



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

Distr.: General
19 April 2013

Original: English

**Committee on the Protection of the Rights of All
Migrant Workers and Members of Their Families**
Eighteenth session

Summary record (partial)* of the 217th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 17 April 2013, at 10 a.m.

Chairperson: Mr. El Jamri

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* No summary record was prepared for the rest of the meeting.

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The discussion covered in the summary record began at 10.40 a.m.

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

Second periodic report of the Plurinational State of Bolivia (continued)
(CMW/C/BOL/2; CMW/C/BOL/Q/2; CMW/C/BOL/Q/2/Add.1, Spanish only)

1. *At the invitation of the Chairperson, the delegation of the Plurinational State of Bolivia took places at the Committee table.*
2. **The Chairperson** invited the delegation to continue replying to the questions asked at the previous meeting (CMW/C/SR.216).
3. **Ms. Llanos Sangüesa** (Plurinational State of Bolivia), giving an overview of regional cooperation on migration issues, said that under the Southern Common Market (MERCOSUR) Residence Agreement, to which Bolivia was a party, citizens of MERCOSUR member States were free to obtain residence in participating countries, provided they could prove their nationality through one of several State-issued documents, passed criminal background checks, underwent a medical examination, where mandated, and paid the necessary administrative fee. Obtaining residence was not contingent upon having a work contract. Temporary residence permits enabled holders and members of their family to work and access basic services. Temporary residents could apply for permanent residence after two years. In addition, draft regulations had been submitted to the General Secretariat of the Andean Community of Nations to ensure the full implementation of the Andean Cooperation Mechanism on Consular Assistance and Protection and Migratory Issues. Members of the Andean Community of Nations had reached other crucial agreements, such as the Andean Human Development Plan for Migration, on matters ranging from the free movement of people to labour rights and social security. For example, pursuant to Decision No. 545, all migrant workers from those countries enjoyed freedom of association and the right to collective bargaining. An Andean Migration Statute was being prepared to align the migration procedures of participating countries.
4. In the specific case of Argentina, a bilateral agreement on migration had been signed in 2004 and was regularly evaluated, most recently at a meeting in March 2013, where improvements had been made regarding student, teacher and research exchanges. Many Bolivians living in Argentina owned land and had controlling stakes in the vegetable production chain. However, more needed to be done regarding slave labour and trafficking in children.
5. On Bolivian migration legislation, she said that a migration bill, currently before the Senate, provided for family reunification, the conditions for returning to Bolivia, skills certification and the enrolment of migrant children in school. In addition, a draft ministerial resolution was being prepared on the financial responsibility of the State in respect of repatriating minors, victims of trafficking and mortal remains.
6. Regarding statistical data, she said that the Government had invested 20 million dollars, from its own budget and the World Bank, to carry out a census in November 2012 that had included questions specifically geared towards the migrant population. A database was under construction in order to produce disaggregated data for more effective policymaking.
7. In response to a question on the speed of documentation issuance, she said that Bolivian passports were issued in Madrid and Washington, D.C., within 10 business days, while birth certificates and background checks could be issued by all Bolivian consulates within 24 hours. Bolivian consulates worldwide had the authority to issue the entire range of official documents that Bolivians living abroad might require, including drivers' licences

and identity cards. The Government was working on an agreement with the Supreme Electoral Court regarding the biometric voter registration of Bolivians living abroad.

8. Concerning discrimination, she said that a deputy ministry for decolonization had been established under the Ministry of Culture in 2009 and was responsible for policies to prevent and eradicate racism and cultural intolerance. The deputy ministry had carried out activities with various segments of the population subject to rights violations, such as indigenous peoples, Afro-Bolivians, women, children, the elderly, prostitutes, female domestic workers, migrants, persons living with HIV/AIDS and members of the lesbian, gay, bisexual and transgender community. So far, the Directorate-General of Racism had not received any complaints of discrimination against migrant workers. However, an action plan on racism and discrimination had been designed and was in the process of being adopted. It included targeted research on vulnerable groups and addressed three focus areas, namely, access to services, employment and justice, cultural identity and public administration. A study had been conducted of the detention conditions of foreign women in three detention centres, resulting in better access to sexual and reproductive health services.

9. Regarding legal remedies for migrant workers, she said that under article 14 of the migration bill, foreign migrants who came to or settled in Bolivia, temporarily or definitively, were entitled to administrative and judicial protection and due process; organizations that defended migrants' rights and were registered with the Directorate-General of Migration had the authority to act on their behalf in administrative and judicial proceedings, while foreign migrants had the right to an interpreter in legal proceedings. Moreover, foreign nationals detained in Bolivia were entitled to consular services and assistance from the National Public Defence Service. Pursuant to the Constitution of 2009, the remit of the Ombudsman's Office had been expanded to include the monitoring, promotion and defence of human rights, including those of foreign nationals in Bolivia and Bolivians living abroad.

10. The National Migration Council, made up of the Cabinet, the Minister of Foreign Affairs, the Minister of Labour, Employment and Social Security and other relevant ministers, was responsible for coordinating government migration policy. In 2011–2012, four information sessions had been held on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and Bolivian migration law.

11. **Mr. Cox Mayorga** (Plurinational State of Bolivia), giving an overview of efforts to disseminate labour migration laws, said that on 20 December 2012, the Ministry of Foreign Affairs had held a seminar entitled "Territory, Migration and the Indigenous Experience", at which participants had discussed the results of the first distance-learning course on migration issues for consular staff and government efforts in that domain. The commission on foreign policy and migrant protection of the Chamber of Deputies, in collaboration with civil society, had drafted the migration bill, which would provide for a permanent space for dialogue, training for public servants and a broad awareness-raising campaign via leaflets, seminars and radio and television programmes. The commission had also raised awareness of its work among migrant rights advocates and Bolivians living abroad. In November 2012, the Ministry of Justice, in conjunction with the Bolivian Chapter of Human Rights, Democracy and Development, had held a workshop for public servants on the obligations of the State regarding the human rights of migrants. For its part, the Directorate-General of Migration ran a communications unit responsible for providing information about the rights and obligations of migrants and about complaints mechanisms for victims of discrimination.

12. The Directorate-General of Consular Affairs operated a number of support programmes for Bolivians abroad, including schemes offering import tax exemptions on

household goods and business equipment designed to facilitate the social and economic reintegration of those wishing to return. A comprehensive return plan that would serve to guide all areas of Bolivian migration policy was in the drafting stages. In parallel, the Office of the Deputy Minister for Land Management was overseeing the implementation of a land distribution plan, known as the Productive Return Scheme, under which land could be allocated without charge to eligible returning Bolivians who wished to engage in agricultural activity. A voluntary return programme was also operated by the Bolivian office of the International Organization for Migration (IOM).

13. The migration bill did not authorize the detention of foreign nationals on immigration grounds and there were no migrant detention centres. The Directorate-General of Migration was permitted to confiscate personal identification documents only in cases of suspected falsification or forgery. Migration violations were treated as administrative, not criminal, offences and the maximum penalty was expulsion. Foreign nationals found in the relevant administrative proceedings to have committed migration irregularities were required to leave the country within 15 days. Expulsion orders could be appealed, although no such appeals had been lodged to date.

14. Foreign nationals wishing to work in Bolivia were able to obtain temporary residence status upon submission of a duly certified contract of employment. All workers registered with the Ministry of Labour were entitled to social security benefits, health insurance and fair and decent working conditions, irrespective of their nationality or the duration of their contracts. However, pursuant to domestic law employers were required to limit foreign nationals to no more than 15 per cent of their total workforce and to favour Bolivian nationals in recruitment decisions.

15. A new law against trafficking in human beings that was in line with the Palermo Protocol had been enacted in 2012. A comprehensive anti-trafficking policy was in the development stage and, pursuant to the new law, a national council had been established to assume responsibility for overseeing, approving, implementing and evaluating that policy. In addition, in 2011 the Ministry of Justice had signed agreements with the United Nations Children's Fund (UNICEF), IOM and the United Nations Office on Drugs and Crime (UNODC) for the implementation of a joint anti-trafficking programme within the framework of the United Nations Global Initiative to Combat Trafficking (UN.GIFT). The aim of that programme was to reduce trafficking to Argentina through increased border controls, to bring traffickers to justice and to improve care for victims – in 2011 the police had rescued 41 Bolivians who had been trafficked to Argentina. The Bolivian authorities were also working towards the agreement of bilateral anti-trafficking strategies with their Peruvian, Brazilian and Argentinean counterparts.

16. The Ministry of Justice had contributed to the preparation of a regional guide for the early detection of trafficking in Mercosur and associated States that called for information-sharing and coordinated action and, in conjunction with the Public Prosecution Service, had drawn up guidelines for the care of trafficking victims designed to standardize procedures and mechanisms nationwide. Support units for victims of violent crime had been established in all departmental capitals as of 2008 and, as of 2010, had been mandated also to care for victims of trafficking in human beings. Other recently introduced measures to assist victims and prevent revictimization included the use of Gesell chambers for taking statements and presenting evidence in advance of judicial proceedings and the creation of a Directorate for Victim and Witness Protection within the Public Prosecution Service.

17. **The Chairperson**, speaking as a member of the Committee, asked the delegation to explain: what was meant by the terms “right to mobility without residence” and “circular migration” in the Bolivian context; whether the migrant workers concerned were mainly cross-border workers; and whether transferability of rights was guaranteed to those classified as “circular migrants”. He would also like to know: how the fact that overseas

consulates were able to issue administrative documents to Bolivian migrants abroad served to safeguard their rights; how it was possible, as the State party claimed, to guarantee that all Bolivians abroad had the requisite papers and underwent the necessary regularization processes; whether Bolivians abroad and foreign nationals in Bolivia were entitled to social security and pension benefits, whether those benefits were contributory and how they were accessed; why the plan for combating racism and discrimination was described as “plurinational” and whether it covered migrants alone or the entire population; what specific tasks the Ombudsman’s Office carried out on behalf of migrants; and whether any references to international instruments in general and the Convention in particular could be found in Bolivian case law.

18. With regard to the Productive Return Scheme, he would like to know: whether the aim of Government policy was to encourage all migrant workers to return or only the most vulnerable; whether the scheme was linked to public land management strategy; and what percentage of the total land managed by the Office of the Deputy Minister for Land Management had been earmarked for the scheme.

19. Given that migrants in an irregular situation were apparently not placed in detention centres, he asked how the authorities ensured that those subject to expulsion orders left the country within the allotted 15-day period. Were they held in custody during that time? Furthermore, how was it possible to bring an effective appeal against an order within such a short period? Lastly, he asked whether the new anti-trafficking legislation referred to earlier was specific to trafficking for the purposes of labour exploitation or covered all aspects of trafficking in human beings.

20. **Mr. Carrión Mena** asked how the Government ensured effective management and coordination of migration-related measures and programmes given the considerable number of State institutions and agencies working in the field of migration. He would also like to know: what the State party was doing to combat the discrimination reportedly suffered by nationals of Peru, Brazil and Colombia in Bolivia and also by members of indigenous communities living in border regions; why, despite the many reported cases of violations of migrant workers’ rights, only a handful had been taken to court; whether international smuggling activity of the type practised by the notorious Coyotes was a frequent phenomenon in Bolivia and, if so, what the authorities were doing to combat that criminal activity; and, lastly, how many or approximately what percentage of Bolivian migrants were returning, especially from Europe, and from Spain in particular, and what practical measures had been adopted to ensure that work was available for them upon their return.

The meeting was suspended at 12.05 p.m. and resumed at 12.30 p.m.

21. **Mr. Cox Mayorga** (Plurinational State of Bolivia) said that the State party was working to ensure that all Bolivian nationals living abroad were provided with proper identity documents. The Government was unaware of how many of the State party’s legal emigrants had access to social security in host countries. State-owned land had been set aside to meet potential demand for farmland from Bolivian returnees. No statistics were available on the number of nationals who had received such plots of land to date.

22. The State party’s national action plan to combat racism for 2012–2015 was especially aimed at eradicating xenophobia and would lead to the mainstreaming of policy on racism and other forms of discrimination in State institutions. Although immigrants in an irregular situation in the State party were kept under surveillance, they could be held in detention only if suspected of having committed an offence. In such cases, they were placed in pretrial detention.

23. Under the new Constitution, the Ombudsman’s Office dealt with complaints of violations by Government institutions of the rights of migrant workers. Other administrative mechanisms and appeal procedures enabled migrant workers to lodge

complaints for alleged violations of their rights, including the right to work. Under the 2010 Act against Racism and All Forms of Discrimination (Act No. 045), a system had been set up to monitor violations of the rights of migrant workers. To date, no complaints had been received from migrant workers or their families. The Act on constitutional procedures (Act No. 254), which had been passed in August 2012, guaranteed the right of nationals and resident aliens to seek the protection of the State through administrative or criminal procedures when they believed their rights had been violated. Under a bill currently before parliament, a migration council would be established to streamline policy and the work of institutions that dealt with migration matters.

24. Act No. 260 on the Public Prosecution Service and Act No. 263 on human trafficking would streamline the State party's efforts to curtail trafficking in persons. Offenders were promptly prosecuted by the Public Prosecution Service.

25. The country's judicial system was being completely overhauled. The Judiciary Act (Act No. 025) and Constitutional Court Act (Act No. 027), both of which had been passed in 2010, were key elements in the process of judicial reform. Because the process had begun so recently, no statistical information on trials and court sentences was available. Disaggregated information on cases hitherto brought before labour courts by migrant workers was also unavailable.

26. **Ms. Navarro Llanos** (Plurinational State of Bolivia) said that the Government engaged in regular dialogue on migration matters with civil society, indigenous communities and social movements. Most of the Committee's previous recommendations had been implemented by the State party, which was open to any further advice. More resources would be invested in the training of immigration personnel.

27. **The Chairperson** welcomed the State party's holistic approach to migration matters and its commitment to increase resources allocated to dealing with them. He encouraged the State party to accept the new list of issues prior to reporting procedure for its next periodic report.

The meeting rose at 1 p.m.