



**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 (partial)* of the 215th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 16 April 2013, at 10 a.m.

Chairperson: Mr. El Jamri

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* No summary record was prepared for the rest of the meeting.

This record is subject to correction.

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The discussion covered in the summary record began at 10.40 a.m.

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

Second periodic report of Colombia (continued) (CMW/C/COL/2; CMW/C/COL/Q/2 and Add.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, under article 100 of the Constitution of Colombia, all foreigners had the same rights as Colombian citizens. All minors had the right to be identified. Under the Constitution of Colombia and the law governing nationality, children born in Colombian territory of foreign parents could choose to take Colombian nationality if their parents possessed a valid residence visa. However, non-residents could comply with the terms of the law governing nationality in order to acquire Colombian nationality, following a request either made by the minor concerned, or by the parents. Under Colombian law, children of irregular migrants and children with irregular status had the right to an education and could graduate from Colombian public schools. However, the authorities were obliged to encourage the parents or minors to regularize their situation. The Positive Return Plan did not involve any additional procedures in terms of documentation. Under Act No. 1565 governing the return of Colombians resident abroad, it was the authorities who were responsible for checking the nationality of Colombians wishing to return to Colombia. Once that check had been carried out, applicants were deemed to have complied with the provisions of the above-mentioned law. Mobile consulates were employed where there was a risk of deportation, where significant physical distances were involved, or, in many cases, for humanitarian reasons. Through the use of such consulates, it had been possible to provide the full range of consular services to all Colombians living abroad. Colombian consulates provided social support and legal advice apart from carrying out monthly visits to detention centres where Colombian citizens were being held in custody and providing detainees with legal advice.

3. With regard to the issue of the way in which refugees who had left Colombia owing to the internal conflict were dealt with, the vast majority of the Colombian diaspora had moved abroad for economic, financial or other reasons. Refugees from the conflict received support from Colombian consulates abroad and legislation was in place which provided for reparations for victims of armed conflict, including land restitution. The legislation in question had been introduced in order to meet the needs of those under international protection. Potential beneficiaries must be under international protection, have contacted the Colombian authorities and voluntarily have requested support and registration as victims. Applicants did not have to return to Colombia in order to benefit from reparations and in cases of land restitution victims could be represented by the State and could postpone their return until such time as their safety and security could be guaranteed.

4. With regard to trafficking in persons, internal recruitment and trafficking, under Act No. 985 the State had an obligation to take preventive action. The Ministry of Foreign Affairs worked with local, regional and municipal authorities to provide training for officials and to raise awareness in order to prevent trafficking. Victims of trafficking were often recruited for the purposes of begging, servile marriage or sexual exploitation. Illegal and paramilitary groups also recruited minors and engaged in the sexual exploitation of victims of armed conflict and individuals directly linked to those groups, as well as internal trafficking. The Ministry of Foreign Affairs also played an active role in combating cross-border trafficking and an agreement had been signed with the International Organization for Migration (IOM) to tackle that issue.

5. The Redes Colombia website had been set up by the Ministry of Foreign Affairs to provide information on the rights of Colombian nationals living abroad. Information was also disseminated through visits to areas with large Colombian communities.
6. **Mr. Orduz Cárdenas** (Colombia) said that certificates of proportionality had previously been issued to companies complying with regulations concerning the proportion of foreign staff employed. The certificate had been abolished in order to allow foreigners equal access to the Colombian labour market.
7. **Mr. Calderón Ponce de León** (Colombia) said that Colombia was ranked third in terms of the number of reported victims of trafficking of persons and not in terms of the total number of victims. Colombia had made considerable efforts to identify victims of trafficking in persons through the introduction of interviews carried out with Colombians seeking consular assistance following the loss of their passports.
8. **Mr. Bueno Aguirre** (Colombia) said that the Inter-institutional Committee to Combat Trafficking in Persons had been established through Decree No. 4786 of 2008. In Colombia, trafficking mainly involved the recruitment and transportation of persons for the purpose of forced sexual exploitation. The regions of Eje Cafetero, Antioquia and Valle del Cauca were among those most affected by trafficking, with victims being transported to a number of destinations, in particular Panama, Japan, the United States of America, China, Chile and Argentina. The vast majority of traffickers in Colombia were Colombian nationals. Recruitment was carried out through misleading advertisements containing job offers, travel and marriage agencies and educational establishments. Typically victims were from a poor socioeconomic background and aspired to work in the entertainment industry. Most traffickers were women, who might previously have themselves been victims of trafficking in persons. Migración Colombia (the unit of the Ministry of Foreign Affairs responsible for controlling migration) provided assistance to victims contacting its migration control posts through the Operations Centre to Combat People-Trafficking (COAT), as well as working to prevent trafficking in persons, to raise public awareness of the issue and to catch traffickers in the act. A guide on the early detection of trafficking in persons had been adopted at the level of MERCOSUR. Migración Colombia also provided support to the Colombian national police force, the Office of the Attorney General and the Anti-Trafficking Investigation Group in order to assist them with their investigations.
9. **Mr. Calderón Ponce de León** (Colombia) said that, in 2012, 9 convictions had been handed down and 40 arrests made. Trafficking organizations were transnational in nature, involving members of various nationalities. Victims were recruited in Colombia but exploited abroad. It was vital to strengthen legal cooperation and collaboration in terms of investigation work, in order to break up international trafficking networks effectively.
10. Reparations were offered to victims of trafficking in persons through the consulates. Medical, psychological, social and legal assistance was provided on site, along with accommodation and food. Furthermore, the consulates dealt with the process of repatriating victims.
11. Colombia was concerned at the utilitarian nature of the regulations governing migration and the lack of respect for the human rights of migrants, a result of the fact that no real relevant binding international mechanism had been put in place concerning the movement of persons. The agreement on return was supported jointly by the Institute for Enterprise Creation and Development (INCYDE) of Spain, the National Vocational Training Service of Colombia (SENA) and the Colombian Ministry of Foreign Affairs and covered 300 Colombian families wishing to return to Colombia.
12. **Mr. Bueno Aguirre** (Colombia) said that a large number of immigration officials had undergone training on a range of international instruments. In 2013, a United Nations

High Commissioner for Refugees (UNHCR) training programme had been launched, which covered a number of issues, including refugees.

13. **Mr. Calderón Ponce de León** (Colombia) said that the Creation of Knowledge Diaspora Incubators for Latin America (CIDESAL) project sought to identify qualified human capital in the Colombian diaspora and to establish links between such individuals and stakeholders in the academic, business and scientific research sectors in Colombia.

14. **Mr. Orduz Cárdenas** (Colombia) said that one of the main functions of the Ministry of Labour was to support and oversee employment agencies. The agencies conducted background checks of workers coming into Colombia and of the companies that hired them, with a view to ensuring that the rights of migrant workers were not violated. They also assisted foreign firms in recruiting Colombian nationals. The Ministry was bolstered in 2011 by the establishment of two deputy ministries, which handled labour inspections and job creation. Colombia had ratified the eight fundamental conventions of the International Labour Organization (ILO), but it had not ratified ILO Migration for Employment Convention (Revised), 1949 (No. 97) or ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) because it had deemed that the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families superseded them. However, it realized that some concepts, such as social dialogue, were broader in ILO Conventions Nos. 97 and 143 and it was therefore evaluating the internal changes needed to ratify them.

15. **Mr. Calderón Ponce de León** (Colombia), referring to an earlier question regarding the Positive Return Plan, said that two inter-agency agreements had been signed with the local authorities in Pereira and Bogotá to support individuals returning to Colombia through the Plan. They had been in force until 2010 and had constituted the pilot phase of the Plan. However, since the adoption of Act No. 1655 in July 2012, the Ministry of Foreign Affairs had the legal mandate and budget to handle returnees and would be setting up nine regional offices for that purpose. Civil society had not been involved in preparing the report because, unlike the Government, it did not have any obligations under the Convention. However, it did help disseminate the report. Colombia's reservations to articles 15, 46 and 47 of the Convention were due to incompatibilities with domestic legislation, but they were being reviewed by the Constitutional Court. For example, the reservations to articles 46 and 47 would likely be withdrawn, as the 15 per cent duty on the assets of Colombians returning to the country would be abolished and members of the diaspora were permitted to open a bank account from abroad.

16. **Mr. Carrión Mena**, noting that the policy on migration was rather piecemeal, asked whether there were plans to unify all the relevant decrees under a single comprehensive migration law. He asked whether there was a clear hierarchy among the institutions of the inter-agency commission on migration in order to avoid contradictions and overlapping efforts. He wished to know how many refugee claimants in Colombia were actually in transit to other destinations. He enquired whether foreign migrants enjoyed freedom of association. Referring to information that migrants, chiefly Cuban and Chinese nationals, were often expelled, he asked what happened to migrants once they were denied residency in Colombia. He requested additional information about government efforts to address problematic border areas, in particular with Ecuador and the Bolivarian Republic of Venezuela, and about plans to open more border crossings.

17. **Mr. Ibarra González** asked whether the State party had taken, or was considering taking, steps towards a pan-regional agreement on trafficking in persons.

18. **Mr. Kariyawasam** asked whether international treaties, especially the Convention, were directly applicable in Colombia or whether they had to be incorporated into its domestic legislation.

19. **Mr. Taghizade** regretted the lack of specific data and examples on the implementation of the Convention in the State party and requested information about the scale of migration and by which means migrants were arriving in the country. Recalling that migrants in an irregular situation should be held separately from other offenders, he asked how many such migrants were in detention and what special arrangements, such as legal aid, health care and education, were provided for women and children being detained because of their irregular status.

20. **Mr. Sevim** strongly urged the Government to take action regarding the right of migrants to transfer their earnings and savings from Colombia to their State of origin or any other State.

21. **The Chairperson**, in his capacity as a member of the Committee, requested additional information on the coordination of the comprehensive migration policy.

The meeting was suspended at 11.50 a.m. and resumed at 12.10 p.m.

22. **Mr. Calderón Ponce de León** (Colombia), in reply to the question about the legislative framework for migration, said that a law had been enacted in 2011 under which previous relevant decrees were subsumed. The Office of the Deputy Minister of Multilateral Affairs was responsible for processing refugee claims. Denial of refugee status did not lead to expulsion; rather, claimants were provided with the travel documents needed to regularize their situation. The number of Cuban and Chinese nationals entering Colombia had indeed increased. However, most were merely in transit in Colombia, although some were encouraged by criminal gangs to make fraudulent refugee claims in order to obtain international protection, thereby circumventing Colombian migration rules.

23. **Mr. Bueno Aguirre** (Colombia) said that the State party was essentially a transit country for irregular migrants. Almost half of the 700 irregular migrants detected in Colombia in 2012 had been of Cuban nationality. The remainder had come from as far afield as China, Bangladesh and Lebanon. Irregular migrants arrived by air, land, sea and river. They generally used false identity documents and were instructed by traffickers to apply for refugee status if caught by the authorities. Bilateral efforts, in particular with Ecuador, to combat trafficking in border areas were being stepped up. The route taken by many irregular migrants across the Colombian border into Panama was especially dangerous. Being an irregular migrant was not a crime in the State party.

24. **Mr. Orduz Cárdenas** (Colombia) said that the rights of immigrants to form and join associations, including trade unions, provided for in the Convention and under the International Labour Organization's Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), were implemented under the Substantive Labour Code. In the framework of ILO's Migrandina project, a tripartite commission had been set up within the National Commission on Labour and Wage Policy to study the matter of migrant labour.

25. **Mr. Calderón Ponce de León** (Colombia) said that the border area between the State party and Venezuela was heavily populated and that nationals of both countries lived in and travelled visa-free to and from both sides of the frontier. Trafficking in drugs and other contraband in the border area constituted a major problem that both countries were working together to combat. The border between Colombia and Ecuador was similarly busy. The Ministry of Foreign Affairs, in conjunction with the International Organization for Migration, had established a unique health-care programme designed to meet the needs of 30,000 Colombians living in Ecuador. Colombia had participated as an observer State in the December 2012 meeting of the Regional Consultation Group on Migration in Panama City and was working with other countries in the area, such as Mexico and Costa Rica, to combat human trafficking.

26. Under the Constitution, international conventions to which Colombia became a party were automatically integrated into domestic law, which was implemented through decrees and administrative regulations. The only migration statistics kept concerned cross-border movements.

27. **Mr. Bueno Aguirre** (Colombia) said that statistics on all cross-border movements were available. Laws on human trafficking gave the State party tools with which to combat the phenomenon, but the reticence of victims to report trafficking hampered such efforts. The State party was working to raise general awareness of the issue, to promote the repression of trafficking through the courts and to coordinate its efforts to counter human trafficking with those of other Latin American countries. The forthcoming meeting of the Regional Consultation Group on Migration, which would be held in Costa Rica in November 2013, would provide a further opportunity to reinforce regional cooperation.

28. **Mr. Calderón Ponce de León** (Colombia) said that remittances sent from abroad went directly to recipients in Colombia. The Government merely offered services to help families to invest remittances, for instance through mortgages or contributions to pension plans. The central bank had ruled that Colombians domiciled abroad could open bank accounts in Colombia.

29. **Mr. Carrión Mena** (Country Rapporteur) said that the State party was essentially a country of origin and transit for migrant workers and that, although much remained to be done, it had made considerable progress in implementing the Convention.

The meeting rose at 12.55 p.m.