



**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

Tenth session

20 April-10 May 2009

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 74 OF THE CONVENTION**

**Concluding observations of the Committee on the Protection of the Rights
of All Migrant Workers and Members of Their Families**

COLOMBIA

1. The Committee examined the initial report of Colombia (CMW/C/COL/1) at its 101st and 103rd meetings (see CMW/C/SR.101 and 103), held on 21 and 22 April 2009, and adopted the following concluding observations at its 112th and 114th meetings, held on 29 and 30 April 2009.

A. Introduction

2. The Committee, while regretting the delay in submission, welcomes the initial report of the State party, and also the replies to the list of issues and the additional information presented by the delegation, which enabled it to obtain a clearer idea of the state of implementation of the Convention in the State party. The Committee also appreciates the frank dialogue conducted with the delegation.

3. The Committee notes that, while Colombia is mainly a country of origin of migrant workers, it has a number of foreign migrant workers staying in its territory, or in transit.

4. The Committee notes that some of the countries in which Colombian migrant workers are employed are not yet parties to the Convention, which could constitute an obstacle to the enjoyment by those workers of the rights to which they are entitled under the Convention.

B. Positive aspects

5. The Committee welcomes the State party's efforts to promote and protect the rights of Colombian migrant workers abroad, and also welcomes the adoption of bilateral agreements with countries that employ Colombian migrant workers, insofar as they promote the rights of migrant workers.

6. The Committee further welcomes:

(a) The establishment, by Decree No. 1239 of 2003, of the National Intersectoral Migration Committee as the body responsible for promoting sound, equitable, humane and lawful conditions for the migration of workers and members of their families;

(b) The establishment of the Migrant Information and Support Centre (CIAMI) with the aim of providing information on work and/or services outside the country;

(c) The entry into force of Act No. 1070 of 2006 governing the voting rights of foreigners resident in Colombia, and of Decision No. 373 of 31 January 2007, which enabled foreigners resident in Colombia to register to vote in the elections for mayors, municipal councillors and members of local administrative bodies, held on 28 October 2007;

(d) The establishment in 2003 of the "Colombia Nos Une" ("Colombia Unites Us") programme as part of the 2006-2010 national development plan, with the objective of strengthening the ties between Colombians living abroad and their families, their regions of origin and their country at large;

(e) The implementation of two processes for regularizing the situation of migrants in the State party, the first in 2001, and the second currently under way;

(f) The establishment in November 2008 of the Inter-institutional Committee to Combat Trafficking in Persons, with the corresponding Comprehensive National Strategy for 2007-2012, and the Operations Centre to Combat Human Trafficking;

(g) The ongoing process of drafting a comprehensive migration policy, which involves all government agencies whose work concerns the migration process, with a view to dealing comprehensively with the social, political, economic, cultural, legal and institutional phenomena associated with international migration.

7. The Committee also welcomes the country's accession to or ratification of the following instruments:

(a) The Optional Protocols to the Convention on the Rights of the Child, one on the sale of children, child prostitution and child pornography, the other on the involvement of children in armed conflict, on 11 November 2003 and 25 May 2005, respectively;

(b) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, ratified on 4 August 2004;

(c) The Convention (No. 182 of 1999) of the International Labour Organization (ILO) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, ratified on 28 January 2005.

C. Main subjects of concern, suggestions and recommendations

1. General measures of implementation (arts. 73 and 84)

Legislation and implementation

8. The Committee considers that the reservations entered by the State party in respect of articles 15, 46 and 47 of the Convention appear to be of a declaratory and technical nature and to entail no conflict between the Convention's objectives and the State party's relevant legislation.

9. The Committee recommends that the State party consider withdrawing the reservations entered in respect of articles 15, 46 and 47 of the Convention.

10. The Committee notes that Colombia has not yet made the declarations provided for in articles 76 and 77 of the Convention, under which it would recognize the competence of the Committee to receive communications from States parties and from individuals.

11. The Committee encourages the State party to consider the possibility of making the declarations provided for in articles 76 and 77 of the Convention.

12. The Committee has not yet ratified ILO Convention No. 97 concerning Migration for Employment (Revised), 1949 and ILO Convention No. 143 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, 1975. It also expresses its concern at the fact that the State party has not yet acceded to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, ratified on 4 August 2004.

13. The Committee invites the State party to consider the possibility of acceding as soon as possible to ILO Convention No. 97 and Convention No. 143, as well as to the Protocol against the Smuggling of Migrants by Land, Sea and Air.

Data collection

14. The Committee recalls that information on migration flows, including immigration and transit flows, is essential to an understanding of the situation of migrant workers in the State party and to an assessment of the actual implementation of the Convention. The Committee has not received any information from the State party on the different categories of migrants that are

relevant for assessing the actual implementation of the Convention, in particular with respect to migrants in transit, migrant women, unaccompanied migrant children and children of migrant workers who remain behind in the country of origin, and frontier and seasonal workers.

15. The Committee recommends that the State party:

(a) Continue its efforts to create a database that takes into account all aspects of the Convention and includes detailed data on the situation of migrant workers in Colombia, migrants in transit and emigrants;

(b) Include in this database data and statistics on migrant women, unaccompanied migrant children and children of migrant workers who remain behind in the country, and frontier and seasonal workers. When it is impossible to obtain precise information, for example on migrant workers in an irregular situation, the Committee would appreciate data based on studies or on approximate estimates;

(c) Carry out studies on the impact of migration on children, including children of Colombian migrants who remain in the country;

(d) Provide detailed information to the Committee on the situation of Colombian female migrant workers abroad.

Training in and dissemination of the Convention

16. The Committee welcomes the training seminars held in the State party on the provisions of the Convention, and the dissemination of the Convention among the authorities. However, the Committee has not received any information on the design and implementation of specific ongoing training programmes on the content of the Convention.

17. The Committee recommends that the State party promote ongoing training programmes on the content of the Convention for all officials working on migration issues or in contact with migrant workers and members of their families, including at the local level.

18. The Committee also recommends that the State party make the provisions of the Convention widely known to both Colombian migrant workers abroad and foreign migrant workers residing or in transit in Colombia, as well as to communities as a whole, inter alia through long-term awareness-raising campaigns.

Participation of civil society

19. The Committee regrets that civil society was not involved in the preparation of the State party's report.

20. The Committee recommends that the State party consider involving civil society organizations working in the field of migrants' rights in the preparation of the next report, and in activities relating to the implementation of the Convention.

2. Human rights of all migrant workers and members of their families (arts. 8-35)

21. The Committee noted that the centres run by the Administrative Department of Security (DAS) are used to detain migrants in an irregular situation. However, the Committee is concerned at gaps in the information provided by the State party with regard to the procedures for the detention of migrants by the Administrative Department of Security.

22. The Committee invites the State party to provide detailed information on the procedures applied by the Administrative Department of Security for the detention of migrant workers and members of their families. The Committee would also like to receive detailed information on the registration system and the physical conditions of the facilities in which migrants are held in the DAS centres.

23. The Committee notes that it is planned to establish a migrants' reception centre in the near future.

24. The Committee recommends that the State party finalize its plans for a migrants' reception centre, so as to establish a special centre to receive migrant workers and their family members, which respects and guarantees the rights enshrined in the Convention.

25. The Committee notes that responsibility for providing migrant workers with the information required under article 33 of the Convention is shared between various government bodies, and welcomes the establishment of the Migrant Information and Support Centre (CIAMI) for the purpose of providing information on work outside the country. However, the Committee has received no information on how Colombian migrant workers can obtain this information, and whether this type of service also exists for foreign immigrants in Colombia.

26. The Committee invites the State party to step up its efforts to guarantee the right of all migrant workers (whether emigrants or immigrants, or in transit) and their families to be informed of the rights set forth in the Convention, the conditions applicable to their admission, their rights and obligations under the law, and any other matters that will enable them to comply with administrative or other formalities. In addition, the Committee urges the State party to provide the information to foreign migrants in Colombia.

27. The Committee notes that an appeal may usually be lodged through government channels (application for review or appeal) against an administrative act ordering an expulsion, with suspensive effect. However, the Committee is concerned that, when the expulsion is carried out on the grounds cited in article 105 of Decree No. 4000 of 2004 (for example, activities jeopardizing national security, public order or public health), no appeal may be lodged. In addition, the Committee is concerned that no appeal may be lodged against the cancellation of a visa by the Ministry of Foreign Affairs.

28. The Committee recommends that the State party adopt the necessary measures to ensure that expulsions/deportation procedures are respected, in compliance with article 22 of the Convention, in order to guarantee, in particular:

(a) That, in all cases, interested parties have the right to submit the reasons why they should not be expelled and to have their case reviewed by the competent authority, unless compelling reasons of national security require otherwise;

(b) The right to seek a stay of the decision of expulsion, pending the review mentioned in the above subparagraph;

(c) The right to seek compensation if a decision of expulsion that has already been executed is subsequently annulled;

(d) The Committee also recommends that the State party consider conducting a study of the compatibility of national legislation and the Convention in the area of expulsion and deportation.

29. The Committee notes with concern that, even though the children of all migrant workers, including those without documentation, may be registered with the Civil Registry, only children having at least one parent domiciled in Colombia are eligible for Colombian nationality. The Committee is particularly concerned about children who may become stateless. In this connection, the Committee welcomes the fact that the State party is in the process of acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

30. **The Committee recommends that the State party, in accordance with article 29 of the Convention, should ensure, both in law and in practice, the right of all children to have a name, to registration of their birth and to a nationality. The Committee urges the State party to complete as soon as possible the process of accession to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.**

3. Other rights of migrant workers and members of their families who are documented or in a regular situation (arts. 36-56)

31. The Committee is concerned at the dearth of information about how the State party guarantees the right of association of migrant workers.

32. **The Committee encourages the State party to take the necessary steps to ensure that migrant workers have the right to form associations and trade unions and to sit on their executive bodies, in accordance with article 40 of the Convention and with the provisions of ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize, 1948.**

33. The Committee notes the progress made by the State party in its efforts to guarantee the right of Colombian workers resident abroad to vote in Colombia's presidential and Senate elections. However, the Committee has received no detailed information on how the right to vote is implemented in practice and what measures the State party is taking to facilitate the exercise of the right to vote by Colombian workers abroad.

34. The Committee invites the State party to provide detailed and updated information on the number of Colombian migrant workers who exercise the right to vote abroad. In addition, the Committee invites the State party to provide information on any measures it is taking for the effective guarantee of that right.

4. Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families (arts. 64-71)

35. The Committee welcomes the implementation of information campaigns in an effort to mitigate the lack of information on migration and to prevent Colombian migrants from becoming ensnared in networks engaged in human smuggling and trafficking. It also welcomes, inter alia, the steps taken to provide more resources for aiding victims and for pursuing the criminal groups that organize these illicit activities. The Committee is concerned, however, that the State party continues to be a major country of origin of victims of trafficking, especially women and girls trafficked for commercial, sexual and labour exploitation.

36. The Committee recommends that the State party continue and redouble its efforts to combat trafficking in persons, especially women and children, and the smuggling of migrant workers, in particular by adopting measures:

(a) To combat the dissemination of false information regarding emigration and immigration;

(b) To detect and put a stop to the illegal or clandestine movement of migrant workers and their family members and to impose effective sanctions on individuals, groups or entities that organize or direct such movements or provide assistance to that end;

(c) To impose effective sanctions on individuals, groups or entities that use violence, threats or intimidation against any migrant workers or their family members;

(d) To ensure consular protection for victims of trafficking abroad;

(e) To step up campaigns for the prevention of irregular migration, including human trafficking.

5. Follow-up and dissemination

Follow-up

37. The Committee requests the State party to include detailed information in its second periodic report on the measures taken to give effect to the recommendations made in these concluding observations. The Committee recommends that the State party take all appropriate measures to ensure that these recommendations are implemented, inter alia by transmitting them to the competent national and local authorities, for consideration and action.

Dissemination

38. The Committee also requests the State party to disseminate these concluding observations, particularly to public agencies and the judiciary, non-governmental organizations and other members of civil society, and to take the necessary steps to make them known to Colombian migrant workers abroad and to foreign migrant workers in transit or residing in Colombia.

Common core document

39. The Committee invites the State party to update its common core document in accordance with the 2006 Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (HRI/MC/2006/3 and Corr.1).

6. Next periodic report

40. The Committee notes that the submission date for the State party's second periodic report is 1 July 2009. Under the present circumstances, the Committee urges the State party to submit its second periodic report by 1 May 2011 at the latest.
