



# 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

### Concluding observations on the third periodic report of the Plurinational State of Bolivia\*

1. The Committee considered the third periodic report of the Plurinational State of Bolivia<sup>1</sup> at its 500th and 502nd meetings,<sup>2</sup> held on 22 and 23 September 2022, and adopted the present concluding observations at its 512th meeting, held on 30 September 2022.

#### A. Introduction

2. The Committee welcomes the submission of the third periodic report of the State party, its replies to the list of issues<sup>3</sup> and the additional information provided by the delegation, headed by the Minister of Justice and Institutional Transparency, who was accompanied by the Deputy Minister of Justice and Fundamental Rights. The delegation also consisted of representatives of the Ministry of the Interior, including the Director General for Migration, as well as the Permanent Representative and officials from the Permanent Mission of the Plurinational State of Bolivia to the United Nations Office and Other International Organizations in Geneva.

3. The Committee appreciates the open and constructive dialogue held in hybrid format with the delegation, the information provided by the State party's representatives and the constructive approach to the meetings, which allowed for joint analysis and reflection.

4. The Committee is aware that the Plurinational State of Bolivia, as a country of origin of migrant workers, has made progress in protecting the rights of its nationals abroad. However, it notes that, as a country of origin, transit, return and destination, the State party faces challenges in respect of the protection of the rights of migrant workers and members of their families.

5. The Committee notes that some Bolivian nationals have settled in countries belonging to the Southern Common Market (MERCOSUR) and the Andean Community and therefore have access to benefits under the relevant migration agreements, such as the Andean Migration Statute, the Andean Labour Migration Instrument and the Agreement on Residence for Nationals of the States Parties of MERCOSUR, the Plurinational State of Bolivia and Chile.

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\* Adopted by the Committee at its thirty-fifth session (19–30 September 2022).

<sup>1</sup> [CMW/C/BOL/3](#).

<sup>2</sup> [CMW/C/SR.500](#) and [CMW/C/SR.502](#).

<sup>3</sup> [CMW/C/BOL/RQ/3](#).



## B. Positive aspects

6. The Committee notes with appreciation the ratification of or accession to the following instruments:

- (a) the Inter-American Convention on Protecting the Human Rights of Older Persons, in May 2017;
- (b) The International Labour Organization (ILO) Safety and Health in Construction Convention, 1988 (No. 167), in February 2015;
- (c) The Optional Protocol to the Convention on the Rights of the Child on a communications procedure, in April 2013;
- (d) The ILO Domestic Workers Convention, 2011 (No. 189), in April 2013.

7. The Committee welcomes the adoption of the following legislative measures:

- (a) Act No. 1173 of 3 May 2019 on Summary Criminal Procedure and Strengthening Measures to Combat Violence against Children, Adolescents and Women;
- (b) Act No. 1152 of 2 February 2019, “Towards a Unified, Universal and Free Health-Care System”, amending Act No. 475 of 30 December 2013 on the Provision of Comprehensive Health Care of the Plurinational State of Bolivia, as amended by Act No. 1069 of 28 May 2018.
- (c) Act No. 1067 of 28 May 2018, amending Act No. 370, the Migration Act, to expand the register of persons born abroad to a Bolivian mother or father;
- (d) Act No. 997 of 13 November 2017, amending the Migration Act to authorize the issuance of identity cards valid indefinitely to foreign nationals over the age of 60 who hold permanent residence and to waive the migration service fees for persons with disabilities who travel abroad and for indigent individuals and their families who need to travel abroad to seek medical treatment for serious diseases;
- (e) Act No. 464 of 19 December 2013 on the Plurinational Service for the Assistance of Victims and Act No. 463 of 19 December 2013 on the Plurinational Public Defence Service;
- (f) Act No. 370 of 8 May 2013, the Migration Act, and Supreme Decree No. 1923 of 12 March 2014, which provide protection to foreign migrant workers and their families.

8. The Committee also welcomes the following institutional and policy measures:

- (a) The Multisectoral Comprehensive Development Plan for Peaceable, Harmonious, Ethical and Environmentally Sustainable Living (*Vivir Bien*) – Against Racism and All Forms of Discrimination 2021–2025, adopted by the extraordinary session in Decision No. 001/2022 of March 2022;
- (b) Ministerial Decision No. 001/2022 of January 2022, whereby migrants are considered a vulnerable group and should be afforded flexibility when enrolling in educational institutions;
- (c) Ministerial Decision No. 196/2021 of March 2021 adopting the procedure regarding complaints of workplace harassment and sexual harassment against women in the workplace;
- (d) The standardized protocol for the specialist care of victims of human trafficking and smuggling, adopted via Decision No. FGE/JLP/DAJ/2017/2020 of November 2020;
- (e) Decision No. 148/2020 of August 2020 of the Directorate General of Migration, which grants temporary residence permits to Venezuelan nationals who enter the country as minors;
- (f) The Inter-Agency Protocol for the Care and Protection of Child, Adolescent and Women Victims of Violence, adopted through Ministerial Decision No. 154/2019 of December 2019;

(g) Supreme Decrees No. 1800 (2013), No. 2965 (2016), No. 3676 (2018) and No. 4576 (2021) on four regularization processes for foreign nationals in an irregular situation and the provision of identity documents.

9. The Committee welcomes the State party's vote in favour of the Global Compact for Safe, Orderly and Regular Migration adopted by the General Assembly in its resolution 73/195 and recommends that the State party continue its implementation efforts as part of its international obligations under the Convention, given the convergence between both international instruments in terms of the protection of the rights of migrant workers and members of their families.

10. The Committee takes note of the Plurinational System for Follow-up, Monitoring and Statistics on Human Rights Recommendations in Bolivia (SIPLUS Bolivia), unveiled in 2015.

## C. Principal subjects of concern and recommendations

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

#### Current context

11. The Committee notes with concern the disproportionate impact of the coronavirus disease (COVID-19) pandemic on migrant workers and members of their families, as well as reports that quarantine camps were set up at land borders in areas of extreme geographic and climatic conditions, endangering Bolivian nationals who were trying to return to the country.

**12. The Committee recommends that the State party protect the rights of migrants and members of their families, in particular their right to health, and lessen the adverse effects of the COVID-19 pandemic, taking into consideration the joint guidance note on the impacts of the pandemic on the human rights of migrants issued by the Committee and the Special Rapporteur on the human rights of migrants.<sup>4</sup>**

#### Legislation and application

13. The Committee notes with satisfaction the publication of the Migration Act, under which work-related stays are defined as a form of residence, and initiatives such as the issuance of simplified travel documents for residents of border areas. It also notes that the international human rights instruments ratified by the State party form part of its law. However, it finds it troubling that:

- (a) Migrant workers are not categorized as they are categorized in the Convention;
- (b) The implementing regulations of Act No. 997, under which the Migration Act was amended, have not been adopted.

**14. The Committee recommends that the State party:**

- (a) **Ensure that its legislation, in particular Act No. 370, the Migration Act, is in full compliance with the Convention, including by categorizing migrant workers as they are categorized in article 2 (2) of the Convention;**
- (b) **Adopt the regulations implementing Act No. 997, on identity documents for foreign nationals and waivers of migration service fees.**

15. The Committee notes that, according to the implementing regulations of Act No. 251, the Protection of Refugees Act, applications by stateless persons will be processed on a provisional basis, in accordance with the procedure established in the Act. However, the Committee is concerned about the lack of a law on statelessness.

**16. The Committee recommends that the State party adopt a law on statelessness.**

<sup>4</sup> See [www.ohchr.org/sites/default/files/Documents/Issues/Migration/CMWSPMJointGuidanceNoteCOVID-19Migrants.pdf](http://www.ohchr.org/sites/default/files/Documents/Issues/Migration/CMWSPMJointGuidanceNoteCOVID-19Migrants.pdf).

**Articles 76–77**

17. The Committee reiterates that the State party has not yet given consideration to making the declarations provided for in articles 76 and 77 of the Convention.

18. **The Committee reiterates its previous recommendations<sup>5</sup> and encourages the State party to make the declarations provided for in articles 76 and 77 of the Convention and recognize the competence of the Committee to receive communications from States parties and individuals as soon as possible.**

**Ratification of relevant instruments**

19. The Committee is concerned that the State party has not yet acceded to the following ILO Conventions: the Migration for Employment Convention (Revised), 1949 (No. 97); the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); the Private Employment Agencies Convention, 1997 (No. 181); and the Violence and Harassment Convention, 2019 (No. 190).

20. **The Committee reiterates its invitation to the State party to consider ratifying ILO Conventions No. 97 and No. 143<sup>6</sup> and encourages it also to consider ratifying ILO Conventions No. 181 and No. 190.**

**Comprehensive policy and strategy**

21. The Committee notes with concern the absence of a comprehensive policy and strategy for the implementation of the Convention.

22. **The Committee recommends that the State party:**

(a) **Develop a comprehensive migration policy and strategy that, based on human rights and in line with the Convention, is informed by gender, child and intersectional perspectives;**

(b) **Provide the human, technical and financial resources needed for the effective fulfilment of its obligations in respect of the rights of migrant workers and members of their families, including clear timelines, indicators and benchmarks for monitoring and evaluation.**

**Coordination**

23. The Committee is concerned about the National Migration Board's lack of the resources it needs to effectively coordinate public policies on migration and about the small number of meetings that have been held with a view to implementing the rights enshrined in the Convention.

24. **The Committee recommends that the State party make its institutional framework for the coordination of all policies relating to the rights of migrant workers more robust and that it provide the National Migration Board with the human, technical and financial resources that it needs to function effectively, ensuring inter-institutional coordination and encouraging the involvement of departmental, provincial and municipal governments, as well as civil society organizations.**

**Data collection**

25. The Committee recognizes the State party's efforts to provide statistical data on migration and notes with concern:

(a) The lack of a centralized data-collection system, which makes it difficult to assess the implementation of the Convention, particularly with respect to migrant workers abroad and their conditions of employment, returnees, migrants in transit, women migrants, unaccompanied children and foreign migrant workers in the State party;

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<sup>5</sup> CMW/C/BOL/CO/1, para. 12, CMW/C/BOL/CO/2, para. 15, and CMW/C/BOL/CO/2/Corr.1.

<sup>6</sup> CMW/C/BOL/CO/1, para. 16, CMW/C/BOL/CO/2, para. 17, and CMW/C/BOL/CO/2/Corr.1.

(b) The lack of public access to statistical data on residency applications, issuance of travel documents or expulsion orders;

(c) The failure to update and the limited effectiveness of the Plurinational System for Follow-up, Monitoring and Statistics on Human Rights Recommendations in Bolivia (SIPLUS Bolivia).

**26. The Committee recommends that the State party, in line with target 17.18 of the Sustainable Development Goals:**

(a) **Put in place a system to collect data, broken down by sex, age, nationality and/or origin, that sheds light on the situation of migrant workers and members of their families in the State party and covers all aspects of the Convention;**

(b) **Ensure public access to available statistics on migrant workers, in a regular situation or not, and members of their families; and guarantee that their privacy is protected so that personal data are not used for migration checks or to justify discrimination in the provision of public and private services;**

(c) **Update SIPLUS Bolivia and strengthen its effectiveness as well as that of the system of human rights indicators, and disseminate the relevant information.**

#### **Independent monitoring**

27. The Committee takes note of the recent election of the Ombudsman, the creation of the human mobility unit in the Office of the Ombudsman and the designation of the Office, pursuant to Act No. 1397 of 29 September 2021, as the national mechanism for the prevention of torture. However, the Committee is concerned about the following:

(a) The insufficient resources set aside for the Office of the Ombudsman and the Office's fragility, caused by the long period of time during which the Office was headed by an interim Ombudsman and the delays in the election of the new Ombudsman;

(b) The failure of the national mechanism for the prevention of torture to make regular visits to migrant holding centres.

**28. The Committee recommends that the State party:**

(a) **Strengthen the institutional framework of the Office of the Ombudsman, in line with the Paris Principles, including by setting aside sufficient human, technical and financial resources, to protect the rights of all migrant workers and members of their families, in line with the Convention, and ensure that the process of selecting the Ombudsman is transparent, merit-based and guarantees the independent and autonomous nature of the Office;**

(b) **Ensure that the national mechanism for the prevention of torture monitors, independently and effectively, places of deprivation of liberty in which migrants may be placed in the context of migration management operations.**

#### **Training on and dissemination of information about the Convention**

29. The Committee is concerned about the lack of information on training on the Convention for law enforcement officials and about the insufficient dissemination to all stakeholders of information on the rights enshrined in the Convention.

**30. The Committee reiterates its previous recommendations<sup>7</sup> and recommends that the State party:**

(a) **Organize periodic training programmes on the rights of migrant workers and members of their families under the Convention for officials working in the area of migration, in particular the police and border control authorities, judges, prosecutors, consular officers and social workers;**

<sup>7</sup> [CMW/C/BOL/CO/1](#), para. 20, [CMW/C/BOL/CO/2](#), para. 21, and [CMW/C/BOL/CO/2/Corr.1](#).

(b) **Cooperate with civil society organizations and the media to disseminate information about the Convention, especially in border areas, and ensure that all migrant workers have access to information about their rights and how to exercise them.**

#### **Participation of civil society**

31. The Committee is concerned about the limited participation of civil society in the implementation of the Convention, the lack of information about the participation of civil society in the preparation of the national report, the lack of alternative reports to help guide the Committee's dialogue with the State party and the limited dialogue and coordination in respect of legislation and policies involving migrant workers and their families.

32. **The Committee recommends that the State party engage in closer dialogue with civil society organizations, including organizations providing services to migrants, in particular when preparing its periodic report, and that it make certain that civil society participates in the implementation of the Convention and the recommendations contained in the present concluding observations.**

## **2. General principles (arts. 7 and 83)**

#### **Non-discrimination**

33. The Committee takes note of the National Committee against Racism and All Forms of Discrimination and the protocol for receiving reports of, prosecuting and punishing cases of racism and all forms of discrimination in the public administration. However, it is concerned about:

(a) The insufficient resources set aside to enforce Act No. 45, the Combating Racism and All Forms of Discrimination Act;

(b) The limited number of convictions in cases involving the offences defined in the Act;

(c) Social stigmatization and xenophobia in the public statements on migrant workers, Venezuelan nationals in particular, made by immigration enforcement agents, officials dealing with labour matters, the media and others;

(d) The cap of 15 per cent, established in the General Labour Act of 1939, on the percentage of foreign workers in Bolivian companies or institutions.

34. **The Committee recommends that the State party:**

(a) **Ensure that resources sufficient for the enforcement of Act No. 45, the Combating Racism and All Forms of Discrimination Act, are set aside;**

(b) **Make certain that reports of discrimination are properly investigated and that those responsible are held accountable for their actions;**

(c) **Strengthen public awareness campaigns and training of public servants on migration and the rights of all migrant workers and members of their families, and on the importance of combating social stigmatization, including in the media;**

(d) **Amend the General Labour Act, including to eliminate the cap of 15 per cent on the percentage of foreign workers in Bolivian companies or institutions.**

#### **Right to an effective remedy**

35. The Committee notes with concern:

(a) Migrant workers' lack of knowledge of how to file complaints;

(b) Migrant workers' limited access to legal aid;

(c) The scant information on the number and type of complaints considered by the judicial and administrative authorities, on investigations and on the judgments rendered in cases in which reference has been made, as in judgment No. 2270/2012 of the Plurinational Constitutional Court, for example, to the Convention.

36. **The Committee recommends that the State party:**

(a) **Facilitate access to justice for all migrant workers, including by removing obstacles that prevent them from filing complaints, launching awareness-raising campaigns on the administrative and judicial means of filing complaints and obtaining redress, and investigating abuses and rights violations and punishing the perpetrators;**

(b) **Give migrant workers access to the Plurinational Service for Assistance to Victims and the Plurinational Public Defence Service;**

(c) **Collect disaggregated data on the number and type of complaints considered by the judicial and administrative authorities, the type of offence and/or conduct alleged and the results of the proceedings, including judgments in which reference is made to the Convention.**

### **3. Human rights of all migrant workers and members of their families (arts. 8–35)**

#### **Migrant women**

37. The Committee is concerned about the lack of information on measures taken to ensure gender equality in migration policies, the traditional roles played by many migrant women in the labour market – as domestic workers, for example – and the violation of their labour rights.

38. **The Committee recommends that the State party:**

(a) **Ensure gender equality in migration policies, in particular by taking measures to eliminate discrimination against migrant women, including gender-based violence, and make certain that they can exercise their rights to health, education and employment;**

(b) **Step up labour inspections to ensure that the working conditions of women migrant domestic workers, including those in an irregular situation, are monitored more closely, in accordance with the Committee's general comment No. 1 (2011), and that they have access to complaint mechanisms.**

#### **Migrant children and adolescents**

39. The Committee notes with concern:

(a) The lack of protocols for action in the case of unaccompanied migrant children and adolescents, the absence of reports of the denial of refugee status to such children and adolescents and the failure of the Office for the Defence of Children and Adolescents to apply for appropriate remedies;

(b) The incompatibility of the minimum working age in the State party, set at 14 in Act No. 1139 of 2018, with the standard established in the ILO Minimum Age Convention, 1973 (No. 138), which stipulates that the minimum age should not be less than the age of completion of compulsory schooling and, in any case, should not be less than 15;

(c) The limited information on measures to combat child labour by migrant children and adolescents other than the establishment temporary mobile offices in rural areas;

(d) The lack of information on the situation of Bolivian children and adolescents whose parents have migrated to other countries, in particular on the ways the impact of absent mothers is mitigated.

40. **In line with joint general comment No. 3 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 of the Committee on the Rights of the Child (2017) and joint general comment No. 4/No. 23 (2017), the Committee recommends that the State party:**

(a) **Ensure that national child protection systems, including the Office for the Defence of Children and Adolescents, take into account the needs and views of migrant children and others in the context of migration and have the resources they need to fulfil their mandates;**

(b) **Guarantee that migrant children and adolescents, including the children of migrant workers in an irregular situation and unaccompanied children, have the same rights as all other children, in particular access to education, health and social services and protection from violence;**

(c) **Consider raising the minimum age for employment to the age at which compulsory education ends or, in any case, to the age of 15;**

(d) **Redouble efforts to eradicate the child labour engaged in by migrant children and adolescents, including by raising awareness, providing greater social support to families living in extreme poverty, boosting the capacity of labour inspection services and punishing those who exploit child migrant workers or subject them to forced labour and abuse, especially in the informal economy.**

(e) **Conduct a study on the situation of Bolivian children and adolescents whose parents have migrated to other countries, in particular on the ways the impact of absent mothers is mitigated.**

#### **Border management and migrants in transit**

41. The Committee notes with concern:

(a) The migration enforcement operations, described on social media as public safety measures, conducted by the Directorate General of Migration in border areas and urban centres, on roads and along the boundaries between departments, in particular in Desaguadero and El Alto/La Paz, especially in 2021 and 2022, with a view to identifying migrants in an irregular situation and taking them to the border, informing them that they were to be denied entry, given entry bans or expelled or ordering them to regularize their migratory situation;

(b) The increased risk of violence, trafficking in persons or smuggling faced by unaccompanied migrant children and adolescents in transit;

(c) The shortcomings in terms of infrastructure, equipment and trained personnel of the public institutions represented on the border, including the Office for the Defence of Children and Adolescents, as well as the lack of coordination and shelters.

42. **The Committee recommends, in line with the Recommended Principles and Guidelines on Human Rights at International Borders of the Office of the United Nations High Commissioner for Human Rights (OHCHR), that the State party:**

(a) **Assess, in dialogue with all stakeholders, the impact of migration enforcement operations on the increase in the risk of violations of the right to life and well-being of migrants in transit and take the necessary measures to prevent this risk and protect this population group, while promoting migration policies that focus on human rights and human security, including by establishing channels for safe and regular migration and permanent paths to legal residence;**

(b) **Review the way migration status checks are carried out and publicized in order to avoid stigmatizing the migrant population as an alleged danger to public safety and creating an association between being in an irregular situation and being a criminal;**

(c) **Adopt protocols that provide for a coordinated response by the competent authorities to matters involving unaccompanied migrant children and adolescents;**

(d) **Set aside sufficient human, technical and financial resources to strengthen border management, ensuring that facilities, including the Office for the Defence of Children and Adolescents, are equipped and that the border authorities receive training on the guarantees to be provided during their operations and in risk assessments related to international protection.**

#### **Detention**

43. The Committee notes with satisfaction that, according to the State party, migration is not criminalized and migrants are not deprived of their liberty for being in an irregular situation. It is troubled, however, by allegations that migrants who are denied entry are improperly detained and by the lack of information on the number of those detained migrants,



the places where they are held, the time periods for which they are held and the conditions in which they are held.

44. **In light of its general comment No. 5 (2021) on migrants' rights to liberty and freedom from arbitrary detention and their connection with other human rights, the Committee urges the State party to:**

(a) **Ensure that the detention of migrants is an exceptional measure of last resort, that the grounds are specified in each case, with specific reasons given as to why alternative measures cannot be taken, and that the measure is reviewed within 24 hours by an independent and impartial judicial authority;**

(b) **Adopt alternatives to administrative detention for migrant workers and members of their families during proceedings relating to their entry into or expulsion from the country.**

### **Expulsion**

45. The Committee notes with concern:

(a) The large number of foreign nationals expelled in recent years, including reports of collective expulsions involving family groups with children and adolescents, particularly across the border with Peru (Desaguadero); expulsions carried out during migration enforcement operations and without the possibility of mounting a legal defence or filing an appeal; as well as deportations from places of residence;

(b) Reports that foreign nationals who are denied entry have no access to translators at ports of entry or any means of applying for international protection and face restrictions on contacting their consular agencies, as well as reports that no records of these incidents are kept when they occur in border areas;

(c) The short period of time, 15 days, within which it is possible to challenge an expulsion order once it has been received and to take administrative or judicial action;

(d) The failure to assess needs for international protection, including cases of persons with documents identifying them as applicants for refugee status who are detained by the Directorate General of Migration and released only after a lawyer has intervened.

46. **The Committee recommends that the State party:**

(a) **Ensure that any process that might affect children and adolescents makes their best interests a primary consideration, in accordance with the guidance in joint general comment No. 3 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 of the Committee on the Rights of the Child (2017) and joint general comment No. 4/No. 23 (2017).**

(b) **Provide the requisite procedural safeguards to migrant workers and members of their families, particularly those in an irregular situation, in all administrative and judicial procedures and ensure that those who are subject to an expulsion order have access to support services and free legal representation and can exercise their right of appeal and that the expulsion procedures are in line with articles 22 and 23 of the Convention;**

(c) **Develop a new expulsion procedure under Act No. 370 to formalize the notice period for status regularization and extend the period of time within which it is possible to challenge an expulsion order;**

(d) **Enforce the ban on collective and arbitrary expulsions; conduct an objective assessment of the individual circumstances of each migrant, taking into account any potential protection needs; respect the principle of non-refoulement; and provide alternatives to expulsion, including asylum, complementary protection, residence on humanitarian grounds and regularization on other grounds.**

## Asylum

47. The Committee is concerned about the difficulty of submitting formal asylum applications, obtaining refugee status and avoiding expulsion resulting from: (a) the fact that, since 2018, the only place to submit applications has been the technical secretariat of the National Commission for Refugees in La Paz and that staffing levels are insufficient to process the applications; (b) the lack of information on the refugee process for individuals who arrive at land borders and airports and the lack of legal aid; (c) the de facto application of pre-admission criteria to individuals who submit a formal application; and (d) the failure to apply the “expanded” definition of the term “refugee” contained in Act No. 251 and the Cartagena Declaration on Refugees, thereby affecting persons in need of international protection, especially Colombian, Eritrean, Ethiopian, Palestinian and Venezuelan nationals.

48. **The Committee recommends that the State party:**

(a) **Make certain that all requests for international protection made anywhere in its territory, including at land borders and airports, are received, registered and promptly referred to the processing authorities, ensuring that the procedure and ensuing decisions follow exclusively the provisions of Act No. 251 and applicable treaties, including the Convention, the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto;**

(b) **Increase the number of staff members at the National Commission for Refugees who process refugee applications, and consider accepting applications submitted in cities other than La Paz alone;**

(c) **Strengthen the in-service training of asylum and border officials pursuant to the judgment of the Inter-American Court of Human Rights in the case *Pacheco Tineo Family v. Plurinational State of Bolivia* of 25 November 2013 and ensure that the “expanded” definition of the term “refugee” contained in Act No. 251 and the Cartagena Declaration on Refugees is applied;**

(d) **Ensure that the principle of non-refoulement is respected, that individuals in need of international protection are identified and that, where appropriate, foreign nationals are informed of the asylum procedure on arrival in the State party and receive legal aid.**

## Consular assistance

49. The Committee notes the operational manual produced by the Ministry of Foreign Affairs on the functions of the central and foreign service. It is concerned, however, about the lack of regulations to implement Act No. 465, the Foreign Service Act, and about the small number of official Bolivian consular missions abroad and of foreign diplomatic and consular missions, especially those representing countries in Oceania, Asia and Africa, in the State party.

50. **The Committee recommends that the State party:**

(a) **Adopt regulations to implement the Foreign Service Act;**

(b) **Gradually increase the number of its consular missions, especially in Africa, Asia and Central America, and strengthen the capacity of its consulates and embassies to provide assistance and effective protection to Bolivian migrant workers and members of their families abroad.**

## Medical care

51. Although the Migration Act recognizes the right to health of foreign nationals and although foreign nationals belonging to certain vulnerable groups, such as pregnant or breastfeeding women, children under the age of 5, persons with disabilities and older persons, have been able to join the Unified Health System since 2021, the Committee is concerned about:

(a) The lack of medical care for undocumented foreign nationals in an irregular situation;

(b) The application of the principle of reciprocity under Act No. 1152 on the Unified Health System, which is prohibited when it comes to exercising human rights;

(c) The exclusion from the Unified Health System of foreign nationals who do not belong to vulnerable groups, in particular children over the age of 5, and the difficulties that individuals who hold a residence permit issued by the Directorate General of Migration, refugee status or an identity card for foreign nationals face in registering with the System.

**52. The Committee recommends, in accordance with article 28 of the Convention, that the State party:**

(a) **Ensure effective access to a universal health-care system, which includes emergency medical care, sexual and reproductive health services and other primary health care;**

(b) **Ensure that all persons in its jurisdiction, including migrant workers and members of their families, irrespective of their migratory status, have access to the Unified Health System so as to guarantee treatment on a footing of equality with nationals of the State party, and remove the reference to the principle of reciprocity in Act No. 1152.**

### **Birth registration and nationality**

53. The Committee notes that under the Civil Registration Act, undocumented parents may prove their identity and filiation through witness statements. However, it is concerned about:

(a) The requirement that foreign parents be registered with the Civil Registration Service in order for the child's birth certificate and identity document to be issued, which is a barrier since individuals in an irregular situation tend not to have documentation issued by their country of origin or that documentation is in poor condition;

(b) The impediments to birth registration at the consulates of countries of origin, especially the Bolivarian Republic of Venezuela, which pose a risk of statelessness.

**54. In keeping with joint general comment No. 3 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 of the Committee on the Rights of the Child (2017), joint general comment No. 4/No. 23 (2017), on the human rights of children in the context of international migration, and target 16.9 of the Sustainable Development Goals, the Committee recommends that the State party ensure that all children of Bolivian migrant workers living abroad and children born in its territory, especially the children of migrants in an irregular situation and asylum-seekers, are registered at birth, issued personal identity documents and have a nationality, and that it raise migrants' awareness of the importance of registering the births of their children.**

### **Education**

55. Although Ministerial Decision No. 001/2022 of the Ministry of Education allows the children of foreign nationals to enrol in the regular education system using any identity document, the Committee is concerned about:

(a) The barriers to access to education for the children of migrants, including the lack of identity documents, the requirement to be on the civil register and education professionals' unfamiliarity with the relevant legislation;

(b) Reports that children of refugees and asylum-seekers have been denied the right to enrol in an educational establishment and receive a certificate attesting to the classes they have completed;

(c) The difficulties in having certificates of primary, secondary or tertiary education recognized and validated and the policy of making recognition of professional qualifications contingent on holding permanent residence, which prevents foreign nationals who do not have two or three years' residency from exercising their profession.

56. In line with joint general comment No. 3 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 of the Committee on the Rights of the Child (2017), joint general comment No. 4/No. 23 (2017) and target 4.1 of the Sustainable Development Goals, the Committee recommends that the State party:

(a) Ensure, in accordance with article 30 of the Convention, that all children of migrant workers, irrespective of their or their parents' migration status and documentation, enjoy access to preschool, primary and secondary education on the basis of equality of treatment with nationals of the State party, including through the provision of certificates attesting to the completion of every class and level of education;

(b) Ensure that public education officials receive training on the laws and procedures governing the right of all children and adolescents, including the children of migrants, refugees and asylum-seekers, to be enrolled in an educational establishment, and run awareness-raising campaigns to combat prejudices and social stigma.

#### **Transfer of earnings and savings by migrants at the end of their stay**

57. The Committee notes that, under the Ibero-American Multilateral Agreement on Social Security, individuals who have worked in one or more of the States parties to the Agreement and contributed to the long-term social security scheme can apply for recognition of their contributions and receive an old-age, survivor's or disability pension. The Committee is concerned, however, about the situation of migrants from countries with which the State party does not have agreements, the lack of information on the steps taken to facilitate the transfer of migrant workers' earnings, savings and belongings and the refusal by banks to open accounts for asylum-seekers with provisional documentation.

58. The Committee recommends that the State party:

(a) Ensure that migrants who have contributed to the social security system may export their pension funds, irrespective of the country of export;

(b) Facilitate the transfer of remittances by Bolivian nationals living abroad, as well as the transfer of earnings, savings and belongings by migrant workers to their countries of origin at preferential transfer and reception rates.

#### **4. Other rights of migrant workers and members of their families who are documented or in a regular situation (arts. 36–56)**

##### **Right to vote and to be elected in the State of origin**

59. The Committee notes that the right of Bolivian nationals living abroad to vote in presidential elections, to vote to remove elected officials from office and to vote in national referendums is recognized in Act No. 026, the Electoral Act. It also notes the creation of 26 new polling stations and the roll-out, in the countries with the highest concentration of Bolivian migrants, of communication and information strategies, entitled "Voting Abroad", during the 2019 general elections. However, the Committee observes that:

(a) Only Bolivian nationals living in countries where the Plurinational State of Bolivia has permanent diplomatic and consular missions can exercise the right to vote;

(b) Bolivian nationals living abroad are not represented in the Plurinational Legislative Assembly.

60. The Committee recommends that the State party:

(a) Take steps to create the conditions for all migrant workers and members of their families living abroad, especially in countries where there is no diplomatic representation, to exercise their right to vote and be elected;

(b) Explore the possibility of having Bolivian nationals living abroad be represented in the Plurinational Legislative Assembly.

### Work permits and residency

61. The Committee is concerned that periods of authorized absence from the country, which are short and determined on the basis of subjective criteria, are used to justify the revocation of residence permits under article 17 of Supreme Decree No. 1923.

62. **The Committee recommends that the State party adopt the legislative measures necessary, including the amendment of Supreme Decree No. 1923, to extend the authorized absence periods on the basis of objective criteria.**

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

### Trafficking in persons

63. The Committee notes the adoption of the Plurinational Policy against Trafficking in Persons, the Smuggling of Migrants and Related Offences 2021–2025 and victim assistance protocols. However, it finds it troubling that:

(a) The multisectoral plan to combat human trafficking and smuggling has not been updated;

(b) Women migrants, asylum-seekers and refugees are particularly vulnerable to being trafficked for the purpose of sexual exploitation;

(c) The procedures for the timely identification of trafficking victims, including border checks, are inadequate;

(d) The country has only three shelters for trafficking victims;

(e) There is little information on the steps taken to ensure that victims have access to appropriate medical and psychological care while identification and reporting are under way, as well as a lack of programmes providing sufficient protection to trafficking victims who cannot return to their countries of origin.

64. **Recalling its previous recommendations,<sup>8</sup> and in accordance with the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, the Committee recommends, in line with target 5.2 of the Sustainable Development Goals, that the State party:**

(a) **Adopt a new multisectoral plan to combat human trafficking and smuggling;**

(b) **Ensure that women and girls are not prosecuted when moving about countries of destination or upon their return, in recognition of the fact that restrictive, security-focused policies increase their vulnerability to sexual exploitation;**

(c) **Establish mechanisms for family reunification and the identification of migrants who do not have identity documents to prevent trafficking in persons and the indefinite separation of migrants from their families, as well as effective mechanisms for the identification and referral of people in movements of migrants who may need international protection; and intensify trafficking prevention campaigns, especially in border areas;**

(d) **Allocate sufficient resources to provide all trafficking victims with psychological, legal and medical assistance, as well as shelters, especially for child and women survivors of trafficking in persons, and to enable the Plurinational Council on Human Trafficking and Smuggling to fulfil its mandate;**

(e) **Enhance the training provided to officials responsible for enforcing Comprehensive Act No. 263 on combating human trafficking and smuggling regarding the early identification of victims and their referral to the appropriate protection**

<sup>8</sup> [CMW/C/BOL/CO/2](#), para. 45, and [CMW/C/BOL/CO/2/Corr.1](#).

services, and step up the dissemination of the standardized protocol for the specialist care of victims of human trafficking and smuggling;

(f) **Ensure that perpetrators of trafficking offences are investigated, prosecuted and appropriately punished and that victims receive comprehensive redress, and deepen international cooperation with a view to developing joint action plans with countries of origin, transit and destination on the prevention of trafficking in persons and the identification of organized crime rings.**

### **Regularization**

65. The Committee notes that four extraordinary processes to regularize the status of foreign nationals have taken place since the publication of the Migration Act. However, it is concerned about:

(a) The lack of a comprehensive policy on the regularization of migration status and the lack of a predictable regularization process for many migrant workers and members of their families, including unaccompanied children and adolescents;

(b) The difficulty of regularizing the migratory status of children and adolescents, unaccompanied children and adolescents in particular, which is itself caused by the difficulty of obtaining the requisite documents, including identity documents, and, in the case of children accompanied by their mother, the requirement to present an authenticated or annotated birth certificate attesting to their biological relationship and an authenticated or annotated document attesting to her custody of the children;

(c) The inflexibility of migration legislation and the high costs it imposes, which deny foreign nationals in an irregular situation access to alternative paths to regularization;

(d) The barriers to long-term residence, including the requirement to submit documents that are difficult to obtain, such as the certificate of nationality, criminal records or International Criminal Police Organization (INTERPOL) records, the requirement to present certified or annotated documents and the high procedural and documentation fees;

(e) The lack of disaggregated statistical data on the residence permits issued by the State party.

66. **The Committee recommends that the State party:**

(a) **Design and implement a comprehensive policy – informed by the best interests of the child and involving regularization as a means of safeguarding rights – to ensure accessible and affordable regularization procedures for migrant workers and members of their families, including unaccompanied children and adolescents, who are in an irregular situation;**

(b) **Facilitate the regularization of migrant children and adolescents, irrespective of whether they have the requisite documents and of the status of their father or mother, on the basis of the best interests of the child;**

(c) **Strengthen rights-based migration law and policy on migration and border management taking into consideration the rights and needs of migrant workers and the benefits of organized mobility, and encourage regular, open and simplified labour migration;**

(d) **Remove economic and other barriers to long-term residence facing migrant workers and members of their families, including by introducing more flexible documentation requirements;**

(e) **Collect statistical data, broken down by nationality, sex, age and lawfulness of the migration, on the residence permits issued by the State party, including those granted to nationals of the Bolivarian Republic of Venezuela.**

## **6. Dissemination and follow-up**

### **Dissemination**

67. The Committee requests the State party to ensure the wide dissemination of the present concluding observations, in the official languages of the State party, to the relevant State institutions, including to government ministries, the Plurinational Legislative Assembly, the judiciary and relevant local authorities, as well as to non-governmental organizations and other members of civil society.

### **Technical assistance**

68. The Committee recommends that the State party further avail itself of international assistance for the implementation of the recommendations contained in the present concluding observations in line with the 2030 Agenda for Sustainable Development. It also recommends that the State party continue its cooperation with specialized agencies and programmes of the United Nations.

### **Follow-up to concluding observations**

69. The Committee requests the State party to provide, within two years (that is, by 1 October 2024), written information on the implementation of the recommendations contained in paragraphs 24 (coordination), 42 (border management and migrants in transit), 46 (expulsion) and 66 (regularization) above.

### **Next periodic report**

70. The Committee requests the State party to submit its fourth periodic report by 1 October 2027. The Committee will adopt a list of issues prior to reporting under the simplified reporting procedure at a session before this date, unless the State party explicitly opts to submit its fourth periodic report under the ordinary reporting procedure. The Committee draws the State party's attention to its harmonized treaty-specific guidelines.<sup>9</sup>

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<sup>9</sup> [HRI/GEN/2/Rev.6](#).