



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 Eighteenth session

Summary record of the 214th meeting

Held at the Palais Wilson, Geneva, on Monday, 15 April 2013, at 3 p.m.

Chairperson: Mr. El Jamri

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The meeting was called to order at 3 p.m.

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

Second periodic report of Colombia (CMW/C/COL/2; CMW/C/COL/Q/2 and Add.1; HRI/CORE/1/Add.56/Rev.1)

1. *At the invitation of the Chairperson, the delegation of Colombia took places at the Committee table.*
2. **Mr. Calderón Ponce de León** (Colombia) said that the second periodic report of Colombia had been drafted by the inter-agency group responsible for developing the national migration policy. The migration policy, adopted in 2009, was the result of a process launched in 2008 that had closely involved civil society organizations that were in contact with the émigré population, which represented 9 to 10 per cent of the total population and lived mainly in New York, Miami, Madrid, Quito and Caracas. The policy was based on a number of principles, including freedom of movement, and recognized the fundamental rights of migrants on an equal footing with other citizens, in accordance with the Constitution.
3. He emphasized that migration should be regulated and orderly and that the Human Rights Council should insist on that point among States who had not ratified the Convention.
4. Act No. 985 of 2005 had established an inter-agency committee responsible for preventing trafficking in persons, helping victims and launching proceedings against the perpetrators. It formed part of the efforts undertaken to combat trafficking in persons, which was mainly for the purposes of sexual exploitation, forced labour and so-called “servile marriage”, and which mostly affected women; 90 per cent of victims in 2011 and 92 per cent in 2012 were women. In 2011, the authorities had dealt with 21 cases of trafficking at the national level and 21 further cases with international ramifications. Thanks to a partnership with the International Organization for Migration, the Colombian Government was now able to offer support to its citizens in destination countries.
5. The processes of regularization carried out between 2001 and 2008 had affected only a limited number of persons, insofar as the legal and regulatory structure of Colombia allowed a migrant in an irregular situation to regularize his or her situation while remaining in the country. Furthermore, the agreement concluded with MERCOSUR countries permitted migrants in a regular situation to circulate freely within the Southern Common Market.
6. Since 2009, a plan to help returnees implemented through the consulates and the organization of information fairs in receiving countries had facilitated the provision of information to Colombians who wished to return. Act No. 1565 of 31 July 2012 authorized the mobilization of funds to provide support for vulnerable migrant populations. Moreover, the use of mobile consulates helped provide better protection for Colombians abroad.
7. **Mr. Bueno Aguirre** (Colombia) introduced the new body entitled Migración Colombia that had been set up 16 months previously and worked with the approximate 9.4 million migrants who arrived, left or were in transit in Colombia annually. It was a technical body responsible for controlling migration, providing migrant services and issuing residence permits and enforcing the relevant rules. That body enabled the authorities to know the exact number of migrants and to carry out statistical analyses of the data collected.
8. In 2012, 1,000 of the 1,500 public officials staffing 35 migration checkpoints in the country had received training in human rights and international human rights standards.

Information leaflets on the activities of Migración Colombia and how to access its services were distributed at those 35 checkpoints to persons leaving or entering the country.

9. He clarified that the congress of Ibero-American migration authorities, held in 2012 with the support of the United Nations Office on Drugs and Crime, had focused on combating trafficking and the clandestine entry of migrants.

10. The major projects currently being conducted by Migración Colombia were aimed at facilitating the movement of frequent travellers, particularly by opening automatic crossing points, introducing new, more secure residence permits, setting up new migration checkpoints to combat trafficking and establishing a human rights policy within that body.

11. **Mr. Carrión Mena** asked the reasons behind the lack of figures on irregular migration flows and how NGOs had actually participated in drafting the migration policy. He would like more information on holding conditions for undocumented migrant workers in transit who were arrested in Colombia, and on the regularization procedure for migrants, particularly in border zones. Clarification would be welcome of the fate of migrants not admitted to Colombian territory and the budget allocated to the Positive Return Plan for the reintegration of Colombians who had decided to return to the country. He also wished to know whether the authorities were aware of the provisions of the Convention and whether the Colombian delegation could provide more details on migration in general and on asylum. Could the delegation also indicate the extent to which the Government had established any link with Colombian migrant workers, particularly through the mobile consulates and information fairs, and what the Government was doing for citizens who had taken refuge in other countries to escape the violence, including the 30,000 Colombians currently living in Ecuador?

12. **Mr. Ibarra González** asked whether the children of migrant workers had the right to acquire Colombian nationality if their parents were in an irregular situation, and whether they had access to education. The work of the mobile consulates was evidently important in terms of the support Colombia provided to Colombian migrants abroad. Nonetheless, he asked whether the consulates were able to receive relevant legal advice to help the undocumented. In some countries, notably the United States of America, specialist lawyers needed to be consulted regarding matters that touched on migration, work, family and criminal law. Some lawyers worked pro bono, although many migrants were unaware of the fact. Was Colombia able to help Colombian migrants in the United States in particular, but also in Europe and especially in Spain, given its current economic deterioration?

13. **Mr. Kariyawasam** asked how Colombia dealt with Colombians who had fled their country due to internal conflicts, had obtained refugee status in another country and intended to return to Colombia, and whether they were treated as migrant workers. What was the situation regarding trafficking in persons? Were there specific provisions in place for cases of trafficking where the victims were internally displaced persons? What measures had the Colombian Government taken to raise awareness through diplomatic channels of the existing programmes for Colombian migrant workers abroad and to remedy the apparent lack of information?

14. **Ms. Poussi** asked for more information on the certificate of proportionality. She wished to learn what purpose it served; to whom was it delivered and under what conditions; whether it had been abolished and, if so, why. Had the mechanism been assessed, particularly with regard to the employment rate of foreign migrant workers in Colombia? According to the International Organization for Migration (IOM), Colombia ranked third in terms of number of victims of human trafficking. The State party had taken a number of steps in that area, especially at the legislative level, and a national strategy had also been adopted for the period 2007–2012. She would like to know who was mainly responsible for trafficking and whether they were Colombians or foreigners; whether the

implementation strategy had been reviewed and its goals been achieved, and what its current prospects were; whether cases of trafficking had been already brought before the courts and, if so, what action had been taken on them, and how compensation for damages was awarded.

15. **Mr. Nuñez-Melgar Maguiña** said that he wondered how Colombia dealt with the brain drain in the context of its integrated migration policy. Had there been any developments in that regard? What policy was implemented in relation to temporary work agencies and persons who used such businesses to exploit migrant workers?

16. **Mr. Sevim** asked why Colombia maintained its reservations to articles 15, 46 and 47 of the Convention, relating to the property, earnings and savings of migrant workers and members of their families. He also wished to know whether Colombia intended to maintain its reservations to article 67, regarding cooperation between States parties concerned and to article 77, concerning individual communications submitted to the Committee on Migrant Workers.

17. **Mr. Taghizade** requested additional information on seasonal migration between Colombia and the countries in the region, particularly Argentina, and on the working conditions and wages of seasonal workers.

18. **The Chairperson** sought clarification of the following points: the use of the Convention as an instrument of governance; decriminalization of immigration, and conditions of detention of migrant workers; measures to assist victims of trafficking pursuant to Act No. 985; the specific programme to assist women victims of the crisis in Europe; the solidarity fund for migrant workers; human rights training for 1,000 officials and, in particular, the grade of the officials concerned and the contents of the training; the database on foreigners working in Colombia and the role of statistics in that area; the process of preparing the periodic report, including cooperation with civil society organizations and the representation of migrant workers in those organizations; the level of coordination of the integrated migration policy, the regional — and, in particular, subregional — dimension of the policy, and its developments.

19. With regard to the reservations made by Colombia to some articles of the Convention, he drew attention to the fact that the Committee had not identified any discrepancies between Colombian domestic legislation and articles 15, 46 and 47 of the Convention. The same observation applied to International Labour Organization Convention No. 97 and Convention No. 143.

The meeting was suspended at 4.25 p.m. and resumed at 5.10 p.m.

20. **Mr. Calderón Ponce de León** (Colombia) said that the member countries of the South American Conference on Migration ran a centralized system that validated national migration statistics. According to a census conducted in 2005, 3.3 million Colombians lived abroad. The census had also revealed that the coffee-producing zone generated the largest migration flows, owing to its links with the networks of migration to Spain and despite the very low number of armed groups operating outside the law. It had also been observed that the main areas of origin of Colombian migrants were those with the highest GDP per capita.

21. Two studies conducted in 2010 by the Organization for Economic Cooperation and Development and the Inter-American Development Bank had furnished statistics on Colombians living abroad, disaggregated by profession. It was also observed that a high proportion of Colombians settled in the United States practised the profession in which they had been trained. It was in Spain that the gap between profession and occupation was the widest. Colombia had also conducted studies to determine the exact number of its nationals living abroad, which was nonetheless difficult to determine because consular registration

was not compulsory. By combining the figures provided by the consular registers with the number of passports valid for more than six months, the authorities had estimated the number of Colombians living abroad at 4.7 million.

22. **Mr. Bueno Aguirre** (Colombia) said that the authorities had developed an information system that would more accurately determine the number of foreigners in its territory. The figures relating to the flow of travellers, measured at 35 migration checkpoints, were published every month and the statistics were communicated to the organizations concerned. According to the 2005 census, some 110,000 foreigners were living in Colombia. That information would be updated during the year and the residence permit would now have limited validity to ensure that the number of residents in Colombian territory was assessed more accurately. The previous year, 41,000 residence permits had been delivered. All private businesses, including hotels, were obliged to provide information to the authorities regarding any foreigners they employed or accommodated.

23. **Mr. Calderón Ponce de León** (Colombia) said that the 825 organizations with which Colombia worked were associations of Colombian migrants living abroad. Most of the civil society organizations supporting Colombians were to be found in the United States, which was home to 37 per cent of Colombians living abroad. Civil society had participated in the development of the migration policy, and the migrant associations' grievances had been taken into account in the programmes developed for them. Act No. 1465 creating the National Migration System had been adopted in 2011 on the initiative of Congress. It provided for the participation of civil society in the System.

24. **Mr. Bueno Aguirre** (Colombia) said that irregular stay in Colombia did not constitute an offence. Administrative proceedings that could result in expulsion were instituted, but an expulsion order could be contested and any foreigner who filed such an appeal was allowed to remain in the country pending a decision. There were plans to install transition rooms for migrants at all airports and main arrival points for migrants to Colombia, in which foreigners in a very vulnerable position would be able to receive assistance. The project would operate under a policy entitled "Migrant Network in Colombia", coordinating the initiatives taken by various bodies at the local, national and international levels to assist migrants.

25. **Mr. Calderón Ponce de León** (Colombia) said that cross-border migration was difficult to control, despite active collaboration with neighbouring countries, and that it was exacerbated by the strong presence of indigenous communities that did not recognize State-established borders. He admitted that Colombia had been tardy in adopting Decision No. 545 of the Andean Community on labour migration, but stressed that it had now been done and that its implementation had significantly reduced illegal immigration of nationals from neighbouring countries.

26. Colombia was implementing the Agreement on Residence for Nationals of MERCOSUR Member States and Associate Members Peru and Bolivia. The Agreement, which represented a great step forward in the exercise of migrants' rights, enabled people with some identity documents to obtain a two-year residence permit in one of its member countries. The binational statute on migration currently in force with Ecuador did not provide for immediate regularization, but was part of a process of enhancing labour mobility in border integration groupings. Colombia hoped shortly to sign a residence agreement with Ecuador.

27. **Mr. Carrión Mena** asked what became of people who were refused permission to enter Colombia and were therefore likely to be expelled.

28. **Mr. Calderón Ponce de León** (Colombia) said that regularization did not give rise to considerable discussion in Colombia as the immigration rate was low and regularization

applied to fewer than 2,000 immigrants per year. Individuals who were ineligible for regularization were entitled to submit an application for a visa through their consulate, in accordance with Decree No. 4000 of 2004. In Colombia, the number of expulsions was extremely low.

29. Studies conducted among Colombians who had left the country agreed on the main causes of emigration: first, the search for employment; second, an improved quality of life; and, third, family reunification. Violence and insecurity ranked a mere fourth. The number of persons granted international protection was between 375,000 and 400,000, according to the Office of the United Nations High Commissioner for Refugees (UNHCR), and between 330,000 and 340,000 according to the Colombian authorities, equivalent to less than 3 per cent of the population.

30. The Positive Return Plan had been accompanied by an investment plan devised by the Ministry of Foreign Affairs which had amounted to \$250,000 in 2009. That budget currently exceeded \$4 million, taking into account the funds allocated to the implementation of the various agreements under the Plan and to the services provided for repatriated migrants, particularly with regard to training. In addition, on 31 July 2012, Congress had adopted Act No. 1565, which provided a series of benefits, especially in relation to tax, for migrants returning to Colombia.

31. **Mr. Bueno Aguirre** (Colombia) said that 769 migration officials had undergone training in international migration standards in 2012. In that same year, training on refugee issues had been organized with UNHCR.

32. **Mr. Calderón Ponce de León** (Colombia) said that in 2010, the Colombian Government had established a commission on refugee issues which involved the participation of UNHCR and IOM.

The meeting rose at 6 p.m.