



International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Distr.: General
28 September 2022

Original: English

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families Thirty-fifth session

Summary record of the 500th meeting

Held at the Palais des Nations, Geneva, on Thursday, 22 September 2022, at 3 p.m.

Chair: Mr. Corzo Sosa

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The meeting was called to order at 3.10 p.m.

Consideration of reports submitted by States parties under article 73 of the Convention (continued)

Third periodic report of the Plurinational State of Bolivia (CMW/C/BOL/3; CMW/C/BOL/Q/3; CMW/C/BOL/RQ/3)

1. *At the invitation of the Chair, the delegation of the Plurinational State of Bolivia joined the meeting.*
2. **The Chair**, welcoming the delegation of the Plurinational State of Bolivia to the meeting, explained that the head of delegation, Mr. Lima Magne, and most other members of the delegation would be participating via video link.
3. **Mr. Lima Magne** (Plurinational State of Bolivia), introducing his country's periodic report (CMW/C/BOL/3), said that one of the founding principles of his country was respect for the human rights of all persons without discrimination, including the right to freedom of movement for migrant workers and their families. The Plurinational State of Bolivia was both a country of origin and a country of destination for migrant workers and as such placed great importance on the work of the Committee.
4. His country had been working to guarantee the rights of migrant workers and their families by adopting legislation, taking concrete action against discrimination and ratifying international human rights instruments. The Bolivian Constitution guaranteed the rights of all persons regardless of nationality and Act No. 370, the Migration Act, guaranteed the human rights of migrants. That legislation had given rise to the adoption of further regulations that sought to protect the rights of migrant workers, including Supreme Decree No. 4576 of 26 August 2021, which provided for exceptional regularization of the status of foreign nationals in an irregular situation on Bolivian territory. Supreme Decree No. 4576 had led to the adoption of a policy in August 2022 that guaranteed the rights of migrant workers in his country.
5. Migrant workers had access to social security on an equal footing with Bolivian citizens. Under the Ibero-American Multilateral Agreement on Social Security, which had entered into force in his country in 2011, migrant workers could request recognition of social security contributions made in other States parties to the Agreement when attempting to access social security benefits in another State party. Some 2,998 such requests had been processed for persons who had contributed to the Bolivian social security system and subsequently left the country. Workers who moved to the Plurinational State of Bolivia for less than two years continued to be subject to the social security regulations of their country of origin, in order to facilitate access to that system upon their return.
6. The legislation on health care in his country had established a single, universal and free health-care system. Foreign nationals who were not covered under short-term social security and vulnerable groups, including pregnant women, young children and persons with disabilities, could benefit from that system under the same conditions as Bolivian nationals.
7. The right to education was guaranteed to all, without discrimination on the grounds of origin. In 2021, some 62,000 foreign national students had been enrolled in the regular education system, representing an increase of more than 50,000 since 2018.
8. Act No. 370 provided guarantees for the protection of direct family members of migrant workers. The work of the General Directorate of Migration to promote the regularization of migration was having a positive impact on family reunification. His country had sought to establish a "Decade to Dismantle the Patriarchy" with a view to combating all violence against women and girls, including migrant women and girls.
9. **Mr. Ceriani Cernadas** (Country Rapporteur) said that he welcomed the adoption of Act No. 370 of 2013, which made the State party one of the first countries to recognize migration as a human right. However, the Committee had received reports of insufficient implementation. In that regard, he would like to know what steps the State party was taking to ensure that the National Migration Board was operational. He wondered whether any challenges had arisen and how the State party was addressing them.

10. He would be interested to learn whether migrants who were not in any of the vulnerable groups mentioned by the head of delegation had access to health care.

11. Given that the principle of reciprocity was not applicable to human rights, he would like clarification of the situations in which it was applied in the State party.

12. While the efforts made to regularize migrants with an irregular status were commendable, it seemed that some groups were not covered by regularization programmes. It would therefore be useful to discover how the State party was addressing that situation, especially for vulnerable migrants.

13. The delegation should indicate whether measures were being taken to strengthen consular assistance provided to Bolivian migrant workers abroad. Information on access to documentation and measures to protect vulnerable Bolivian migrant workers would be welcome.

14. Turning to the political representation of the diaspora, he wished to know how Bolivians living abroad enjoyed political representation. Was there a member of parliament for the diaspora?

15. He would like the delegation to comment on reports that political affiliation was being taken into account in asylum procedures. It would be interesting to learn how the State party was addressing the public discourse that could lead to xenophobia, including discourse linking migration to crime.

16. The Committee had received reports that in 2022 there had been a series of police raids targeting migrants. Those migrants had been expelled or deported without any judicial process and children were often involved. He would appreciate further information on that matter, especially regarding respect for the Convention and Act No. 370. How was the State party ensuring compliance with the Committee's general comments Nos. 3 and 4 and its domestic legislation during those procedures?

17. **Mr. García Sáenz** (Country Rapporteur) said that he would welcome further information on the specific measures taken to combat human trafficking. Statistics on complaints of human trafficking lodged by migrant workers or Bolivian nationals abroad would be appreciated.

18. It appeared that there were no regulations implementing the legislation on consular services. He wondered whether the State party might consider adopting such regulations to ensure better consular assistance for Bolivians abroad.

19. He would be interested to learn whether the Convention had been incorporated into domestic labour regulations and how the State party was disseminating the Convention among foreign migrant workers and Bolivian nationals.

20. It was not clear how the coronavirus disease (COVID-19) pandemic had affected migrant workers in border areas. Was the State party taking steps to identify, assist or regularize those migrants?

21. **Ms. Poussi** said that she would like to know whether it had been possible to assess the implementation and results of the Multisectoral Comprehensive Development Plan on Combating Human Trafficking (2016–2020). She would appreciate an indication of the outcomes for migrant workers in the State party and Bolivian workers abroad. She wondered what actions had been taken as part of that Plan to ensure the full enjoyment of rights by migrant workers.

22. **The Chair** said that he would welcome more information on the Office of the Ombudsman, particularly with regard to the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles); the steps that must be taken to appoint a permanent Ombudsman; the Office's work to protect migrants, including migrants held in migrant detention centres; and the development of the national preventive mechanism within the Office.

The meeting was suspended at 3.40 p.m. and resumed at 4.05 p.m.

23. **Mr. Lima Magne** (Plurinational State of Bolivia) said that the National Migration Board, which comprised representatives of the ministries of the interior, of labour, employment and social welfare, and of foreign affairs, had held extraordinary meetings during the COVID-19 pandemic to ensure the full implementation of public policy. A substantial portion of its next meeting would be dedicated to disseminating the Committee's conclusions and recommendations. Insufficient resources meant that universal health coverage was not yet a reality, although work towards that aim was ongoing at all levels of government. The administration in power at the outset of the COVID-19 pandemic had failed to protect health, instead entering into corrupt deals for vital health supplies. His Government had since rolled out the COVID-19 vaccine to all persons in the country, regardless of migration status, resulting in a dramatic fall in mortality rates. The word "reciprocity" would be removed from legislation.

24. **A representative of the Plurinational State of Bolivia** said that a protocol had been adopted to manage the reopening of borders following the COVID-19 pandemic, with the aim of enabling migrants to work. A successful campaign had recently allowed more than 4,300 migrants to regularize their status while benefiting from extended deadlines in which to pay fines and a single fee for the regularization process. Children were exempt from that fee. The campaign's success was due to the simplification of the requirements for regularization, for example the acceptance of alternative identity documents, and efforts to increase the accessibility of the Directorate General of Migration such as through the organization of workshops. The National Migration Board would consider allowing minors to regularize their migration status on an ongoing basis, outside regularization campaigns.

25. Migration was not criminalized under Bolivian legislation. As such, migration control operations were not raids intended to seek out persons with irregular migration status; rather, the aim was to assist migrants in entering the country via appropriate routes, thereby reducing trafficking in persons, which had increased during the COVID-19 pandemic. Minors were assisted by municipal children's advocates who, despite scant resources, made every effort to ensure that minors were protected when they crossed the border.

26. **Mr. Lima Magne** (Plurinational State of Bolivia) said that Bolivian emigrants were not represented in the Plurinational Legislative Assembly. Such a change would require constitutional reform; the suggestion could be examined during the current process to reform the Constitution's provisions in the area of justice. Racism, discrimination and hate speech, including on grounds of nationality, were criminalized, and the rare incidents of xenophobia by public officials that occurred could lead to criminal proceedings. The Government had a policy of zero tolerance of hate speech.

27. **A representative of the Plurinational State of Bolivia** said that asylum-seekers enjoyed all legal rights and guarantees throughout the asylum process, which commenced with an application that could be submitted at the border without a lawyer. The burden of proof in all asylum cases lay with the technical secretariat of the National Commission for Refugees, which undertook technical analysis and produced reports that formed the basis of the Commission's asylum decisions. Persons denied asylum could lodge an appeal with the Appeals Commission. The National Commission for Refugees and, occasionally, the Appeals Commission were assisted by the Office of the United Nations High Commissioner for Refugees. Refugees underwent a process of social integration, with many having obtained Bolivian nationality.

28. **Mr. Lima Magne** (Plurinational State of Bolivia) said that remittances from Bolivian migrant workers represented a significant part of the economy. Work to disseminate the Convention and other labour standards among Bolivian migrants was ongoing, for example during a tour of Europe currently being undertaken by a Deputy Minister of Foreign Affairs, and further improvement would be made to consular services. In the belief that the previous administration's treatment of migrants at the Chilean border during the COVID-19 pandemic had gravely violated their human rights, the Government had adopted a clear policy on the country's borders that respected those rights.

29. **A representative of the Plurinational State of Bolivia** said that the Foreign Service Act set out very clearly the consular services to be provided to Bolivians abroad. Moreover,

the Vienna Convention on Consular Relations and the Vienna Convention on Diplomatic Relations had been incorporated into Bolivian law.

30. **A representative of the Plurinational State of Bolivia** said that at the outset of the COVID-19 pandemic, in March 2020, the previous administration had closed the borders and many Bolivians working in neighbouring countries who had been seeking to return to their home country had been stranded in unsanitary conditions, unprotected from the elements for up to two weeks. In recognition of such a blatant violation of human rights, as soon as democracy had been restored, the new Government had ordered the reopening of borders and had adopted protocols to ensure the provision of assistance to returning Bolivians. Henceforth, Bolivians abroad could return at any time and enjoy the requisite safeguards. There were no migrant detention centres because migration-related offences were of an administrative nature.

31. **Mr. Lima Magne** (Plurinational State of Bolivia) said that the Ministry of Justice served as technical secretariat for the Plurinational Council on Combating Human Trafficking. While the Government was committed to making the Office of the Ombudsman fully operational and compliant with the Paris Principles, none of the candidates for head of the Office whom it had put forward thus far had garnered the necessary two thirds of votes in the Plurinational Legislative Assembly. Following a recommendation by the Committee against Torture, the Service for the Prevention of Torture had been removed from the authority of the Ministry of Justice and placed under the Office of the Ombudsman to better ensure its independence.

32. **A representative of the Plurinational State of Bolivia** said that, as of 2021, there had been over 590 complaints of trafficking in persons, migrant smuggling and related offences, including pornography, exploitation of prostitution and sexual violence, involving more than 175 victims between 11 and 18 years of age, more than 175 between 19 and 35 years and nearly 90 between 39 and 50 years, in addition to a few victims under 11 and over 50 years. So far, 140 individuals had been convicted in those cases.

33. Along with laws and regulations on trafficking, a five-year policy had been adopted with the aim of designing an awareness-raising strategy and bringing legislation into line with international standards. The report of the assessment of the Multisectoral Comprehensive Development Plan on Combating Trafficking (2016–2020) had been transmitted to parliament, and the 2021–2025 version of the Plan had been adopted with a focus on prevention, assistance and protection for victims, prosecution, and international and national coordination; the departmental governments were developing their own plans on the basis of the national one.

34. **Mr. Ceriani Cernadas** said that he would appreciate further information on what happened to persons detected during migrant checks carried out by the General Directorate of Migration; how the Directorate communicated to the public about its checks; whether there were any plans to amend the Migration Act (No. 370) to expressly provide for all the categories of migrant worker envisaged in the Convention; and whether steps had been taken to amend the General Labour Act to remove the maximum percentage of foreign workers allowed in any given workplace. He was curious to know what efforts the National Committee against Racism and All Forms of Discrimination and the Office of the Ombudsman for Children and Adolescents were undertaking in the area of migration.

35. It would also be useful to know how the birth of children born to undocumented migrants was registered; whether being in an irregular situation was a barrier to receiving a school-leaving certificate; and how the State party ensured that qualifications obtained abroad were recognized. Lastly, he invited the delegation to comment on whether the collection of migration data went beyond the number of arrivals, departures, expulsions and residence permits issued, to include aspects such as the standard of living of migrants; and on whether there had been any cases of alleged ill-treatment or corruption on the part of police or border officials in dealing with migrants.

36. **Mr. García Sáenz** said that he wished to know whether any of the bills before parliament addressed the question of statelessness. He asked whether the State party was considering making the declaration under article 77 of the Convention to recognize the competence of the Committee to receive and consider individual communications. He also

wished to stress the importance of adopting regulations in relation to the Foreign Service Act (No. 465) in order for the Act to be implementable in practice.

37. **Ms. Poussi** said that she would welcome information on the conditions under which the national human rights institution could access databases managed by the Directorate General of Migration, and whether the State party intended to bring its legislation into line with the International Labour Organization (ILO) Minimum Age Convention, 1973 (No. 138). She wished to understand better the nature of the arrangements for the voluntary return of Bolivians referred to in paragraph 68 of the replies to the list of issues, why a person had to have lived abroad for at least two years to be eligible for those arrangements, and what entity had the authority to approve requests for voluntary return.

38. **Mr. Babacar** asked what steps were being taken to guarantee, in law and in practice, optimal protection for migrant workers in the informal sector, particularly domestic workers; whether the State party intended to ratify the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); what specific policy it had adopted to give effect to the ILO Domestic Workers Convention, 2011 (No. 189); and how the labour inspection system was organized.

39. **Mr. Charef**, referring to the particular case of the many women from Cochabamba who had migrated to Argentina, Spain and Italy in search of employment, asked whether the State party had taken any measures to prevent adverse effects on the well-being and development of the children who had grown up without a mother.

40. **The Chair** asked how far civil society had been involved in the preparation of the periodic report; what mechanism was in place to ensure civil society participation in public affairs in general; and what challenges were faced by the system for the follow-up of recommendations by international bodies.

The meeting rose at 5.10 p.m.