



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

Distr.: General
2 May 2014

Original: English

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

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

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 in 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 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 I

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 domestic legal framework regarding the Convention, including:

(a) The rank of the Convention in domestic law and whether the Convention has direct effect or is part of the domestic law through implementing legislation;

(b) Information on the relevant national legislation of the State party regarding the protection of all migrant workers and members of their families and on migration policies under the Convention;

* Adopted by the Committee at its 20th session (31 March–11 April 2014).



(c) Measures taken by the State party to harmonize its legislation with the provisions of the Convention;

(d) Bilateral and multilateral agreements with other countries in the area of migration, in particular with Bangladesh, China, India, Kenya, Madagascar, Mauritius and Sri Lanka.

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

3. Please also provide information on the activities and progress of the National Task Force for Migration with regard to ensuring intergovernmental coordination of the implementation of the Convention and monitoring its implementation in the State party, including information on the available staffing and resources and on monitoring activities and follow-up procedures.

4. Please provide information, including qualitative information 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.

5. Please provide information on the cooperation of the State party with the National Human Rights Commission and the Office of the Ombudsperson with respect to the rights of migrant workers. What measures have been taken to address concerns regarding the overlapping mandates of the National Human Rights Commission and the Office of the Ombudsperson, which reportedly do not have separate offices or separate staff? Please also provide information on complaint mechanisms, helplines and other services offered by the national commission. In addition, please provide information on the human, technical and financial resources made available to the national commission, as well as on activities carried out by the State party to raise awareness among the general public, and among migrant workers in particular, of the services that the national commission offers, including the right to file a complaint directly with that institution.

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 in the State party 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.

7. Please provide information on the cooperation between the State party and civil society organizations working on migrant workers' rights, with regard to the implementation of the Convention. Please indicate whether and how representatives of civil society organizations are involved in the preparation of the replies to this list of questions.

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, and, 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 on matters such as wages, death, disability compensation and repatriation;

(c) Information relating to the issuance and renewal of licences for such employment agencies, and the conditions for renewal;

(d) Information on complaints against agencies and on inspections, as well as on penalties and sanctions for noncompliance; and

(e) Measures taken by the State party to strengthen the existing government-regulated licensing system for recruitment agencies, and to strengthen migration regulation and control mechanisms so as to ensure that private recruitment agencies abstain from charging excessive fees for their services and from acting as intermediaries for abusive foreign recruiters.

B. Information relating to the articles of the Convention

1. General principles

9. 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 the Convention, and 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 migrant workers in an irregular situation; (b) the complaints examined by such mechanisms in the past five years and their outcomes; (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.

2. Part II of the Convention

Article 7

10. Please clarify whether national legislation ensures that all migrant workers and members of their families have 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), which include sex, language, national, ethnic or social origin, nationality, age, economic position, property, marital status, 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 those in a regular situation and those in an irregular situation, and education for the children of migrant workers, both those in a regular situation and those in an irregular situation.

3. Part III of the Convention

Article 11

11. Please provide information on measures taken to combat the labour exploitation of migrant workers, including those in an irregular situation and in particular those in the construction and fishing sectors. Please also provide information on measures taken to combat exploitation of prostitution of women migrant workers in the State party, as well as on measures taken to protect migrant children in the State party from sexual exploitation

and abuse. In addition, please provide information on measures taken by the State party to combat racism and xenophobia, discriminatory conduct, ill-treatment and violence directed at migrant workers and members of their families.

Article 16

12. Please describe measures taken by the State party to promote training programmes, including on gender sensitivity, for government staff dealing with migration issues, in particular those providing legal and consular assistance to nationals of the State party working abroad seeking justice against abuses in the workplace, as well as regarding migrant workers or members of their families in the Seychelles who have been arrested, held in prison, placed in custody pending trial or detained in any other manner.

13. Please describe the due process safeguards in situations of the investigation, arrest or detention of migrant workers or members of their families for criminal offences or administrative infractions, including immigration-related matters. Please also explain whether alternative measures to detention exist in the State party. In addition, please provide information on detention centres and the conditions of detention for migrant workers, including details on whether: (a) persons detained for immigration reasons are ensured detention that is separated from that for convicted persons; (b) children and women in immigration detention are in gender- and age-appropriate detention conditions, and are separated from adults or male detainees who are not family members or partners; (c) women detainees are supervised by female personnel; and (d) where possible and appropriate, family-friendly facilities for families are provided.

Articles 22 and 23

14. Please supply up-to-date information, including disaggregated statistical data, on undocumented/irregular migrant workers and their families who have been expelled, and on the deportation procedures. Please indicate whether collective expulsion is prohibited in the domestic laws of the State party. Please indicate whether migrant workers can challenge expulsion orders and whether such remedies have suspensive effect. Please also indicate whether migrant workers and members of their families in the State party can 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.

15. Please provide information to the Committee on the effectiveness of the State party's consular services at protecting its migrant workers abroad, in particular those deprived of their liberty. Are migrant workers who have been deprived of their liberty visited periodically? Is legal assistance provided, including in expulsion cases?

Articles 25

16. Please provide detailed information on the measures taken to ensure, in practice, the right of equality of treatment of all migrant workers, particularly women migrant workers in domestic employment and those in the hospitality industry, and effective monitoring of the employment conditions for migrant workers in these sectors. What legal, labour-protection and enforcement mechanisms are in place to ensure that migrant workers both in and outside the State party enjoy treatment that is not less favourable than that which applies to nationals, in respect of remuneration and conditions of work? Specifically, please provide information on migrant workers in the State party who work in the construction, fishing, and domestic work sectors. Please also provide clarification on the labour and immigration laws applicable to migrant workers in the Seychelles International Trade Zone — the country's export processing zone. Please explain the measures taken to revise

the Seychelles Trade Zone Act, which allegedly supersedes all previous labour and immigration laws.

17. Please indicate to the Committee whether the labour rights enjoyed by nationals apply on an equal basis to migrant workers, both those in a regular situation and those in an irregular situation. Please respond to reports that pursuant to the Employment (Wage Increase) Regulations, 2010, the State party granted a 20 per cent wage increase to all workers, except for non-Seychellois employees, whose wage formula was to be specified separately. Please provide information about whether such a formula has been elaborated and whether non-Seychellois employees receive remuneration that is equal to that received by national workers when performing work of equal value. Please also describe the labour laws and regulations relating to remuneration and conditions of work (e.g. overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of work contract, minimum wage) that are applicable to migrant workers, both those in regular situations and those in irregular situations, and indicate whether the same laws and regulations apply to nationals of the State party.

Article 32

18. Please provide information on measures taken by the State party to ensure that during and upon termination of their stay in the State party, all migrant workers and members of their families have the right to transfer their earnings and savings and, in accordance with the applicable legislation, their personal effects and belongings. Please provide additional information on the measures taken to facilitate the transfer of these private funds, in particular to reduce the cost of the transactions.

Article 33

19. Please provide information on measures taken to ensure that migrant workers arriving in, or preparing to come to, the State party have access to clear information on immigration procedures, including full information on exit and entry visa guidelines and registration. Please clarify which government institution is responsible for providing such information, and whether any coordinated policies, programmes or legislation have been developed to ensure transparency and accountability in this process.

20. Please inform the Committee about any steps taken to inform nationals going to work abroad, prior to their departure, and migrant workers in or transiting through the State party, as well as members of their families, about their rights and obligations in the State of employment. Please also indicate whether the State party has conducted any specific information and training programmes on the Convention for relevant public officials, such as police officers, embassy and consular staff, social workers, judges, prosecutors and government officials.

4. Part IV of the Convention

Article 41

21. Please provide information on the steps taken by the State party to facilitate the exercise by its nationals residing and working abroad of the right to vote and to be elected to public office in Seychelles. Please also include information on the impact of dual nationality on the right to vote and to be elected to public office in Seychelles.

Article 44

22. Please explain whether measures have been taken to ensure protection of the unity of the families of migrant workers, and to facilitate the reunification of migrant workers with

their spouses or the 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 children.

5. Part VI of the Convention

Article 68

23. Please indicate the measures taken by the State party, including collaboration with other countries such as Bangladesh, China, India, Kenya, Madagascar, Mauritius and Sri Lanka, to combat the trafficking and smuggling of migrant workers, in particular women and children, including effectively detecting the illegal or clandestine movement of migrant workers and members of their families, systematically compiling disaggregated data, and bringing perpetrators of the trafficking and smuggling of migrants to justice. Please provide updated information on the number of reported cases of trafficking and smuggling of migrants, on the number of investigations and prosecutions, and on the sentences imposed on perpetrators, since 2009.

24. Please provide information on the measures taken by the State party to adopt specific legislation and policies to combat trafficking in persons, in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Trafficking in Persons Protocol) of 2000. Please also indicate whether the State party plans to develop and implement a national policy to address the problem of trafficking in persons, and provide information on any programmes to assist, support and repatriate victims of trafficking. Please further indicate whether the State party has set up special shelters for these victims, and if so, provide relevant details.

Part II

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

- (a) Bills or laws, and their respective regulations;
- (b) Institutions (and their mandates) or institutional reforms;
- (c) Policies, programmes and action plans covering migration, and their scope and financing;
- (d) Recent ratifications of human rights instruments;
- (e) Steps towards making the declarations provided for in articles 76 and 77 of the Convention; and
- (f) Recent comprehensive studies on the situation of migrant workers and members of their families.

Part III

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

1. Please provide, if available, updated quantitative disaggregated statistical data and qualitative information for the last three years (unless indicated otherwise) on:

- (a) Migrant workers in detention in the State party;

(b) Migrant workers and members of their families that have been expelled/deported from the State party within the last five years;

(c) The numbers of unaccompanied migrant children and migrant children separated from their parents in the State party;

(d) Remittances from migrant workers who are nationals of the State party working abroad, on legislation regulating remittances, and on government policies relating to remittances and development;

(e) The 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), as well as information on national human trafficking trends;

(f) Mechanisms aimed at collecting quantitative disaggregated statistical data and qualitative information on the rights of migrant workers in line with the Convention, both inside and outside the State party. If applicable, please also provide information on the functioning of such mechanisms, including indicators of success and outcomes; and

(g) Legal assistance services provided to migrant workers and members of their families — those inside the State party, as well as nationals of the State party working abroad.

2. Please provide additional information on any important developments and measures regarding the implementation of the Convention that the State party considers a priority.

3. Please submit general and factual information about the country, in accordance with the harmonized reporting guidelines for the international human rights treaties including the Convention (HRI/GEN/2/Rev.6). Please also submit the State party's common core document in line with the same reporting guidelines. The common core document will complement the responses to the present list of issues.