



**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-eighth session**

Summary record of the 557th meeting

Held at the Palais Wilson, Geneva, on Thursday, 6 June 2024, at 10 a.m.

Chair: Ms. Diallo

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 73 of the Convention *(continued)*

Initial report of the Congo (continued) (CMW/C/COG/1; CMW/C/COG/QPR/1)

1. *At the invitation of the Chair, the delegation of the Congo joined the meeting.*
2. **A representative of the Congo** said that, during visits to other countries, the President of the Congo met with members of the Congolese diaspora and encouraged them to return to the Congo to work or conduct business there. The Government had taken a number of measures to make the Congo more attractive to Congolese professionals, like physicians, who were making a decent living in other parts of the world. Already in 2010, the value of the index point used to calculate the salaries of civil servants had been almost doubled. In addition, recruitment fairs were being held in Europe to raise awareness of employment and business opportunities in the Congo. The Congolese Employment Agency had established an office in Paris to showcase the Congolese job market to the Congolese diaspora. The Congolese Agency for Business Creation helped Congolese nationals and foreigners to set up a business in the Congo, something which they could usually do in 24 hours. A fund had been established to promote and support new entrepreneurs, providing them with initial start-up capital.
3. **A representative of the Congo** said that his country's initial report (CMW/C/COG/1) was the outcome of a participatory and inclusive national process, with the participation of the relevant institutions and authorities and human rights non-governmental organizations. The Interministerial Committee for Monitoring Cooperation with International and Regional Mechanisms for the Promotion and Protection of Human Rights had met regularly to ensure that all stakeholders indeed contributed to the process. A validation meeting had been held with all relevant State actors. Civil society and the National Human Rights Commission had been involved in the preparation of the report from the outset.
4. Significant progress had been made towards ensuring the independence of the National Human Rights Commission, to enable it to obtain category A status under the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The Commission had appropriate facilities for its operation, including a headquarters provided by the Government. Its budget had been increasing steadily over the years, standing at 1,990,000 CFA francs in 2024.
5. There were a number of cross-border mechanisms between the Congo and its neighbouring countries, including a joint commission with the Democratic Republic of the Congo, a defence and security commission involving Angola, the Congo, the Central African Republic and the Democratic Republic of the Congo, which met in times of need to address security and border issues. That arrangement did not necessarily apply to the movement of people between the Congo and the Democratic Republic of the Congo, which was governed by a 2014 agreement, under which persons from one country living along the border who wished to cross to the other country for a short stay of up to three days were only required to present a national identity card, a laissez-passer or even a voter registration card. However, following negotiations within the defence and security commission, they would now be required to present a national identity card, a laissez-passer or a passport. Again, things could still change with the implementation of the Agenda 2063 and the various mechanisms for free movement, such as the African Continental Free Trade Area.
6. **A representative of the Congo** said that in 2013, the Government had carried out a review of the situation of persons with refugee status and had identified almost 8,000 refugees, including about 813 Rwandan nationals, who no longer met the requirements for such status because they were no longer at risk of persecution in their countries of origin. Although all those people continued to live in peace in the Congo, no country in the world, not least the Congo, would want to have on its territory such a large number of foreign nationals with no clear residence status. Discussions were being held with the Government of Rwanda and the Office of the United Nations High Commissioner for Refugees (UNHCR) on the matter. While it was normally up to foreigners to bring their situation into line with Congolese law, possible exemptions were being considered.

7. On the question of non-refoulement, there was a big difference between migrants and refugees. Foreigners arriving in the Congo must meet the conditions set out in Act No. 29-2017 to be able to enter the country. If they did not meet those conditions, they would be returned. However, foreigners who arrived at the border seeking protection from persecution in their countries of origin were not ordinary migrants but asylum-seekers. The Convention and Act No. 41-2021 of 29 September 2021 on the right of asylum and the status of refugees set out all the conditions and modalities for handling asylum applications.

8. The Government had not registered any stateless persons in the country to date, but was taking preventive measures, for example, by regularly registering births and issuing birth certificates for persons who did not have one. Given that there were no stateless persons in the Congo, the question of naturalization had not arisen. In the Congo, birth certificates were issued free of charge.

9. **A representative of the Congo** said that the Comprehensive Civil Status Registration System was being implemented with the aim of fully digitizing civil status registration and producing vital statistics. Its functions included producing birth and death certificates. The system had been presented on 5 December 2022 and had been developed by the Congolese Information Systems Agency, which assisted the Government with various information projects.

10. **A representative of the Congo** said that his country had entered reservations to articles 76 and 77 of the Convention because it had not yet decided whether to recognize the competence of the Committee to receive and consider communications from States parties or from or on behalf of individuals. However, those reservations in no way implied an intention on the part of the Government to deny migrant workers protection under the Convention, and their withdrawal might well be considered in the context of a future legislative reform. Regarding the principle of reciprocity, in the Congo, the principle of non-discrimination was applied in respect of all migrant workers, which meant that even if a given migrant's country of origin had not ratified the Convention, his or her rights were still protected on the same level as those of any other migrant.

11. **A representative of the Congo** said that the largest Congolese community abroad was found in France, owing to the historical ties between the two countries. France had not yet ratified the Convention, but the two countries had entered into bilateral agreements and set up mechanisms in that regard, including a joint commission and an agreement on the management of migration flows.

12. **Mr. Corzo Sosa** (Country Rapporteur) said that he wished to know whether the Higher Commission on Statistics and the National Centre for Training in Statistics, Demographics and Planning could help to collect information relevant to the Convention.

13. With regard to paragraph 103 of the State party's report, he sought more information about the status of the legislative reform designed to facilitate the exercise by Congolese migrant workers and members of their families residing abroad of the rights to participate in public affairs, to vote and to be elected to public office in the country. He asked whether that process would be completed soon, what were the problems that could hinder its completion, and how the Committee could help in that regard.

14. He wished to know whether the State party could reduce irregular migration by working with private agencies that recruited migrant workers from abroad; whether such agencies existed in the Congo and whether it would encourage the creation of such agencies.

15. He wondered whether the Government planned to bolster the independence of the procedure for appointing the members of the National Human Rights Commission and improve compliance with its recommendations, to help it achieve category A status under the Paris Principles.

16. **Mr. Babacar** said that the Congo should be commended for its ratification of the fundamental and governance conventions of the International Labour Organization (ILO), a number of which would come into force for the Congo in 2024. However, the Congo had not yet ratified the ILO Employment Policy Convention, 1964 (No. 122), which would provide a framework for the Government to develop its own employment policy.

17. Given the position of the Congo at the crossroads of a number of migration flows and the prevalence of conflict on the Congolese border, he wondered whether the State party had considered ratifying the Protocol of 2014 to the ILO Forced Labour Convention, 1930 (No. 29) and what measures had been taken to combat trafficking in persons. It would be useful to know whether it planned to ratify the Domestic Workers Convention, 2011 (No. 189); what measures had been taken to protect domestic workers, who were often victims of violence and exploitation; whether the Congo planned to ratify the Violence and Harassment Convention, 2019 (No. 190); and what efforts were being made by labour inspectors. He wished to know whether labour inspectors were granted special status to guarantee their independence and impartiality; how many labour inspectors there were; and how they were distributed geographically.

18. **Mr. Kariyawasam** said that he would like to hear more about the institutional support that was provided to returning migrant workers to enable them to set up a business in 24 hours. If that process was purely institutional and did not involve any political or official patronage, then it was a good practice that should be shared with partners in the region and around the world. He would be interested to know how the various institutions had been brought together to approve such a process.

19. **Mr. Ceriani Cernadas** said that he wished to seek clarification about the current situation of the Rwandan refugees who had lost their refugee status. Were those persons now in a regular situation? Had they been able to obtain residence permits or had they been unable to upgrade their status from refugee to migrant owing to, for example, the lack of a passport from their country of origin or the failure to comply with some other requirement? If the latter, he wondered what the solution could be and whether there was a way to facilitate their access to residency, which would enable them to work and lead a life of minimum dignity.

20. Noting that the law provided for the expulsion of migrants in an irregular situation, he asked whether there were alternatives to expulsion in those cases. He would like to hear more about measures that were being taken to help persons in an irregular situation to obtain a residence permit rather than expel them.

21. He would welcome further clarification as to why certain activities, such as selling bread, owning a bakery and working in a pharmacy or in the transport sector, were reserved for Congolese nationals only and why foreigners could not, according to various Congolese decrees and laws, engage in such activities. The same applied to property ownership.

22. **Ms. Poussi** (Country Rapporteur) said that she would be grateful for a response to the question she had posed the previous day ([CMW/C/SR.566](#)) regarding the national digital identity system that was being developed with the support of the African Development Bank. She would be interested to learn about the functioning and composition of the social service offices which had been set up to identify children at risk of trafficking, and to know how effective they were and whether they were overseen by a central body.

23. **The Chair** said that she wished to know whether the State party worked with United Nations bodies other than UNHCR, including the International Organization for Migration, to build the capacities of the administration and the security forces on the question of the rights of migrant workers. She also wondered whether the capacities of central and local authorities and security forces to address the rights of migrant workers and migrants in general could be strengthened. She wished to know whether the National Human Rights Commission had local branches to ensure that people, including migrants living in rural and border areas, had access to the human rights protection system. She wondered whether migrant workers were able to join unions and become union leaders, and whether migrant-led associations or unions had contributed to the preparation of the report. The Committee would be grateful for sectoral data that would enable it to assess the treatment of migrant workers under labour law in general and their social security coverage specifically.

24. **Mr. Ünver** said that it would be useful to know what the Congo expected from the international community, including the African Union and the Committee, to enable it to better protect the rights of migrant workers.

25. **The Chair** said that she would be interested to hear how the country's membership of the African Continental Free Trade Area had enabled it to facilitate the mobility of workers

what kind of collaboration there was with all the States in its economic zone in general and its bordering States in particular.

26. *The meeting was suspended at 11.10 a.m. and resumed at 11.40 a.m.*

27. **A representative of the Congo** said that the Congo had just ratified the ILO Employment Policy Convention, 1964 (No. 122) and Labour Statistics Convention, 1985 (No. 160) and would soon be transmitting the requisite instruments of ratification to ILO.

28. A series of initiatives had been implemented with a view to developing a policy on employment, particularly youth employment. In 2022 and 2023, together with several other African countries, the Congo had carried out, with the support of the French Development Agency and ILO, a project aimed at enhancing the employability of young people in those countries. As part of the implementation of its decent work programme for the period 2023–2026 and its road map for becoming a member of the Alliance 8.7 (a platform for the eradication of trafficking in persons, modern slavery, forced labour and child labour), the Congo was developing, again with the support of the French Development Agency and ILO, a national employment policy and a national occupational health and safety policy. The terms of reference of those policies had been established and national and international consultants had been designated to work on the various aspects of the policies. The aim was to have those policies in place by the end of the current year or the beginning of the following year.

29. The Congo intended to ratify the ILO Domestic Workers Convention, 2011 (No. 189). The National Social Security Fund was putting in place a strategy to identify domestic workers. The strategy would involve awareness-raising and advocacy to ensure that employers of domestic workers declared such employment and complied with the relevant labour and social security laws, and to encourage domestic workers themselves to declare their status. The strategy would also involve monitoring institutions and households in order to identify domestic workers and ensure that employers of domestic workers complied with the law. In addition to that strategy, labour inspectors would also be trained to monitor domestic work. Using modules prepared by the ILO International Training Centre, training of trainers had already begun.

30. The Congo also intended to ratify the ILO Violence and Harassment Convention, 2019 (No. 190) and the accompanying ILO Recommendation No. 208, and was already taking measures to that end. For example, in 2022, the Government had adopted new general civil service regulations, which included provisions addressing violence and harassment in the workplace. With guidance from ILO, provisions relevant to Convention No. 190 and Recommendation No. 208 had been included in the draft revised Labour Code.

31. According to article 10 of the ILO Labour Administration Convention, 1978 (No. 150), States must establish a labour administration composed of staff who were suitably qualified and who had the status necessary for the effective performance of their duties. A proposal had been made for labour inspectors to be granted special status in the civil service. The proposal would be submitted to the Government for review and adoption. The Congo had 250 labour inspection personnel overall, comprising labour administrators, labour inspectors and labour monitors. The Directorate General of Labour in Brazzaville managed 60 per cent of those personnel. A significant number of inspectors were based in Pointe-Noire, the economic capital of the country. The remaining 40 per cent were distributed among the other departments of the country. New recruits were being trained as labour inspectors with support from ILO; thus far, 30 had been trained, and 60 more would be trained later in the year.

32. In accordance with the international labour conventions that it had ratified, the Congo recognized the freedom of association of workers. Migrant workers in the country were free to join trade unions; they were also free to form trade unions, although such unions could not be exclusively for migrant workers. The freedom to organize trade unions applied only within companies, establishments and institutions that allowed trade unions to be formed. Migrant workers therefore belonged to trade unions in the country and even led some branches of those unions. They faced no problems in defending the moral and professional interests of workers, since their right to do so was recognized and supported by the institutions in the country.

33. **A representative of the Congo** said that, in the beginning of the 1980s, as part of the structural adjustment programmes, the Government had been ordered not to recruit certain categories of civil servants, leaving entire departments without any professional staff. For example, the National Centre of Statistics that had existed at that time had found itself devoid of statisticians. The issue of cutbacks in the civil service had indeed affected all countries that had been subjected to structural adjustment programmes. It was only with the new adjustment facilities that those countries had started recruiting again. It was only now that the Congo was beginning to train and recruit statisticians again. In the place of the since-closed National Centre, a National Institute of Statistics had recently been established, with the aims of making reliable statistics on the Congo available to the Government and international organizations and filling the gaps in data collection faced by certain sectors. With the resumption of negotiations with the International Monetary Fund and other institutions, statistics were gradually becoming available. However, it would take some time for reliable statistics on the Congo to be developed.

34. There was high demand for the right to vote from members of the Congolese diaspora, especially in Paris, which had the highest concentration of Congolese nationals residing abroad. The Government would continue to consider the matter and might eventually decide to grant them that right, but all the necessary tools would need to be in place for it to do so.

35. **A representative of the Congo** said that the Government planned to establish centres of the National Human Rights Commission in each of the 12 departments of the Congo, as its budget permitted. For the current year, it had decided to open such centres in five departments, to go along with the one that had already been in operation in Brazzaville for two years. With the increase in the Commission's budget, the expectation was that there would be centres across the country within the next two years. The Commission was composed of 60 members, selected from a broad range of sectors, including the civil service, the private sector and civil society. In the future, they would be elected on the basis of calls for candidature.

36. **A representative of the Congo** said that his country had joined the Global Compact on Migration in 2018 and was making every effort to adapt to the conditions and criteria enshrined therein. It had already made strides with the adoption of Act No. 29 of 7 August 2017, to amend and supplement certain provisions of Act No. 23-96 of 6 June 1996 on the conditions of entry, stay and exit for foreigners. However, it continued to do its utmost to improve on that 2017 law to align it with the Compact, in an effort to promote regular, safe and orderly migration.

37. The former refugees from Rwanda who had lost their refugee status were living in the Congo without a clear legal status, but were not facing an expulsion procedure. The law only prescribed a prison sentence or a fine for immigrants in an irregular situation and there was enough flexibility built into the system to ensure that they were provided with all the necessary facilities to regularize their situation rather than be expelled.

38. The Congolese Agency for Business Creation had been in place since 2017 and allowed Congolese nationals and foreign nationals living legally in the Congo to create start-ups. Campaigns were also being conducted to raise awareness of the rights of refugees and migrants.

39. **A representative of the Congo** said that the Government had been conducting campaigns to raise awareness among migrant workers in the informal sector of the necessity of social insurance, in an effort to extend coverage to those who remained outside the system. In that campaign, special focus was placed on shopkeepers, particularly those of Malian origin. Owing to the difficulties in talking to and convincing that group, Congolese officials had worked with officials at the Embassy of Mali to encourage them to join the social security system and benefit from its services. Following that campaign, many Malian nationals had decided to join the social security system and were able to access benefits, including their pension after leaving the Congo. A study was also being carried out by the Economic Community of Central African States (ECCAS) in collaboration with a number of partners on the rights of migrant workers and their families, to enable all migrant workers in the ECCAS zone to keep the social security benefits that they had acquired or were in the process of acquiring.

40. **A representative of the Congo** said, regarding the “Congolization” of certain jobs, that the Congo did not wish to discriminate in any way, since that would undermine certain international principles. It was worth recalling that many States, in keeping with their sovereign functions, sometimes adopted measures on an exceptional basis that might appear discriminatory but that were meant to achieve certain economic, political and other aims. It was in that light that the Congo had decided to reserve certain types of jobs for its nationals but without violating any of its international obligations.

41. **A representative of the Congo** said that there was a difference between the law on paper and its application on the ground. Even though a ministerial order had been issued reminding local business owners of what the law said, the reality was that almost all local businesses in the Congo were run by foreign nationals, including those from Senegal, Guinea, Mali and Mauritania. It was true that officials had conducted some verifications, but the goal had been simply to ask those foreign nationals to comply with the law by joining the social insurance scheme and paying their taxes; they had not been persecuted or expelled.

42. With regard to the infrastructure corridors prescribed under the African Continental Free Trade Area initiative in an effort to address infrastructure deficits in Africa, the Congo was currently promoting the building of a bridge between Brazzaville and Kinshasa. The country was connected to Cameroon and Gabon by tarred roads and a road was currently being built to connect the Congo to the Central African Republic. Feasibility studies were being conducted for the development of a rail link between Brazzaville and Kinshasa. The Congo was therefore doing its utmost to implement the recommendations of the Free Trade Area initiative concerning integration and free movement across Africa. With regard to trade rules, the Congo was open; indeed, it had planned to establish special economic zones for foreign companies that would like to set up operations in the Congo. Foreigners owned property around the country, along with the relevant land ownership titles.

43. **Ms. Poussi** said that the Committee had been informed of a case dealt with in 2020 by the National Human Rights Commission, in which a group of migrant workers from the Central African Republic had lodged a formal complaint against a company called “PCEG”. She wished to know whether there had been any follow-up to the recommendations which the Committee had provided to the State party concerning that case. She was also interested to know whether the group had received any form of remedy and what had been the outcome of that case.

44. The Committee understood the considerable challenges being faced by the country and was aware that it was difficult for the least developed countries to meet their reporting commitments. It therefore welcomed the efforts being made by the Congo since ratifying the Convention and for engaging in the current dialogue. A few salient issues had come out of the discussion. The Committee had noted some gaps in terms of policies and national plans of action, particularly concerning migrant workers, which the State party needed to address. It was the Committee’s hope that by the time of the second report, it would have received information that measures had been taken to that end. Official, well-structured tools were required for better coordination and efficacy between the different stakeholders. The Congo had ratified the Convention in 2016, but had not been fully effective in ensuring its dissemination and should invest more in that effort. It was crucial to have comprehensive data on the plight of migrants in the Congo and Congolese migrants abroad. The Committee urged the State to redouble its efforts in that regard.

45. **Mr. Corzo Sosa** said that statelessness was a key issue of concern. Every person should have a nationality. The State party had said that all births by foreign nationals in the Congo were registered, such that there were no stateless persons in the Congo. However, it was nationality and not registration that could prevent statelessness. Indeed, if there were no stateless persons in the country, why did the State have a national commission on statelessness? The State party should not consider birth registration as a cure for statelessness, as registration and nationality were two different things.

46. The Committee would be interested in hearing the outcome of the State’s activities designed to protect migrant workers. He wondered whether the Congo had sought support from ILO on the issue of domestic workers. He hoped that there would be a change in

legislation concerning the reservation of certain jobs exclusively for Congolese nationals. The rules on work permits also needed to be changed.

47. To date, the provisions of the Convention had not been entirely implemented or invoked before the courts. He called on the Government to ensure that the provisions would be applied and that the Convention would be invoked before the courts. He wished to thank the delegation for all the answers provided and for participating in the constructive dialogue.

48. **Mr. Babacar** said that the delegation should be commended for the good intentions it had displayed in providing answers to the Committee's questions. It was common knowledge that domestic workers were to be found mostly in the informal sector and that in the majority of countries labour inspectors did not truly have access to the sector. ILO had also been encouraging States to try and formalize the sector so that labour inspectors could have access to workers in the sector.

49. He would like to know whether the Congo had asked for the support of ILO to that end, and whether there were any plans to change the law whereby certain jobs were reserved exclusively for Congolese nationals. There were two different categories of workers that could be found in the Congo, namely refugees who could work on an equal footing as Congolese nationals, who did not even need a work permit, and other foreigners who did need a work permit. That situation should be reassessed.

50. **A representative of the Congo** thanked the Committee for taking the time to engage in the constructive dialogue with the delegation and noted that the Government had the political will to implement all of the conventions to which the Congo was a party. The delegation had taken good note of all the Committee's comments, proposals and recommendations and would follow up accordingly.

51. **The Chair** said that the Committee welcomed the efforts being made by the Congo and thanked the delegation for its commitment to the dialogue which had allowed the Committee to gain a better understanding of the situation of migrant workers in the Congo, and of Congolese workers abroad. The Committee was satisfied with the State's high-level performance during the dialogue and urged the Government to take all necessary measures to implement its recommendations.

The meeting rose at 1 p.m.