



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

List of issues prior to submission of the initial report of the Bolivarian Republic of Venezuela*

Section I

A. General information

1. Please provide details on the national legal framework in relation to the Convention, including:
 - (a) The measures adopted to bring the legislation into line with the Convention, in particular the Foreign Nationals and Migration Act (No. 37944 of 2004), the Labour and Workers Act of 2012 and the Act on Organized Crime and the Financing of Terrorism of 2012;
 - (b) The existence and scope of bilateral and multilateral migration agreements with countries from the Latin America and Caribbean Region, in particular with Argentina, Brazil, Chile, Colombia, Ecuador, Panama, Peru, Trinidad and Tobago and the United States of America, and with Aruba and Curaçao.
2. Please provide information on the ministry or institution responsible for the intergovernmental coordination of the implementation of the Convention and fulfilment of the obligations thereunder, including the role of the National Migration Commission and the Identification, Migration and Alien Affairs Service, the inter-institutional coordination mechanisms. Please also give details of the resources provided for those institutions.
3. Please also provide qualitative information and statistical data disaggregated by sex, age, nationality and migration status on labour migration flows to and from the Bolivarian Republic of Venezuela, including on Venezuelan migrant returnees. Please indicate whether measures have been taken to establish a data-collection system for qualitative and quantitative data on the rights protected by the Convention.
4. Please include information on the specific measures taken to support the more than 2 million Venezuelans who emigrated between 2014 and June 2018. Please supply information on the situation of children whose parents have migrated, and the measures the State party has taken to protect them and facilitate family reunification.
5. Please provide information on the mandate, activities and programmes of the Ombudsman's Office in respect of the rights of migrant workers and of their families under the Convention and international human rights instruments. Give information on the complaints mechanisms and other services, such as helplines, provided by that Office to

* Adopted by the Committee at its twenty-ninth session (3–12 September 2018).



migrants, and services offered, such as the right to submit a complaint directly to the Office. The Committee would welcome information on the human and financial resources made available to the Ombudsman. Please also indicate whether the Office has an agreement with the Ibero-American Federation of Ombudsmen and whether there is a collaboration programme in the sphere of migration.

6. Please present information on the steps taken to promote and publicize the Convention and increase awareness and understanding of its provisions among the general public, and in particular among migrant workers and members of their families and other actors, such as employers, teachers, health workers and government officials, in entities such as the National Bureau of Migration, customs and excise, the Public Prosecutor and the Venezuelan judiciary, including law enforcement officials and those responsible for the judiciary.

7. Please indicate how the media participate in disseminating the Convention and in promoting the Convention rights.

8. Please supply information on cooperation and interaction between the Government and civil society working in the field of the rights of migrant workers and members of their families in the Bolivarian Republic of Venezuela and with Venezuelan migrant workers in other countries in implementing the Convention, including associations of Venezuelans in destination countries. Please indicate whether the representatives of civil society organizations, as well as other interested parties, participate in the elaboration, implementation and evaluation of migration policy, and also in the preparation of the answers to the present list of questions, and the form such participation takes.

B. Information relating to the articles of the Convention

1. General principles

9. Please provide information on whether the Convention has been applied by administration of justice officials or invoked directly before the courts and, if so, please provide examples. Please also present information on:

(a) Judicial and administrative mechanisms competent to examine and decide on complaints by migrant workers and members of their families, including migrant workers in an irregular situation, and in respect of Venezuelan migrants abroad;

(b) The number and type of complaints examined by those mechanisms over the past two years and their outcomes, disaggregated by sex, age, nationality and migration status;

(c) Whether legal assistance was provided both to immigrants in the Bolivarian Republic of Venezuela and to Venezuelan migrants abroad;

(d) Reparations provided to victims of violations, including compensation;

(e) Measures adopted to inform migrant workers and members of their families about redress and reparation available for violations of their rights.

2. Part II of the Convention

Article 7

10. Please indicate whether the national legislation, in particular the Constitution of 1999, the Labour and Workers Act, 2012, and the Foreign Nationals and Migration Act, 2004, ensure that all migrant workers and members of their families enjoy the rights established in the Convention, without distinction of any kind, and whether such legislation covers all the prohibited grounds of discrimination set out in the Convention (arts. 1 (1) and 7), including sex, language, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

3. Part III of the Convention

Articles 8 to 15

11. Please provide information on the measures in place to combat labour exploitation of migrant workers, including those in an irregular situation, especially those in the agricultural, construction, informal trade and domestic service sectors in the State party, and also in respect of Venezuelans in destination countries. Please also supply information on the measures adopted to prevent and provide protection from domestic servitude, forced labour and commercial sexual exploitation, in particular sex tourism. In cases involving women and children, please give greater detail.

12. Please provide information on steps taken to align the national legislation with the International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105), ratified in 1944 and 1964 respectively. Include information as to how resolution No. 9855 of 19 July 2016 applies to migrant workers.

13. Please indicate the measures adopted by the State party, including the provision of identity documents, to guarantee the rights of child migrants, especially unaccompanied children, those in an irregular situation and those transiting the State party.

14. Indicate the measures adopted by the State party to protect child migrants from the worst forms of child labour, for example, application of the ILO Worst Forms of Child Labour Convention, 1999 (No. 182), ratified in 2005, and the reinforcing of the labour inspectorate.

15. Please supply detailed information on measures adopted to investigate complaints of harassment, corruption and abuse of authority by officials responsible for applying the law to migrant workers and members of their families, including in respect of trafficking in persons and migrant smuggling, and complaints of extortion and arbitrary detention. In particular, provide information on the situation of Venezuelan migrants attempting to leave their country who are allegedly prevented from moving, as well as on complaints suggesting that they are being subjected to reprisals, harassment and abuse by Venezuelan local and migration authorities. The Committee would also be grateful for detailed information on the “Plan volver a la Patria” (Return to the Homeland Plan) and on the quantitative and qualitative results of the Plan in terms of effective social and economic reintegration. Please indicate the number of complaints registered and the number of law enforcement officials investigated, prosecuted and convicted in that regard, giving details of the charges and penalties exacted. Please also provide information on how the maritime interceptions conducted by the Bolivarian National Guard comply with the Convention, and in particular give details of the incident that occurred on 18 June 2018, in which a person died following use of firearms by the Guard.

Articles 16 to 22

16. Please clarify whether irregular migration status is grounds for punishment or is criminalized in the State party. Please provide information on the measures adopted by the State party to guarantee due process, including access to justice, legal assistance and interpretation services where necessary, during investigations, arrests, detention and unlawful expulsions of migrant workers and members of their families. Please give information on the safeguards applicable in cases of denial of entry to the country, as well as on alternative measures to detention in such circumstances. Include information on specific safeguards ensuring due process for unaccompanied child migrants in administrative procedures for entry, transit and return, including the right to be heard and the right to a guardian.

17. Please explain the alternative measures used by the State party to avoid detention of migrants, presenting cases and information disaggregated by nationality, sex, age and migration status of migrant workers and members of their families. Clarify action taken by the State party to do away with any sort of migrant detention centre. Please specify how cases of deprivation of liberty have been resolved, and whether those affected by such measures have received reparation, especially those detained in the same prison system as

those convicted of criminal offences, and indicate how many such persons have been freed and are now subject to an alternative procedure. Provide information on the particular process that ensures that unaccompanied child migrants and families with children are never detained on the grounds of being migrants, and give details of how many migrant minors have regained their liberty and are in alternative care centres, with appropriate access to education, health services and food.

18. Please provide updated information, including disaggregated statistical data, on migrant workers and members of their families who have been expelled or who are in proceedings for the expulsion of undocumented and irregular migrants, on the reasons for expulsion and on the safeguards applicable in such cases, including access to justice. Indicate whether, in accordance with United Nations standards, collective expulsion is prohibited by national legislation. Please report on whether migrant workers can challenge expulsion orders and whether this remedy has suspensive effect.

19. Please provide information on the deportation of 1,482 Colombians in August 2015, followed by the exodus of 19,952 Colombians, and inform the Committee on guarantees extended to all immigrants who were collectively expelled prior to the closing of the frontier with Colombia. Please report on measures taken by the Government to ensure comprehensive redress for the migrants concerned or members of their families, such as restitution, compensation or indemnity, reinstatement, measures of satisfaction and of non-recurrence.

Article 23

20. Please provide detailed information on the protection provided by consular services to assist Venezuelan migrant workers and members of their families abroad, including those in an irregular situation, and in particular on the support provided in cases of abuse, trafficking in persons, arrest, detention, expulsion and return in transit and destination countries, in accordance with the Vienna Convention on Consular Relations.

21. Please provide information on guidance or training programmes for consular staff on the rights guaranteed by the Convention, the budget put in place to provide consular protection for migrant workers and members of their families, as well as the human resources made available to attend to their needs and ensure their rights.

22. Please provide information on the consular jurisdictions (professional and voluntary) and support from embassies in the countries that receive the greatest numbers of Venezuelan migrant workers, as well as reinforcement measures in response to changes in migratory flows, specifying which consular assistance programmes they provide, how they cooperate and interact with the countries of transit and destination to ensure respect for the rights under the Convention, as well as emergency measures being taken by the Government to deal with the increased demand for consular services, particularly in the South America region, in view of the emigration of over 2.3 million Venezuelans from 2014 to date.

23. Please describe the measures adopted to promote guidance and training programmes on the human rights of migrant workers and members of their families, including on issues of gender and children's rights, for government employees who provide consular assistance to Venezuelans abroad and who deal with migration and related questions, such as issuing the necessary documentation: passport or identification papers, birth certificates, marriage certificates, certificates of criminal record, legalizations and certifications. Describe action to combat abuse and labour exploitation, as well as to provide consular legal assistance to migrant workers or members of their families who have been detained or imprisoned in detention centres, placed in pretrial detention or detained in any other way, or who are victims of trafficking in persons and other crimes, as well as those subjected to expulsion or repatriation.

Articles 25 to 30

24. Please provide information on the measures adopted to guarantee in practice male and female migrant workers' right to equality of treatment especially in the agricultural, construction, domestic work and informal trade sectors, and the measures taken to monitor

their employment conditions effectively. Please indicate what mechanisms have been established to provide labour and legal protection for migrant workers so as to ensure that they enjoy treatment that is no less favourable than that accorded to nationals with regard to remuneration and working conditions. Please include the measures taken by the Government to ensure that its nationals are treated with dignity in transit and destination countries, in accordance with the law and with human rights standards.

25. Please give information on registration, monitoring and protection mechanisms for migrant workers in domestic service, especially with regard to persons of indigenous origin, that ensure that they enjoy decent, safe working conditions, and are guaranteed a wage under conditions equal to those applied to Venezuelan nationals, as well as access to the same benefits.

26. Please provide information on the measures adopted in law and in practice by which all migrant workers and members of their families have access to public health services, regardless of their migrant status. Please give details of the international agreements and cooperation in place to ensure that Venezuelan migrants have access to health, social security and the transfer of their pension benefits.

27. Please supply information on the measures adopted in law and in practice to guarantee the right of Venezuelan migrant workers' children to be registered immediately or at a later date and thus keep the nationality of their parents. Please also supply information on the measures taken to guarantee that all children of Venezuelan migrant workers are provided with the documentation required to regularize their situation in destination countries and have access to the education and health systems, so that the absence of documents should not prove a barrier. Give details of the difficulties encountered in registering the children of Venezuelan workers born abroad because their parents' lack of the necessary documentation has placed them in an irregular situation. Provide information also on the measures adopted to guarantee the registration of foreign migrant workers' children in the Bolivarian Republic of Venezuela.

28. Please provide information on the measures adopted to guarantee that the children of migrant workers, regardless of their migrant status, have full access to education, including information on measures to guarantee that schools are not obliged to take that factor into account and report children's migrant status to the authorities. Please give information on cooperation with destination countries to ensure that Venezuelan migrant children and adolescents can revalidate their study courses and continue them in the host countries.

Articles 32 and 33

29. Please provide information on the costs of, and facilities for, remittance transfers to the Bolivarian Republic of Venezuela for Venezuelans living abroad, as well as the costs incurred by migrant workers in the State party when transferring funds back to their countries of origin. Please provide information on measures adopted by the State party to guarantee that the families of migrant workers receive this income under the best conditions and without restrictions.

30. Please describe the measures adopted to ensure that migrant workers arriving in, or preparing to depart for, the Bolivarian Republic of Venezuela, have access to information and clear guidance on immigration procedures, including on the conditions of their admission and stay and the remunerated activities in which they may participate, as well as the applicable legislation in force.

4. Part IV of the Convention

Article 41

31. Please provide information on the measures taken by the Bolivarian Republic of Venezuela to adopt or revise the legislation and its effective application to guarantee that Venezuelan migrant workers and members of their families abroad enjoy:

- (a) The right to participate in public affairs in the State party;
- (b) The right to elect representatives and to be elected, and to vote in elections in the State party.

5. Part V of the Convention

Article 58

32. Please supply information on measures adopted to improve the situation of frontier workers and to include the definition of frontier workers in the national legislation, together with specific provisions on protection of their rights, in accordance with article 58 of the Convention. In particular, give details of the policies on movement of persons at frontiers and the guarantees protecting the rights of the inhabitants of these zones who hold dual nationality.

6. Part VI of the Convention

Articles 64 to 71

33. Please provide information on the measures adopted to promote the regular, safe and orderly migration of Venezuelan women, men and unaccompanied children, including through agreements, policies and bilateral and multilateral programmes to improve migration channels.

34. Please indicate if the State party has criminalized migrant smuggling in its legal system and list the sanctions foreseen by the law, providing information on cases identified and prosecuted and the type of sanction handed down.

35. Please explain how the State party is working to eliminate the causes of forced migration, using a human rights-based approach and taking account of the constitutional safeguards enjoyed by Venezuelans, and to prevent and, taking a comprehensive human rights-based approach, address the causes of irregular migration, namely violence and insecurity, unemployment and the erosion of the purchasing power of the minimum wage, lack of access to health and food, as well as possible political factors. Please include information on the manner in which these measures have been included in public policies and programmes and whether they have resulted in a reduction in the number of irregular migrants.

36. Please report on policies and programmes in place to receive Venezuelan returnees, and on the benefits and facilities provided for their reintegration in the country. Please include statistics and indicate the impact of these programmes. Likewise, please provide information on measures taken to receive Venezuelans forcibly expelled from transit and destination countries, to ensure respect for their integrity during the transfer and their reintegration on arrival (through socioeconomic programmes) in their original communities under the protection of the State party.

37. Please provide information on the application in practice of the Act on Organized Crime and the Financing of Terrorism of 2012 in respect of trafficking in persons and migrant smuggling. Please also indicate the progress made towards the adoption of the preliminary bill on trafficking in persons.

38. Please supply information on the adoption of the National Plan against trafficking in persons, and the application of its three action areas — prevention, elimination and victim protection — the number of victims receiving assistance and the type of assistance provided. Please list results obtained. Please also indicate if the State party has established victim shelters, and whether the shelters dispense medical care and mental health guidance.

39. Please provide information on the measures in place to detect and eradicate trafficking in persons and smuggling of migrant women, men and children, including disaggregated data, and details of the resources dedicated to the implementation of the policies and strategies and the results obtained.

40. Please provide information on the measures adopted to prevent and eliminate trafficking in persons and migrant smuggling, especially training in the identification of trafficking and smuggling victims, for the judiciary, law enforcement officers, border guards and social workers, in particular in remote and rural areas.

41. Please supply information on the existence of private employment agencies that recruit workers to work abroad, and on the laws and regulations governing this type of private recruitment, especially:

(a) The measures taken to provide information and training to migrant workers on their rights and obligations and to protect them from abusive employment situations;

(b) Whether recruiters assume joint legal liability with the employer for claims and liabilities that may arise in connection with the implementation of the employment contract, including wages, disability compensation, repatriation and death;

(c) Information on, and conditions for, the issuing and renewal of licences for such employment agencies;

(d) Information on complaints against agencies and inspections, as well as penalties and sanctions for non-compliance;

(e) Steps taken to strengthen migration regulation and monitoring mechanisms to ensure that private employment agencies do not charge excessive fees for their services or act as intermediaries for abusive foreign recruiters.

42. Please supply information on the registration, monitoring and protection systems for migrant workers in domestic service, especially those of indigenous origin, that ensure decent and safe working conditions for such workers and guarantee them a wage on an equal footing with Venezuelan nationals, as well as access to the same benefits.

Section II

43. The Committee invites the Bolivarian Republic of Venezuela to provide brief information (three pages maximum) regarding the protection of migrant workers and members of their families in terms of:

(a) Bills or laws and their respective regulations;

(b) Institutions (and their mandates) or institutional reforms;

(c) Migration policies, programmes and action plans and their scope and financing;

(d) Recently ratified human rights instruments;

(e) Recent studies on the situation of migrant workers and members of their families.

Section III

Data, official estimates, statistics and other information, if available

44. Please provide, if available, updated disaggregated statistical data and qualitative information for the past three years on:

(a) The volume and nature of migratory flows to and from the Bolivarian Republic of Venezuela;

(b) Migrant workers detained in the Bolivarian Republic of Venezuela and Venezuelan nationals detained abroad, and whether such detention is connected to their immigration;

(c) Migrant workers and members of their families who have been expelled or deported to or from the Bolivarian Republic of Venezuela;

(d) The number of unaccompanied migrant children and migrant children separated from their parents in the Bolivarian Republic of Venezuela, and Venezuelan nationals in transit and destination countries;

(e) Remittances received from nationals of the State party working abroad, also expressed as a percentage of gross domestic product;

(f) Reported cases of trafficking in persons and migrant smuggling, investigations, prosecutions and convictions of perpetrators (disaggregated by sex, age, nationality and purpose of trafficking);

(g) Legal assistance services provided to migrant workers and members of their families in the Bolivarian Republic of Venezuela and to Venezuelans working abroad or in transit through third States.

45. Provide additional information on all changes and important measures taken to implement the Convention that are considered a priority, including whether the Bolivarian Republic of Venezuela intends to make the declaration under article 76 of the Convention recognizing the competence of the Committee to receive and consider State-to-State communications, and/or the declaration under article 77 of the Convention recognizing the competence of the Committee to receive and consider individual communications.

46. Please submit an updated core document in conformity with the harmonized guidelines on reporting (HRI/GEN/2/Rev.6). In accordance with General Assembly resolution 68/268, paragraph 16, the common core document should not exceed 42,400 words.
