



International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Distr.: General

11 April 2023

Original: English

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families Thirty-sixth session

Summary record of the 524th meeting*

Held at the Palais Wilson, Geneva, on Monday, 3 April 2023, at 3 p.m.

Chair: Mr. Corzo Sosa

Contents

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

Third periodic report of El Salvador (continued)

* No summary record was issued for the 523rd meeting.

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The meeting was called to order at 3.05 p.m.

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

Third periodic report of El Salvador (continued) (CMW/C/SLV/3;
CMW/C/SLV/QPR/3)

1. *At the invitation of the Chair, the delegation of El Salvador joined the meeting via video link.*
2. **A representative of El Salvador**, replying to questions posed at the preceding meeting (see CMW/C/SR.522), said that all applications from foreign nationals wishing to work and reside in El Salvador were dealt with by the Directorate General for Migration and Alien Affairs, which was part of the Ministry of Justice and Public Security. Under the Special Act on Migration and Alien Affairs, permits were available for seasonal and cross-border migrant workers employed in agricultural areas, thereby enabling such workers to regularize their status; enter, stay in and leave the country with ease; and gain access to services on an equal footing with Salvadoran citizens. Application and renewal fees for those types of permits were very low at just US\$ 10 for workers from Central American countries. El Salvador had signed an agreement with Honduras, Guatemala and Nicaragua that facilitated labour mobility between those countries. All migrant workers in El Salvador were accorded the rights and guarantees provided by the Constitution, the Labour Code and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
3. Foreign nationals who entered the territory on a tourist visa could apply for temporary residence and work permits by providing the relevant documentation, such as an offer or contract of employment or, if self-employed, evidence of the work being carried out. In general, permits were issued within 15 days. Application and renewal fees for those types of permits ranged from between US\$ 55 and US\$ 260, depending on the type of permit, duration of stay and the nationality of the applicant; costs were at the lower end for Central American nationals. The fees associated with regularizing one's status in his country were therefore very accessible. Moreover, in exceptional circumstances, fees were waived for persons applying on humanitarian grounds.
4. In accordance with article 239 of the Special Act on Migration and Alien Affairs, persons found to be in an irregular situation in his country were subject to deportation procedures. Under an expedited procedure, such individuals could opt to leave the country of their own volition within a specified time frame, thereby obviating the need for formal proceedings. Alternatively, in accordance with article 290 of the Special Act, which set out the rights of persons who were subject to a deportation order, the individual concerned could appeal against the deportation order. In such cases, due process was followed and all legal safeguards were applied, including the rights to a hearing and to a defence. At the end of those proceedings, the deportation order was either upheld or vacated; in the latter case, a temporary residence permit was granted while the individual took steps to regularize his or her status. It should be noted, however, that, in all cases, the human rights of the persons concerned were respected; measures were taken to identify people who were in situations of vulnerability or required protection and to provide them with leave to remain.
5. Regrettably, without more precise details, he was unable to provide information on the specific case that had been mentioned concerning a Cuban migrant worker whose visa renewal had reportedly been rejected. It should be noted that almost 300 Cuban nationals were currently legally working and residing in his country. In fact, in a recent case, for example, two Cubans who had been denied entry to Nicaragua and been left in legal limbo had applied for asylum in El Salvador. As a result, the appropriate procedures had been activated. The Commission for the Determination of Refugee Status had provided those individuals with accommodation and other basic necessities. The authorities in El Salvador ensured that the human rights of foreign nationals were respected at all times, without discrimination. His Government was keen to make El Salvador an open, welcoming country for foreign nationals from all over the world.

6. Lastly, according to the registry of the Directorate General for Migration and Alien Affairs, some 200 children and adolescents accompanying foreign migrant workers were residing in El Salvador in a regular situation. The Directorate General did not have information on those who were in an irregular situation.

7. **A representative of El Salvador** said that, in collaboration and coordination with other State institutions, the Salvadoran Institute for the Advancement of Women provided comprehensive support services to women in situations of vulnerability in El Salvador, including victims of trafficking in persons. For example, in addition to the provision of food and shelter, access was provided to specialized health-care services and psychological support in cooperation with the Ministry of Health, and legal assistance was provided by the Counsel General's Office. Measures were taken to help restore the rights of those women and promote their economic empowerment, including by facilitating access to seed capital and other forms of credit. A temporary shelter had been established for returning Salvadoran women and their children using resources from the special activities fund set up for the benefit of Salvadorans abroad and returnees. The shelter was staffed by a multidisciplinary team who made every effort to provide a safe, protective environment and to assist women in their recovery while fostering their autonomy and supporting them in developing their life plans.

8. **A representative of El Salvador** said that the bill on human mobility was still under consultation and had therefore not yet been uploaded to the website of the Legislative Assembly. It would be made available online upon being submitted for consideration by one of the Assembly's standing committees. The consultation process, which entailed the involvement of the Office of the United Nations High Commissioner for Refugees and the International Organization for Migration, along with numerous other national and international bodies, had been under way for several months. The aim was to supplement the law already in force to give migrants as comprehensive protection as possible and to promote regular, orderly and safe migration at all stages of the migration cycle.

9. The Government's legislative process included studying the laws of other countries, consulting with relevant national institutions and, where appropriate, as in the case of migration, with international bodies. As the interests of the people were the main focus of legislation, consultations on the bill on human mobility, which had been conducted by the Commission on Electoral and Constitutional Reforms, had included the use of online surveys, video calls and visits to members of the diaspora to elicit the views of Salvadorans abroad. The outcomes of those exercises included the incorporation into the bill of the right to vote electronically and run for elected office from anywhere in the world and the implementation of the electronic apostille.

10. Another innovative aspect of the bill on human mobility was that it would help the authorities to identify migrants in vulnerable situations so that they could be provided with specialized support. The beneficiaries would include persons who lacked the resources to return to El Salvador or were defenceless in the face of a threat to their life or personal integrity, children and adolescents who were unaccompanied or separated from their parents or guardian, older adults, pregnant women, persons with disabilities or chronic or highly complex illnesses, victims of domestic or gender-based violence, victims of discrimination or xenophobia, persons deprived of their liberty and lacking sufficient economic resources to exercise their right to a defence, persons in situations of destitution or extreme poverty, migrant workers suffering from exploitation, victims of human trafficking or smuggling, and those whose life, liberty or personal integrity were threatened by natural disaster or conflict.

11. **A representative of El Salvador** said that, as part of the Government's commitment to improving employment conditions, it had moved to incorporate the International Labour Standards of the International Labour Organization (ILO) into national legislation and to ratify the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102); Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148); Collective Bargaining Convention, 1981 (No. 154); Maternity Protection Convention, 2000 (No. 183); and Violence and Harassment Convention, 2019 (No. 190) over the course of the previous year. National legislation now covered almost all of the rights enshrined in those instruments. In 2022 the ILO Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187); Domestic Workers Convention, 2011 (No. 189); Migration for Employment

Convention (Revised), 1949 (No. 97); and Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) had been among the 18 conventions submitted for consultation, and they were now nearing ratification. ILO Convention No. 187 was the only fundamental convention not yet ratified and was therefore a particular priority.

12. Work on the amendment of the Labour Code was already under way, and the draft text was expected to be formally submitted for consultation in the coming months. The initiative had benefited in recent weeks from technical support from ILO, which was helping to ensure that the amended Code would provide a legal framework in line with international standards for the protection of both nationals and foreigners on an equal footing.

13. **A representative of El Salvador** said that, according to official statistics provided by the United States of America, 2022 had seen a 26.9 per cent decrease in encounters with Salvadoran migrants at that country's south-western border compared with the previous calendar year. In the first months of the 2023 fiscal year, a year-on-year decrease in such encounters of 39.8 per cent had been registered.

14. When the current President of El Salvador had taken office in June 2019, there had been approximately 5,000 returnees each month. A downward trend had then set in and continued to date. The 10 municipalities that had historically seen the most outward migration witnessed an overall decrease of more than 50 per cent in the number of returnees in 2022 compared with 2019. Asylum applications by Salvadorans in Mexico had decreased by more than 14 per cent between 2019 and 2022, and applications in the United States had dropped by more than 55 per cent in the same period.

15. **A representative of El Salvador** said that consular support helped to provide access to justice to Salvadorans who suffered violations of their rights in transit and destination countries, specifically the United States and Mexico. Search, forensic identification and repatriation efforts were also conducted, although there was room for improvement in terms of support for the involvement of the families of missing migrants in those efforts and the achievement of a prompt resolution of such cases.

16. El Salvador had a forensic database on missing migrants and shared information on those cases with the External Search and Investigation Support Mechanism in order to facilitate transnational coordination in the provision of access to justice. The Government recognized the importance of implementing the Global Compact for Safe, Orderly and Regular Migration and the need for international coordination and cooperation on the issue of migration in an effort to save lives.

17. The action taken by El Salvador when people were deported from the United States depended on their wishes. If they intended to reside in El Salvador, guidance and support were provided for family reunification. Otherwise, a person could seek international protection. In both scenarios, diplomatic and consular support was provided and due process observed.

18. Consular support and programmes such as the Central American Minors Refugee and Parole Programme and the Family Reunification Task Force had benefited minors who had left El Salvador unaccompanied. Work was ongoing to secure agreements with the United States to make sure that reunification took place in a safe and orderly manner through existing or new programmes.

19. The girl who had spent more than 530 days in a detention centre had, along with her mother, initiated an unsuccessful asylum application in the United States. During the appeal process, they had stayed in a family residential centre. The Salvadoran consulate in Laredo, Texas, had provided them with consular assistance, monitored their living conditions and the meals and medical assistance furnished at the centre and maintained communication with the pair. It had not been in a position to provide legal assistance, which had instead come from a non-governmental organization based in the United States.

20. **A representative of El Salvador** said that the Migrant Services Directorate (GAMI) served as a reception centre for returnees in coordination with various government agencies. Returnees received medical and psychological care, along with other types of support. The National Registry of Natural Persons verified the identity of all returnees and provided new documents to those who lacked them. In the case of child and adolescent returnees, a database

search was conducted to locate a family member or potential guardian who could take custody of them. The Government was looking to expand the range of services available to returnees by setting up a service centre that would deliver new identity documents on the spot in order to speed up the reintegration process. Since the start of 2022, there had been more than 6,000 consultations and nearly 4,000 documents had been issued.

21. Regarding deaths occurring along migratory routes, State institutions complied with the legal framework provided by article 2 of the Special Act on the Protection and Advancement of Migrants and their Families and article 65 of the Convention. Those agencies worked in cooperation with one another to provide services to migrants in vulnerable situations and to deal with cases in which deaths were reported. The steps that they took in those connections included sending identity documents, fingerprint records and birth certificates to consular or diplomatic offices in order to speed up repatriation and identification procedures. In the wake of the recent deaths of migrants in Ciudad Juárez, Mexico, 39 identity documents and 15 fingerprint records had been sent to help identify Salvadoran victims. In 2022 and the beginning of 2023, a total of 121 fingerprint records and 570 documents had been issued for identification purposes.

22. **A representative of El Salvador** said that, by virtue of articles 9 and 10 of the Criminal Code, the Attorney General's Office was empowered to investigate crimes committed outside the country by foreigners against the legal property of Salvadorans and crimes committed by any person in places not subject to Salvadoran jurisdiction when internationally protected property was affected or serious violations of universally recognized human rights had occurred. Any Salvadoran who had been the victim of a criminal offence committed abroad, or relatives of migrants who had disappeared or died abroad, could file a complaint with the Salvadoran authorities in order to initiate an investigation with a view to the determination of compensation for the victim or to enable the family to learn the truth of what had happened to their relative.

23. Under Salvadoran law, the offences of people-smuggling and trafficking in persons attracted civil and criminal liability. Persons convicted of such offences had been sentenced to imprisonment and fines that were payable as compensation to the victims. Whenever the Attorney General's Office took cognizance of a trafficking or smuggling offence committed against a Salvadoran or foreign national, immediate action was taken to identify, locate and assist the victims. If the victims were foreign nationals, contact was established with their families and the respective consulates; where applicable, provisions were made for their safe repatriation. Victims were informed of their rights and provided with comprehensive legal and psychological support throughout the proceedings.

24. The detection of the disappearance or death of a Salvadoran national along a migratory route triggered an inter-institutional mechanism composed of relevant State agencies, the Salvadoran Committee of Families of Deceased and Missing Migrants, the Office of the Human Rights Advocate and the Argentine Forensic Anthropology Team. In order to locate and identify the individual in question, a forensic database on missing Salvadoran migrants was employed. The Salvadoran Committee of Families of Deceased and Missing Migrants engaged with the relatives of the missing persons to inform them of the protocol for taking DNA samples and the use made of the forensic database. In addition, the International Criminal Police Organization (INTERPOL) was requested to issue a yellow notice to help locate the missing person. The family was asked to provide photographs and, if possible, information on the circumstances surrounding the person's disappearance.

25. **A representative of El Salvador** said that the Counsel General's Office took a victim-centred approach and had specialized assistant prosecutors to deal with specific topics. The specialized assistant prosecutor for early childhood, children and adolescents afforded legal protection to all children and adolescents residing in El Salvador, irrespective of nationality. The Counsel General's Office cooperated with its foreign counterparts in cases concerning Salvadoran children and adolescents who were living abroad.

26. An inter-institutional protocol was in place to facilitate comprehensive support, protection and access to justice for Salvadoran migrants before, during and after their return. The Counsel General's Office issued permits; intervened on behalf of unaccompanied and separated minors, including in the event of a conflict of interests; and coordinated actions

with other State institutions to enable safe, regular and orderly returns. Special mechanisms were in place to organize responses tailored to each case and to afford comprehensive services and protection to migrants in situations of vulnerability, including migrants with disabilities, older migrants, women victims of violence and pregnant women. When necessary, returning migrants were assigned a public defender. Returning children and adolescents were served through programmes run by the various institutions comprising the National Protection System. The specialized assistant prosecutor for persons in situations of vulnerability was in charge of internally displaced persons, persons at risk of displacement, returnees in need of protection and foreign migrants in transit or those migrating to El Salvador. Response measures revolved around humanitarian assistance, protection, sustainable return and the prevention of irregular migration.

27. Persons involved in cases referred to the Counsel General's Office were interviewed by specialized staff as a first step. They were then provided with targeted psychosocial support and legal advice. Shelter, health care and other basic services were delivered in cooperation with non-governmental organizations. The Office also provided assistance in the recovery of identity and other documents. Once the person's safety was assured, efforts focused on organizing a safe return with dignity and on the person's sustainable reintegration and resettlement.

28. Foreign nationals wishing to repatriate voluntarily were provided with assistance and temporary shelter; adults and families in transit who wished to continue their migration journey were informed of the risks of irregular migration and provided with humanitarian assistance for the duration of their stay. Those wishing to regularize their status in El Salvador were supported in building sustainable lives by the Government in cooperation with the International Organization for Migration, the Office of the United Nations High Commissioner for Refugees and civil society organizations.

29. The Counsel General's Office also facilitated the issuance of Salvadoran passports and exit permits for children and adolescents at heightened risk who were entitled to international protection under the Protection Transfer Arrangement or eligible to apply for refugee status and resettlement in the United States under the Central American Minors Parole Programme. The Attorney General's Office, the Salvadoran Institute for the Advancement of Women, the Supreme Court of Justice, the Directorate General for Migration and Alien Affairs and relevant ministries cooperated with local victim support units to provide comprehensive assistance to vulnerable populations.

30. The Regional Conference on Migration served as a forum for discussions on regional migration issues and the enhancement of regional coordination and cooperation. It provided a framework for regional efforts to protect the human rights of migrants, build a coherent network of immigration laws and strengthen the link between migration and development. The Government's approach to migration was guided by the principles underlying the Convention and the Committee's general comments, the Convention on the Rights of the Child, the Growing Together Act and general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin of the Committee on the Rights of the Child.

31. The Counsel General's Office had conducted successive awareness campaigns, in cooperation with international organizations and local non-governmental organizations, to curb irregular migration.

32. **Mr. Ceriani Cernades** (Country Rapporteur) said that additional information would be appreciated on the situation of migrants with disabilities and the specific types of support provided to them. It would also be helpful to obtain data on the number of deceased or missing Salvadoran migrants and on any migrants who had been missing and who had subsequently been located, identified and repatriated.

33. Additional details would be welcome on the mechanisms in place for promoting inter-institutional cooperation and the engagement of civil society organizations in the implementations of recommendations made by the Committee and other United Nations treaty bodies.

34. **The Chair**, speaking as Country Rapporteur, said that he would appreciate updated information on the extent of the problem of internal displacement in the State party and the type of protection and support available to internally displaced persons.

35. **A representative of El Salvador** said that forced displacement caused by criminal gang activity had been a major concern in the past, and the Counsel General's Office had a specialized unit to deal with it. However, as a result of the government crackdown on gang activities, that problem had virtually been eliminated.

36. The Counsel General's Office had opened its doors to anyone wishing to file a complaint concerning human rights violations. Unfortunately, the petitions reviewed to date – especially in the case of complaints filed by relatives of persons deprived of their liberty – had been insufficiently substantiated to give rise to any follow-up. All persons deprived of their liberty had been provided with defence counsel; in the case of foreign nationals, efforts were also made in cooperation with the relevant consular representations to locate their relatives abroad.

37. **Mr. Castro** (El Salvador) said that nearly 30 State institutions had taken part in the preparations for the delegation's constructive dialogue with the Committee, which illustrated the Government's firm commitment to the cause of migrant workers and their families. The virtual meeting format had permitted the participation of a broader range of officials than would otherwise have been possible and had thus enhanced the quality of the dialogue. His delegation was grateful for that opportunity and looked forward to future engagement with the Committee using innovative technologies.

38. **The Chair** said that the Committee certainly appreciated the diversity and competence displayed by the State party's delegation and had learned a great deal in the course of the constructive dialogue. Nonetheless, while some States parties favoured virtual meetings, the Committee valued the multiple advantages of in-person interaction and wholeheartedly encouraged delegations to make every effort to attend treaty body sessions in person whenever possible.

The meeting rose at 4.50 p.m.