



**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**  
Sixteenth session  
16–27 April 2012

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

**List of issues to be taken up in connection with the consideration of the  
second periodic report of Colombia (CMW/C/COL/2)**

**I. General information**

1. In the light of the comprehensive migration policy (PIM), please clarify the mandate of the recently established National Migration System (SNM), which has been tasked to develop and implement migration policies, plans and programmes (see para. 67 of the report). Please also explain the interconnectedness of the mandates of the National Intersectoral Commission on Migration (see the Committee's concluding observations on the initial report of Colombia (CMW/C/COL/CO/1), para. 6), the National Migration System and the Observatory for the Colombian International Migration Observatory (OMIC), mentioned in paragraph 181 of the report.
2. Please provide updated information on the efforts made by the State party to ratify International Labour Organization (ILO) Conventions No. 97 (1949) concerning Migration for Employment and No. 143 (1975) concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (see para. 65 of the report). Please also indicate the steps taken towards ratifying the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, as recommended by the Committee in its previous concluding observations (CMW/C/COL/CO/1, para. 13), as well as ILO Convention No. 189 (2011) concerning Decent Work for Domestic Workers.
3. Please provide information on the mandate of the Colombian Defensoría del Pueblo (Ombudsman) with respect to the rights of migrant workers and members of their families, as well as on the action taken by the Defensoría to promote and protect those rights.

4. Please clarify why civil society was not consulted during the preparation of the report if, according to paragraph 370 of the report, civil society plays a fundamental role in the implementation of the Convention in the State party.

5. In the light of the efforts undertaken by the State party to collect data on migration (see paras. 33 to 45 of the report), please describe whether those efforts have resulted in the creation of a database that takes into account all aspects of the Convention, including the collection of data and information on the situation of migrant workers in the State party, migrant workers in transit, and frontier and seasonal workers. Please also indicate whether the State party collects data and conducts surveys and studies on the situation of migrant workers in an irregular situation.

6. Please provide information on steps taken by the State party to withdraw its reservations to articles 15, 46 and 47 of the Convention as recommended by the Committee in its previous concluding observations (CMW/C/COL/CO/1, para. 9).

7. In its previous concluding observations (CMW/C/COL/CO/1, para. 11), the Committee encouraged the State party to consider making the declarations provided for in articles 76 and 77 of the Convention. Please indicate whether the State party has taken or is planning to take any steps towards making those declarations.

## **II. Information relating to each of the articles of the Convention**

### **A. General principles**

8. Please indicate whether the Committee's previous concluding observations have been disseminated and to whom. Please also provide information on any workshops and/or specific meetings that were held to train public officials on the implementation of the Committee's recommendations.

### **B. Part III of the Convention**

#### **Articles 16 and 17**

9. According to paragraph 70 of the report, in order to avoid administrative sanctions for violations of immigration law, some migrant workers submit groundless refugee status applications, requiring the State party to set up a procedure for rapidly identifying such cases. Please provide detailed information on the criteria used to identify such cases. Please also indicate the consequences faced by migrant workers whose refugee claims have been rejected.

10. Please clarify whether paragraph 70 of the report refers to migrant workers in transit through the State party. Please provide detailed information on the procedure followed by the Administrative Department of Security (DAS) when detaining migrant workers and members of their families transiting through the State party. Please also provide information on the registration system and on the conditions in which migrants are held in the DAS centres (CMW/C/COL/CO/1, para. 22).

**Article 22**

11. Please indicate the steps taken towards harmonizing the State party's deportation and expulsion procedures with article 22 of the Convention, as recommended in the Committee's previous concluding observations (CMW/C/COL/CO/1, para. 28). Please also specify the criteria applied to decide whether migrant workers facing expulsion are detained preventively (*retenido preventivamente*) or whether alternative measures to immigration detention, such as probational release (*libertad vigilada*), are being applied (see para. 127 of the report).

**Article 25**

12. In the report, the Government states that with the abolition of quotas imposed on private companies for the recruitment of migrant workers (Act No. 1429/2010), the procedure for obtaining work visas has been facilitated (see paras. 54-55, 337-338). Please elaborate on how the abolition of quotas has, in practice, facilitated the recruitment of migrant workers, taking into consideration that article 4 of Decree No. 4000/2004 states that the State party's migration policy is aimed at preventing the presence of migrants in the employment sector if it jeopardizes the employment of nationals. Please also clarify whether Act No. 1429/2010 is applicable to migrant workers employed in both skilled and unskilled occupations. Please indicate how the State party guarantees and monitors the treatment of migrant workers employed in unskilled work.

**Article 29**

13. Please indicate the measures taken by the State party to ensure the right of children of migrant workers, irrespective of their status, to have a nationality, in particular when neither of the parents is domiciled in the State party. Please also provide updated information on any steps taken to accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness (CMW/C/COL/CO/1, para. 29).

**Article 30**

14. Please indicate how the State party ensures that all children of migrant workers, including those in an irregular situation, have access to education (see para. 298 of the report).

**C. Part V of the Convention**

15. Please provide information on the estimated number of migrant workers covered by articles 58, 59, 60 and 61 of the Convention. Are any specific measures in place to protect the rights of those migrant workers?

**D. Part VI of the Convention****Article 67**

16. Please indicate the measures taken by the State party to implement the Plan de Retorno Positivo (Positive Return Plan), which envisages the creation of an extended network of support services for Colombian migrant workers who have returned to the State party (paras. 178, 195-197 of the report). Please also provide further information on the

types of services offered by the *centros para retornados* (returnee centres), mentioned in paragraph 200 of the report.

#### **Article 68**

17. According to information available to the Committee, there has been an increase in recent years in the number of migrant workers of Asian and African origin in transit through the State party on their way to North America. Please provide more detailed information on the scale of illicit smuggling of migrants in the territory of the State party and on the measures taken to prevent and counter smuggling of migrants.

18. Please provide information on the measures taken by the State party to combat trafficking in persons, in particular indigenous Ecuadorians, for purposes of forced labour and sexual exploitation. Please indicate whether the State party has adopted other measures, legislative as well as administrative, for the care and repatriation of trafficking victims and under what conditions it grants temporary visas to victims of trafficking.

19. Please provide further detailed information on the measures aimed at preventing irregular migration (see para. 177 of the report). What is the State party's policy with regard to unaccompanied migrant children and adolescents?

20. Please provide detailed information on the implementation of the bilateral agreement between Colombia and Ecuador, which created the Permanent Statute on Migration (see para. 302 of the report).

#### **Article 69**

21. According to paragraph 241 of the report, the lack of interest on the part of migrant workers in the regularization process has constituted an obstacle to their regularization. Please indicate whether the State party has conducted an assessment to measure the results of the regularization process and which measures were taken to inform migrant workers about that process. Please also provide updated data, disaggregated by sex, age, nationality and occupation, on the registered applicants.

22. Given the reported increase in the number of migrants in transit through the State party, as well as the two regularization programmes implemented by the State party, please indicate whether the State party has made an assessment of the causes and consequences of the clandestine movement of undocumented migrant workers through its territory.

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