296 from October 3<sup>rd</sup>, 2001.

<sup>2</sup> Reglamento de la Ley Orgánica sobre Refugiados o Refugiadas y Asilados o Asiladas. Executive Decree number 2.491 from July 4<sup>th</sup> 2003.



*(...) 3. No applicant for refuge or asylum will be rejected or subject to any extent that requires return to the territory where his life, physical integrity or their freedom is in risk due to reasons mentioned in this Law.*

*5. Discrimination based on race, sex, religion, political views, social status or the country of origin will not be allowed, or any discrimination that result in nullity or impairs the recognition or exercise in situations of equality of the refugee condition - refugee or asylee – of any person who requested it.”*

Regarding the effective protection of essential rights, aids and social integration of refugees, Article 26 of the LORA provides that

*“Article 26.- The persons recognized as refugees by the Bolivarian Republic of Venezuela will be provided with all the guarantees to process their naturalization.”*

In our opinion, further developments and regulations to the above rules are necessary to guarantee a wider protection for refugees and their specific ways of insertion in the Venezuelan Society.

**(i) In relation to the rescue from boats?**

There are no official statistics for this type of rescue. In general, and so far, the movement of refugees into the Venezuelan territory has been made by land routes, throughout the bordering states next to Colombia, mainly through the Venezuelan border regions of Zulia, Táchira and Apure. Colombian nationals have historically migrated to Venezuela, mainly due to internal arm conflicts within the Colombian territory and the population displacements caused by drug trafficking.

**(ii) In relation to the landing of rescued persons from boats?**

Please see answer above (i).

**(iii) In relation to granting humanitarian protection/refugee status to those rescued?**

Please see answer above (i).

**B. Which authority (Department of State or Organisation) in your jurisdiction is responsible for implementing SAR activities?**

The Organic Law of Aquatic Spaces<sup>3</sup> (hereinafter referred to as the LOEA) provides in its articles 74 and 106 that search and sea rescue operations will be rendered by the Venezuelan Maritime Authority in coordination with other relevant national and regional duly certified bodies throughout the creation and implementation of the “National Plan of Search and Rescue at sea”.

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<sup>3</sup> Ley Orgánica de Espacios Acuáticos. Official Gazette number 6.153 Extraordinary from November 18<sup>th</sup>, 2014.



*“Aquatic Administration*

*Article 74. The exercise of aquatic administration includes:*

*(...) 16. Supervision and control of search and rescue activities.*

*Search and Rescue*

*Article 106. The aquatic search and rescue services will be provided by the Maritime Authority, in coordination with the competent entities. For such purposes, it will coordinate the participation in the National Search and Rescue Plan; and other national and regional authorities and the organizations certified for it, according to the regulations on this matter.”*

**(i) Which authority is responsible for deciding on the measures?**

According to article 71 of the LOEA, the Ministry of Transportation is the governing body for the maritime, river and lake navigation, transportation of people and goods, as well as for all fisheries, tourism, water sports, water recreation, scientific research, port regulations and related activities.

*“Article 71. The Ministry with Water Transport jurisdiction is the governing body of maritime, river and lake navigation and the transport of people and goods, fishing, tourism, sports, recreation and scientific research; port activities, and any other activity provided by the law.”*

**(ii) Which authority is responsible for providing support in implementing the measures?**

As provided in article 106 of the LOEA, the aquatic search and rescue services will be provided by the Maritime Authority and this entity will coordinate the participation in the National Search and Rescue Plan; and other national and regional authorities and the organizations certified for it, according to the regulations on this matter.

**(iii) Did your authority implement measures to transfer those rescued to the state of origin (i.e. the State from which they started their journey)?**

According to the information provided by the Venezuelan Maritime Authority, until 2020, there are no records of these implementations.

**(iv) Did your authority implement measures to transfer those rescued to the state whose they are nationals?**

Articles 29, 30 and 31 of the LORA provide:

*“Article 29.- Voluntary repatriation is a fundamental right of refugees. The same must be carried out under conditions of safety and dignity.*



*Article 30.- The refugee that declare to the Commission its willingness to be repatriated, the competent authority must issue the necessary travel document for the repatriation, in case he/her cannot obtain it from the diplomatic or consular mission of the country of their nationality.*

*Article 31.- Whoever is voluntarily repatriated can request refugee status again if there were causes that persist when returning to their countries due to their nationality or origin, according to the provisions of this law.”*

**(v) Which authority or authorities is or are responsible for enforcing the various measures?**

Article 12 of the LORA created the National Committee of Refugees (*Comisión Nacional de Reguñados*) which is the entity in charge of the refugee and asylum policies and measures.

Further, as provided in articles 34, 35 and 36 of the LORA regulations, the National Committee of Refugees along with the Public Ministry's Office and the Office for the Defense of the People (*Defensoría del Pueblo*) will coordinate the voluntary repatriation of the foreign nationals. In addition, the Venezuelan National Armed Force will participate in case of massive affluence of refugees in the Venezuelan Borders and will coordinate the humanitarian assistance with the support of the Public Ministry's Office and the Office for the Defense of the People (*Defensoría del Pueblo*).

**(vi) Were maritime administrations within your jurisdiction consulted in relation to decisions taken within your jurisdiction?**

According to the information provided by the Venezuelan Maritime Authority, until 2020, there are no records of decisions taken in the Venezuelan jurisdiction.

**C. Are those who take decisions in your jurisdiction aware of the requirements of:**

**(i) Geneva Convention on the status of refugees (1951)?**

On July 2nd, 1986 Venezuela adopted the Protocol for the Statute of Refugees through the Approval Law published in the Official Gazette number 33.503. However, according to the information provided by the Venezuelan Maritime Authority, until 2020, there are no records of decisions taken in the Venezuelan jurisdiction regarding Search and Rescue operations related to refugees.

**(ii) The ILO Conventions (nos. 97 and 143)?**

On June 1983 and August 1983, respectively, Venezuela ratified the ILO Convention number 97 related to Migration for Employment and the ILO Convention 143 related to Migrant Workers



(Supplementary Provisions). However, according to the information provided by the Venezuelan Maritime Authority, until 2020, there are no records of decisions taken in the Venezuelan jurisdiction regarding Search and Rescue of refugees.

**(iii) The SAR Convention?**

The Convention on Maritime Search and Rescue was adopted by Venezuela through Approval Law published in the Official Gazette of the Republic of Venezuela No. 3,714-Extraordinary, of October 3rd, 1986. However, according to the information provided by the Venezuelan Maritime Authority, until 2020, there are no records of decisions taken in the Venezuelan jurisdiction on this matter regarding refugees.

**D. In relation to free pratique:**

**(i) Are you aware if your jurisdiction has denied port access/free pratique to any vessel due to the fact that they carried rescued persons?**

According to the information provided by the Venezuelan Maritime Authority, until 2020, there are no records of those cases.

**(ii) Are you aware if the current COVID-19 pandemic impacted the behavior of your jurisdiction regarding port access/free pratique to any vessel due to the fact that they carried rescued persons?**

According to the information provided by the Venezuelan Maritime Authority, until 2020, there are no records of those cases.

**(iii) Are you aware if the the *most recent* Ebola outbreak (ongoing in the Democratic Republic of the Congo since August 2018) pandemic impacted the behavior of your jurisdiction regarding port access/free pratique to any vessel due to the fact that they carried rescued persons?**

According to the information provided by the Venezuelan Maritime Authority, until 2020, there are no records of those cases.

We trust the above replies assist, and remain at your disposal in case of questions or comments.

Yours truly,

**Executive Committee  
Asociación Venezolana de Derecho Marítimo (AVDM)**