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

Consideration of reports submitted by States parties under article 73 of the Convention pursuant to the simplified reporting procedure

Initial reports of States parties due in 2005

Timor-Leste*

[Date received: 1 September 2015]

* The present document is being issued without formal editing.

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List of Acronyms

ALFELA	Women and Children's Legal Aid
ASEAN	Association of Southeast Asian Nations
BMS	Border Management System
CCI-TL	Chamber of Commerce and Industry-Timor-Leste
C-RDTL	Constitution of the Democratic Republic of Timor-Leste
DNAK	National Directorate for Consular Issues
DNE	National Directorate for Employment
DNKEPD	National Directorate of Job Placement & Protection for the Unemployed
DNKT	National Directorate for Labour Conditions
DNRT	National Directorate for Labour Relations
DNV	National Directorate for Visas
HAK	Law, Human Rights and Justice Association
IJT	Inspectorate-General for Labour
ILO	International Labour Organization
IOM	International Organization for Migration
IP	Invest People
KAT	Labour Arbitration Board
KSTL	Confederation of Timorese Trade Unions
MCIE	Ministry of Commerce, Industry and the Environment
MCS	Mediation and Conciliation Service
MFAC	Ministry of Foreign Affairs and Cooperation
MH	Ministry of Health
MI	Ministry of Interior
MJ	Ministry of Justice
MOU	Memorandum of Understanding
MPU	Maritime Police Unit
MS	Migration Service
MSS	Ministry of Social Solidarity
PC	Penal Code
PDHJ	The Office of the Ombudsman for Human Rights and Justice
PNTL	National Police of Timor-Leste
PRADET	Psychosocial Recovery and Development in East Timor
SEJD	The Secretariat of State for Youth and Sports

SEPSEM	Secretariat of State for the Support and Socio-Economical Promotion of Women
SEPFOPE	Secretariat of State for Employment Policy and Vocational Training
UNODC	United Nations Office on Drugs and Crime

Introduction

1. The State of Timor-Leste drafted its initial Report on the Implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families based on the list of issues before submitting its initial report, that was adopted by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, at its twentieth session in March-April 2014.

2. This report was prepared by the Secretariat of State for Employment Policy and Vocational Training (SEPFOPE), the Ministry of Justice, the Migration Service (MS), the Ministry of Foreign Affairs and Cooperation (MFAC) and Secretariat of State for the Support and Socio-Economical Promotion of Women (SEPSEM), with the support of several State entities. The Government also conducted a public consultation with civil society, the private sector and representatives from the embassies in Timor-Leste. The United Nations Human Rights Adviser's Unit and the International Organization for Migration provided technical assistance during the preparation of this report.

1. Part I

A. General Information

1. **Please provide information on the domestic legal framework regarding the Convention, including:**
 - (a) **The rank of the Convention in domestic law and whether the Convention has direct effect or becomes part of domestic law through implementing legislation;**
 - (b) **Information on the national legislation of the State party regarding the protection of migrant workers and members of their families and on migration policies relevant to the Convention;**
 - (c) **Measures taken by the State party to harmonize its legislation with the provisions of the Convention;**
 - (d) **Information on bilateral and multilateral agreements with other countries in the area of migration, in particular with Australia, Indonesia, Malaysia, Portugal and the Republic of Korea.**

3. The Constitution of the Democratic Republic of Timor-Leste (C-RDTL) states that international conventions, treaties and agreements applied in the internal legal system of Timor-Leste, through their approval, ratification or accession and publication in the official gazette¹, have authority and invalidate all contrary legal norms². However, these rules are to be adapted in accordance with Article 27.2 of the Vienna Convention on the Law of

¹ C-RDTL, Article 9

² This doctrine establishes the automatic acceptance of the rules, to ensure that international conventions, treaties and agreements do not need to be incorporated in a particular law to have validity in the domestic legal framework. Therefore, the important thing is that these international instruments need to be in a legally established form to be accepted in the domestic legal framework, and when they are in the correct form, they are automatically deemed valid in the Timor-Leste legal framework.

Treaties together with the constitutional principles that ensure the primacy of the Constitution in the legal framework of Timor-Leste³.

4. Nevertheless, the international system of human rights continues to occupy a privileged place in the domestic legal framework and the 1948 Universal Declaration of Human Rights provides standards and guidance for the interpretation of the fundamental rights enshrined in the C-RDTL⁴.

5. In addition, the RDTL Constitution states that the rules set out in international conventions, treaties and agreements will be automatically accepted and have supremacy, therefore all of the domestic laws in force in Timor-Leste will adhere to these international norms. Through this measure the C-RDTL has granted competence to the Supreme Court of Justice or the Court of Appeal⁵ to conduct a preventive review of the constitutionality of all legislation that needs to be promulgated by the President of the Republic⁶.

6. The Constitution also reinforces a range of fundamental rights that are applicable to Timorese citizens as well as foreigners and stateless persons, for example Article 16 which enshrines the principle of universality and equality. More specifically, the domestic legal framework includes provisions relating to the protection of the rights of migrant workers, in particular the Immigration and Asylum Act (Law No. 9/2003, 15 October) and the Labour Law (Law No. 4/2012, 21 February).

7. In relation to migration, and transnational crime in particular, Timor-Leste has entered into a Memorandum of Understanding (MOU) with Indonesia to cooperate in regards to preventing and combating transnational crime and to develop collaboration between the National Police of Indonesia and the National Police of Timor-Leste (PNTL). This MOU was entered into on 29 July 2009 for a period of three years and was renewed for the same term in 2012. Following this MOU, the aforementioned entities entered into a Technical Agreement to implement capacity building efforts for agents on 26 March 2010 that was valid for five years, and this was renewed in 2015 for the same term.

8. In addition, Timor-Leste has signed a Memorandum of Understanding (MOU) with the Republic of Korea and also a MOU with Australia to send Timorese citizens to work in these two countries, through technical cooperation between the Government agencies that send the migrant workers (Department of Overseas Employment, within the National Directorate for Employment, within the Timor-Leste Secretariat of State for Employment Policy and Vocational Training (SEPFPOPE)) and the agencies that receive the migrant workers (Human Resource Development Service, within the Republic of Korea Ministry for Employment and Labour, and the Australian Government Department of Education, Employment and Workplace Relations).

9. The MOU with the Republic of Korea was entered into in 2012 and was renewed on 13 May 2014 for a period of two years. According to the Work Authorization System for Foreigner Workers, Timorese citizens are admitted after they have participated in Korean language training, have completed physical and mental examinations, as well as fulfilling other requirements, and are placed in fisheries, manufacturing and agriculture services.

³ C-RDTL, Article 2

⁴ C-RDTL, Article 23

⁵ Article 164.2 of the C-RDTL states that until such a time as the Supreme Court of Justice is established, all powers conferred to it by the Constitution shall be exercised by the highest judicial instance of the judicial organization existing in Timor-Leste

⁶ C-RDTL, Article 149

10. The MOU with Australia was entered into on 1 December 2011 based on a Seasonal Work Pilot Program that started in 2008. In this program the Timorese workers were placed in hospitality and horticulture.

- 2. Please provide information on all policies and strategies adopted by the State party relating to migrant workers and members of their families. Please include information on specific, time-bound, measurable goals and targets to effectively monitor progress in the implementation of the rights of migrant workers and members of their families in the State party and information on the resources allocated for their implementation and the results obtained.**

11. The policy on migrant workers and members of their families led to the establishment of the National Directorate of Job Placement & Protection for the Unemployed (DNKEPD) under the Inspectorate-General for Labour (IJT), in 2013. This directorate has the competence to regulate the process of allocating placements to migrant workers who come to work in Timor-Leste.

12. Now there is also a Technical Working Group comprising SEPFOPE, the International Organization for Migration (IOM), the Ministry of Social Solidarity (MSS), the Ministry of Commerce, Industry and the Environment (MCIE), the Ministry of Foreign Affairs and Cooperation (MFAC), the Ministry of the Interior (MI), the Ministry of Justice (MJ), the Secretariat of State for Youth and Sport (SEJD), the Secretariat of State for the Support and Socio-Economical Promotion of Women (SEPSEM), the Office of the Ombudsman for Human Rights and Justice (PDHJ) and the International Labour Organization (ILO), to prepare a national action plan on labour migration. The aim of this process is to examine strategic areas and existing frameworks to further strengthen the management of labour migration and to provide recommendations to the Government of Timor-Leste on management that will benefit all people.

- 3. Please provide information on the government ministry or institution responsible for intergovernmental coordination and monitoring of the implementation of the Convention in the State party, including information on the available staffing and resources as well as monitoring activities and follow-up procedures.**

13. Pursuant to Decree-Law No.2/2013, 6 March, Approving the Organic Structure of the Ministry of Justice, the Government established the National Directorate for Human Rights and Citizenship, with the competence to promote policies on human rights, to implement all measures to respect international treaties ratified in the aforementioned area, to draft national action plans on human rights and to monitor their application, and also to monitor implementation, development and progress in this field, to provide opinion papers on legislation and Government policy and to draft all reports on the implementation of international human rights treaties that have been ratified by the State of Timor-Leste⁷.

⁷ Decree-Law No. 2/2013, 6 March, Article 12.2

- 4. Please provide information, including qualitative and statistical data disaggregated by sex, age, nationality and migration status, on labour migration flows, including returns, and on other labour migration-related issues. Please also provide statistical data, or if precise data are not available then studies or estimates, on migrant workers in an irregular situation.**

14. Between 2011 and March 2015, the National Directorate for Visas (DNV) within the MFAC issued 3,441 work visas, with the majority of recipients from Indonesia, China and the Philippines⁸.

- 5. Please indicate whether there is an independent mechanism, such as a national human rights institution or an Ombudsperson, with the mandate to independently monitor the implementation of human rights within the State party, including the rights of migrant workers and members of their families under the Convention. Please also provide information on complaint mechanisms, helplines and other services offered by the institution. In addition, please provide information on the human, technical and financial resources available to the institution and the activities conducted by the State party to raise awareness among the public in general and migrant workers in particular of the services the institution offers, including the right to file a complaint directly with it.**

15. Pursuant to the Constitution, Timor-Leste established the Office of the Ombudsman for Human Rights and Justice (PDHJ) as an independent organ, not subject to the direction, control or influence of any person or authority, with the competence to examine complaints, conduct investigations and make appropriate recommendations to the competent organs to prevent and remedy any illegalities or injustices⁹. The Office of the Ombudsman has carried out its functions since 2006 in the field of human rights and good governance and has strengthened its role, and has also exercised its functions independently. The Office of the Ombudsman has the purpose, to prevent maladministration and protect human rights and fundamental freedoms throughout the national territory¹⁰, and also to conduct monitoring and investigations and implement education programs and disseminate information to Government institutions and communities. The Ombudsman was given "A" status by the International Coordinating Committee of National Human Rights Institutions after reviews were conducted in 2008 and in 2013.

16. Any citizen who suffers a violation of his/her rights can submit a complaint to the Office of the Ombudsman for Human Rights and Justice by visiting the institution at its national headquarters or at one of its four regional offices, or via telephone, internet and also via any of the complaint boxes that have been set up in 65 Sub-District Administrations.

17. To date the Ombudsman has not yet received a complaint relating to the rights of migrant workers and their families. However, through monitoring carried out by the Department of Monitoring and Advocacy, the Office of the Ombudsman has obtained some data about migrant workers who have been involved in criminal proceedings. The data indicates that between January and July 2015 there were a total of 21 cases, involving 12 male migrant workers and 9 female migrant workers, specifically the crimes of smuggling, sexual exploitation of others and illegal exploitation of gambling. In two cases prison sentences were imposed, the first involving the crime of aggravated larceny and the second involving the crime of trafficking of narcotics, and in one other case involving driving

⁸ 1,620 workers from Indonesia, 601 from China and 432 from the Philippines

⁹ C-RD TL, Article 27

¹⁰ Law No. 7/2004, 5 May, Article 5.3 and 5.4

without a license a fine was imposed. The Office of the Ombudsman has 110 officers and has an annual budget of nearly US\$ 1.4 million.

- 6. Please provide detailed information on the steps taken by the State party to promote and publicize the Convention and to increase awareness and understanding of its provisions among the general public, migrant workers and members of their families, employers, teachers, health workers and government officials, including law enforcement officials and the judiciary. With respect to migrant workers who are nationals of the State party working abroad, please also describe measures taken by the State party to promote training programmes, including on gender sensitivity, for government staff dealing with migration issues. In particular, please provide information on training for those providing legal and consular assistance to nationals of the State party abroad who are seeking justice against abuse in the workplace, and regarding migrant workers or members of their families who have been arrested, held in prison, placed in custody pending trial or detained in any other manner.**

18. The Office of the Ombudsman has disseminated information about the ratification of the Convention as well as other human rights Conventions, but has not yet conducted a specific program to increase knowledge about the rights of migrant workers and their families.

19. SEPFOPE, through the National Directorate for Labour Relations (DNRT) and the IJT, and the DNKEPD in particular, conducted awareness raising activities for employers, workers and local authorities about the Labour Law, which in Article 77 confirms that foreign workers have the same rights and are subject to the same duties applicable to Timorese workers, pursuant to what is provided for in the Convention.

20. With the support of the United Nations Office on Drugs and Crime (UNDOC), the Human Rights Adviser's Unit and the International Organization for Migration (IOM), border police officers have increased their knowledge about human trafficking issues and protection for victims, via training programs in 2013 and 2014.

- 7. Please provide information on the cooperation between the State party and civil society organizations working on migrant workers' rights in relation to the implementation of the Convention. Recent reports indicate a lack of civil society organizations working on migrant workers' rights in the State party, notwithstanding the provision for their establishment in article 9 of the 2003 Immigration and Asylum Act. Please indicate whether representatives of civil society organizations are involved in the preparation of the replies to the present list of issues and if so, how they are involved.**

21. In civil society, there are at least four organizations involved in the protection of the rights of migrant workers: the Timor-Leste Chamber of Commerce and Industry (CCI-TL), Confederation of Timorese Trade Unions (KSTL), HAK Association and Women and Children's Legal Aid (ALFELA). These organizations conduct monitoring on the rights of migrant workers and their family members, provide legal assistance to migrant workers and are also involved in or pursue mediation in cases of conflict between workers and employers. CCI-TL and HAK took part in a public consultation that SEPFOPE organized on 14 April 2015 to obtain information to be included in this report.

- 8. Please provide information on the existence of private employment agencies in the State party that recruit migrant workers to work abroad, and the laws, rules and regulations pertaining to private recruitment, in particular:**
- (a) Measures taken to provide information and training to migrant workers on their rights and obligations, as well as to protect against abusive employment situations;**
 - (b) Whether recruiters assume joint liability with the employer for claims and liabilities that may arise in connection with the implementation of the employment contract, including wages, death, and disability compensation and repatriation;**
 - (c) Information relating to the issuing and renewal of licenses for such employment agencies and conditions for renewal;**
 - (d) Information on complaints against agencies, and on inspections, penalties and sanctions for non-compliance;**
 - (e) Measures taken by the State party to strengthen the existing government-regulated licensing system for recruitment agencies, migration regulation and control mechanisms to ensure that private recruitment agencies abstain from charging excessive fees for their services and from acting as intermediaries for abusive foreign recruiters.**

22. An employment agency, in the form of a company that wants to conduct activities in Timor-Leste needs to be registered and licensed for the activities it wishes to be engaged in. Decree-Law No.45/2011, 19 October, establishing the Classification of Economic Activities, defines this activity as 'other activities of services provided, in particular, companies that deal with the selection and placement of personnel'¹¹.

23. In Timor-Leste, there are two agencies that have been licensed by the Government for five years, and are able to renew this license for the same period. These two agencies are KONEKTO and Invest People (IP), and to date there have been no complaints against them.

- 9. Please also provide information on the overall migration flow of Timorese in the aftermath of independence, indicating how many Timorese nationals returned and from where, how many Timorese nationals remain outside of the country, in which countries the majority of Timorese reside and the major migration-related difficulties faced by Timor-Leste.**

24. After the referendum in 1999 that saw violence committed by pro-integration militia groups against the population, nearly 200,000 Timorese fled to West Timor¹². By 2002, 196,000 of these people had returned to Timor-Leste¹³. At the same time, when Timor-Leste restored its independence as the result of the aforementioned referendum, Timorese people, especially those living in Australia, Portugal and Mozambique also returned to Timor-Leste, but there is no data on how many returned from these countries.

25. Ten years ago, when an opportunity was presented to work overseas, nearly 33,209 Timorese went to Indonesia, Australia, Great Britain (England and Northern Island) and

¹¹ These activities are included under Group 749 from the Classification of Economic Activities Table

¹² The island of Timor is split in two: Timor-Leste is the eastern half, and West Timor is the western half of Indonesia

¹³ United Nations Development Programme, 2002

Portugal¹⁴. The migration flow does not include all Timorese citizens who are overseas, because many of them left on Portuguese passports¹⁵.

26. In relation to the 1,817 workers sent by SEPFOPE to the Republic of Korea, 287 have returned to Timor-Leste and 1,530 are still working there. From a total of 277 who went to Australia, 141 have returned and 136 are still there.

B. Information relating to the articles of the Convention

1. General principles

10. **Please indicate whether the Convention has been directly applied by officials in the administration and/or invoked directly before the courts and whether the courts have applied it. If so, please give examples. Please also provide information on: (a) judicial and/or administrative mechanisms competent to examine and decide on complaints by migrant workers and members of their families, including workers in an irregular situation; (b) the complaints examined by such mechanisms in the past five years and their outcome; (c) any redress, including compensation, provided to the victims of such violations; and (d) any measures taken to inform migrant workers and members of their families about the remedies available to them for violations of their rights.**

27. The Public Prosecution Service, through the police, are able to investigate crimes, and the Office of the Ombudsman for Human Rights and Justice also has the competence to analyze complaints and forward them or explain how they can be submitted to the courts or other relevant authorities. DNRT and the National Directorate for Labour Conditions (DNKT) within the IJT also have the competence to analyze complaints from all migrant workers and to examine any violations of their rights. Under the DNRT there is the Mediation and Conciliation Service (MCS) that is tasked with resolving conflicts that arise from individual or collective work relations¹⁶. When there is no agreement, the MCS will forward the decision to the Labour Arbitration Council (KAT)¹⁷.

28. Between 2000 and 2015, the MCS provided support in 2,647 cases of work related conflict resolution, and 42 cases have involved foreign workers, comprising 33 men and 9 women.

29. Between 2012 and 2014, the DNKT received complaints from 13 foreign workers, comprising 8 men and 5 women.

30. Article 34 of the Labour Law establishes the right to compensation to repair damages resulting from occupational accidents or professional diseases. The compensation can be paid to the spouse of the worker, the descendants, parents or siblings, in the event of the death of the worker.

31. The right to compensation is also provided for in Article 55 of the Labour Law, if an employer removes a worker outside of the procedure that has been established to ensure the rights of the worker. The law allows for the worker to be reintegrated into his/her position or if the worker does not accept this, or if determined by a court, the worker shall be paid compensation based on previous service, for a maximum of six months.

¹⁴ UNDESA, "Trends in International Migrant Stock: The 2013 Revision", 2013

¹⁵ All Timorese born before 1999 have the right to obtain Portuguese nationality which also applies to their children

¹⁶ Labour Law, Article 97.1

¹⁷ Labour Law, Article 101.4

32. The DNRT and DNKT have conducted awareness raising for employers and workers in the work place to inform the workers about their rights and duties.

33. During the last two years, DNRT has conducted awareness raising for 4,241 workers, comprising 3,990 Timorese and 251 foreigners¹⁸ and the DNKT has provided awareness raising for a total of 2,537 national and foreign workers combined.

2. Part II of the Convention

Article 7

11. **Please clarify whether national legislation ensures that all migrant workers and members of their families enjoy the rights provided for in the Convention without distinction of any kind and whether it covers all the prohibited grounds of discrimination enumerated in the Convention (art. 1, para. 1, and art. 7), including sex, language, national, ethnic or social origin, nationality, age, economic position, property, marital status and birth or other status. Please also provide information on the gender sensitivity of the domestic migration laws. In addition to legislation, please provide information on all the measures taken by the State party to ensure non-discrimination, both in law and in practice. Please further provide information on access to health care and other social services for migrant workers and members of their families both in a regular and irregular situation, as well as education for children of migrant workers in a regular and irregular situation.**

34. The Timor-Leste Constitution states that all people have the same rights and duties without discrimination of any kind, based on the principle of equality that is enshrined in Article 16.2, as well as rules of interpretation on the protection of the fundamental rights and duties that are set out in the Universal Declaration of Human Rights¹⁹. The Labour Code states that all workers, which includes migrant workers, have the right to equality of opportunities and treatment insofar as access to employment, training and professional capacity building, work conditions and remuneration²⁰. The law also includes the norms of the Timor-Leste Constitution to establish that no worker may, either directly or indirectly, be benefited, negatively affected, deprived of any right or exempted from any duty on the basis of colour, race, civil status, gender, nationality, ascendancy or ethnic origin, social position or economic status, political or ideological convictions, religion, education or physical condition, age and health²¹. Article 77 of the Labour Code establishes that foreign workers have the same rights and are subject to the same duties as national workers.

35. The Immigration and Asylum Act also contains a similar provision stating that foreigners who reside in Timor-Leste enjoy all of the rights and are subject to all of the duties enshrined in the Constitution and the Laws²². This law does not contain a clear and specific provision that prohibits gender based discrimination and does not provide special protection to migrant women.

36. Access to health care in Timor-Leste is equal for nationals and foreigners, including migrant workers and their families. Everyone who receives health treatment and medicine in hospitals and health centers does not need to pay. The Government, through the Ministry

¹⁸ 251 Foreign workers were given guidance from the DNRT about the Labour Law, comprising 187 men and 64 women

¹⁹ Labour Law, Article 23

²⁰ Labour Law, Article 6.1

²¹ Labour Law, Article 6.2

²² Immigration and Asylum Act, Article 5

of Health (MH) allocates US\$ 2,000 (two thousand American dollars) annually to foreigners, from a range of countries such as Portugal, Indonesia, Cuba and the Philippines, who provide services to the Ministry and who are placed in the national hospital and five referral hospitals, with a total of 33 people, to ensure medical assistance to those who are ill.

37. Foreigners, including migrant workers and their families, also benefit from some social services provided by the Government, through the MSS, such as a coffin and a vehicle to transport a deceased or a vehicle to transport those suffering from mental illness. Sometimes children whose parents have left to work overseas seek assistance from the Government to provide them with a visa so that they can join their parents²³.

38. In the field of education, the children of migrant workers can obtain the same access as Timorese citizens to public schools, however due to language difficulties, many attend private international schools.

3. Part III of the Convention

Articles 8 - 15

12. **Please provide information on the measures taken to combat labour exploitation of migrant workers, including those in an irregular situation, in particular those in the commercial, construction, fishing and hospitality sectors. Please also provide information on measures taken to combat the exploitation through prostitution of migrant women in the State party, and on the measures taken to protect migrant children in the State party from forced labour and from sexual exploitation and abuse.**

39. The State of Timor-Leste is implementing some concrete measures, through SEPFOPE and the Migration Service (MS). SEPFOPE is required to regulate labour relations between employees and employers in order to ensure compliance with the law, and therefore SEPFOPE, and its IJT in particular, is carrying out its functions in this area by analyzing work contracts and conducting inspections before providing reports on the issuance of work visas, and is conducting regular inspections and “follow-up” inspections in workplaces, through the labour inspector. It also conducts joint inspections with MS, MCIE and MFAC.

40. During the last two years, IJT has conducted regular inspections of 1,819 workplaces with a total number of 5,326 foreign workers, comprising 4,157 men and 1,169 women, and conducted joint inspections of 146 workplaces, involving all workers, with a total of 2,063 nationals and foreigners.

13. **Please provide information on measures taken by the State party to combat racism, discriminatory conduct, ill-treatment and violence directed at migrant workers and members of their families.**

41. Timor-Leste ratified the International Convention on the Elimination of All Forms of Racial Discrimination through Parliamentary Resolution No.10/2003, 17 September. In

²³ With the idea of reunifying families whose children have been separated from their parents who are working overseas, the MSS has supported these families to obtain visas for their children so they can go and be with their parents.

addition, the Penal Code categorizes racial discrimination, hatred or violence as a crime punishable with 4 to 12 years imprisonment²⁴.

Articles 16 - 22

- 14. Please describe the due process safeguards in situations of investigation, arrest and detention of migrant workers and members of their families for criminal offences and administrative infractions, including immigration-related matters. Please also provide information on conditions of detention for migrant workers and indicate whether the State party has in place alternatives to detention for immigration-related matters.**

42. In cases of administrative crimes or infractions, including those relating to migration, the law ensures that people who are involved in an investigation, arrest and detention have the right to obtain information about their rights, freedom from torture and maltreatment and the right to a fair trial, including legal aid that is free of charge, provided by the Office of the Public Defender, among other things

43. Migrant workers, just like all Timorese citizens, who are detained in police detention centers for allegedly committing a crime, receive detailed information about their rights, access to facilities to communicate with their family or embassy officials or others, food and drinks at meal times. However, detention centers only have very basic conditions, and for example there are no appropriate chairs or beds yet or adequate ventilasau. Timor-Leste does not yet have specific detention facilities for migration related issues, and there is only one and the same facility.

44. When conducting an inspection, the MS identifies irregular migrant workers, because, for example, they do not possess a work visa. The MS takes alternative measures to detention, such as notifying the worker to make a statement at the MS office. After analyzing irregular situations, the MS Director has the competency to issue a decision. Based on the merits of each case, a decision is made to either notify the migrant worker to pay a fine and to normalize the situation or to provide him/her with the option to voluntarily depart from the territory of Timor-Leste.

- 15. Please provide information on measures taken to ensure that: (a) migrant workers and members of their families are only expelled from the territory of the State party pursuant to a decision taken by a competent and independent authority, following a procedure established by law and in conformity with the Convention; (b) the decision can be reviewed on appeal, especially with regard to reported instances of migrants heading for Australia by sea whose vessels are intercepted by the Timorese Maritime Police Unit (MPU); and (c) pending such appeal, the person concerned has the right to seek a stay of the expulsion decision.**

45. The Immigration and Asylum Act provides that in order to remove or expel a foreigner who has entered the national territory illegally, there needs to be a final decision handed down after due process²⁵, as set out in Articles 71 - 78.

46. The Immigration and Asylum Act also states that a decision to expel a foreigner can be appealed to the Court of Appeal²⁶. In cases where a foreigner has entered and remained in Timor-Leste legally, the decision of expulsion will be suspended pending a response

²⁴ Penal Code, Article 135

²⁵ Immigration and Asylum Act, Article 71. 2

²⁶ Immigration and Asylum Act, Article 76

from the courts. However, when a foreigner enters and remains in Timor-Leste illegally, the appeal of the decision has a devolutive effect²⁷.

16. **The Committee is concerned about reports of workers without authorization who are either fined or deported back to their country of origin. The latter solution seems to have been used especially in cases of migrants who are intercepted at sea in boats heading for Australia. Please supply up-to-date information, including disaggregated statistical data, on undocumented and irregular migrant workers and their families who have been expelled, and on the deportation procedures. Please indicate whether there have been cases of collective expulsion and provide information on laws covering the issue of collective expulsion. Please also indicate how the State party ensures the due process of individuals in cases of collective expulsion. Please indicate whether migrant workers can challenge expulsion orders and whether such remedies have a suspensive effect.**

47. Between 2011 and 2014, the IJT, via joint operations, identified a total of 159 foreigner workers who were working on tourist visas²⁸.

48. To date there has been no registered cases of collective expulsion of migrant workers and members of their family.

Article 23

17. **Please provide details on the consular services provided by the State party for nationals working abroad, including those in an irregular situation. Please indicate whether legal assistance is provided, including in detention and/or expulsion cases. Please also indicate whether migrant workers and members of their families in the State party have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin whenever the rights recognized in the Convention are impaired, in particular in cases of arrest, detention and expulsion.**

49. According to the Organic Structure of the Ministry of Foreign Affairs and Cooperation²⁹, the National Directorate for Consular Issues (DNAK) provides protection and consular assistance to the Timorese community overseas, such as protection for the families of detainees, resolving problems of repatriation, coordinating the transfer of mortal remains and providing monitoring and informing the Government of risks and emergencies affecting Timorese citizens overseas to organize their evacuation. Consular services in the embassies provide protection to Timorese citizens (regular or irregular) overseas, including the core function of assisting all Timorese citizens, especially in relation to the renewal of passports, transferring of mortal remains, and diplomats follow up criminal cases involving Timorese citizens. The last scenario includes visiting defendants who are in detention and seeking legal aid. To date, the DNAK has provided the aforementioned consular assistance to workers in the Republic of Korea, the Philippines and Australia. Although consular assistance is not provided to Timorese citizens who are living in England and Northern Ireland, because they are using Portuguese passports, the consular service supports Timorese citizens in transferring mortal remains back to Timor-Leste. For those Timorese citizens who are living in Indonesia, the DNAK, through the Embassy's consular service, provided legal aid to support Timorese who were accused and detained in Surabaya and investigated in Yogyakarta.

²⁷ Ibid

²⁸ An IJT report in 2014 on foreign workers who were working on tourist visas provided the following data: 2011 – 80 workers, 2012 – 26 workers, 2013 - 16 workers and last year – 37 workers

²⁹ Decree-Law No. 9/2014, 19 March, Article 3.2

50. When foreign citizens in Timor-Leste are arrested, detained or expelled, the competent authorities immediately communicate with their embassies so they can provide assistance to their citizens.

Articles 25 - 30

- 18. The Committee notes that Timorese labour legislation establishes that an employed foreign worker is entitled to the same rights and subject to the same obligations applicable to national workers (2012 Labour Code, art.77). The Committee additionally notes that, as far as the promotion of commercial activities by foreigners is concerned, the law on commercial licensing determines that the exercise of commercial activity in traditional markets or the itinerant trade is reserved for Timorese citizens (art.6, para. 3, Decree Law No..24/2011 of 8 June 2011). Please indicate whether the labour rights enjoyed by nationals apply on an equal basis to migrant workers in both irregular and regular situations, and provide clarification with respect to those cases where a distinction is made between nationals and non-nationals.**

51. As noted above, Article 77 of the Labour Law states that the rights and duties that are enshrined in the law apply equally to national and foreign workers and there may not be any discrimination whether the foreign worker is in a regular or in an irregular situation.

52. However, the Government has established some criteria to support Timorese citizens in the field of employment. In 2013, SEFPOPE recommended that only Timorese citizens be contracted for certain jobs that were not very complex or technical and that these jobs are not to be given to foreigners, such as staff in bars, restaurants and hotels, shop assistants, drivers (with the exception of 8 wheel vehicles and dockworkers), receptionists, domestic employees (with the exception of those jobs that require a certain skill such as child minding or people with special needs or cooks), security guards for private residences and public places, tellers in commercial locations, warehouse controllers (with the exception of civil construction warehouses and middle or large scale industry), any service assistant, such as photocopying, waste disposal, garden maintenance and street vendors³⁰.

53. Another situation set out in the Law on Licensing of Commercial Activities³¹ states that the carrying on of commercial activities in traditional markets or street vending is reserved for citizens of Timor-Leste.

54. To complement these criteria, SEFPOPE also issued a decision that foreign workers who have a work authorization card need to perform their function together with at least one Timorese person, to transfer knowledge and experience. When this is not done, the IJT will not renew the work authorization card or will cancel this card and the work contract as well.

55. Some complaints were submitted to the DNKT in which the law was not obeyed, for instance: one case in which a female migrant worker from the Philippines was not given maternity leave for the period established in the law³², and in more than one case migrant workers were not given their annual allowance³³ on the grounds that they were given a high salary.

³⁰ Instruction No. 232/SEFPOPE-GSE/D/X/2013 on Authorization for Written Employment Contracts and Report on Permanent Residence Visas for Foreign Workers and Employers

³¹ Law 24/2011, 8 June, Article 6.3

³² According to Article 59.1 of the Labour Law female workers are entitled to three months of maternity leave

³³ Labour Law, Article 44

- 19. Please inform the Committee of the measures the State party has taken to ensure the rights of children of migrant workers abroad, including children of migrant workers who are undocumented or in an irregular situation, to be registered at birth and to have their country of origin ensured in law and in practice. Please provide information on the measures taken to ensure the birth registration of foreign migrant children in the State party. Please also specify whether children of migrant workers who are undocumented or in an irregular situation enjoy the right to education.**

56. The Law on Citizenship³⁴ establishes that all people who are born in the territory of Timor-Leste to parents who are not Timorese have the right to obtain their original nationality. Those who are born overseas to Timorese parents have the same right.

57. Therefore, children born in the territory of Timor-Leste, to Timorese parents or with one foreign parent or both foreign parents, have the right to immediately register nationality at the time of birth via a certificate that is issued by the hospital or health center where the child was born or at the MJ civil registry.

58. One example was a child born to parents from Myanmar who immediately registered the birth and Timor-Leste was listed as the nationality.

59. In addition, the MJ drafted and submitted a draft law on Civil Registry which is currently awaiting discussion and approval from the Council of Ministers. To ensure the birth registration of all people in Timor-Leste, in 2015, civil registry officers and also local administration officers were given training by UNICEF, specifically on the registration procedure after giving birth.

60. Regarding access to schools, all school-age children have the same right to access public schools without discrimination based on nationality. To date there has not been a complaint that a public school has prohibited the children of migrant workers from attending school.

4. Part IV of the Convention

Article 41

- 20. Please provide information on the steps taken by the State party to facilitate the exercise of its nationals residing and working abroad of the right to vote and to be elected at elections held in the State party.**

61. Although the State of Timor-Leste has established diplomatic representations in various countries and has established its own entity that is responsible for elections (National Electoral Commission), the necessary requisites have not yet been put in place to help Timorese citizens who are overseas to vote and to be elected at Timor-Leste elections.

³⁴ Law No. 9/2002, 5 November, Article 8

Article 44

- 21. Please describe the measures taken by the State party to ensure the protection of the unity of the families of migrant workers and to facilitate the reunification of migrant workers with their spouses or persons who have with the migrant worker a relationship that, according to applicable law, produces effects equivalent to marriage, as well as with their minor dependent unmarried children.**

62. The Immigration and Asylum Act recognizes the right to family reunification in Articles 44 - 46. However, this right does not cover all foreigners, because the main requirement for submitting a request for reunification is the possession of a valid residence authorization. To obtain this authorization, it is necessary to go through the process of obtaining a permanent residence visa, and there should be no hidden impediments that would constitute a basis for visa denial as well as actual presence in the national territory³⁵. This does not correspond with the circumstances of migrant workers who are working in the country and need to have a work visa, rather than the aforementioned visa. Therefore, this is an impediment for all migrant workers in relation to accessing their rights.

63. In response to the current situation, economic development and increasing migration flows, in May 2015, the Council of Ministers approved a new law on Migration and Asylum that was submitted to National Parliament with a request for it to be discussed and approved as a priority and matter of urgency. In this new law, the right to family unification is not just granted to those who have a residence authorization, it also covers migrant workers so as to avoid any discrimination. This law provides for temporary residence authorization, through a permanent residence visa³⁶ and also a new type of temporary stay visa for families who are dependent on a foreigner holding the special stay authorization, student visa, visa for specialized activities, work visa and Class II business visa³⁷.

64. On the other hand, Timorese workers who are working overseas, with reference to those in the Republic of Korea, do not have the right to family reunification in accordance with the applicable law there.

Article 45

- 22. Please provide information on the measures taken by the State party to ensure access to educational institutions and services, vocational guidance and training institutions and services. Please also provide information on the measures taken by the State party to facilitate the integration of children of migrant workers in the local school system, including by teaching them the local language and their mother tongue and culture.**

65. SEPFOPE, via an agreement with the Republic of Korea and Australia, facilitates training in the Korean language to all Timorese who demonstrate an interest in working in the Republic of Korea, information sessions for those who are accepted before they leave Timor-Leste so they have an understanding of the law, culture, work and other issues that are important when living and working in these two countries. When the Timorese workers arrive there, they attend another information session, provided by local entities, such as the police and human rights institutions, as well as training in the work place before starting work with the companies or institutions that receive them.

66. All children have the right to attend public schools, including the children of migrant workers. However, the teaching is conducted in the official languages of Timor-

³⁵ Immigration and Asylum Act, Article 49

³⁶ Draft Migration and Asylum Act, Articles 43 and 62, al. c)

³⁷ Draft Migration and Asylum Act, Article 42

Leste³⁸. Foreign children in private international schools have better facilities to learn in other languages, for example English.

Articles 46 - 48

- 23. Please provide detailed, updated information on bilateral and multilateral agreements concluded in the field of migration, in particular temporary labour programmes and other agreements concerning employment, protection, double taxation and social security for migrant workers and members of their families. In that regard, please also provide information on agreements concluded with member States of the Association of Southeast Asian Nations (ASEAN) on related matters, and on the status of Timor-Leste within ASEAN.**

67. To date, there are no bilateral or multilateral agreements between Timor-Leste and other countries to regulate the flow of migrant workers, however there is a MOU with the Republic of Korea and an MOU with Australia to send Timorese to work there. These Timorese workers are not subject to double taxation, as they only pay tax in the Republic of Korea and in Australia, and do not pay tax in Timor-Leste.

68. The aforementioned Timorese workers make contributions to the social security system in these two countries, and therefore have the right to receive assistance from the State, for example in the event of a work accident, maternity leave, among other things. When they return to Timor-Leste they can get their insurance premium and contributions back.

69. Timor-Leste does not yet have an agreement with ASEAN Member States about migration and its status continues to be that of an Observer State.

Article 49

- 24. Please clarify whether separate authorizations to reside and to engage in employment are required under national legislation. If so, please provide information on whether migrant workers are ensured authorization of residence for at least the same period of time as their authorization to engage in remunerated activity. Furthermore, it is not clear from the Immigration and Asylum Act which requirements migrants in possession of work visas must fulfil in order to apply for residence permits. Please provide clarification in that regard.**

70. The Immigration and Asylum Act establishes three types of visas: ordinary visa, work visa and permanent residence visa³⁹. When a migrant worker has obtained a work visa he/she does not need to obtain another visa to reside in Timor-Leste. Foreigners who come and invest in Timor-Leste need to obtain a permanent residence visa to reside in the country⁴⁰. According to the aforementioned law, a work visa is valid for one year⁴¹ and a permanent residence visa is valid for six months⁴².

71. The Immigration and Asylum Act requires that in order to obtain a residence authorization, the person must possess a permanent residence visa⁴³, not a work visa. Therefore, there is no possibility for migrant workers who are working and who have a

³⁸ Education System Framework Law, Law 14/2008, 29 October, Article 8

³⁹ The Immigration and Asylum Act, Article 34

⁴⁰ The Immigration and Asylum Act, Article 37.4

⁴¹ The Immigration and Asylum Act, Article 36.3

⁴² The Immigration and Asylum Act, Article 37.3

⁴³ The Immigration and Asylum Act, Article 49.2(a)

work visa to request a residence authorization. However, as mentioned above, the law is being amended to strengthen the rights of all migrant workers.

- 25. Please provide information on measures taken to ensure that migrant workers in the State party are allowed freely to choose their remunerated activity without being regarded as in an irregular situation, and retain their authorization of residence in the event of termination of their remunerated activity prior to the expiration of their work permit or similar authorization. Furthermore, please provide information on measures taken to ensure that, in such cases, the authorization of residence is not withdrawn at least for a period corresponding to that during which the migrant worker may be entitled to unemployment benefits.**

72. Pursuant to Article 8.3 of the Immigration and Asylum Act, which guarantees the right to work, a person who has obtained a work visa for a particular job which ends before the expiration of his/her visa will not be disadvantaged in regards to the remaining time left, but in order to start a different job he/she is required to obtain express authorization from the Department of Migration and the approval of the Government body responsible for labour.

5. Part V of the Convention

Article 58

- 26. The Committee has received information that a Border Crossing Pass was introduced as a result of an agreement between the State party and the Republic of Indonesia on traditional border crossings and regulated markets, which was ratified by Resolution 21/2009, in order to facilitate local border crossings. Please provide information on measures taken to implement the plan aimed at improving the situation of frontier workers, and to include in national legislation the definition of frontier workers and specific provisions related to the protection of their rights, in accordance with article 58 of the Convention. In addition, please provide information on any measures that have been taken to improve the situation of frontier workers resident in the Oecusse region.**

73. To date, there is no register for frontier workers, and a plan does not yet exist to implement any measures to attend to this situation.

74. Although there is no law to define who are frontier workers, as a result of the Convention, that has been ratified and incorporated in domestic law, the definitions in the Convention can be applied in the Timor-Leste legal framework.

75. For the purpose of considering the circumstances faced by the people who live near the border and regularly cross back and forth to access traditional markets or visit family or take part in traditional ceremonies, Timor-Leste and Indonesia entered into an agreement on traditional border crossings and regulated markets via Parliamentary Resolution No. 21/2009, 28 May, to facilitate the movement of citizens, in the form of a border crossing pass which also covers minors. This pass is valid for one year and allows the holder to enter and pass through certain border posts, and when the holder crosses he/she can stay on the other side for up to 10 days.

76. This agreement not only facilitates and regulates the irregular migration practices of the communities on both sides of the border so they can conduct business and strengthen family relations, but also has the aim of reducing irregular migration and smuggling networks. It is also hoped that the two populations living along the Oecusse border area will obtain benefits from the joint efforts of SEPFOPE and the Special Administrative Region of

Oecusse and the IOM to implement a plan to deal with the circumstances faced by migrant workers in that region and to support them.

6. Part VI of the Convention

Article 64

27. **Please provide information on the measures taken to prevent irregular migration, including through international agreements, policies and programmes. Please include information on how such measures have been mainstreamed in general migration policies and programmes and indicate whether a measurable estimate in terms of the numbers of irregular migrants has been determined.**

77. In 2010, Timor-Leste established a Border Management System (BMS) relating to migration to identify those who overstay the time permitted on their visa and who reside illegally in Timor-Leste. When a visa expires and the holder does not exit the national territory or does not extend the visa, the system immediately issues a notification to the Migration Service to search for the holder of that visa at the location that was registered when the person entered Timor-Leste.

78. In addition, Timor-Leste is a member of the Bali Process and from the outset it has been acknowledged that Timor-Leste as a new State in the Asia-Pacific region might encounter major challenges just like other countries in relation to irregular migration, human trafficking and other transnational organized crime.

79. Therefore, Timor-Leste entered into a bilateral agreement with Indonesia to prevent and combat transnational crime and to develop collaboration with the Indonesian police and the PNTL which commenced in 2010 for a term of three years, and was renewed in 2013 for the same term. Based on this agreement, the two countries work together to improve and increase cooperation by sharing information and experience with each other in the fields of education and training and jointly implement operational activities. These two institutions also entered into an agreement on training for a term of five years, renewable for the same term.

80. These measures do not only strengthen collaboration and capacity building to prevent and combat transnational crimes, but they also facilitate the control of migration flows through the exchange of information and support the Government to develop policies and programs for the migration service to cover all areas.

Article 67

28. **Please provide information on the efforts undertaken to assist returning migrant workers and members of their families, especially children, in their reintegration into the economic and social life of the State party.**

81. The State of Timor-Leste, through SEPFOPE, provides assistance to migrant workers who return to Timor-Leste, in particular those returning from the Republic of Korea and Australia, to register themselves at employment centers. SEPFOPE also provides counselling and mediation services to those who are seeking training or employment overseas or domestically, through a labour market information system called SIMU-BUKA (Receive-Find).

82. In relation to social reintegration, there has been no information to date that any migrant workers and members of their families have encountered problems when they have returned to Timor-Leste. Normally those who return are well-and warmly received by the community.

Article 68

- 29. Please indicate the measures taken by the State party to combat trafficking and smuggling of migrants, in particular women and children, including by effectively detecting the illegal or clandestine movement of migrant workers and members of their families, systematically compiling disaggregated data and bringing perpetrators of trafficking and smuggling of migrants to justice. Please provide updated information on the number of reported cases of trafficking and smuggling of migrants, investigations, prosecutions, and sentences imposed on perpetrators since 2008. The Committee is particularly interested in being updated on the latest developments regarding the specific legislative measures announced by the State party on human trafficking. The Committee is particularly concerned that article 81 of the Immigration and Asylum Act does not contain any reference to support for victims of trafficking while they are recovering, or to procedures for their protection.**

83. Timor-Leste has ratified the Convention Against Transnational Organized Crime through Parliamentary Resolution No. 26/2009, 9 September, and the Additional Protocol against the Smuggling of Migrants by Land, Sea and Air and the Additional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children⁴⁴. Taking these conventions further, Timor-Leste considers human trafficking to be a crime against personal liberty that is punishable with 8 to 20 years imprisonment⁴⁵, or if aggravated, 12 to 25 years⁴⁶. Finally, to strengthen the existing legislation, the Council of Ministers approved a law against human trafficking that is awaiting approval and adoption by the National Parliament.

84. The new Migration and Asylum Act also provides special protection to victims of human trafficking. In this law, the Government has the duty to ensure that victims of human trafficking and their families are provided with means of subsistence, residence, appropriate physical and mental health treatment, protection, security and legal assistance and a two-year temporary residence authorization⁴⁷.

85. In 2011, the Government established a Working Group on Trafficking, led by the MFAC and comprising ministries, national and international organizations, such as IOM, with the aim of eliminating human trafficking. Under this Working Group, a sub-committee was established to draft specific legislation on human trafficking and another sub-committee was set up to draft a national action plan.

86. Other measures to combat human trafficking include the establishment of a Vulnerable Persons Unit within the PNTL to investigate cases of gender based violence, which include domestic violence, abduction, child abuse, human trafficking and other crimes against those who do not have the power to defend themselves. This unit operates at the national level with one commander and two officers, and also with seven to eight officers at the Municipal level. In 2012, there were a total of 99 officers in the 13 Municipalities.

87. In 2012, the Government organized an International Conference on Human Trafficking with the aim of promoting understanding about national and international mechanisms and the legal framework on human trafficking, especially the trafficking of women.

⁴⁴ Parliamentary Resolutions No. 27 and 29/2009, 9 September

⁴⁵ Penal Code, Article 163

⁴⁶ Penal Code, Article 164

⁴⁷ Draft Migration and Asylum Law, Article 62 (e) and Article 65

88. In 2010, a total of 377 representatives from PNTL and other judicial bodies, NGOs, Timorese embassy and consular officials, were given training in all municipalities by IOM on human trafficking and compliance with the law known as HELP III.

89. Civil society, through PRADET, a national civil society organization, and with the support of the Government, through the MSS and IOM, established a safe house for women and children victims of trafficking which provides them with ongoing support, assistance for physical and mental health, repatriation and reintegration/reinsertion.

90. Between 2008 and 2011, 50 victims of trafficking were identified, with 33 individuals coming from a range of countries such as Myanmar, Cambodia, Indonesia, China and the Philippines. These victims were given assistance by the Migration Service, IOM, the Gender Based Violence Network and other agencies⁴⁸.

91. In 2011, the courts convicted two foreigners, with one of them being sentenced to 13 years imprisonment and the other to six months for committing the crime of human trafficking.

92. In the same year, the sub-committee established under the Working Group to draft legislation – the Law to Prevent and Combat Human Trafficking –submitted a proposal to the National Parliament. However, due to particular circumstances that impacted on the discussion and approval of this law, in 2013 the MFAC and MJ made revisions to the draft law which was subsequently submitted to the Council of Ministers. The Council of Ministers approved this draft and it will now be submitted to the National Parliament for consideration and approval before it is promulgated by the President of the Republic. The Law to Prevent and Combat Human Trafficking does not only establish measures, procedures and the legal consequences for those involved in such crimes, but it also set out the rights and guarantees for victims, by establishing a special fund to provide compensation to victims of trafficking and measures that need to be taken to improve and enhance national and international cooperation and coordination, especially in relation to identifying victims, and the exchange of information.

⁴⁸ 2013 - Government reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC).

Part II

In this section, the Committee invites the State party to briefly (three pages maximum) provide information regarding the protection of migrant workers and members of their families with respect to:

- (a) Bills or laws and their respective regulations;**
- (b) Institutions and their mandates and institutional reforms;**
- (c) Policies, programmes and action plans covering migration, including their scope and financing;**
- (d) Recent ratifications of human rights instruments, including International Labour Organization (ILO) Convention No. 97 (1949) concerning Migration for Employment, ILO Convention No. 143 (1975) concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers and ILO Convention No. 189 (2011) concerning decent work for domestic workers;**
- (e) Steps to make the declarations provided for in articles 76 and 77 of the Convention;**
- (f) Recent comprehensive studies on the situation of migrant workers and members of their families.**

93. Key legislation relating to the rights of migrant workers and members of the families is the Constitution, Labour Law and Immigration and Asylum Act.

94. The entities that intervene to protect the rights of migrant workers are SEPFOPE, MI—through the MS -, MFAC and MJ.

95. To evaluate and improve the circumstances of migrant workers and members of their families in Timor-Leste, in 2015, the Government of Timor-Leste with the support of IOM established a Technical Working Group on Labour Migration comprising SEPFOPE, IOM, MSS, MCIE, MFAC, MI, MJ, SEJD, SEPSEM, PDHJ, IOM and ILO. The Working Group will draft a national action plan and recommendations to the Government on how to improve existing strategies and regulations relating to labour migration, protection and empowerment of male and female migrant workers and young people who are unemployed.

96. Timor-Leste does not yet have a plan to ratify ILO Conventions No. 97, 143 and 189 or to make declarations based on Articles 76 and 77 of the Convention.

97. In 2013, the State of Timor-Leste, through the Migration Service, together with the ACP Observatory on Migration conducted a study on the theme of: ‘New country, new needs, new responses: Irregular labour migration to Timor-Leste’, which presents an overview of the irregular migration situation in Timor-Leste, with a focus on the circumstances of migrant workers.

Part III

Data, official estimates, statistics and other information, if available

1. Please provide, if available, updated disaggregated statistical data for the past three years (unless indicated otherwise) on:
 - (a) Migrant workers in detention in the State party and in the State of employment;
 - (b) Migrant workers and members of their families that have been expelled or deported from the State party in the past five years;
 - (c) The number of non-accompanied migrant children or migrant children separated from their parents in the State party;
 - (d) Remittances from migrant workers who are nationals of the State party working abroad and information on legislation regulating remittances and government policies relating to remittances and development;
 - (e) Reported cases of trafficking and smuggling of migrants, investigations, prosecutions, and the sentences imposed on perpetrators (disaggregated by sex, age, nationality and purpose of trafficking) and information on national human trafficking trends;
 - (f) Legal assistance services provided to migrant workers and members of their families both inside the State party and regarding nationals of the State party working abroad;
 - (g) Applications for family reunification made during each of the past six years for Timorese and for foreigners, disaggregated by status of applicant (Timorese national, holder of Special Stay Authorization, holder of Residence Permit, etc.). Please provide data on the outcomes of such applications, including details of appeals, similarly disaggregated;
 - (h) Mechanisms aimed at collecting quantitative disaggregated statistical data and qualitative information on the rights of migrant workers in line with the Convention inside and outside the State party. If applicable, please also provide information on the functioning of such mechanisms, including indicators of success and outcomes.

98. In January 2015, three men from the Republic of Indonesia were charged and sentenced to prison for the crime of illegal import of goods⁴⁹.

99. Overseas, some Timorese citizens working in England were detained and tried and received prison sentences between six and 11 months. There were 16 Timorese men in total, on Portuguese passports, who were charged and convicted for the crimes of disturbing the peace, violence and possession of dangerous weapons.

100. Timorese citizens, in particular those working in the Republic of Korea, to date have remitted a total of US\$ 4.9 million to Timor-Leste. Timorese citizens working in Australia have remitted a total of US\$ 1.1million to Timor-Leste⁵⁰. These remittances have resulted in the SEPFOPE developing its own policy to ensure that Timorese citizens who go to work

⁴⁹ Information obtained from the NGO Judicial System Monitoring Program (JSMP)

⁵⁰ Report from the National Directorate for Employment, SEPFOPE, 2014

overseas will continue to contribute to the development of the nation, by providing assistance to their families so they can send their children to school, open businesses, build houses and so on, and in the future, when they return to Timor-Leste, they will have enough cash reserves to support themselves.

101. In relation to the amount of money sent from England, it is estimated that about 9,000 families receive US\$ 370 per month from those Timorese who are working there.

102. From the remittances received, 43% is received on a monthly basis and 28% is received intermittently, and is used in particular for family or social expenses, such as for family needs or for funerals. In addition, 45% is used for ordinary day to day expenses, 41% for improving houses, 30% to pay for school and 10% to pay debts. Only 33% is used to make investments in some kind of business⁵¹.

⁵¹ Leveraging Remittances with Microfinance: Timor-Leste Country Report on remittances, December 2007