



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

Distr.: General
4 October 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 496th meeting*

Held at the Palais des Nations, Geneva, on Tuesday, 20 September 2022, at 3 p.m.

Chair: Mr. Corzo Sosa

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* No summary record was issued for the 495th meeting.

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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

Initial report of the Bolivarian Republic of Venezuela (CMW/C/VEN/1; CMW/C/VEN/QPR/1)

1. **Mr. Torrealba Ojeda** (Bolivarian Republic of Venezuela), introducing the initial report of the Bolivarian Republic of Venezuela (CMW/C/VEN/1), said that his Government reaffirmed its commitment to the full implementation of the Convention, which had been ratified by the State party in 2016. The Convention enshrined rights and guarantees that were consistent with the Venezuelan Constitution, which provided that human rights treaties, covenants and conventions signed and ratified by Venezuela had constitutional status, took precedence in domestic law and could be applied directly by the courts and other public bodies. Ratification of the Convention had undoubtedly strengthened the protections provided by the Constitution for all migrant workers and members of their families in the Bolivarian Republic of Venezuela.
2. The Government's migration policy was comprehensive and underpinned by the principles of tolerance, social inclusion, solidarity, justice, equity, gender equality and equal opportunities in employment, with emphasis on full respect for the human rights of migrants and members of their families. The Government had worked to strengthen the integration of migrants and members of their families so that they became a fundamental part of Venezuelan society, without distinction or discrimination.
3. Venezuela recognized the historic contribution made by millions of migrant workers – of Latin American, Caribbean, European, Asian, African and Arab origin – to the economic growth and development of the country. Although predominantly a host country, in recent years Venezuela had seen an increase in migration outflows to neighbouring countries. That process should be understood as an atypical and exceptional migration driven by economic causes, which were the direct result of a policy of aggression that sought, through the imposition of illegal unilateral coercive measures, to destroy the country's peace and political, social and economic stability and overthrow the constitutional Government elected by the vast majority of the Venezuelan people. As noted by Alena Douhan, the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, the unilateral coercive measures had had a damaging impact on Venezuelan society and on the Venezuelan people's enjoyment of fundamental rights, including labour rights, the right to social security, the right to health and the right to life.
4. The challenging economic context and the difficulties faced by Venezuelan migrants had been exacerbated by the coronavirus disease (COVID-19) pandemic. Fortunately, the economic and labour situation had improved rapidly since mid-2021, thanks to the efforts of the Government, which had formulated new strategies and policies and carried out an open and inclusive national dialogue. For example, in April 2022, the Government had launched a social dialogue with the technical support of the International Labour Organization and the broad participation of national employers' and workers' organizations. The economic recovery had allowed for the scaling up of inclusive social policies for all segments of society, including migrants and the Venezuelan community abroad, despite the campaign of aggression against Venezuela and the devastating effects of COVID-19. During the pandemic, the Government had prioritized people's lives over private and economic interests and had included migrant workers and their families in its mass vaccination campaign, regardless of their migration status.
5. As a host country for much of its history, Venezuela had never exploited its large migrant population to advance its political interests, produce propaganda or solicit funding from donors and specialized agencies, nor had migrants in Venezuela been the targets of campaigns of xenophobia or hate, unlike Venezuelan migrants in other countries. Despite the negative economic impact of the more than 760 illegal unilateral coercive measures imposed on the country, the Government's efforts had resulted in hundreds of thousands of citizens deciding to return to the country. The Return to the Homeland (*Vuelta a la Patria*) Plan had facilitated the voluntary return of thousands of Venezuelans, thus saving them from

violations of their fundamental rights and from being the victims of xenophobia, discrimination and social exclusion.

6. The Government continued to address major global problems that had implications for human mobility and migration. It recognized the need to strengthen bilateral, regional and multilateral dialogue, based on fundamental principles such as the sovereign equality of States, and thus progress towards the full achievement of the Sustainable Development Goals.

7. The Government was constantly studying ways of strengthening the administrative structures, legal order and practices of the Venezuelan State. The legislature had been drafting new laws and amendments that responded to new realities in the world of work and human mobility. For example, it planned to enact laws supplementing the Labour and Workers Act that would apply equally to domestic and foreign workers. The Government had also been working on an amendment to the Foreign Nationals and Migration Act of 2004, with the aim of updating and improving the Act in the light of commitments assumed under the Convention, the Global Compact for Safe, Orderly and Regular Migration and other instruments. The delegation looked forward to the dialogue and stood ready to provide any information that the Committee might request.

8. **Mr. García Sáenz** (Country Rapporteur) said that the Committee had been informed that Venezuelans living abroad faced difficulties in obtaining official documents, including passports, which prevented them from remaining in regular status and finding work. He would be interested to know what the Government was doing to resolve that problem and to improve the availability of consular assistance for Venezuelans living in other countries.

9. The Committee had also received reports about plans for about 1,200 Venezuelan children who had been abandoned in Colombia to be given up for adoption because the Colombian authorities had been unable to obtain information about their families. He wondered whether the Government had taken any steps to identify and enable those children to reunite with their families. Similarly, he would be interested to know what had been done to facilitate the registration of Venezuelan migrant children who did not have passports or other official documents required by the host country authorities, and who therefore were at risk of statelessness. Lastly, he wished to know whether the State party had held any discussions with the Governments of Curaçao and Trinidad and Tobago regarding the fate of the Venezuelan migrants who had died en route to those countries.

10. **The Chair** (Country Rapporteur), noting that, according to some sources, there were up to 7 million Venezuelan refugees and migrants in the world, said that he would be grateful if the delegation could provide an official estimate of the number of Venezuelan nationals currently living abroad. The Committee was concerned at reports of hate speech, discrimination and xenophobia directed at foreign nationals within Venezuela and at Venezuelan migrants abroad, and would be interested to know how the State party combated and prevented hate speech and xenophobic discourse.

11. The Committee had received troubling information from various sources regarding trafficking in persons – a problem closely linked to the issue of migration. As it appeared that the State party did not have specific anti-trafficking legislation, he would welcome clarification regarding the laws that criminalized trafficking in persons. He would also appreciate up-to-date information on the implementation of the National Plan against Trafficking in Persons and the activities of the recently established National Council on Trafficking in Persons. In addition, it would be useful to have information on the authorities' activities in border areas, including with regard to detentions, deportations and returns of migrants, if any.

12. **Mr. Ceriani Cernadas** said that, in the light of reports of persons being detained at the offices of the Identification, Migration and Foreign Nationals Service, the Committee would be interested to know how many migrants had been detained pending deportation and for what reasons. It would be useful to know the legal basis for such detentions, given that article 46 of the Foreign Nationals and Migration Act expressly prohibited the use of deprivation or restriction of liberty as a preventive measure in the context of deportation proceedings.

13. Furthermore, he wished to know what steps had been taken to protect indigenous communities that had migrated to Brazil or Colombia and, in particular, whether any steps had been taken to expedite the issuance of official documents for indigenous children born in those countries and to reduce the high cost of consular procedures. He would also appreciate information on situations of labour exploitation in gold-mining areas.

14. He would be interested to know whether any steps had been taken, or plans made, to ratify the Agreement on Residence for Nationals of the States Parties of MERCOSUR, the Plurinational State of Bolivia and Chile, which had been signed by most South American countries and which facilitated access to residence for millions of migrants in the region. Further details regarding public policies for the social and labour reintegration of Venezuelan returnees, thus preventing repeat migration, would also be welcome.

15. He, too, wondered what steps had been taken in cooperation with the Governments of transit countries to thoroughly investigate situations in which Venezuelan migrants had died, including the incident on 5 February 2022 in which the Trinidad and Tobago coastguard had opened fire on a boat carrying Venezuelan migrants, resulting in the death of an infant. Had the Venezuelan authorities established a dialogue with the Government of Trinidad and Tobago?

16. The Committee would welcome further details concerning the proposed amendment of the Foreign Nationals and Migration Act. It would also be interesting to know to what extent the National Migration Commission was operational and whether different social actors, including immigrants and organizations of Venezuelan migrants abroad, participated in its activities.

17. The Committee would also be glad to receive information regarding policies for the protection of children and adolescents whose parents had migrated and who found themselves in situations of vulnerability. Had the Government adopted targeted measures to ensure that they were cared for by their grandparents or other family members or to facilitate their reunification with parents living in other countries? Lastly, he would like to know whether the State party had taken any action to investigate or to institute legal proceedings in relation to the events that had occurred in 2015 in the vicinity of the Colombian border, which had reportedly included deportations and violent evictions.

18. **Ms. Poussi** said that she welcomed the efforts that had been made to adapt State institutions to respond to outward migration and to collect data on the subject. She would be interested to know which of the unilateral coercive measures mentioned by the State party had had the greatest adverse impact on the rights of migrant workers in the Bolivarian Republic of Venezuela and on the rights of Venezuelan workers abroad, and what steps State party had taken or planned to mitigate that impact.

19. It would be interesting to learn about the results of the selective migration programme set up in cooperation with the International Organization for Migration in 1993, whether its goals had been achieved or what barriers there had been to its success. The same information would be welcome with regard to the migration agreements with Portugal and Spain. While it was an excellent practice not to detain migrants, she would appreciate further details about the bond that persons subject to deportation proceedings and/or facing expulsion from the country were required to post. Specifically, she would like to know how it was calculated, whether it was reimbursable and for what purpose the funds thus collected were allocated. Welcoming the establishment of separate courts to address violence against women, she asked whether the judges received special training in gender-based violence, how many cases had been brought before those courts and whether migrant women were aware of and had access to them.

20. **Ms. Dzumhur** said that she would appreciate additional information on the situation of migrants in the State party, the extent to which they enjoyed their rights and the institutional framework for migration. She would also appreciate data on the number of Venezuelans abroad and migrants in the State party or, in the absence of such data, information on plans to create a database. She invited the delegation to comment on the feasibility of sending remittances to the State party and on the rights and opportunities of returning Venezuelans. Lastly, what was the State party's position on the Global Compact

for Safe, Orderly and Regular Migration and how much was the national human rights institution involved in immigration processes?

21. **Mr. Zounmatoun** said that he was curious as to whether the State party was now a country of origin, transit or destination for migrants. He would also like to know how many people had benefited from the Return to the Homeland Plan, what reintegration measures were envisaged under the Plan and how the Government was countering the opposition to its migration policies.

22. **Mr. Oumaría** asked whether the difficulties Venezuelans living abroad experienced in obtaining a passport were due to a lack of consulates and how the large number of Venezuelan children being adopted in Colombia could claim their nationality.

23. **Mr. Babacar** said that he welcomed the fact that the State party had ratified all of the core conventions of the International Labour Organization (ILO). However, he wondered whether it had adopted a clear policy and strategy in relation to child labour, whether trade unions were involved in disseminating the Convention and providing administrative assistance to migrant workers and what measures were in place to ensure that migrant workers had access to social security. He also wondered why the State party had not ratified the ILO Labour Inspection Convention, 1947 (No. 81) or the ILO Domestic Workers Convention, 2011 (No. 189).

24. **Mr. Soualem** asked how many consulates the State party operated, whether consular staff were trained to assist such a large number of Venezuelan migrants and what steps were taken to ensure that remittances went to their intended recipient and were not withheld or frozen under the unilateral coercive measures.

25. **Mr. Taghi-Zada** asked whether Venezuelans living abroad had the right to vote and, if so, how many had exercised that right and through what mechanism, given the lack of consulates.

26. **Mr. Charef**, noting that large-scale emigration had begun prior to the recent crisis, said that it would be useful to know how many people had left the State party for countries such as Italy and Spain, where they were entitled to nationality through ancestry. He would welcome information on any research being conducted on migration issues and on whether the national human rights institution had a dedicated unit on migration.

The meeting was suspended at 4.10 p.m. and resumed at 4.35 p.m.

27. **A representative of the Bolivarian Republic of Venezuela** said that all of the country's 105 diplomatic missions around the world had the capacity to process civil documents such as passports, which could also be requested through the website of the Directorate for Identification, Immigration and Foreign Nationals. The missions could also register births; over 18,900 had been registered at consulates between 2016 and 2022. However, the unilateral coercive measures and poor relations with certain Governments had forced the closure of 31 missions and consulates in Brazil, Canada, Colombia, the United States of America, and other countries in the region. The Government was open to dialogue with other States on the provision of assistance to migrants and stood ready to reopen its consulates when conditions permitted. The Return to the Homeland Plan offered safe return, free of charge, to Venezuelan nationals in situations of vulnerability; more than 29,130 people had benefited from the scheme. The reintegration of returnees, including in the social security system, was facilitated by the network of missions and great missions in the country.

28. **Mr. Torrealba** (Bolivarian Republic of Venezuela) said he wished to emphasize that if Venezuelans living abroad had difficulty obtaining consular services it was due to political actions by the host Governments that had forced the closure of consulates, not to any decision by the Government of the Bolivarian Republic of Venezuela to deny assistance to Venezuelan nationals.

29. **A representative of the Bolivarian Republic of Venezuela** said that the protection of children and adolescents in the context of migration was a government priority. Under the Organic Act on the Protection of Children and Adolescents, all children and adolescents enjoyed protections throughout the Venezuelan territory, regardless of their nationality. The situation of the 1,200 children who were allegedly in the process of being adopted in

Colombia was one of the consequences of the non-recognition of Venezuelan consulates in some countries. The National Working Group for the Protection of Child and Adolescent Migrants ensured the protection of Venezuelan children abroad. Unaccompanied minors were returned to the Bolivarian Republic of Venezuela through the Return to the Homeland Plan and were reunited with their parents, grandparents or other adults with whom they had a familial link. However, the Venezuelan authorities had not received any request to locate the families of the 1,200 children in Colombia. The Committee's assistance in finding information on those children would be welcome.

30. Significant efforts had been made to eradicate child labour, which was criminalized under the Organic Act on the Protection of Children and Adolescents. The Autonomous Institute and National Council for Children's and Adolescents' Rights had developed a range of programmes to protect and guide children, including specific programmes for children who were working or had been the victims of labour exploitation. In 2022, a proposal had been made to align the activities of child and adolescent protection councils at the local and state level regarding their registers of adolescent workers and registers of authorizations to work for children below the minimum age, which was 12 years. There were 72 different programmes in which any working children and adolescents could participate.

31. **A representative of the Bolivarian Republic of Venezuela** said that any citizen could report the disappearance of a relative or acquaintance to the authorities and it would be addressed. The authorities worked with the International Criminal Police Organization (INTERPOL) and their counterparts in other countries to ensure disappearance allegations were properly investigated.

32. Steps were being taken to implement a preventive approach to human trafficking, including through the strict application of the Constitution, which criminalized slavery. The Organized Crime and the Financing of Terrorism Act also included a section on human trafficking. In 2021, a comprehensive assistance plan for trafficking victims had been developed, along with a prevention plan for the period 2021–2025. It was understood that those plans would need to be reviewed on an ongoing basis to ensure a timely and coherent response.

33. Migrants were not deprived of their liberty. In the event that a foreign citizen might pose a risk to national security, the individual was placed under humanitarian guard (*resguardo humanitario*), a procedure that did not amount to deprivation of liberty. That procedure was only applied in exceptional circumstances. The Government promoted and guaranteed safe, orderly and regular migration. Interim measures were used for migrants who had not complied with the law and were therefore being expelled or deported. Such measures were tailored to the situation of the individual involved. The humanitarian guard procedure involved restricting a person's movement within the national territory while administrative procedures were carried out. The State guaranteed their rights to free communication, medical assistance and food. They were appointed a public defender, with interpretation services if necessary, and had the right to request assistance from a consular representative of their State of origin.

34. **A representative of the Bolivarian Republic of Venezuela** said that her country's initial report contained statistics on the number of Venezuelans who had migrated from 2015 to 2019. Those numbers were from official data for which the collection process was rigorous. According to government figures, between 2016 and 2018 there had been a significant increase in migratory flows out of the country, which was a result of the unilateral coercive measures. As of 2020, however, migration trends had begun to normalize. The authorities were in the process of undertaking a housing and population census, but that process had been hampered by the COVID-19 pandemic. That census would also collect data on migrant workers. All social policies were applicable to migrant workers. For example, the Great Venezuelan Housing Mission provided accommodation to families, 11 per cent of which were migrant families.

35. **A representative of the Bolivarian Republic of Venezuela** said that there was a commission in the National Assembly that investigated crimes against and murders of Venezuelans living abroad. The commission had published a comprehensive report, which would be provided to the Committee members as it contained the answers to many of their

questions. In particular, the report included an assessment of the causes of forced migration. The impact of the unilateral coercive measures was a key cause. In some countries in the region, senior politicians had demonized Venezuelan migrants in public statements and social media posts. Data from various countries in the region showed that the aggression towards and murder of Venezuelan migrants was alarmingly common. The report also detailed the public policies and plans, including the Return to the Homeland Plan, put in place to assist victims and their family members. In addition, more than 50 new laws had been adopted to provide assistance to victims, which was evidence that the State was working to comprehensively address crimes against its citizens in other countries.

36. Several programmes were in place to support miners, and 122,000 men and women had benefited from those programmes. In addition, their access to banking services had been improved. The State was working to address the issue of labour exploitation in mining, including through the adoption of Decree No. 2,248 on mining activity in the south of the country.

37. **A representative of the Bolivarian Republic of Venezuela** said that many indigenous peoples had ancestral territories that crossed international borders. As a result of the economic problems in the Bolivarian Republic of Venezuela, some indigenous groups had decided to seek better living conditions in other States to which their ancestral territories extended. That migration was voluntary and not permanent. The rights of indigenous peoples were guaranteed under national legislation and the international conventions ratified by his country.

38. **The Permanent Representative of the Bolivarian Republic of Venezuela to the United Nations office at Geneva**, responding to the question about the MERCOSUR residence agreement, said that his country had been in the process of adopting the MERCOSUR regulations when a political dispute had arisen in 2016. The country had been obliged to cease the process of adoption when it had invoked the Protocol of Olivos for Dispute Settlement in MERCOSUR. Before 2016, and despite not having adopted the MERCOSUR residence agreement, the Government had established reciprocal bilateral agreements for labour mobility with other States in the region. It was hoped that the Bolivarian Republic of Venezuela would be able to return to full membership of MERCOSUR, which would facilitate the movement of workers into and out of the country under suitable conditions. There were no obstacles related to race, creed or any other characteristic that prevented regularization of the status of migrant workers.

39. Since 2019, statistics on migratory flows from the Bolivarian Republic of Venezuela had been being inflated by the United Nations system. It was not possible that there were 8 million Venezuelans living outside the country. Inflated statistics were being used by some international bodies to raise funds to address a humanitarian crisis that did not exist. Data collected from countries that received Venezuelan migrants were used without verifying their accuracy. For example, data from the Colombian authorities did not reflect the fact that many Venezuelans living in that country were dual citizens and therefore did not count as migrants. His Government would appreciate the Committee's support in preventing the use of inaccurate data on Venezuelan migrants for political or financial purposes.

40. The unilateral coercive measures had caused serious upheaval in his country. The Government was prevented from accessing any funds held in international banking institutions and could not ensure the functioning of its consulates. It was obliged to explore other avenues for trade in order to sell Venezuelan products and receive imports to guarantee food sovereignty for its people. That situation had an impact on migratory flows into and out of the country. The Government would be grateful for the Committee's solidarity in condemning the illegal unilateral coercive measures, despite which the authorities were doing everything they could to uphold the rights of Venezuelan citizens and any migrants arriving in the country.

41. **A representative of the Bolivarian Republic of Venezuela** said that migrant workers benefited, on the same footing as Venezuelans, from the work of the two departments recently created within the Public Prosecution Service to address complaints and legal proceedings brought by workers, for example with regard to the right to strike. Moreover, the Constitution created the legal and administrative conditions necessary to ensure non-

discrimination and equality before the law. Trafficking in persons and the smuggling of persons were punished harshly under the Act on Organized Crime and the Financing of Terrorism, which provided for lengthy prison sentences of up to 30 years and the payment of compensation in cases of trafficking.

42. Foreigners entering the country illegally were subject to the measures provided for under the Foreign Nationals and Migration Act, which included deportation. Persons subject to such proceedings enjoyed all constitutional rights and guarantees. The Directorate General for the Protection of the Family and Women had established channels of communication with civil society organizations to coordinate protection for direct and indirect victims of crime.

43. **A representative of the Bolivarian Republic of Venezuela** said that the National Strategic Development Zone of the Orinoco Mining Arc had been created in 2016 with the aim of regulating mining activities, upholding the rights of workers and protecting nature. It was fully implemented with the involvement of numerous State agencies.

44. The unilateral coercive measures imposed on the country had led to a 99 per cent fall in its national income, a reversal of the significant progress previously made in the area of human rights and a surge in the number of Venezuelans emigrating for economic reasons. He called on the Committee to draw attention to the negative impact of those measures on the Venezuelan population, which had been well documented by other human rights bodies.

45. The measures had rendered the national airline unable to procure fuel and airport services for its fleet, greatly hindering the Return to the Homeland Plan. They had also prevented Venezuelan migrant workers from sending remittances via the international banking system. In response, the Government had created a platform that used cryptocurrencies to facilitate remittances, and there were also private companies that transferred funds sent by Venezuelans abroad, albeit at unfavourable exchange rates.

46. **Mr. García Sáenz** said that he would welcome information on any plans to reopen consulates in Colombia.

47. **The Chair** said that he would appreciate clarification as to whether Venezuelan nationals who returned to the country via irregular routes were subject to criminal proceedings. He also wished to know how returning Venezuelans who had not participated in the Return to the Homeland Plan were assisted in their reintegration and whether there was cooperation with other Governments regarding the return of migrants. He wondered what steps had been taken to strengthen the Ombudsman's Office in the light of the downgrading of its classification under the Paris Principles.

48. Information on the support provided to the families of Venezuelans murdered abroad, including for the repatriation of their remains, would be appreciated. It was still unclear whether the National Migration Commission was operational; clarification would be appreciated. It would also be useful to know how the incidents reported by the National Assembly commission were investigated. Lastly, he would like to hear what steps had been taken to disseminate information on the Convention in the State party.

49. **Mr. Ceriani Cernadas** said that he would welcome further details of criminal proceedings launched against Venezuelan migrants who had returned to the country in breach of measures adopted during the COVID-19 pandemic. He would also appreciate clarification of the concept of "humanitarian guard" (*resguardo humanitario*). Specifically, he wondered whether persons held under humanitarian guard were free to move about without restriction. If not, how did the procedure differ from deprivation of liberty? He would appreciate statistics on the number of persons with refugee status in the State party. He wished to know whether the State party planned to recognize the Committee's competence to receive and consider individual communications under article 77 of the Convention.

50. He would welcome more information on the State party's application of the MERCOSUR residence agreement during its membership of that organization and wondered whether its continued application of the relevant rules might be beneficial to Venezuelan migrants in MERCOSUR countries. Lastly, he wished to know what specific measures had been adopted by the State party to protect indigenous peoples in the context of migration.

51. **Ms. Poussi** said that she wished to know whether migrant workers who had committed a crime in the Bolivarian Republic of Venezuela were subject to criminal proceedings and served their sentences before being expelled from the country, or whether the act of committing a crime constituted sufficient grounds for expulsion.

52. **Mr. Zounmatoun** said that it would be useful to have information on the scope and outcomes of the work of the National Assembly commission with regard to the investigation of crimes against Venezuelans abroad and the follow-up given to its investigations.

The meeting rose at 6 p.m.