



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

Distr.: General
26 September 2014
English
Original: French

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

List of issues prior to the submission of the initial report of Mauritania*

The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, at its fourteenth session (A/66/48, para. 26), established a procedure which consists of the preparation and adoption of a list of issues to be transmitted to the State party concerned prior to the submission of its report. The replies of the State party to this list of issues will constitute its report under article 73, paragraph 1, of the Convention. In accordance with General Assembly resolution 68/268, paragraph 16, the initial report should not exceed 31,800 words.

A list of issues may also be transmitted to a State party in cases where the Committee decides to examine the implementation of the Convention in the absence of a report, in accordance with rule 31 bis of the provisional rules of procedure (A/67/48, para. 26).

Part 1

In this section, the State party is requested to submit its responses to the following questions.

A. General information

1. Please provide information on the national legal framework pertaining to the Convention, including:

- (a) The status of the Convention in national law, and whether the Convention has direct effect or has been incorporated into national legislation to ensure its implementation;
- (b) Information on the relevant national legislation of the State party regarding the protection of migrant workers and members of their families under the Convention;

* Adopted by the Committee at its twenty-first session (1–5 September 2014).



(c) The steps taken by the State party to bring its legislation into line with the provisions of the Convention, in particular those regulating the conditions under which foreigners may enter Mauritania and stay and work there; and

(d) Bilateral and multilateral agreements with other countries concerning migration.

2. Please provide information on the policies and strategies relating to the rights of migrant workers and members of their families adopted by the State party. Please provide information on the measurable targets and deadlines that the State party has set for itself to effectively monitor progress in the implementation of the rights of migrant workers and members of their families, on the resources allocated for the realization of those rights, and on results obtained to date and those envisaged.

3. Please provide information on the government ministry or other entity responsible for intergovernmental coordination of the implementation of the Convention, and for monitoring of its implementation in the State party, including information on the entity's staffing and resources and on its monitoring activities and procedures.

4. Please provide information, including statistical data disaggregated by sex, age, nationality and migration status, on labour migration flows, including returns, and on other issues related to labour migration. Please also provide statistical data or, if precise data are not available, studies or estimates concerning migrant workers in an irregular situation. Please also provide information on measures taken by the State party to establish a coherent system for collecting data on these issues that enables cross-comparison of data.

5. Please provide detailed information on the mandate of the National Human Rights Commission of Mauritania, including human, technical and financial resources allocated to it. In particular, please indicate whether the National Human Rights Commission has a mandate in accordance with the Paris Principles (General Assembly resolution 48/134), focusing on efforts to strengthen its financial and institutional independence and stating whether its mandate includes explicit attention to the rights of migrant workers and members of their families. Please provide detailed information on steps taken to raise awareness among the general public, and particularly all migrant workers, of the services provided by the National Human Rights Commission, including complaint procedures and mechanisms, hotlines and other services.

6. Please provide detailed information on the steps taken by the State party to promote and publicize the Convention, and to increase awareness of its provisions among the general public, migrant workers and members of their families, employers, teachers, health workers, officials of embassies and consulates, and government officials of the State party who deal with the issues in question, including law enforcement officials, border police and judicial workers. With respect to migrant workers who are nationals of the State party working abroad, please describe measures taken by the State party to promote training programmes, including on gender sensitivity, for government officials dealing with migration issues, in particular those providing legal and consular assistance to nationals of the State party abroad filing complaints concerning abusive employment conditions, and to migrant workers or members of their families who have been arrested, placed in custody pending trial or detained in any other manner.

7. Please provide information on cooperation in implementing the Convention between the State party and human rights and civil society organizations working to uphold migrants' rights, and state to what extent those organizations were involved in the preparation of replies to the list of issues. Please also state how they are involved in promoting the Convention.

8. Please provide information on the existence of private employment agencies in the State party recruiting migrant workers to work abroad, and on the laws and regulations pertaining to such recruitment, in particular:

(a) Measures taken to provide information and training to migrant workers about their rights and obligations, and to protect them against abusive employment situations;

(b) The role and responsibilities of recruiters and their possible joint responsibility with the employer for claims and liabilities that may arise in connection with the implementation of the employment contract, including salaries and disability, death and repatriation allowances;

(c) The issuing and renewal of the licenses of such employment agencies;

(d) Complaints lodged against employment agencies, labour inspections conducted, and penalties and sanctions imposed in cases of non-compliance with the law; and

(e) Measures taken by the State party to strengthen migration regulation and control mechanisms in order to ensure that private employment agencies do not charge excessive fees for their services or act as intermediaries for foreign recruiters wishing to impose abusive working conditions.

B. Information relating to the articles of the Convention

1. General principles

9. Please indicate whether the Convention's provisions have been directly applied by government officials and/or invoked directly before the courts, and whether the courts have applied them. If so, please provide examples. Please also provide information on:

(a) Judicial and/or administrative entities competent to examine and decide on complaints by migrant workers and members of their families, including workers in an irregular situation;

(b) Complaints examined by such entities since the date of entry into force of the Convention, and their outcomes;

(c) The ability of migrant workers to obtain legal aid in this context;

(d) Any redress, including compensation, provided to victims of such violations; and

(e) Any measures taken to inform migrant workers and members of their families about the remedies available to them when their rights have been violated.

2. Part II of the Convention

Article 7

10. Please provide detailed information on measures taken by the State party to ensure, in law and in practice that all migrant workers and members of their families within the State party's territory or subject to its jurisdiction enjoy the rights provided for in the Convention, without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

3. Part III of the Convention

Articles 8 to 15

11. Please provide information on measures taken to combat exploitative employment of migrant workers, including those in an irregular situation, and to combat the exploitation through prostitution of women migrants in the State party. Please also state what measures are taken to protect migrant children in the State party from forced labour, domestic work, exploitation for the purpose of begging, and sexual abuse.

12. Please provide detailed information on the measures taken to investigate allegations of harassment and corruption by the police and by immigration authorities at the national and local levels, and of abuse of power by law enforcement authorities through the use of, for example, arbitrary detention of migrant workers and members of their families. Please provide information on the respective numbers of cases reported, prosecutions brought, government officials brought to justice and sentences handed down.

13. Please provide detailed information on the measures taken by the State party to ensure that migrant workers and their families enjoy their right to exercise religious freedom. In particular, please state whether migrant workers and members of their families have the freedom to practice or to adopt a religion of their choice, and to manifest their religion, whether individually or in community with others, in public or private, in worship, observance, practice and teaching.

Articles 16 to 22

14. Please describe measures in place to ensure due process for migrant workers and members of their families who are under investigation, or are arrested or detained for administrative or criminal offences, including in cases related to immigration, notably with regard to access to legal assistance, interpretation and adequate medical care. In this connection, please state whether the State party has put in place alternatives to the detention of migrant workers, in particular unaccompanied children and families with children. Please state whether measures are in place to enable migrant workers held in this context to exercise their right to an effective remedy enabling them to challenge the legality of administrative decisions relating to their detention, expulsion or refoulement. Please also provide an update on the status of the draft law on foreigners and asylum seekers that is before the Parliament.

15. Please provide information on the detention centres in which migrant workers are placed, and on the conditions of detention, and state (a) whether persons detained for immigration-related reasons are systematically separated from ordinary detainees; (b) whether women are separated from men; and (c) whether women detainees are supervised by female guards.

16. The Committee is concerned about allegations that in recent years the State party has expelled some migrants in an irregular situation and some asylum seekers. It also notes that safeguards concerning cases of refoulement still appear to be insufficient or inadequate. Please provide up-to-date information, including disaggregated statistical data, on migrant workers and their families who are undocumented or in an irregular situation and have been, or are in the process of being, expelled. Please also state whether the State party's national legislation prohibits collective expulsion.

17. Please provide information on measures taken to ensure that:

(a) Migrant workers and members of their families are expelled from the territory of the State party only pursuant to decisions taken by competent authorities,

following a procedure established by law and in conformity with the Convention, and that such decisions can be reviewed on appeal; and that

(b) Pending such appeals, persons subject to expulsion have the right to request a stay of the expulsion decision, and that such appeals have a suspensive effect.

Article 23

18. Please provide detailed information on the consular services provided by the State party to Mauritians working abroad, including those in an irregular situation, and in particular those who have been deprived of their freedom and are subject to expulsion.

19. Please state whether migrant workers and their families living in Mauritania can request the protection and help of the consular or diplomatic authorities of their State of origin, particularly in cases of arrest, detention or deportation proceedings.

Articles 25 to 30

20. Please provide detailed information on the measures taken, including mechanisms for legal protection of the right to work and for enforcement of the law, to safeguard the right of migrant workers, and in particular female migrant workers, to equal treatment, and to effectively monitor their working conditions (overtime, working hours, weekly rest, paid leave, social security, health, termination of the employment contract, minimum wage, etc.), whether they are in a regular or an irregular situation.

21. Please describe any measures taken to ensure that the public authorities comply fully with contracts protecting the rights of migrant workers, and describe any progress in the development of a national action plan for the implementation of guidelines for that purpose.

22. Please describe any measures taken to ensure that the right of migrant workers' children to birth registration and to a nationality is respected, regardless of their migration status. Please state whether steps are taken to ensure that children of migrant workers have access to education, regardless of their parents' migration status.

Articles 31 to 33

23. Please provide information on measures taken to ensure that, during and upon termination of their stay in the State party, migrant workers and members of their families have the right to transfer their earnings and savings and their personal effects and belongings. Please provide information on measures taken to facilitate the transfer of such funds and in particular to minimize the cost of such transfers.

24. Please state whether there are any pre-departure programmes for nationals of the State party, and whether such programmes include information on the rights and obligations of the State party's nationals in the State of employment. Please also describe any measures to inform migrant workers transiting through or residing in the State party, and members of their families, of their rights and obligations in the State of employment, and to give them access to clear information on immigration procedures, including comprehensive information on procedures for obtaining entry and exit visas and on registration procedures.

4. Part IV of the Convention

Article 37

25. Please describe the steps taken to fully inform migrant workers and members of their families, before their departure, of the conditions applicable to their admission and stay and to income-generating activities in which they may engage, and of applicable laws in the State of origin and/or the State of employment.

Article 40

26. Please provide information on the legislative measures taken to guarantee migrant workers and members of their families the right to form, and participate in the leadership of, associations and trade unions, in accordance with article 40 of the Convention.

Article 41

27. Please provide information on measures taken by the State party to facilitate the exercise by its nationals living and working abroad of the right to vote and to participate in the public affairs of the State party. Please also provide information on legislative and other impediments to the exercise of those rights.

Articles 43 and 45

28. Please provide information on the measures taken by the State party, including legislation, to ensure that migrant workers and members of their families enjoy equality of treatment with nationals regarding access to educational and/or vocational training institutions and services, health services, housing and cultural life.

Articles 46 to 48

29. Please state whether prevailing laws and the measures in place to enforce compliance with those laws allow migrant workers, when they leave the territory of the State party, to continue receiving the social benefits and allowances for which they have paid contributions. Please also provide information on the legal framework for guaranteeing the right of migrant workers to move their earnings and savings from the State of employment to the State of origin. Please also indicate whether the State party has concluded agreements permitting the transfer of family allowances for migrant workers' children not residing in the State party.

Article 49

30. Please state whether national legislation requires residence and work permits to be issued separately. If that is so, please state whether migrant workers can be sure of receiving a residence permit valid for at least the period during which they are authorized to engage in paid employment.

31. Please provide information on measures taken to ensure that migrant workers who, in the State party, are allowed to freely choose their remunerated activity are not considered to be in an irregular situation, and that they retain their residence permit, if their remunerated activity ends before the expiration of their work permit or similar authorization. Please provide information about measures taken to ensure that they are allowed to keep their residence permit at least for the period during which they may be entitled to unemployment benefits.

Articles 51 and 52

32. Please state whether the State party's legislation is in conformity with the Convention, and particularly with its articles 51 and 52, so that migrant workers can remain in the State party at the end of their contract, regardless of the reason for its termination, and can find other work and participate in public work schemes and retraining.

33. Please provide information on any legislation in the State party that may restrict access to certain job categories, and specify the types of activities involved. Please also state the conditions for obtaining authorization to engage in paid work, the types of work

covered, the numbers of permits granted during the past five years as well as the number of applications rejected, and the reasons for rejection.

Article 54

34. Please provide information on measures taken by the State party to ensure that migrant workers enjoy equality of treatment with nationals with respect to protection from dismissal, unemployment benefits, access to public work schemes for combating unemployment, and access to alternative employment in the event of loss of work or termination of other remunerated activity.

5. Part V of the Convention

Article 58

35. Please provide information on any measures taken to improve the situation of frontier workers and to include in national legislation a definition of frontier workers and specific provisions related to the protection of their rights, in accordance with article 58 of the Convention.

Article 61

36. Please provide detailed and updated information on the bilateral and multilateral agreements concluded by the State party on migration. In particular, please give details of programmes and agreements concerning the employment, protection, taxation and social security of migrant workers and members of their families. Please state whether there are any agreements for the management of migration to and from the State party, and provide details of any such agreements.

6. Part VI of the Convention

Articles 64 to 68

37. Please state whether the State party has undertaken appropriate consultations and cooperates with other States parties, particularly countries of origin and transit and destination countries, with a view to promoting sound, fair and humane conditions in connection with international migration of workers and members of their families. If so, please provide detailed information on such arrangements.

38. Please describe the measures taken by the State party to ensure that the rights of migrant children, in particular those who are unaccompanied and/or in an irregular situation or are transiting through the State party, are respected. Please also describe the measures taken to promote conditions that facilitate the resettlement and reintegration of migrant children and their families upon their return to the State party.

39. Please describe the measures taken by the State party to prevent and eliminate irregular migration, including of women and unaccompanied children, and notably effective measures to detect the movement and illegal or clandestine employment of migrant workers and members of their families. Please provide information on prevention campaigns developed by the State party to combat the dissemination of misleading information relating to emigration and immigration, and on programmes to educate its nationals, including children, about the dangers of irregular migration.

40. Please state whether the law makes it possible to punish all individuals, groups or entities that organize, provide or assist in organizing illegal or clandestine movement of migrant workers through or to the State party. In particular, please provide detailed information on the scope and the implementation of Act No. 025/2003 of 17 July 2003 on

combating human trafficking. Please describe in particular the measures taken or envisaged to address the gradual increase in the number of migrants in an irregular situation in Mauritania, a development stemming from the central role played by the country in recent years in regional migration because of its geographical location and the activities of networks organizing illegal emigration from Africa to other countries, including in Europe – emigration that now, according to information received, more often begins in Mauritania than in neighbouring countries.

Article 69

41. Please provide information on any measures taken to ensure that migrant workers and members of their families who are in an irregular situation in the State party are given the possibility of regularizing their situation in accordance with article 69 of the Convention.

42. Please describe the measures taken by the State party, including through bilateral and multilateral agreements, to improve the protection of its nationals abroad, both migrant workers and members of their families, whether in a regular or an irregular situation, in particular in Senegal, Gambia, Mali and Morocco, including efforts to promote the regularization of such persons' situations, taking into account the circumstances of their arrival, the length of their residence in the State of employment and other relevant considerations, in particular those related to their family status.

43. Please provide information on how the Mauritanian diaspora is organized and whether, for example, a council representing Mauritians living abroad exists.

Part II

In this section the Committee invites the State party to briefly (in a maximum of three pages) provide additional information about the protection of all migrant workers and members of their families, and specifically about:

- (a) Laws, draft laws and regulations;
- (b) Institutions (and their mandates) or institutional reforms;
- (c) Policies, programmes and action plans relating to migration issues, and their scope and financing;
- (d) The human rights instruments and International Labour Organization conventions that have been ratified recently or are being considered for future ratification, in particular the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and the Domestic Workers Convention, 2011 (No. 189);
- (e) Plans for making the declarations provided for in articles 76 and 77 of the Convention;
- (f) Recent comprehensive studies on the situation of migrant workers.

Part III

Data, statistics and other information, if available

1. Please provide up-to-date, disaggregated statistical data and qualitative information for the last three years (where relevant) on:

(a) The volume and nature of migratory flows into and from the State party since the entry into force of the Convention in the State party;

(b) Migrant workers in detention in the State party and in the State of employment;

(c) Migrant workers and members of their families expelled by the State party;

(d) The number of migrant children, and the number of migrant children separated from their parents, in the State party;

(e) Remittances from migrant workers who are nationals of the State party working abroad, and legislation and policies relating to such remittances;

(f) Reported cases of smuggling and trafficking of migrants, investigations, prosecutions, and the sentences imposed on perpetrators (disaggregated by sex, age, nationality and purpose of the smuggling or trafficking); and

(g) Legal assistance services provided to migrant workers in the State party and abroad.

2. Please provide additional information on any important developments and on measures considered by the State party as priorities in implementing the Convention.

3. Please also submit an updated core document in accordance with the harmonized guidelines on reporting under the international human rights treaties, which include guidelines for common core documents and treaty-specific documents (HRI/MC/2006/3).

During its dialogue with the State party, the Committee may take up any and all aspects of the rights of migrant workers and members of their families as set out in the Convention.
