



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

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

Summary record of the 502nd meeting

Held at the Palais des Nations, Geneva, on Friday, 23 September 2022, at 3 p.m.

Chair: Mr. Corzo Sosa

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The meeting was called to order at 3.05 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) (continued)

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. **A representative of the Plurinational State of Bolivia** said that migration checks or control operations, which were planned by the General Directorate of Migration, did not seek to criminalize foreigners or to delay the migration regularization process but to inform them of that process and its benefits. The operations respected the rights and obligations of foreigners under the Constitution and aimed to determine whether individuals held regular migration status.
4. Operations undertaken at the border could result in entry being denied to persons who were found not to comply with entry requirements, although that did not prevent them from entering via a regular route at a later date. During operations elsewhere in the country, migrants underwent interviews and a review of their documentation, and those found to have irregular status were given a reasonable time frame to begin the regularization process, provided they wished to obtain regular migration status and could be expected to do so. Alternatively, they were subject to a mandatory departure order, which was carried out only after all the exceptions provided for in law, such as family links, had been considered. Those exceptions did not apply, however, to persons convicted of, inter alia, crimes against humanity and trafficking in persons if they had not undergone rehabilitation. Mandatory departure orders could be appealed; if the appeal was successful, the migrant was required to recommence the regularization process; if the appeal was denied, he or she must leave the country within 15 working days. Persons subject to mandatory departure enjoyed the right to due process and other guarantees and would not be required to leave if there were reasonable grounds to believe that their life or physical integrity would be at risk.
5. **A representative of the Plurinational State of Bolivia** said that labour laws, which were under review as part of the constitutional reform process, were applied universally. The employment of migrant workers was not restricted, and they enjoyed the labour rights enshrined in the Constitution and international treaties, which took precedence over the Constitution if the rights contained therein were more favourable.
6. The Office for the Defence of Children and Adolescents provided free legal and psychosocial support, while the Code on Children and Adolescents promoted the rights of all minors, regardless of nationality. Guidelines had been drawn up on the implementation of the Comprehensive Programme to Combat Sexual Violence against Children and Adolescents, and there was a protocol on sexual abuse of minors that regulated the action to be taken by public and private bodies, civil society and families to restore victims' rights. The activities of child protection bodies were coordinated by a road map on sexual violence against minors, and an online platform provided round-the-clock services for minors who had been victims of trafficking in persons.
7. **A representative of the Plurinational State of Bolivia** said that Act No. 997, which amended the Migration Act, provided for regular migration status for stateless persons, benefits for groups including older adults and persons with disabilities, gender equality and different forms of naturalization. A number of bilateral agreements permitted citizens of countries of the Southern Common Market (MERCOSUR) to live and work in the Plurinational State of Bolivia, and an agreement with the Government of Brazil allowed Bolivians and Brazilians near the border between the two States to live, work or study on either side. An agreement with the Government of Argentina enabled residents of both States

to cross the border for up to 72 hours for a range of reasons, and other agreements and legislative provisions addressed border and seasonal workers.

8. **A representative of the Plurinational State of Bolivia** said that the National Committee against Racism and All Forms of Discrimination, which comprised representatives of public bodies and civil society, and which received technical assistance from the Office of the United Nations High Commissioner for Human Rights and the Office of the Ombudsman, designed, implemented and promoted comprehensive policies and regulations to combat racism and discrimination. It had approved a multisectoral development plan to combat all forms of discrimination and had mandated its chairperson to convene a national summit against racism and all forms of discrimination in October 2022. It also reviewed public bodies' compliance with the requirement to align their staff regulations with the provisions of Act No. 045 of 8 October 2010 against racism and all forms of discrimination and had followed up several complaints of discrimination by public officials.

9. **A representative of the Plurinational State of Bolivia** said that the General Directorate of Migration managed information and statistics on migration with the aims of informing public policy and providing disaggregated indicators; it also afforded the appropriate bodies access to that information for the purposes of their own analysis and policy design. There were plans for the National Migration Board to combine the data obtained by the General Directorate with information from other sources, in order to assist in the development of evidence-based policies on migrants' social and labour integration.

10. **A representative of the Plurinational State of Bolivia** said that irregular migration status did not impede enrolment in the education system. A specific mechanism for foreign students allowed students without the necessary documentation to enrol in State, private and faith schools, provided they committed to regularizing their situation within 90 days. Departmental education authorities were responsible for accrediting and validating periods of study completed abroad. The number of foreign students in the Bolivian education system had increased by 18 per cent between 2018 and 2021, with the biggest increases seen at the secondary level. The revalidation and accreditation of qualifications obtained by Bolivian students abroad was subject to agreements entered into by the Government and allowed individuals to exercise their professions throughout the country. Most accredited qualifications had been obtained in the Bolivarian Republic of Venezuela or Cuba.

11. **A representative of the Plurinational State of Bolivia** said that, according to the General Directorate of Migration, two police officers working with foreign nationals had been prosecuted for corruption in the previous two financial years. The General Directorate had received four complaints of acts of corruption by migration officials in the current financial year.

12. **A representative of the Plurinational State of Bolivia** said that, in addition to being a party to the Convention relating to the Status of Stateless Persons and to the Convention on the Reduction of Statelessness, the country had adopted a rule whereby applications by stateless persons were subject to the refugee determination procedure. The National Commission for Refugees had yet to receive any such applications, however. In 2016, the Government had simplified the naturalization process for refugees, including stateless persons, and had lowered the fees by 90 per cent. Employment contracts for temporary workers had to be endorsed by the Ministry of Labour, Employment and Social Welfare, which required employers to be registered and could also request their payroll records. All documentation related to the protection of labor rights was available on the Ministry's website. Work was under way on the regulatory instrument for the Foreign Service Act (No. 465) and a foreign service operations manual, which would cover new procedures such as virtual assistance. Meanwhile, an operations manual for the central services of the Ministry of Foreign Affairs had been disseminated to further guide consular staff in monitoring respect for the rights of Bolivians living abroad.

13. **Mr. Lima Magne** (Plurinational State of Bolivia) said that human rights institutions, as well as the general public, had unrestricted access to statistical data on migration, including through the website of the National Institute of Statistics. The same would apply to the

database of the system for the follow-up of recommendations by international bodies, once it was established.

14. The fact that the minimum age of employment was 14 years did not infringe the International Labour Organization (ILO) Minimum Age Convention, 1973 (No. 138), whose article 2 (4) provided for situations where it was acceptable for children to begin working at that age. Moreover, various protection measures had been put in place for workers between 14 and 18 years of age, including their registration with the Office of the Ombudsman for Children and Adolescents, whose staff attended training workshops run by the Ministry of Labour, Employment and Social Welfare. The Ministry's work in that domain was assessed by the Office of the Ombudsman and the Ministry of Justice and Institutional Transparency.

15. Applications for voluntary return by Bolivians living abroad were approved by the consular authority that received them. Where the applicants were in a situation of vulnerability, the requirement to have lived abroad for at least two years was lifted, and the application was processed as promptly as possible. A national survey was being designed, in coordination with the International Organization for Migration, to assess current socioeconomic integration and reintegration measures, the socioeconomic and professional profiles of foreign migrant workers and Bolivian returnees, and their employment or entrepreneurial opportunities. The Government espoused an open-arms policy towards Bolivians wishing to return.

16. The rights of self-employed workers and workers in the informal sector, including domestic workers, were protected through the Constitution and various laws. Since 2021, all domestic workers were eligible for affiliation with the short-term health insurance scheme. Efforts were being made to ensure that those concerned were informed of their rights under the law. Although the Plurinational State of Bolivia was not a party to the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the rights of that category of workers had been incorporated into a number of laws, including the recently adopted Andean Migration Statute, regulating the right of movement as well as the temporary or permanent residence of citizens of Andean Community member States. The Ministry of Foreign Affairs would nonetheless consider the feasibility of ratifying ILO Convention No. 143. There were plans to amend and update labour inspection regulations, inter alia by introducing new protocols covering domestic workers. A study would be carried out to identify the best ways of improving the reintegration of emigrants and communication with the diaspora and ensuring the best standards of protection of mothers and children abroad.

17. **A representative of the Plurinational State of Bolivia** said that the participation of civil society, including trade unions and indigenous groups, in lawmaking, the assessment of reports of government bodies and the coordination of institutional planning was enshrined in the Constitution. Establishment of the system for the follow-up of recommendations by international bodies had been delayed by technological problems, but meetings among the government entities involved in the project had resumed under the current administration. A proposal of the Office of the United Nations High Commissioner for Human Rights envisaged economic support for the development of a communication strategy to relaunch and improve the system. Furthermore, a bill on an interinstitutional coordination mechanism for follow-up reports to United Nations bodies was being drafted.

18. **Mr. Ceriani Cernadas** (Country Rapporteur) said that he remained unclear about the fate of migrants in an irregular situation who were detected through migrant checks, as it appeared that regardless of where they were found or the stated purpose of the checks, they were transferred out of the State party. It would be useful to know whether the same procedure applied when there were children involved. He invited the State party to be mindful of the messaging around migrant checks, as the oft-cited justification that the checks prevented insecurity in the country conflicted with its otherwise rights-based legislation. He wondered whether there were any exemptions from regularization fees and whether a guardian system was in place for unaccompanied minors. Lastly, in how many places could asylum applications be filed?

19. **Mr. García Sáenz** (Country Rapporteur) asked whether the State party planned to ratify the ILO Private Employment Agencies Convention, 1997 (No. 181) and the ILO Violence and Harassment Convention, 2019 (No. 190); whether the Migrant Workers

Convention had ever been cited before the courts; and whether the Plurinational Service for Assistance to Victims had ever provided assistance of any kind to migrant workers or their families.

20. **Ms. Diallo** said that she would be interested to learn whether the State party had entered into any multilateral or regional agreements relating to migration that aimed to protect migrant workers, particularly regarding their fundamental rights. She would also like to know whether the State party had entered into any bilateral or multilateral agreements on migration with a view to fostering development. Such agreements might cover increased opportunities for workforce mobility, ethical recruitment, reducing the brain drain, the return and reintegration of migrant workers, and engagement with the diaspora.

21. It remained unclear what process officials of the Directorate General of Migration followed when carrying out migration checks outside border zones. She wished to find out how checks were carried out in public places and what procedure was followed when it was considered that the migrant in question was in an irregular situation. It would be useful to know whether migration checks conducted with a view to regularizing the status of foreign nationals could lead to migrants being detained. Statistics on migration checks would be welcome, including an indication of how many migrants had undergone a check, how many had subsequently gained a regular status and how many had been detained or returned to their country of origin. Was any support available, either from the State party or their country of origin, to migrant workers who were experiencing deportation or detention?

22. **The Chair** said that he wished to know whether civil society had been involved in the drafting of the State party's periodic report. If so, he would be interested to learn how that participation had been organized. It would also be useful to know whether there were any mechanisms for civil society participation, including in the drafting of laws or amendments to legislation. It was his understanding that some institutions in the State party had councils for the participation of civil society in decision-making processes. He wondered whether such a mechanism could be established within the General Directorate of Migration.

23. He would like to know whether the system for the follow-up of recommendations by international bodies was set up in such a way that it was possible to search for all the recommendations relating to migration from international bodies, including the Committee and the Special Rapporteur on the human rights of migrants, and to see whether a recommendation was still pending and which authorities were responsible for its implementation.

The meeting was suspended at 4.20 p.m. and resumed at 4.40 p.m.

24. **Mr. Lima Magne** (Plurinational State of Bolivia) said that there were no statistics suggesting that child labour was an issue in his country.

25. It was important to consider that the context in the country was challenging owing to the impact of the coronavirus disease (COVID-19) pandemic and the 2019 coup d'état. In response to the pandemic, a wide-reaching vaccination programme had been carried out.

26. His country had been involved in cases before the Inter-American Court of Human Rights with respect to asylum. The international obligations concerning asylum were well understood in the Plurinational State of Bolivia and there were no asylum provisions that restricted human rights. His country had a policy of ensuring that all migrant workers could come to the Plurinational State of Bolivia and participate in society. Payment was never requested for asylum procedures, and it was possible to obtain an exemption from paying migration fees for other reasons, including disability or health problems.

27. The ILO Private Employment Agencies Convention, 1997 (No. 181), and the Violence and Harassment Convention, 2019 (No. 190), were being examined by the Plurinational Legislative Assembly and the Ministry of Foreign Affairs. The Plurinational Constitutional Court had ruled that the Migrant Workers Convention, along with other international instruments, had constitutional status and formed part of the constitutional body of law.

28. The Plurinational Service for Assistance to Victims provided legal advice to foreign nationals.

29. Act No. 1970 of 25 March 1999 on the Code of Criminal Procedure governed the situation of persons deprived of their liberty and provided for clear guarantees of due process for Bolivians and foreign nationals. When foreign nationals were detained, the consulate or embassy of their country of origin was always informed. Detainees had access to a lawyer and an interpreter to ensure that they were fully aware of their rights. Agreements were in place with other States, including Chile, to allow foreign nationals to complete prison sentences in their country of origin, thus enabling them to be closer to their families with a view to their subsequent reintegration.

30. The Plurinational Legislative Assembly had instruments and mechanisms for consultation with civil society, which was a permanent and essential part of the legislative process. Forums for citizen participation were held on a continuing basis at the departmental level.

31. Further information would be provided to the Committee in writing.

32. **Mr. Ceriani Cernadas** said that the Committee was aware of the challenges the State party had been facing in recent years and recognized the efforts and progress made in that difficult context.

The meeting rose at 5 p.m.