COMMITEE ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES
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WRITTEN REPLIES BY THE GOVERNMENT OF MALI CONCERNING THE LIST OF ISSUES (CMW/C/MLI/Q/1) RECEIVED BY THE COMMITTEE ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES RELATING TO THE CONSIDERATION OF THE INITIAL REPORT OF MALI (CMW/C/MLI/1)*

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* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.
Introduction

In article 73 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, States parties undertake to submit to the Secretary-General of the United Nations for consideration by the Committee a report on the measures they have taken to give effect to the provisions of the Convention.

A. Information of a general nature

1. Please provide statistical data and information on the characteristics and nature of migration flows (immigrants, transit migrants and emigrants). If no exact data are available, please provide estimated figures. Please also inform the Committee as to which action has been taken to generate information providing statistics.

In Mali, migration has led to the formation of a large diaspora of around 4 million people, or a third of the total population.

Migration, whether voluntary or not, affects both unskilled and skilled workers and, increasingly, students and women.

[Define the terms “voluntary migration” and “forced migration”.

It is difficult to provide precise statistics on migration flows in Mali because of, among other things:

- The length of the borders and their permeability;
- The free movement of persons within the Economic Community of West African States (ECOWAS) and the West African Economic and Monetary Union (WAEMU);
- Uncontrolled, large-scale illegal emigration.

The estimates that can be provided are based on travel documents, since in Mali a person applies for a passport only when they intend to travel.

The figures below are for 2005.

Nationals residing in Mali

| Passports | 53,549 |

Foreigners

| Admission visas | 219 |
| Entry visas     | 4,064 |
| Short-stay visas| 2,678 |
| Long-stay visas | 5,938 |
Comments

− A Malian passport is now valid for five years, rather than three;

− As a result of the free movement of persons within ECOWAS and under bilateral treaties signed by Mali, nationals from the countries concerned do not need an entry visa;

− Residence booklets for foreigners who settle in Mali are not yet in use.

2. Please also inform the Committee about how migratory flows in the region affect Mali.

Mali is by tradition a country of welcome. Its borders with seven countries are open, and it is both a receiving and sending country and a country of transit.

Moreover, ECOWAS rules permit the free movement of persons and goods from member States. Because of the relatively calm social and political situation in Mali and the conflicts in the region, many foreigners pass through Mali on their way to the countries of the Maghreb, with the intention of going to Europe.

3. Please provide more details to the Committee on the legislative, administrative and other measures adopted to implement the provisions of the Convention and mentioned in paragraphs 2 and 10 of the State party’s report.

The ECOWAS rules on the free movement of persons are now in force. Moreover, foreigners who wish to settle in Mali are subject to the same legislative and administrative requirements as nationals, in accordance with:

− The Constitution of 25 February 1992, particularly articles 2, 3, 9, 10, 17, 18 and 20;


− Act No. 04-058 of 25 November 2004 on the entry, stay and residence of foreigners in the Republic of Mali;

− The Family Relations Code;

− The Nationality Code;

− The Marriage and Guardianship Code;

− Act No. 87-27/AN-RM of 16 March 1987 governing civil status;

− The Child Protection Code;
− Act No. 01-081 of 24 August 2001 on the criminal responsibility of minors and the establishment of juvenile courts; and
− Bilateral conventions on social security and bilateral agreements.

4. **Please inform the Committee about any measures taken to promote and disseminate awareness of the Convention.**

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was ratified by Act No. 02-059 of 17 December 2002.

The Act ratifying the Convention was published in the *Journal Officiel* (No. 1) on 10 January 2003.

A number of significant steps have been taken to promote human rights in Mali.

The Government’s determination to promote and protect human rights is reflected in the introduction into school curricula of studies on a culture of peace and human rights.

In addition, a multidisciplinary steering committee involving multilateral and bilateral partners has produced a study on “the Malian perception of a culture of peace and human rights”.

The government bodies responsible for human rights include the National Advisory Commission on Human Rights (the law establishing it had its second hearing in December 2005) and the Project on the Promotion and Protection of Human Rights (APPDH).

The job of the National Advisory Commission on Human Rights, which now reports to the Ministry of Justice, is to help promote and protect human rights and prevent torture and other cruel, inhuman or degrading treatment or punishment.

The aims of the Project on the Promotion and Protection of Human Rights, which was set up with technical and financial support from the United Nations Development Programme (UNDP), are to:

− Create and consolidate a legal framework conducive to the promotion and protection of human rights; and to
− Strengthen the operational capacities of bodies responsible for promoting human rights.

To achieve these aims, the project:

− Provides human rights training for judges, court officials, police officers, prison wardens and members of the National Advisory Commission on Human Rights;
− Offers seminars on how to draft reports on the implementation of the international conventions ratified by Mali;
− Raises public awareness of the role of national institutions in the promotion and protection of human rights, the role of journalists, female municipal councillors and other female community leaders in the field human rights, and human rights organizations’ approach to gender equity and HIV/AIDS; and

− Provides human rights literature and computer equipment, with Internet access, to various institutions that promote and protect human rights.

As part of the project, several seminars have already been organized on the international human rights conventions ratified by Mali.

5. Please indicate the role of non-governmental organizations in the implementation of the Convention as well as in the process of preparation of the State party’s report, if any.

B. Information in relation to each of the articles of the Convention

(a) General principles

6. Please specify which judicial, administrative, legislative or other authorities are competent to receive complaints of alleged violations of migrant workers’ rights.

There are no specific bodies or legal provisions to deal with complaints of alleged violations of migrant workers’ rights: migrants have the same rights and duties as nationals. Accordingly, human rights bodies and the judicial, legislative and administrative authorities are all authorized within their own area of competence to receive or deal with complaints of alleged violations of workers’ rights.

(b) Part III of the Convention

7. Please provide information on the procedure and conditions under which Mali nationals can obtain a passport or other necessary travel documents.

Malian citizens can obtain a passport in two ways:

(1) By submitting, from their place of residence, an application for a passport to one of Mali’s diplomatic or consular offices. The latter then contact the Department of Border Police over the Internet or through the Office for Malians Living Abroad; or

(2) By going in person, like any other Malian, to the Department of Border Police in Bamako, where passports are issued.

Use of a residence permit in place of a passport

If they can produce a foreign residence document (a residence permit) and a travel document that has expired, or proof that they have lost this document, Malian nationals can obtain a travel permit from the Department of Border Police in Bamako.

This is valid for 90 days and is only available to Malians.
Use of a travel permit in place of an exit permit for children under 18 years of age

These are issued to Malian children whose parents or guardians apply for them in person and produce evidence of parental authority that has been certified and registered at the town hall, the child’s birth certificate and a photocopy of the parent’s or guardian’s identity card, with a photograph of the parent or guardian and three photographs of the child.

To obtain a passport or any other necessary travel documents, applicants must:

- Be a Malian national;
- Hold a valid national or consular identity card; and
- Pay the cost of the passport.

There is a tax stamp of 250 CFA francs on travel permits for children and one of 1,250 CFA francs for a travel permit used in place of a passport, in addition to a 200-franc application fee.

Diplomatic passports are issued by the Ministry of Foreign Affairs.

8. Please inform the Committee about whether migrant workers, including irregular migrant workers, may freely join trade unions or associations established in accordance with the law.

Migrant workers, including those in an irregular situation, are free to join trade unions or associations established in accordance with the law.

As far as trade unions are concerned, article L256 of the Malian Labour Code stipulates that “every worker or employer may freely join a trade union of their choice according to their occupation”.

Malian legislation makes no distinction between migrant workers and Malian workers, either as employees or employers.

Under article L1 of the Labour Code (Act No. 92-020 of 23 September 1992), “any person who undertakes to exercise their occupational activity, in exchange for remuneration, under the guidance and instructions of another person or of a public or private, lay or religious legal entity called an ‘employer’ shall be considered a worker, regardless of their sex or nationality”.

The International Labour Organization (ILO) Convention concerning Discrimination in respect of Employment and Occupation (No. 111), which has been ratified by Mali, and article 2 of the Constitution of 25 February 1992 prohibit any discrimination based on social origin, colour, language, race, sex, religion or political views.

As far as associations are concerned, there are legitimate associations in Mali that consist solely of foreigners.
9. Please provide more information on the provisions in national legislation which guarantee the rights enshrined in article 16 of the Convention. In particular, please specify whether accused or arrested migrant workers or members of their families in Mali have effective recourse to consular and diplomatic authorities of their State of origin. Please also explain how, once in detention, they can in practice access the court to obtain a decision on the lawfulness of their detention.

Migrant workers and members of their families who are accused of a crime or arrested in Mali can appeal for assistance from the consular or diplomatic authorities of their State of origin, which are notified immediately of their situation.

In the case of criminal offences, migrants are subject to the same procedure as nationals.

In the case of violations of the provisions relating to migration, they are subject to administrative measures, and are either escorted to the border where they arrived or repatriated.

10. Please inform the Committee about whether migrant workers and members of their families who are detained for violation of provisions relating to migration are held separately from convicted persons or persons detained pending trial.

If they violate migration legislation, they are held separately from convicted persons or persons detained pending trial until they are deported or escorted to the border.

11. Please explain the procedure that allows for the confiscation of identity documents and other documents. Please also explain the expulsion procedures and whether collective expulsion is prohibited.

12. Please inform the Committee about the arrangements taken to guarantee that urgent medical care is provided both for regular and irregular migrants as well as for members of their families.

Emergency medical care for regular and irregular migrants and members of their families is provided by the emergency services and national health-care facilities.

13. Please describe the measures undertaken to ensure the right of each child of a migrant worker to a name, registration of birth and a nationality.

It is obligatory under the Civil Status Act to declare the birth of every child of a migrant worker to the Malian authorities. This declaration does not affect the child’s nationality.

Malian legislation contains a number of provisions relating to the civil status of children, notably:

− The Family Relations Code;
− The Nationality Code;
− The Marriage and Guardianship Code;
− Act No. 87-27/AN-RM of 16 March 1987 governing civil status;
− The Child Protection Code; and
− Act No. 01-081 of 24 August 2001 on the criminal responsibility of minors and the establishment of juvenile courts.

All these pieces of legislation contain provisions that guarantee that the child has a name and nationality. Every birth must be declared, regardless of the place of birth, and this declaration must be made within 30 days (Act No. 87-27/AN-RM governing civil status, arts. 74 and 79):

“The birth of any child born live in the territory of the Republic of Mali must be declared to the civil registry office of the place of the birth, even where the foreign parents have declared this birth to the consular authorities of their country.

Any birth during travel by road, rail, river or air shall be declared to the civil registry centre of the first stopover place” (article 75 of the Civil Status Act).

Article 4 of the Child Protection Code states that “every child has the right to an identity from birth and to registration of their birth … Their identity consists of their given name, surname, date of birth and nationality”.

Nationality is regulated by Act No. 62-18/AN-RM of 3 June 1962 on the Nationality Code. The Code is sufficiently flexible to cover the situation of all children in Mali. It sets out flexible procedures under which every child in Malian territory can be granted Malian nationality, thus preventing cases of statelessness.

The measures taken under Mali’s decentralization policy to correct shortcomings in the process of registering children at birth will enhance observance of the child’s right to a nationality.

14. Please describe whether and how the basic right of access to education is ensured for a child of a migrant worker irregularly staying in Mali, or whose parents are in an irregular situation. In this respect, please clarify what is stated in the State party’s report in paragraph 27, namely that access to education and respect for cultural identity are recognized by articles 17 and 18 of the Constitution and are guaranteed to every foreigner “who meets the requirements for entry into the country as set out in article 8 et seq. of Act No. 04-058”.

The preamble to, and articles 17 and 18 of, the Constitution of Mali guarantee the right to education of every individual, without distinction.

Articles 6, 20 and 47 of the Child Protection Code protect children from being left without schooling and, above all, make the right to schooling and education an obligation for the State and parents. Under article 20 of the Code, every child has the right to attend school for at least nine years. This right is enforced in accordance with the law on education and subsequent regulations on the subject.
Act No. 99-046 of 28 December 1999 on education policy reaffirms the right to education (art. 4), non-discrimination in education (art. 9) and the principle of free, State-run, secular education (art. 7). It sets the minimum school-leaving age at 15 (with nine years of compulsory schooling: art. 34) and requires parents to enrol their children in school and keep them there until completion of their basic education (art. 26).

15. Please clarify whether there are any mechanisms facilitating the right to transfer migrant workers’ earnings and savings.

16. Please inform the Committee about measures taken, if any, to disseminate information both to Malians migrating abroad and to foreign migrant workers in transit or residing in Mali concerning (a) their rights and those of members of their families arising out of the Convention; and (b) the conditions of their admission, their rights and the obligations under the law and practice of the State concerned.

17. Please report on the assistance provided by the State party’s authorities, in particular the Ministry of Malians Living Abroad and African Integration, to Malians migrating abroad and on the measures taken to address their grievances while working abroad.

(c) Part IV of the Convention

18. Please clarify whether foreign migrant workers have the right to leave Mali and go temporarily back to their country of origin without any effect upon their authorization to stay or to work.

Migrant workers in possession of a visa have the right to leave Mali and go temporarily back to their country of origin and to return as many times as they wish until the visa expires, without any effect on their authorization to stay or to work. They can even have their visa renewed by the immigration authorities.

19. Please clarify whether migrant workers and members of their families have the right to form trade unions, associations or institutions.

Migrant workers and members of their families have the same right as nationals to freely form trade unions, associations or institutions, provided that they follow the administrative procedures in force and comply with the applicable legislation.

The right to form trade unions, associations or institutions is unrelated to Malian citizenship. As far as the right to establish or join a trade union is concerned, article L233 of Act No. 92-020 of 23 September 1992 on the Labour Code stipulates that “persons exercising the same occupation, similar trades or related occupations that lead to the creation of certain products or services may freely constitute a trade union”.

Moreover, ILO Convention No. 111, which Mali has ratified, prohibits all forms of discrimination based on, among other things, nationality or country of origin.

To be a voter or to be eligible to stand in union elections, however, the foreign worker must have been working for at least six months in a company.
20. Please provide information on the steps taken by the State party, if any, to facilitate the right to vote and to be elected in elections in the country for (a) Malian migrant workers abroad and (b) Malian migrant workers returning to the country.

All Malians, regardless of whether they are living in Mali, working abroad or returning home, have the right to vote and to stand in elections provided that they have not been stripped of their civic rights by a decision of a court.

However, the right to vote of Malian migrants living abroad depends on the nature of the ballot (presidential or legislative elections) and the size of the Malian diaspora in the receiving country.

As far as the nature of the ballot is concerned, Malians living abroad may vote only in presidential elections; and then, only if there is a large Malian community in the country where they live.

Malians returning home may exercise their right to vote provided that they are registered on the electoral list. Otherwise, they need to re-register when the electoral list is updated.

21. Please describe administrative procedures for family reunification of migrant workers with their families in conformity with article 44 of the Convention.

22. Please explain whether residence permits and work permits require a separate authorization and whether the latter is issued for at least the same period of time as the former.

Residence permits and work permits are issued by different authorities. Both can be renewed.

(d) Part V of the Convention

23. With reference to paragraph 40 of the State party’s report, please indicate under which legal instrument the rights of self-employed workers are guaranteed.

(e) Part VI of the Convention

24. Please provide more detailed information on the bilateral agreements mentioned in paragraphs 5 and 10 of the State party’s report.

Mali is a signatory to a number of bilateral agreements that protect workers and members of their families.

Bilateral conventions and agreements

(a) France

– Consular Convention between Mali and France, signed on 9 March 1962 in Bamako;

– Convention of Establishment, signed on 11 February 1977 in Bamako;
− Protocol concerning the Employment and Residence of Employees and Their Families, signed on 11 February 1977 in Bamako;

− General Convention on Social Security, signed on 12 June 1979 in Paris;

− Agreement between the Government of the French Republic and the Government of the Republic of Mali concerning Migration, signed on 29 May 1998 in Bamako;

− Summary of the conclusions of the Franco-Malian Committee on a Joint Development Policy for Mali and France (Franco-Malian Declaration on a Joint Development Policy for Mali and France, signed on 21 December 2000 in Paris);

− Agreement on the Establishment of a Technical Committee on Joint Development, signed on 14 March 2001;

− Agreement on the Establishment of a Technical Committee on the Movement of Persons, signed on 14 March 2001;

− Summary of the conclusions of the sixth session of the Franco-Malian Committee on Migration, held on 28 August 2002 in Paris;

− Summary of the conclusions of the sixth session of the Franco-Malian Committee on Migration, held on 21 and 22 June 2005 in Paris.

(b) Burkina Faso

− Convention on Establishment and Movement of Persons, signed on 30 September 1969 in Bamako;

− General Convention on Cooperation in Judicial Matters, signed on 23 November 1969 in Ouagadougou;

− Convention on Social Security between Mali and Burkina Faso, signed on 14 November 1992 in Bamako.

(c) Ghana

− Agreement on the Movement of Persons and Goods, signed on 31 August 1977;

− Convention on Judicial Cooperation, signed on 31 August 1977 in Bamako.

(d) Guinea

− Convention on Establishment and Movement of Persons, signed on 20 May 1964 in Bamako;

− General Convention on Cooperation in Judicial Matters, signed on 20 May 1964 in Bamako;

(e) Mauritania

– Judicial Convention, signed on 25 July 1963 in Nouakchott;
– Convention on Establishment, signed on 23 July 1973 in Nouakchott;
– General Convention on Social Security between Mali and Mauritania, signed on 6 February 1986 in Nouakchott;

(f) Niger

– Convention on Establishment and Movement of Persons, signed on 22 April 1964 in Niamey;
– General Convention on Judicial Matters, signed on 22 April in Niamey.

(g) Cameroon

– General Convention on Establishment and Movement of Persons, signed on 6 May 1964 in Bamako;
– General Convention on Judicial Matters, signed on 6 May 1964 in Bamako.

(h) Cuba

– Agreement on the Abolition of Visas, signed on 18 May 1984 in Bamako.

(i) Côte d’Ivoire


(k) Algeria

– Convention on Judicial Cooperation;
– Consular Convention between the Government of Mali and the Government of the People’s Democratic Republic of Algeria.
(l) Republic of the Congo

- General Convention on Cooperation in Judicial Matters, signed on 4 May 1964 in Bamako.

(m) Senegal

- General Convention on Cooperation in Judicial Matters, signed on 8 April 1965;
- Convention on Family Benefits, signed on 13 May 1965;
- Convention on the Prevention of and Compensation for Accidents at Work, signed on 9 December 1965;
- Agreement on Consular Representation between Mali and Senegal, signed on 13 December 1979;
- General Convention on Social Security between Mali and Senegal, signed on 13 December 1979;

Multilateral legal instruments

- Treaty establishing the West African Economic and Monetary Union (WAEMU), signed on 11 January 1994, entered into force on 1 August 1994;

Agreements on the abolition of visas

Morocco, Algeria, Tunisia, Cameroon, Cuba, Macao Special Administrative Region of China, Hong Kong Special Administrative Region of China, Gambia and Chad.

25. Please describe in detail the activities of the State party’s services dealing with international migration and any cooperation existing between these services and other actors dealing with international migration, such as employers, migrant workers’ associations and non-governmental organizations.

The following ministries provide services in the field of international migration:

- Ministry of Foreign Affairs and International Cooperation;
- Ministry of Malians Living Abroad;
- Ministry of Internal Security and Civil Defence;
26. Please describe the recruitment process of Malian workers for employment in another State.

27. Please inform the Committee whether any return programme exists other than that already in place for Malian migrant workers in France, mentioned in paragraph 43 of the report. Please provide details about the implementation of the existing return programme(s).

Mali and Switzerland have a return programme for Malian nationals who applied for asylum in Switzerland before 1 June 2005 and who freely choose to return to their country of origin. The programme has been operational since 1 June 2005 and will last until 3 May 2007. The following services are provided:

- Advice on return, dispensed in the cantons;
- Organization of the trip to Mali (travel costs paid);
- Help in obtaining travel documents;
- CHF 1,000 pocket money per adult;
- CHF 500 pocket money per child;
- Up to CHF 3,000 funding for individual projects or an additional grant of CHF 1,000.

28. The State party (paragraph 44 of the report) refers to “punishment of any migrant worker who does not meet the requirements for entry, residence and employment” according to Act No. 04-058. What kind of sanctions are imposed? Are any sanctions also imposed on employers of irregular migrants?

The following sanctions are imposed on migrant workers who do not meet the requirements for entry, residence and employment in Mali:

- A prison sentence;
- A fine;
- Return or expulsion.

Employers risk a fine or a prison sentence.
29. Please explain the State party’s strategy to tackle the illegal or clandestine movements and employment of migrant workers in an irregular situation, including measures taken in conformity with article 68 (a), (b) and (c) of the Convention. Please also provide additional information on the extent of the phenomena of (1) smuggling and (2) trafficking in the State party’s territory.

Child-trafficking is a worrying phenomenon for two reasons: one, because of the large number of children concerned and, two, and more importantly, because of the negative consequences of trafficking on the child’s personal development and on the country’s economic and social development.

The international rules ratified by Mali reflect this view. However, child-trafficking cannot be eliminated overnight, as it is only one of the many aspects of poverty and underdevelopment.

The Government has drawn up a policy to combat child labour and the smuggling of children, which includes child-trafficking. There are no reliable statistics on the extent of these two phenomena. Children are employed in various economic sectors but they are mostly to be found in the rural sector. In fact, over 85 per cent of the Malian population lives in the countryside and over 80 per cent of children live in rural areas.

The Government, with technical support from ILO under its International Programme on the Elimination of Child Labour (IPEC), has set up a national programme to combat child labour. The main aim of the programme is to increase the capacity of the Government, employers and workers’ organizations to design and implement policies and programmes that will:

– Prevent the use of young children as workers; and

– Abolish the most dangerous forms of child labour and the most serious forms of child exploitation, and propose viable alternatives for children and their families.

The programme is aimed at the following groups of children:

– Rural children;

– Children working in sectors of the informal economy;

– Young girls;

– Children working in mines.

All the activities undertaken have been carried out in conjunction with employers, workers’ organizations and civil society.

The programme has carried out awareness-raising and capacity-building activities. The target groups are:

– Rural working children;

– Children panning for gold;
– Children taken on to work in the informal economy;
– Young girls working in cities.

The following programmes of action have been prepared:
– A project for the social and economic integration of rural girls in their home environment;
– A project to improve living and working conditions for children performing hard and dangerous tasks in the tin industry;
– A project to help and support young migrant girls in Bamako;
– A project to support the social and economic integration of children working on the street in the districts of Bamako;
– An integrated programme to prevent child labour in the Ségou region;
– A risk-prevention programme for child workers panning for gold in the Koulikoro and Kayes regions.

One of the factors helping to curb the use of young child workers is the positive trend in school enrolment, especially among girls, that has been observable since 1996 and the implementation of the Ten-Year Education Programme (PRODEC). The gross enrolment ratio in primary school rose from 47 per cent in 1996/97 to 58 per cent in 1999/2000 (51 per cent for boys and 36 per cent for girls).

The nine labour inspectorates of the National Labour Department monitor compliance with ILO Conventions Nos. 182 and 38.

Work has started in Mali on a subregional project that is part of efforts to combat child-trafficking for the purposes of exploiting their labour.

There are no reliable statistics on the nature and extent of child labour or on developments in this regard. The Government has requested technical support from the ILO Statistical Information and Monitoring Programme on Child Labour (SIMPOC) with a view to carrying out a national survey.

30. Please inform the Committee about whether there has been any cooperation with other States in relation to the orderly return of Malians, in particular following the incidents which occurred in October 2005 at the border between Spain and Morocco. Please also provide information on whether measures have been taken to facilitate their reintegration.

The Malian authorities, working together with the Moroccan Government, organized the return of 1,144 Malians in convoys from Morocco following the events in Melilla and Ceuta.

So far, no measures have been taken to facilitate the reintegration of Malians repatriated from Morocco.