



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

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

Summary record (partial)* of the 493rd meeting

Held at the Palais des Nations, Geneva, on Monday, 19 September 2022, at 10 a.m.

Chair: Mr. Corzo Sosa

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The meeting was called to order at 10 a.m.

Opening of the session

1. **The Chair** declared open the thirty-fifth session of the Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families.

Opening statement by the representative of the United Nations High Commissioner for Human Rights

2. **Mr. Ori** (Office of the United Nations High Commissioner for Human Rights) said that, during its thirty-fifth session, the Committee would consider the third periodic report of the Plurinational State of Bolivia, the combined second and third periodic reports of the Syrian Arab Republic and the initial report of the Bolivarian Republic of Venezuela, and would adopt lists of issues prior to reporting for the second periodic report of Türkiye and the fourth periodic report of Senegal under the simplified reporting procedure, in addition to the follow-up reports on Bosnia and Herzegovina, Mexico and Tajikistan.

3. He commended the Committee on its visit to Morocco in May 2022, which had advanced work on the Committee's draft general comment No. 6 on the convergence of the Convention and the Global Compact for Safe, Orderly and Regular Migration. He welcomed the decision to organize a day of general discussion on draft general comment No. 6 during the session and commended stakeholders that had provided their comments on the concept and draft outline for the general comment. The Committee's engagement with other human rights treaty bodies was also welcome, in particular its collaboration with the Committee on the Elimination of Racial Discrimination to explore the possibility of developing a joint general comment and the development in cooperation with the Committee on the Rights of the Child of two joint general comments, which had been accompanied by a public statement reminding States of their obligations under those joint general comments.

4. The Convention, as the only global legally binding instrument on migration, and the Global Compact for Safe, Orderly and Regular Migration, a non-binding instrument, were the most important international instruments in the context of migration and were complementary and mutually reinforcing. Migration, particularly irregular migration, had been the subject of intense political debate in many countries, with States choosing to expand access to safe and regular migration channels in some cases or to increase the effectiveness of returns in others.

5. The importance that the Committee attached to enforced disappearance in the context of international migration was appreciated, particularly in the light of objective 8 of the Global Compact (Save lives and establish coordinated international efforts on missing migrants). In 2019, the General Assembly had stressed the obligations of States to promote and protect the human rights of migrants, regardless of their migration status, and called for international cooperation in cases of migrants who had died or gone missing. In the same year, the Committee on Enforced Disappearances had adopted the Guiding Principles for the Search for Disappeared Persons, emphasizing the particular vulnerability of migrants and calling on States to pay attention to the risks of enforced disappearance. Nevertheless, the enforced disappearance of migrants remained marginalized in political and legal discourse, while at the same time the risk of such disappearances was heightened by increasingly perilous migration journeys and rigid migration policies that entailed refusal of entry, detention, pushbacks and expulsion. Despite a lack of data, the significant number of documented cases that had taken place, many at State borders, highlighted the importance of inter-State cooperation on the issue.

6. Although the Convention and the Global Compact were both instruments that sought to establish a comprehensive framework for a rights-based approach to international migration, they could be viewed as serving the interests of distinct constituencies. The Convention was a de facto instrument of the global South, given the location of most of its States parties, while the Global Compact could be viewed as serving the interests of the global North. However, some of the more recent work of the Committee had highlighted the relevance of the Convention to non-States parties, particularly through the development of the two joint general comments with the Committee on the Rights of the Child, which were

applicable to all 196 States parties to the Convention on the Rights of the Child and thus extended the reach of the Committee's work.

7. States' preference for soft law as a framework for dealing with international migration was a key explanation for the low numbers of ratifications of the Convention, which had been surpassed in terms of number of States parties by the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance – both of which had been adopted in 2006. Nonetheless, countries had accepted many of the standards enshrined in the Convention through ratification of other human rights treaties with provisions that mirrored the core rights of migrants set out in the Convention.

8. The thirty-fourth meeting of the Chairs of the human rights treaty bodies had taken place in May and June 2022. The meeting had adopted conclusions on the predictable review calendar, individual communications, urgent actions, harmonized working methods, reasonable accommodation and digital uplift. An eight-year review cycle would be established, with follow-up reviews to be held between the regular reviews, and the simplified reporting procedure would be made the default procedure for all human rights treaty bodies, although States parties would be able to opt to follow the traditional reporting procedure. The aim of the predictable reporting schedule was to address the backlog of overdue reports and reports pending review. Implementation of the predictable schedule would require further harmonization of working methods across the treaty bodies through the work of focal points from each treaty body. He thanked the Chair for his contribution to the work of the meeting of the Chairs of the human rights treaty bodies and for taking on the position of Chair of that body, and he wished the Committee a successful session.

9. **The Chair**, thanking Mr. Ori for his statement, said that continued interaction among the various treaty bodies was of utmost importance. The level of engagement of the Committee with other human rights treaty bodies was testament to the interest of the Committee and its members in contact with those other bodies. The conclusions of the meeting of the Chairs of the treaty bodies were the result of significant work, the most important outcomes being a calendar for the review of State party reports and the harmonization of working methods. The digital improvements that had taken place during the pandemic had also been discussed by the Chairs. Those modern methods had proved useful and beneficial, although they could not replace in-person meetings with States parties.

10. The extraordinary meeting of the Working Group on General Comment No. 6, which had been held in Agadir, Morocco, in May 2022 as part of the Committee's visit to the country, had resulted in the issuance of a concept note and call for submissions thereon. Synergy between the Global Compact and the Convention, the subject of the general comment, was a significant area of focus for the Committee.

Adoption of the agenda (CMW/C/35/1)

11. *The agenda was adopted, subject to any necessary further amendments.*

Promotion of the Convention

Informal meeting with non-governmental organizations and national human rights institutions

12. **A representative of the Senegalese Human Rights Committee**, speaking via video link, said that the framework for the protection of migrant workers in Senegal was based on subregional and international conventions and agreements, including the Global Compact for Safe, Orderly and Regular Migration. The Government had adopted its Priority Action Plan for the period 2019–2023, strategic objective No. 8 of which aimed to promote better governance of migration. As parts of its advocacy work for the rights of migrant workers, the Senegalese Human Rights Committee had taken part in the 55th ordinary session of the African Commission on Human and Peoples' Rights. It had also met with Senegalese migrant workers and had played an important part in the establishment of a Senegalese embassy in Angola, which had opened in 2022.

13. A draft law had been prepared that would allow the Committee to investigate cases on its own motion and play a more active role in judicial proceedings involving migrants. It would also make the Committee, which served as the Senegalese national human rights institution, eligible for category A status and pave the way for greater involvement in migration-related projects and programmes run by State bodies.

14. The Committee stressed the importance of awareness-raising and capacity-building. In 2022, it had launched a project entitled “*Visage féminin de la migration irrégulière*” (Female Face of Irregular Migration), since the issue of women migrants in an irregular situation had been largely overlooked in Senegal and many female migrants faced stigmatization. Human trafficking and other forms of organized crime involving migrants in an irregular situation constituted a threat to the national security of Senegal, and the Committee had made assisting the victims of such crimes one of its top priorities.

15. **A representative of Amnesty International Senegal**, speaking via video link, said that her organization, in partnership with the Office of the United Nations High Commissioner for Human Rights (OHCHR), had launched a project to facilitate migrants’ access to justice, in which radio broadcasts and field visits were carried out to raise awareness of international and regional migration laws. Amnesty International Senegal gathered information about migrants in an irregular situation and worked with the relevant embassies to regularize the status of migrants and help them obtain consular identification cards. The organization also worked in cooperation with prosecutors in Dakar, Tambacounda and Kédougou, as well as with the Prison Service Administration and the Department of Aliens Police and Travel Documents, to identify and assist migrants in detention.

16. The Department of Aliens Police and Travel Documents had claimed that no deportation orders had been issued. However, a Turkish national who had held refugee status since 2019 had approached Amnesty International after having received an expulsion order from the Ministry of the Interior in June 2022. His counsel had appealed against the order on the grounds that it violated the expulsion procedure and the law governing refugee status. In response to the case, Amnesty International Senegal had raised its concerns over outdated national migration legislation that did not conform to standards under international law.

17. **A representative of the Network on Peace and Security for Women in the ECOWAS Region**, speaking via video link, said that the Senegalese migration policy had not yet been approved, and the fact that several ministries dealt with migration-related matters meant that rules were applied inconsistently. An interministerial committee had been set up to combat illegal immigration but was burdened by excessive bureaucracy. The Network recommended that the process for approving the migration policy should be expedited and that the policy should be disseminated among and discussed with all relevant stakeholders. The Global Compact for Safe, Orderly and Regular Migration should also be publicized, and an agency for migration management should be created under the office of the President or the Prime Minister, with representatives from civil society. An initiative to promote investment by Senegalese nationals abroad could be leveraged to raise funds for development projects in areas such as agriculture.

18. Most migrant children in Senegal were accompanied by their parents, but many were undocumented and were forced to beg on the streets. While an anti-begging law was in place, the State lacked the means to enforce it and provide long-term care for exploited children. Access to education and support services was insufficient and there was an absence of reliable and disaggregated data on migrant children. Better enforcement of laws intended to combat begging and child labour and exploitation was required and, although freedom of movement was allowed among members of the Economic Community of West African States (ECOWAS), the movement of children should be regulated.

19. **A representative of the Syrian Network for Human Rights**, speaking via video link, said that his organization had been documenting patterns of human rights violations committed by the Syrian regime for nearly 12 years. Residents, refugees, displaced persons and migrant workers alike had been the victims of such violations, which had escalated dramatically after the uprising of people demanding freedom and democracy in March 2011. The regime’s aircraft had launched indiscriminate attacks on residential areas and its security

services had arrested hundreds of thousands of innocent people at random, including migrant workers.

20. The country's labour laws failed to protect the rights of both Syrian nationals and migrants. Foreign workers were rarely provided with employment contracts and, when they were, the contracts favoured employers, making it impossible to safeguard workers' rights. The security services had amassed vast wealth by illegally seizing cash, factories and businesses, and the victims had no effective legal recourse because the judiciary was controlled by President Bashar al-Assad, who was also the head of the security services. Migrants who worked for State bodies were unable to exercise their rights to leave their jobs or object to changes to their working conditions, such as longer working hours or extra duties. His organization called on the Syrian regime to ensure the independence of the judiciary, limit the powers of the security services and repeal all laws that prevented the security services from being held accountable.

21. **A representative of the International Refugee Rights Association**, speaking via video link, said that legal practitioners had established the Association in 2013 following a mass influx of refugees into Türkiye, with the aim of defending the refugees' legal rights and ensuring the implementation of migration regulations in line with international standards. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), there were currently 4 million refugees in Türkiye and, since 2015, it had hosted more refugees than any other country.

22. Türkiye had one of the world's most extensive immigration detention systems, comprising removal centres, ad hoc detention facilities along the country's borders and holding facilities at airports and police stations. Under Turkish law, specific criteria had to be met in order to detain migrants and the period of detention must not exceed one year. However, the Turkish authorities often circumvented the law by detaining migrants again after their release. As the capacity of detention facilities had grown, so had the number of such facilities that failed to meet European Union standards on living conditions. Detention centres and immigration authorities did not make lawyers or interpreters available to detainees, and they were not informed about their right to legal aid. While the authorities had claimed that detainees had access to telephones in visiting rooms and that lists of interpreters were provided, lawyers had reported that the telephones often did not work and that no such lists were available. All detainees, regardless of their immigration status, should have full access to legal aid and representation, an interpreter and information regarding their rights, legal processes and remedies in a language they could understand.

23. Detained migrants and refugees were informally categorized in one of two groups: those who had committed a criminal or immigration-related offence, and those who were regarded as foreign terrorist fighters. The latter classification had no basis in law and yet was cited as a reason to hold migrants in detention. Türkiye continued to detain migrant children and pregnant and nursing women, in violation of international standards.

24. **A representative of the Border Violence Monitoring Network**, speaking via video link, said that various human rights bodies, including non-governmental organizations and the United Nations, had long recorded the Turkish State's use of arbitrary detention, pushbacks, coerced voluntary returns and systematic violence against migrants. According to witness testimony, those practices were carried out in an indiscriminate manner, with no consideration for vulnerable groups such as women, children or victims of torture.

25. The Border Violence Monitoring Network's partner organizations had ample evidence of migrant rights violations by the Turkish authorities. In 2020, the Foundation for Women's Solidarity had reported instances of sexual violence and harassment by Turkish soldiers against women and children crossing the border. In 2021, Human Rights Watch had described the use of violence by the Turkish authorities near the country's border with Iran. In 2022, the Syrian Observatory for Human Rights had published a report alleging the murder by the Turkish authorities of multiple Syrian nationals who had attempted to cross the border into Türkiye.

26. Ongoing cases of pushbacks and the lack of assurance against refoulement were also cause for concern. In 2019, the Network's partner organizations had recorded testimony from migrants who had been pushed back from Greece to Türkiye, where they had subsequently

been arrested by the Turkish authorities and returned to Syria. Evidence gathered by human rights groups suggested that poor detention conditions and inhumane treatment, including restricted access to water and hygiene facilities, the threat of indefinite detention and the display of graphic images of torture, were used to coerce migrants into returning voluntarily. In the light of the evidence presented, the Network recommended that the Committee should focus its questions on continued acts of violence against migrants in transit, pushbacks against migrants, the lack of assurance of non-refoulement and the widespread and habitual use of coercion to return migrants to Syria.

27. **A representative of the Mor Çatı Women's Shelter Foundation** said that discrimination against migrants was prevalent in the support mechanisms for women victims of violence in Türkiye. Their statements were often ignored and the language barrier made it difficult for migrant women to make official complaints against their aggressors. While they were entitled to an interpreter, victims were not informed of or allowed to exercise that right in many cases. Women were required to lodge an official complaint in order to have access to State-run shelters, which turned away women who did not have an identity card or residence permit. Victims had to apply to shelters in their place of residence, where they were most at risk of further violence, and were frequently unable to access health care owing to language barriers, discrimination, complex bureaucratic procedures and the absence of any mechanism for providing health-care services to unregistered migrants and refugees.

28. Poverty presented an additional obstacle to women escaping male violence. The provision of social benefits was inadequate and it was very difficult for migrant and refugee women to find secure employment to support themselves and their children. Where jobs existed, they tended to be insecure jobs, mostly in caregiving and domestic work, which exposed women to an increased risk of exploitation and abuse. Non-physical forms of gender-based violence against migrant women and girls were regarded as normal or socially acceptable, and victims of such violence did not generally seek help. The authorities often turned a blind eye to marriages of children as young as 15 years of age.

29. Support services for refugee women were generally provided only by humanitarian aid organizations that lacked expertise on gender inequality and gender-based violence. The organizations' ability to work effectively was also hampered by the earmarking of funds by donors and by frequent changes to Turkish immigration laws and policies. The absence of disaggregated data concerning gender-based violence further exacerbated the situation.

30. **Mr. Ceriani Cernadas** said that in 2016 the Committee had recommended that Türkiye should adopt alternative measures to detention, especially for migrant children and their families. He wished to know whether the Turkish human rights organizations had observed and evaluated the use of any such measures. He wondered whether the migration status of women, especially those in an irregular situation, deterred them from lodging complaints of gender-based violence.

31. **A representative of the Mor Çatı Women's Shelter Foundation** said that the migration status of women and children determined whether or not they had access to public services. Migrant women in an irregular situation who wished to enter violence prevention and monitoring centres were often referred to the migration authorities, which in turn referred them back to the centres, and so forth. There was no definitive solution for women victims of violence without regular migration status.

32. **Ms. Diallo** said that she was keen to hear more about the measures that the various States were taking to ensure migrants' access to justice. It would also be helpful to have more information about the immigration system in Türkiye, which seemed to discriminate between migrants from different countries. She wondered what measures, if any, were being taken to change the country's discriminatory practices.

33. **Mr. Soualem** said that terrorist groups, including Da'esh, controlled a large part of Syrian territory and committed serious human rights violations. He wondered how the situation could be improved while citizens there continued to be subjected to indiscriminate attacks by non-State actors.

34. **Mr. Charef** said that he wondered exactly how many Syrian refugees there were in each of the various host countries and how the authorities in those States distinguished

between different categories of migrants. He would like to know what had become of migrants who lived in the Syrian Arab Republic. Had they returned to their countries of origin? It would be useful to have statistics on child marriage in Türkiye. Lastly, he would be interested to hear who the main perpetrators of gender-based violence in that country were.

35. **A representative of the Mor Çatı Women's Shelter Foundation** said that the failure to properly implement laws in Türkiye posed a major obstacle to the exercise of the rights of women, especially migrants. Türkiye was a party to the Convention on the Elimination of All Forms of Discrimination against Women but its provisions were not applied in all cases. The country's recent withdrawal from the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), which protected the rights of women and girls regardless of their migration status, had compounded the problem.

36. The distinction between the terms "migrant" and "refugee" was political in nature. The Mor Çatı Women's Shelter Foundation believed that everyone who entered Türkiye to escape war or violence should be regarded as a refugee and be treated accordingly. However, the Turkish Government granted refugee status only to citizens of European countries; Syrian nationals were offered temporary residency.

37. The rate of child marriage was high not only among Syrian migrants but the Turkish population as a whole, since early marriage was accepted to a certain extent in Turkish culture. The perpetrators of gender-based violence were often the men closest to the victim, such as husbands or partners, brothers or other immediate family members.

38. **The Chair** said that, owing to time limits on interpretation for virtual meetings, the remote participants would not have time to respond to the Committee's questions orally. He therefore invited those participants to submit their responses in writing.

The discussion covered in the summary record ended at 11.35 a.m.