



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

Distr.: General
31 March 2023

Original: English

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

Summary record (partial)* of the 514th meeting

Held at the Palais Wilson, Geneva, on Monday, 27 March 2023, at 3 p.m.

Chair: Mr. Corzo Sosa

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* No summary record was prepared for the rest of the meeting.

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

Promotion of the Convention

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

1. *Mr. Oumaria, a national of Niger, and Mr. Ceriani Cernadas, a national of Argentina, withdrew from the meeting in advance of a discussion concerning those countries.*
2. **A representative of the Office of the Human Rights Advocate of El Salvador**, speaking via video link, said that the Office of the Human Rights Advocate was responsible for upholding and protecting the human rights of all persons in El Salvador and of Salvadoran nationals in other countries in regular or irregular situations. Funding for the acquisition by the Office of goods and services was allocated from the State budget.
3. She welcomed the adoption of the Special Act on the Protection and Advancement of Salvadoran Migrants and Their Families in 2011 and the creation of the National Council for the Protection and Advancement of Migrants and Their Families. She was concerned, however, at the differences between national statistics on irregular migratory flows and the data reported by transit and destination countries; the lack of access to data on the migrant population of El Salvador; and the inadequacy of the training available to staff at State institutions and civil society organizations on the rights of migrant workers and their families.
4. Regarding domestic legislation, it was concerning that the Special Act on the Protection and Advancement of Salvadoran Migrants and Their Families applied exclusively to Salvadoran nationals, thus leaving foreign nationals unprotected. In addition, while the right of migrant workers and their families to join trade unions was enshrined in article 7 of the Constitution of El Salvador and article 204 of the Labour Code, domestic legislation did not specify whether they were permitted to establish trade unions. Although the ratification of the Convention by the Government of El Salvador should have led to a review of all domestic legislation on migrant workers to ensure compliance with its provisions, no such review had yet been conducted. One of the main obstacles encountered by migrant workers arising from the implementation of the Special Act on Migration and Alien Affairs was the prohibitive cost of applying for and renewing entry and work permits, which often led migrant workers to remain in irregular situations.
5. One case that served to illustrate the kinds of difficulties faced by migrants was that of a migrant worker from Cuba who had been living in El Salvador in a regular situation since 2007. In 2017, his application for renewal of his migration status was rejected as it had not met requirements established by the Ministry of Labour and Social Security. Although the Directorate General for Migration and Alien Affairs had granted him additional time to resolve the situation, his temporary resident permit had been revoked and he had become liable for expulsion, leaving him at risk of being separated from his family.
6. The plight of migrant children was a cause of great concern, especially in the case of abandoned and unaccompanied children in vulnerable situations. The Government needed to develop a comprehensive policy that considered children in such circumstances. Trafficking in persons was also a cause of concern. In the short term, the Government should prioritize efforts to update secondary legislation underpinning the rights of migrant workers in order to ensure the domestication and effective implementation of the principles enshrined in the Convention. A single official register should be established to record data on the migratory flows of temporary, cross-border and transnational migrant workers so that conditions affecting those flows could be monitored more effectively.
7. The mission of the country's armed forces was to defend the sovereignty and territorial integrity of El Salvador against external military threats. The armed forces did not have the expertise to control migration and thus should not infringe the rights of citizens and migrants at border crossings.
8. **A representative of the National Human Rights Commission of the Niger** said that the Government of Niger had made significant progress in the implementation of the Committee's recommendations. In particular, the Ministry of Employment, Labour and Social Welfare had conducted a study to identify ways of strengthening the capacities of

labour inspectors in dealings with migrant workers, and 41 labour inspectors had received training on the Convention. Officials in the criminal justice system had engaged in various training activities concerning migrant workers conducted by the Government, the National Human Rights Commission and civil society organizations. The Commission had also organized capacity-building workshops for members of the judiciary, and its regional branch in Agadez had worked with a civil society organization to establish a mechanism to help migrants to lodge complaints concerning human rights violations. The national employment policy had been reviewed to take into account migration issues and the provisions of the Convention, and a policy document on migration had been developed and disseminated to 57 regional directors in charge of civil registries and matters relating to migration and the situation of refugees.

9. Despite those efforts, challenges persisted. In a series of investigations, the Commission had identified violations of the rights of migrants at border crossings, including extortion by border force officials. Migrants also faced barriers to access to justice, in particular owing to a lack of available interpreters, which often left them discouraged and reluctant to assert their rights through legal avenues in the event of violations. As a consequence of the arrival of large numbers of migrants from north-west Africa, many reception centres were now full and unable to accommodate additional migrants.

10. The Government should continue to domesticate the Convention and intensify its efforts to raise awareness of its provisions, in particular among officials in the criminal justice system. Measures taken to respond to the coronavirus disease (COVID-19) pandemic had affected the ability of migrants, in particular, to exercise their rights. For instance, the closure of services and borders had prevented them from moving within the country or from returning to their countries of origin. However, many of the COVID-related restrictions were now being removed. The Commission would continue to work with civil society organizations to support the Government in its efforts to ensure that migrants could enjoy their rights.

11. **A representative of the Centro de Estudios Legales y Sociales of Argentina**, speaking via video link, said that self-employed workers should be defined as a separate category in the provisions of the Migration Act of Argentina concerning regularization. By Regulatory Decree No. 616/2010, the Government of Argentina had incorporated a broad definition of the category of “migrant worker” into the Act that was aligned with the definition contained in the Convention. Nevertheless, although labour market realities were now better reflected in the Act, in practice it was impossible for migrant workers to apply for a residency visa unless they had a formal employment contract. Migrants originating from outside the Southern Common Market (MERCOSUR) wishing to regularize their migration status were expected to meet additional criteria that were difficult to fulfil, forcing many to remain in irregular situations. While the development of any regularization policy was to be welcomed, the effectiveness of the dedicated programmes that had been established to address the situation was limited because their eligibility time frames were overly narrow, they targeted specific populations and nationalities, and they were accessible only to individuals already in Argentina. Migrants wishing to regularize their status should not be at the mercy of unequal, restrictive and exclusionary systems. The Government should develop long-term, sustainable solutions to facilitate regularization, including by amending regularization criteria to better serve migrants from countries outside MERCOSUR.

12. Despite the Committee’s repeated recommendations to the contrary, payment of non-contributory social benefits to migrants remained subject to length-of-residency requirements. Although the requirement for disability benefits had been reduced from 20 to 10 years for adults and to 3 years for children, the remaining requirements should also be reviewed.

13. In the 2021–2022 biennium, the Supreme Court had issued more than 110 expulsion orders based on the sole criterion of irregular entry into the country, without regard for family ties, humanitarian grounds or other considerations. The Court had based its decisions on a single provision of the Migration Act, which stipulated that irregular entry precluded the right to stay, in disregard of other relevant provisions and the recommendations contained in paragraph 11 (d) of the Committee’s concluding observations on the second report of Argentina (CMW/C/ARG/CO/2).

14. In the context of COVID-related border closures, many people had had their asylum applications rejected and been subjected to stay controls, in disregard of the right to international protection and the Committee's recommendations in paragraph 11 (a) of the concluding observations.

15. **Mr. Charef** said that it would be helpful to find out how and by whom migrant reception centres in Niger were run.

16. **Ms. Poussi** asked whether any progress had been made with regard to data collection in Niger; comprehensive, reliable and disaggregated data were critical inputs for an objective assessment of the situation of migrant workers and their families.

17. **A representative of the National Human Rights Commission of the Niger** said that migrant reception centres were run by non-governmental organizations (NGOs) with support from the State. The State also ensured that migrants living in reception centres had access to health care and other benefits.

18. There were different types of reception centres. At the Niger-Algeria border, migrants were removed by the Algerian police to a location nicknamed "point zero", which was miles from the first Nigeran border post. Once they had made their way into Niger, migrants were taken into reception centres located near the border, where they attended briefings run by NGOs and could tell their stories. Subsequently, they were taken to reception centres in Agadez or Niamey, where they stayed until their status was determined. The situation arising from the mass influx of irregular migrants into Agadez had placed a tremendous burden on the State and was difficult to manage.

19. Thus far, 141 labour inspectors had received training on the Convention. Most of the statistics at the Commission's disposal came from State party reports and shadow reports prepared by civil society organizations.

20. Three field missions had been conducted in cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR) to detect violations of the rights of migrant workers, among others; most of those violations occurred at or around border crossing points. Undocumented migrants were an easy prey, and the Commission was expending considerable effort and resources to raise migrants' awareness of their rights and the available legal remedies for violations. Any victims of human rights violations identified by the Commission were placed in the care of NGOs that were competent to provide support.

21. **Ms. Poussi**, clarifying her earlier request, said that she was most interested in comprehensive, disaggregated data on the situation of migrant workers and their families.

22. **A representative of the National Human Rights Commission of the Niger** said that the National Employment Service should be in a position to provide statistics on migrant workers. While general data on the entry and departure of migrants should also be available, obtaining data disaggregated by age and sex might be more difficult. The Government cooperated closely with the International Organization for Migration, which was probably the most reliable data source.

23. **Ms. Gahar** said that she was keen to hear more about the nature, duration and scope of the training provided to judges. She was curious to know whether any of the judges benefitting from such training were specialized in juvenile justice or family law, for example. How many cases of migrants had been handled by judges who had received training concerning the provisions of the Convention thus far?

24. **A representative of the National Human Rights Commission of the Niger** said that the training was targeted for a range of actors in the criminal justice system, including prison wardens, members of the gendarmerie and police officers, in addition to judges. The training was aimed at disseminating information on international instruments and relevant domestic law provisions, as the main reason for violations of migrants' rights was insufficient knowledge of the relevant rules. The training was delivered in the form of two-day workshops in different regions in order to attain the broadest possible coverage; three workshops had been held thus far.

25. **Mr. Babacar** asked whether awareness-raising activities had also been conducted for security forces deployed at the border, given that the greatest number of violations appeared to take place there.

26. **A representative of the National Human Rights Commission of the Niger** said that migrants were at risk of human rights violations throughout their journey. A new awareness-raising strategy for reaching a larger target group was currently being designed within the framework of the national development policy. In the light of the country's size, activities would be implemented in clusters, with emphasis on training for security agents, border police and other actors in direct contact with migrants in the field.

27. **Mr. Charef** asked whether the National Human Rights Commission of the Niger had a special unit dealing with migration-related matters. If so, he would appreciate information on the strategies, plans and objectives pursued by that entity.

28. **A representative of the National Human Rights Commission of the Niger** said that the Commission had five thematic working groups, one of which was responsible for matters relating to discrimination, slavery practices and migration. There was a special commissioner for migration who worked with a dedicated team. The working group on migration and racial discrimination was headed by a judge.

29. The rights of migrants were a key concern for the Commission. Its regional office in Agadez had been among the first to be established because that city was at the crossroads of various migratory flows. That office dealt mainly with issues pertaining to the rights of migrants.

30. Data collection was a major challenge, and a strategy had been developed to close that information gap. Efforts were being made to strengthen the data collection capacities of different institutions, and mobile teams were being deployed to collect data on the ground.

31. **The Chair** asked whether the representative of the Office of the Human Rights Advocate of El Salvador could elaborate on any plans to update the State party's legislation with a view to its alignment with international standards. He wondered whether the representative was aware of the reservation the State party had entered to article 92 of the Convention. If so, could she perhaps share her views on the matter?

32. **A representative of the Office of the Human Rights Advocate of El Salvador**, speaking via video link, said that a series of meetings with members of the legislature were planned to discuss options for updating existing migration legislation to align it with international norms. She would also engage with representatives of the Ministry of Foreign Affairs to explore issues around the reservation to article 92. All other matters raised by the Committee would also be brought to the attention of the authorities.

33. **The Chair** said that the Committee would be glad to lend its expertise in support of the development of migration legislation consistent with the Convention.

The discussion covered in the summary record ended at 16.10 p.m.